SENATE—*Thursday, February 4, 1988*

(Legislative day of Tuesday, February 2, 1988)

The Senate met at 2 p.m., on the expiration of the recess, and was called to order by the Honorable HARRY REID, a Senator from the State of Nevada.

Mr. REID. Today's prayer will be offered by Hampton Joel Rector, Methodist minister.

PRAYER

The Reverend Hampton Joel Rector, staff aide, the office of Senator ROBERT C. BYRD, and a Methodist minister, offered the following prayer:

Holy, holy, holy, Lord God of hosts; heaven and Earth are full of Thy glory.

Glory be to Thee, O Lord, most high.

O Lord, in whom we live, and move, and have our being: to consume the fretful concerns of our everyday lives, we turn to Thee in these moments.

Use this opportunity to fill us with Thy holy spirit; relieve us of the blindness of our selfishness; put far from us unworthy devotion to clan and to picayune ambition; grant to us a vision of this life as Thy wisdom would have it to be; encompass us in Thy will; that all that we do or decide this day, may be filled with Thy majesty and justice, and that our lives may reflect Thy light and Thy love and Thy salvation.

For these things we pray in the name of our Lord Jesus Christ. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, February 4, 1988.

To the Senate:

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

JOHN C. STENNIS,
President pro tempore.

Mr. REID 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.

REVEREND RECTOR'S PRAYER

Mr. BYRD. I thank the guest chaplain for his words of inspiration. I am very well acquainted with the guest chaplain's ability to choose words fitting for an occasion. After all, he has been a loyal member of my personal staff for more than 10 years.

The Reverend Hampton Joel Rector first came to work for me in September 1976. He is a native of Bluefield, WV, where his parents still reside. He holds degrees from West Virginia and Duke University, he is an ordained United Methodist minister, and has served as pastor in communities in West Virginia and North Carolina.

He is a native West Virginian who has strong ties with the State and he is an experienced and worthy member of my staff. I am pleased to have him as an employee, and I thank him on behalf of the Senate for his prayer.

RESERVATION OF LEADERSHIP TIME

Mr. BYRD. Mr. President, I ask unanimous consent that I reserve the balance of my time for the moment and that the Republican leader may reserve his time.

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

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order there will now be a period for the transaction of morning business for not to extend beyond the hour of 2:30 p.m. with Senators permitted to speak therein for not to exceed 5 minutes each.

SUBWAY CAR USE DURING VOTES

Mr. FORD. Mr. President, on Tuesday, February 2, several Members in the Hart Building missed a vote on the Senate floor because of subway traffic. Although several Members missed that vote, the problem is not an isolated instance. Members housed in the Hart Building have missed votes previously because of that problem. A change in the policy of subway car use during 15-minute rollcall votes is needed.

Senator STEVENS, the ranking member on the Rules Committee, and I have reviewed options to help resolve this problem. There is no sure solution, and we recognize that there will be problems associated with any policy implemented. But after reviewing this matter, we have directed the Sergeant at Arms to implement a new policy on the use of the subway car serving the Hart Building on a temporary basis in hopes that it will improve the timely transport of Members. The new policy is as follows:

First, the use of the subway car serving the Hart Building will be restricted to Senators only during 15-minute rollcall votes.

Second, a subway car will be scheduled to depart the Hart Building platform at the 3-minute remaining point of each rollcall vote. This means that a car arriving at the platform with more than 3 but less than 6 minutes remaining on a rollcall vote will stay at the platform and depart at the 3-minute remaining point.

Third, when a car serving either the Dirksen or Hart Building malfunctions during a rollcall vote, the remaining car will serve both buildings, and the car will be restricted to Senators only. The car will be scheduled to depart the Hart Building platform at the 3-minute remaining point; the car will then stop at the Dirksen platform to pick up Senators.

The Democratic and Republican Cloakrooms will be promptly informed by the Capitol Police of any malfunction during a rollcall vote.

This policy, to work effectively, requires the cooperation and support of all Members. We hope that Members will not ask drivers and police officers to make exceptions. I request that the letter sent by Senator STEVENS and myself to the Sergeant at Arms regarding the implementatoin of this new policy be printed in the RECORD at this point.

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

U.S. SENATE,
COMMITTEE ON RULES
AND ADMINISTRATION,
Washington, DC, February 4, 1988.

Hon. HENRY K. GIUGNI,
Sergeant at Arms, U.S. Senate, Washington, DC.

DEAR HENRY: On Tuesday, February 2, 1988, several Senators with offices in the Hart Building missed a roll call vote because of subway delays. To minimize this problem in the future, we are implementing an interim procedure for the running of the subway cars. The full Committee will be requested to ratify this new policy at its meeting on February 17, 1988.

The new policy is as follows:

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

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

1. The use of the subway car serving the Hart Building will be restricted to Senators only during 15-minute roll call votes.

2. A subway car will be scheduled to depart the Hart Building platform at the three-minute remaining point of each roll call vote. This means that a car arriving at the platform with more than three but less than six minutes remaining on a roll call vote will stay at the platform and depart at the three-minute remaining point.

3. When a car serving either the Dirksen or Hart Building malfunctions during a roll call vote, the remaining car will serve both buildings, and the car will be restricted to Senators only. The car will be scheduled to depart the Hart Building paltform at the three-minute remaining point; the car will then stop at the Dirksen platform to pick up Senators.

The Democratic and Republican Cloakrooms will be promptly informed by the Capitol Police of any malfunction during a roll call vote.

Please inform the Capitol Police assigned to the subway platforms of the Capitol and Dirksen and Hart Buildings of this new policy. We would also appreciate your making the necessary arrangements to have signs erected and displayed informing users of this policy.

Sincerely,

WENDELL H. FORD,
Chairman.

TED STEVENS,
Ranking Minority Member.

CONGRESS MUST PASS GENOCIDE IMPLEMENTING LEGISLATION NOW!

Mr. PROXMIRE. Mr. President, Americans and certainly Members of the Congress place supreme value on human life. Can there be any crime greater than to destroy the life of an innocent human being who has committed no crime, a human being who threatens no one, who has done nothing wrong except to be born into a particular religious, ethnic, or racial group? Yes, there can be something even more monstrous. It is the planned, premeditated destruction of the lives of literally millions of innocent human beings because they happened to worship God in a different religion or being of a different race or ethnic group. What am I talking about? I am talking about genocide. I am talking about the extermination of European Jewry by Hitler. And I challenge any Senator or Congressman to cite any crime in human history that comes close to the terrible genocide in Europe just prior to and during World War II.

Why do I rise today to speak on this subject? I rise because it is now 2 years since the Senate of the United States by an overwhelming 82 to 11 vote ratified the Genocide Convention. In that 2-year period the Congress has failed to finish the job. This is incredible. In fact, it is a disgrace to this U.S. Senate. How can this be? Didn't we ratify the treaty? We did, indeed. And in ratifying the treaty the Senate attached a declaration. The declaration was necessary. It provided that the President may not deposit the instrument of ratification until after the implementing legislation is enacted. Mr. President, I can understand how the Congress might wait a month or two to enact implementing legislation. But 2 years? Twenty-four months? The implementing legislation has been drafted. It has been introduced by the respective chairmen of the House and Senate Judiciary Committees. But there have been no hearings, not a whisper indicating any concern or any action.

Here is absolutely critical implementing legislation that is shamefully stalled in the U.S. Congress. The ratification of the treaty without action on this legislation by the Senate is simply an empty, hollow action that has no force. It has no meaning. How ridiculous this must be in the eyes of the world. Officials of the United States itself drafted the treaty right after World War II. We took it before the United Nations. The United Nations unanimously approved it. Way back in 1948—40 long years ago President Truman reaffirmed our country's commitment to human rights by signing the Genocide Convention. Every major country in the world has long since proceeded to ratify the treaty and where necessary enact implementing legislation to make it national law.

Then we had the appalling interim of 37 years—37 long years—Mr. President before this body finally ratified this treaty conceived and drafted by our own country. During those 37 years President after President, Republican and Democrat called on the Senate to ratify the treaty. President Kennedy called for its ratification. So did President Johnson. President Nixon pleaded for ratification. President Ford also asked the Senate to act. So did President Carter. To his credit President Reagan finally succeeded in persuading the Senate to act and the Senate did act. We ratified the treaty with an overwhelming vote.

So here we now have legislation that is essential to give any meaning to the Genocide Treaty. This is legislation that we must pass if the President is to be permitted to deposit the instrument of ratification of the treaty. So what happens? The Congress goes sound to sleep. By failing to pass this implementing legislation we should take a special international prize for gross hypocrisy. The Senate resoundingly passed the ratification of the Genocide Treaty. We thereby tell the world that we recognize this terrible crime. Then, what do we do about it? We do nothing about it. We speak loudly but carry no stick at all. We say we are against genocide, but if an American group committed genocide in our country, we have no law that would do anything about it.

Now, Mr. President, it is true that genocide is a crime that is almost invariably committed by the government of a sovereign country or in conjunction with the government of a sovereign country. So without a statute it is an exceedingly difficult crime to prosecute except after a war in which the government of that sovereign country is brought to its knees. But in a country like the United States where we take such pride in the fact that no person—including the President of the United States or the most powerful Member of the Congress is above the law, we should have enacted into the statutes of the United States an act setting forth precisely what is the crime of genocide and providing specific penalties for those who commit the crime.

Mr. President, I realize our Judiciary Committees in both Houses of Congress are very busy this year. I fully realize this is an election year. I know we have a great deal of must legislation that the Congress will have to enact before we adjourn next fall. But, here, Mr. President is one piece of legislation we must pass and pass swiftly.

Mr. PROXMIRE. I yield the floor.

Mr. BRADLEY addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from New Jersey.

Mr. BRADLEY. May I ask the majority leader if he would yield an additional 5 minutes at this time?

Mr. BYRD. Mr. President, how much time do I have remaining?

The ACTING PRESIDENT pro tempore. Four and a half minutes.

Mr. BYRD. I yield 4½ minutes to the distinguished Senator.

The ACTING PRESIDENT pro tempore. The Senator is recognized for 4½ minutes.

CONTRA AID

Mr. BRADLEY. Mr. President, yesterday the House of Representatives voted against further aid to Nicaraguan resistance. The House voted this way because the majority of the Members believed that the aid package proposed by the President will hurt, not help, peace and democracy in Central America.

I hope they are right. I hope the Nicaraguan resistance understands that the United States is not abandoning them. I hope the Sandinistas understand that the American people will be watching their actions. The next few weeks and months will demonstrate whether the Sandinistas are ready to negotiate a cease-fire with the resistance. But only time will tell whether they can tolerate debate and dissent; whether they grant amnesty that vitiates past charges and restores full legal rights, or whether amnesty means no more than shorter sentences and permission to speak on the Sandi-

nistas' terms; whether every political prisoner will be freed or only those whose spirit is broken and whose voice is mute; whether the Sandinistas will shut down their high-technology torture chambers whose modern methods leave no scars to shock the conscience of human rights monitors; whether they will stop supporting insurgents bent on overthrowing elected governments in the neighboring democracies; whether they will scale back their military ambitions and concentrate instead on economic reconstruction and political reconciliation.

Last night's vote need not have turned out this way, though it is no surprise. You could see it coming.

I blame Ronald Reagan. There is a difference between speeches that rail at Communists and a policy that effectively counters them. Speeches are easy; policy takes effort and care.

Ronald Reagan did not care enough to figure out his goal and persuade the American people he is right. Seven years later, we still do not know whether he wants to overthrow the Sandinistas or get them to negotiate. Not knowing the ends, Congress has understandably resisted authorizing the means.

He did not care enough to make his case against a totalitarian government in human terms that the American people can understand and accept. Instead, he indulges in rhetoric about Latin dominos and anti-Communist imperatives that turns off all but the zealots.

He did not care enough to level with Congress. He failed to inform us and then misled us about Iran-Contra. And, half-truths continue to plague the policy.

He rejected anything that smacked of genuine bipartisanship as though it were a dirty word, even after the Kissinger Commission 5 years ago laid out the path to attain it. As for advice from Democrats, it was repeatedly ignored.

For almost 2 years now, I have tried setting aside any political considerations to support an unpopular effort to aid and reform the Contras because it was the best means available to achieve a difficult but important objective. It was an effort to get the Sandinistas to stop destabilizing the fledgling democracies around them and to nudge them toward a real negotiation with the resistance and internal opposition, a negotiation which would lead to greater freedom and an end to repression. But, in addition, I urged the President to broaden his approach to demonstrate that if we were truly interested in protecting democracy in the region we would have to deal with the fundamental problem: the living standard of its people.

"If you're serious about peace and democracy in Central America," Democrats told the President, "do something about its crushing debt burden." Ignored. He continues to keep fledging democracies under the banker's thumb.

"If you want economic growth," we said, "use up some political capital on those outrageous sugar quotas that protect a handful of big agribusinesses but insure deeper poverty to the poorest of Central America's poor." Ignored. He did not want to offend special interests that have strangled the legislative process for half a century, even for peace and democracy in Central America.

"The root of Central America's problem is economic," Democrats argued. "Yes, some military assistance, but we need a balanced package with more economic assistance to rekindle hope." Ignored. The $300 million in economic aid attached to the 1986 aid package was reneged on by the administration.

If all of this was not sad enough, he ignored our tactical advice, too. He ignored it even when it had Republican support. Democrats and Republicans alike appealed to the President to postpone this vote. Whether you believe the Sandinista's involvement in the peace process is a ploy or whether you believe it is a genuine response of a country with a shattered economy, in either case, more time would have tested the Sandinista's real intentions. To postpone this vote would have bought time to negotiate the cease-fire the Contras and the Sandinistas both say, for separate reasons, they want. If that happened, the Contras, would not need lethal aid as long as the cease-fire was observed. If instead the Sandinistas torpedoed the negotiations, aid was still an available option. But no, the administration turned a deaf ear to this counsel.

When postponement was rejected, the administration was urged to limit its request to nonlethal or humanitarian assistance for which there is broad, bipartisan support. Even the Contras would have preferred this to what has happened, and before the vote in the House they told the administration as much. But again, the administration turned its back—this time on the Contras themselves.

They could, as a last resort, have required an affirmative vote of both Houses to release the escrowed lethal aid only if the Sandinistas failed to negotiate a cease-fire. This, too, would have supported the peace process while keeping the threat of renewed pressure alive. At the 11th hour, the President distorted this suggestion into the proposal that if Congress voted for Daniel Ortega, he would not send lethal aid.

Ronald Reagan rejected our advice and, I might say, the advice of many in his own party. Instead, he stubbornly insisted on symbolic lethal assistance that he had to know Congress would defeat. It was almost as if he wanted to lose.

If Ronald Reagan really cared about a policy for peace and democracy in Central America, he would not have let this happen. But then, if he really cared, he would not have done a lot of things. He would not have tainted the program in the beginning by using military trainers from the Argentine junta; he would not have confused the public about his objectives; he would not have spent all his political capital on the "Morning in America" deception of the 1984 campaign. Instead, he would have kept some to educate the American people about the real struggle in Central America, not just the phony one that plays to the feel-good needs of the far right. And, most important, he would have used his popularity after the election to win support for his vision, not to betray the people's trust with secret schemes to privatize the program.

Ronald Reagan did not care enough to take the political risk. So, he turned the policy over to privateers. In doing so, he has come close to selling out the cause.

It is a real shame. I believe we are beginning to make progress toward peace and democracy. For the first time, the Contras are bringing their military leaders under political control. They are a fragile but unified, cohesive force with a strong negotiating position. Their political objectives are clear and coincide with the political demands of the 14 parties that make up the internal opposition. Chances for a cease-fire—which would make moot the lethal aid issue—were looking good. The Sandinistas, responding to Contra pressure, and perhaps as a way to fulfill a part of the promise of their revolution, finally seemed ready to make some of the concessions that a permanent, political solution to the conflict requires.

Ronald Reagan may have finally snatched defeat from the jaws of victory.

Why?

Why has the administration recklessly risked the Contras and peace process just when both had a chance? Some say that the administration has only paid lip service to a negotiated solution because overthrow is their goal. If so, I believe, and I hope, that no majority of any Congress would support them.

Others speculate that the administration calculates that the best way to protect U.S. security interests in Central America is to cut a deal with the Soviets, regardless of the fate of the Nicaraguan people. If true, this is a dangerous illusion.

A third group says the administration does not care enough about Central America, but Nicaragua, about democracy, about peace. They do not

even care enough about the Contras. They just want a domestic political issue in 1988 and beyond. If that is so, such cynicism makes me sick.

The ACTING PRESIDENT pro tempore. The time of the Senator has expired.

Mr. DODD. Mr. President, I ask unanimous consent that the Senator from New Jersey be allowed to continue for the next 5 minutes.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. KENNEDY. Mr. President, reserving the right to object, how much time will that leave?

The ACTING PRESIDENT pro tempore. It would leave approximately 5 minutes for morning business.

Mr. KENNEDY. I understand it would be satisfactory for the Senator to conclude within a minute.

Mr. DODD. I ask unanimous consent for an additional 1 minute.

Mr. HEINZ. I object.

Mr. President, it might be helpful to many of us who have things we would like to talk on, maybe this subject or maybe others, to extend the period for morning business. If we cannot do so, I might have to object.

The ACTING PRESIDENT pro tempore. The majority leader.

Mr. BYRD. Mr. President, the period for morning business will not be extended. We stated what time the vote will occur. Senators are depending upon that vote to occur and to be done at that time.

I hope that the Senator from Pennsylvania will have an opportunity to address the Senate.

The ACTING PRESIDENT pro tempore. Is there objection to the unanimous-consent request?

Mr. HEINZ. Mr. President, I do object.

The ACTING PRESIDENT pro tempore. Objection is heard.

The Senator's time has expired.

Mr. BRADLEY addressed the Chair.

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

Mr. KENNEDY. I would be glad to yield, without losing my right to the floor, to the Senator.

Mr. HEINZ. I object.

Mr. KENNEDY. I would like to ask the Senator from New Jersey, does he have another paragraph?

Mr. BRADLEY. The Senator has another paragraph.

Mr. KENNEDY. I would be interested in what is incorporated in that final paragraph.

Mr. BRADLEY. All right.

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

Mr. BRADLEY. Mr. President, it is about time we had a truly bipartisan policy—but that takes thought, flexibility, persistance, goodwill, and a willingness to listen to each other. Maybe now the President will hear Democrats more clearly. Until he does, I am left with no choice but to vote against this resolution.

Mr. KENNEDY. Mr. President, I urge the Senate to oppose the motion to proceed to consider the administration's proposal to provide more aid to the Contras.

After last night's vote in the House, Contra aid is dead in Congress, and the Senate should not waste its time trying to bring Contra aid back from the grave. The Senate should not give artificial respiration to a policy that is dead and should now be buried. It is time to pull the plug.

The House has made clear its commitment to the Central American peace process. Today, the Senate can add to that commitment—or detract from it.

Aid to the Contras is an idea whose time is past. Today, we should start building a policy for the future—of peace and freedom, reconstruction and reconciliation in Central America—and stop debating the failed policy of the past—which only brought more killing and wider war.

Nothing would please the Sandinistas more than to blame the United States for sabotaging the peace process. Nothing would make the Sandinistas happier than to walk away from negotiations with the Contras, restore the state of emergency, close down La Prensa, and put opposition leaders back in jail—and then blame it all on Uncle Sam and Contra aid. The Senate should do nothing that provides the Sandinistas with any pretext for any more oppression.

With or without us, the policy of the United States toward Central America is about to change for the better, and the Senate has a chance to catch up to reality and become part of that change.

The focus is now shifting to Central America, where it belongs. The whole world is watching to see whether Daniel Ortega will live up to the pledge he has made to his fellow Presidents and his fellow Central Americans. With our vote today, we can help stop the fighting—and give peace a fighting chance.

I urge the Senate to reject the motion to proceed.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

The Senator from Pennsylvania is recognized for 4 minutes.

THE JOB TRAINING PARTNERSHIP ACT

Mr. HEINZ. Mr. President, the other day I spoke before this body about the need to keep our promise to America's trade-impacted workers—the promise of passing a tough but fair trade bill. Today I rise to speak of the plight of an even larger group of American workers: those who may or may not be import-impacted, but who are found ineligible for trade adjustment assistance. The Job Training Partnership Act is their primary source of Federal aid.

According to the Bureau of Labor Statistics, between 1981 and 1986, over 5 million American workers were displaced by plant closings or layoffs. Imagine what it must be like to be in these workers' shoes—with at least 3, if not many more, years invested in a job and suddenly finding yourself out on the street.

Established in 1982 to replace the CETA Program, the purpose of title III of the Job Training Partnership Act is expressly to help these workers by providing funds for classroom training, on-the-job training, job-search assistance and relocation. Well, it looks great on paper, but the fact is—proven by GAO studies—that only 6 to 7 percent of dislocated workers received title III training and job placement assistance in program years 1984 and 1985. The remaining 93 percent had to manage on their own, many becoming dependent on welfare when their unemployment checks ran out. Because many live in depressed areas, these workers cannot sell their homes or other assets at anything approaching a reasonable price, and many thus cannot relocate to where the jobs are.

Early last year, Senator ROCKEFELLER of West Virginia, and I introduced a Worker Adjustment Improvement Act to provide $1 billion in new services to displaced workers. In hearings we held in Pennsylvania, we learned that the current Job Training Program simply does not reach those facing long-term unemployment. It creams the most job-ready off the top and leaves the rest to fend for themselves. The trade bill contains the Labor Committee's proposal to change all that. We need this new program desperately.

We cannot ignore these workers. Last year, the Senate passed a New Worker Readjustment Program. But the real test of our commitment revolves around whether we actually make something of our promises, whether we ultimately pass the trade bill providing workers essential assistance and prove that our promises are not just rhetoric.

With the GAO finding that less than a third of current JTPA projects offer the skills training most dislocated workers need, our task is complex. Not only do we need to provide workers training, we also need to improve its content and focus. Providing $980 million in funds for title III programs, the trade bill is certainly not some token retraining effort. But as long as that effort languishes in conference, workers must have doubts about how seriously we take our commitments.

In my State of Pennsylvania, over 750 workers are awaiting training programs. Further plant closings will lengthen those lines. These workers have turned to us for help, and we are failing them. America can't afford anything less than a serious commitment to enact the Worker Readjustment Program. Failure to retrain more than 1 in 20 displaced workers is more than a national embarrassment, it will ultimately amount to economic devastation. The Nation's economy depends on our solidifying our commitment to the work force. By passing the trade bill, with its $980 million Worker Readjustment Program, we will be keeping our commitment. I urge my colleagues to do just that.

I yield the floor, Mr. President.

Mr. BYRD. Mr. President, has morning business been closed?

The ACTING PRESIDENT pro tempore. There are still 40 seconds remaining, the leader is informed.

Mr. SYMMS. Mr. President, I make an inquiry of the leader if we will have an opportunity to speak on the Contra aid issue after the vote.

Mr. BYRD. Yes. Mr. President, of course, if the motion to proceed is agreed to, we will have up to 10 hours until no later than 10 o'clock today. I hope that will not go beyond 6 o'clock. But if the motion to proceed does not prevail, I will get morning business for a couple of hours, or whatever it requires, and Senators may speak during that period.

Mr. SYMMS. I want to speak for about 15 minutes.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, morning business is now closed.

Under the previous order, the majority leader is recognized.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, I indicated that I would move to proceed to the resolution at this time. I do call attention to the Republican leader that, while he was in his office, I got consent that his time under the leader's standing order would be reserved, and that request would be honored if he should wish.

Mr. DOLE. If I could, I would further reserve the time but not take it at this time.

Mr. BYRD. He would be perfectly within his right to utilize that 5 minutes now or yield it to anybody on his side if he wishes to. Otherwise, I would like to proceed because Senators have been notified we would have the vote.

AUTHORITY FOR ADDITIONAL ASSISTANCE FOR THE NICARAGUAN DEMOCRATIC RESISTANCE

Mr. BYRD. Mr. President, I move to proceed to the consideration of Senate Joint Resolution 243.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion to proceed to Senate Joint Resolution 243. The yeas and nays are automatic and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Illinois [Mr. SIMON] is necessarily absent.

I also announce that the Senator from Delaware [Mr. BIDEN] is absent because of illness.

Mr. SIMPSON. I announce that the Senator from Connecticut [Mr. WEICKER] is necessarily absent.

I further announce that, if present and voting, the Senator from Connecticut [Mr. WEICKER] would vote "nay."

The VICE PRESIDENT. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 54, nays 43, as follows:

[Rollcall Vote No. 17 Leg.]

YEAS—54

Armstrong	Gramm	Nickles
Bentsen	Grassley	Nunn
Bond	Hatch	Packwood
Boren	Hecht	Pressler
Boschwitz	Heflin	Quayle
Breaux	Heinz	Roth
Chiles	Helms	Rudman
Cochran	Hollings	Shelby
Cohen	Humphrey	Simpson
D'Amato	Johnston	Specter
Danforth	Karnes	Stennis
DeConcini	Kassebaum	Stevens
Dole	Kasten	Symms
Domenici	Lugar	Thurmond
Evans	McCain	Trible
Exon	McClure	Wallop
Garn	McConnell	Warner
Graham	Murkowski	Wilson

NAYS—43

Adams	Fowler	Mitchell
Baucus	Glenn	Moynihan
Bingaman	Gore	Pell
Bradley	Harkin	Proxmire
Bumpers	Hatfield	Pryor
Burdick	Inouye	Reid
Byrd	Kennedy	Riegle
Chafee	Kerry	Rockefeller
Conrad	Lautenberg	Sanford
Cranston	Leahy	Sarbanes
Daschle	Levin	Sasser
Dixon	Matsunaga	Stafford
Dodd	Melcher	Wirth
Durenberger	Metzenbaum	
Ford	Mikulski	

NOT VOTING—3

Biden	Simon	Weicker

So the motion was agreed to.

Mr. BYRD. Mr. President, may we have order in the Senate?

The VICE PRESIDENT. The Senate will be in order.

Under the statute, time for debate between now and 10 p.m. is evenly divided between and controlled by the majority and minority leaders or their designees.

Mr. BYRD. Mr. President, it will be to everybody's benefit if we may have order in the Senate so Senators may know how the proceedings will be carried on from here.

The PRESIDING OFFICER (Mr. REID). The Senate will come to order.

Mr. BYRD. Mr. President, I thank the Chair.

Under the statute, there is a maximum of 7 hours and 12 minutes remaining. I should not say, "remaining." There is. I think that is accurate to state, 7 hours and 12 minutes remaining because the vote on the resolution now must occur no later than at 10 o'clock this evening.

I hope that the debate will not last that long. A motion to reduce the amount of time is in order. It is not debatable.

At some point in time I would, perhaps, want to resort to such a motion unless we can reach an agreement without it. I do not want to go to 10 o'clock tonight on a matter that is not going anywhere for the moment. But Senators are entitled to debate this, of course.

Had the motion to proceed been rejected, as I indicated to Mr. SIMPSON, I planned to set aside 2 or 3 hours so that Senators could talk on this measure before we go out.

There will be no session on tomorrow.

The remaining vote on the Senate joint resolution is the only vote that I contemplate today. I would take it that no one would ask for a rollcall vote on the motion to go over until Monday a week from this coming Monday.

In view of the fact that the time is equally divided between the majority and the minority leaders, I wonder if the minority leader would agree with me that each of us perhaps should allot the time for our respective sides so that I do not have to ask a Senator if he is for or against the joint resolution, and the minority leader does not have to ask Senators if they are for or against the joint resolution.

So if each could allot the time to his respective side, it seems to me it might expedite matters.

Mr. DOLE. If the majority leader will yield. That is a good suggestion. I would like to yield our time to the distinguished minority whip, Senator SIMPSON, and he, in turn, could allocate it, if that is satisfactory.

Mr. BYRD. Yes. And I will yield a block of time, though I want to keep control over some of the time. As I say, I do not want to go until 10 o'clock tonight debating this matter.

Mr. President, how much time now remains to each side?

The ACTING PRESIDENT pro tempore. The Republican leader has 3

hours 36 minutes and the majority leader has 3 hours 30 minutes.

Mr. BYRD. I thank the Chair.

I yield 1 hour 30 minutes to Mr. PELL and name him as my designee for the control of 1 hour 30 minutes. I yield Mr. BENTSEN 10 minutes in addition.

Mr. DOLE. If the majority leader will yield before he leaves the floor.

Mr. BYRD. Yes.

Mr. DOLE. It would be my hope, at least, that we might be able to vote around 6 p.m., if that could accommodate each side. I plan to be here until 6 p.m. I could be here later. I would try to work that out on this side. I will yield 1 hour 30 minutes at this time to the distinguished minority whip, Senator SIMPSON, and maybe in the meantime we could reach some agreement. That would take us to just about 6 o'clock, 1 hour 30 minutes on each side.

Mr. BYRD. I think that is a good idea. We will be happy to try to shop for that on this side.

Mr. President, I yield 1 hour 30 minutes to the chairman of the Foreign Relations Committee, but I yield 10 minutes to Senator BENTSEN in addition.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. PELL. Mr. President, I yield myself 10 minutes.

The ACTING PRESIDENT pro tempore. The Senator from Rhode Island is recognized for 10 minutes.

Mr. PELL. Mr. President, on Tuesday, the Committee on Foreign Relations, by a vote of 10 to 0, rejected the administration's request for Contra assistance. The committee's decision reflects the view that the administration request for some $60 million is not only contradictory to the peace process but could destroy the best hope for peace in Central America since the beginning of this decade.

Each Senator present at our committee business meeting expressed, in sensitive and decisive terms, the significance of the vote to be cast against the administration's policy of continued war. Today, as we prepare to cast what I hope will be a watershed floor vote against the administration's policy, I wish to share my concerns and convictions about that policy.

I believe strongly that the President's request for continued military and economic assistance to the Contras is fundamentally contrary to the peace process now underway in Central America. Continued military aid, especially, could sound the death knell for peace in the region.

Contrary to propaganda emanating from the administration, I believe it is the peace process—the termination of wanton death and destruction—that has brought major concessions from the Sandinistas. In January, after the five Central American Presidents met in San Jose, the Nicaraguan Government responded quickly. From Costa Rica, President Ortega announced that the Government of Nicaragua would suspend the state of emergency and reinstate constitutional guarantees. He also agreed to apply the amnesty law to those who have taken up arms, as soon as a cease-fire is arranged, and further declared that if a cease-fire is not arranged, the Nicaraguan Government still would be willing to release Contra prisoners, provided that a non-Central American government would take them.

Several days later, Nicaragua repealed its law establishing the controversial people's tribunals. The Sandinista government also proposed establishment of a special international commission to help assure that the Contras would receive constitutional guarantees facilitating their active participation in Nicaragua's future political life.

In a major departure from previous policy, the Sandinistas also agreed to meet face to face with the Contras in talks on a cease-fire. These talks, which began last week, are scheduled to resume 1 week from now in Guatemala City, subject to approval by mediator Cardinal Obando y Bravo. While wide differences separate the two negotiating teams, the very fact of direct talks is a positive sign that the peace process is continuing.

With regard to the administration's request, I wish to point out that the seemingly low stated figure of $35.6 million for 4 months is misleading. That figure omits $20 million for indemnification of lost aircraft and an unstated figure for electronic countermeasures, which could cost between $3 and $4 million. Indeed, when the numbers are added up and extrapolated, one finds something very near to the administration's original 18-month request for $270 million. So much for the so-called scaled-down request to satisfy the Congress. The bottom line is to keep the present Contra aid mechanism in place and the door open to further military assistance of an untold amount.

I wish to stress that I am seriously concerned by Secretary Shultz' indication last Sunday that the administration would not rule out asking other countries to provide Contra aid in the event that Congress terminates Contra funding. In 1985, we passed foreign aid legislation designed to prevent such activity by prohibiting the United States from entering into any arrangement, expressed or implied, with aid recipients and U.S. arms purchasers whereby they would provide aid to the Contras. This should be adequate to prevent such third country aid arrangements. But, if the administration does move to seek third country assistance for the Contras, it may be necessary to explore once again legislative remedies to prevent circumvention of congressional will.

By virtue of the vote in the House last night, the administration's request has been rejected. I call on my colleagues to reinforce this rejection of Contra policy by voting against it today in the Senate. We will have an opportunity in the months ahead to make a real contribution to peace and reconciliation in Central America. Moves are already afoot in the Congress to fashion a truely bipartisan policy that would include such provisions as humanitarian assistance to the Contras through the Red Cross and other international relief agencies. Such funding would support, rather than undercut, the Central American peace process.

Eventually, I hope to see, as part of this positive policy, the commencement of U.S. bilateral talks with the Sandinistas on mutual security concerns. In a recent letter to President Reagan, Daniel Ortega renewed Nicaragua's proposal for bilateral accords with the United States that would place strict limits on offensive arms, remove foreign military advisors, and ban foreign troops and foreign military bases. Such an accord would clearly serve the U.S. national interest.

We have an opportunity now to end the cruel and inhumane violence that has claimed the lives of thousands of Nicaraguans and maimed thousands more since the Contra war began. For years, I have termed the Contras "our terrorists" and watched with grief the ravages of war in the Nicaraguan countryside. Recent reports of innocent children crippled for life because of Contra attacks, or because they tripped on a Sandinista mine meant for the enemy, only strengthen my conviction that this violence—and the administration policy that fuels it—must stop. A vote against the administration's request today is a vote for peace in Central America.

Mr. President, that concludes my statement.

How much time do I have remaining?

The PRESIDING OFFICER. (Ms. MIKULSKI). The Senator has 3 minutes remaining for such use as he wishes.

Mr. PELL. How much in total do I have?

The PRESIDING OFFICER. An hour and twenty-three minutes.

Mr. SIMPSON addressed the Chair.

The PRESIDING OFFICER. The assistant Republican leader.

Mr. SIMPSON. Madam President, the minority leader designated that I would control time in the amount of 1½ hours. I believe we have begun our allocation of that time, and while the Senator from Arizona [Mr. MCCAIN] is on the floor, I ask unanimous consent that he be directed to allocate the

time that has already been agreed to at this point.

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

Who yields time?

Mr. McCAIN. Madam President, I yield 10 minutes to my colleague from Nebraska, Senator EXON.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. I thank the Chair and I thank my colleague from Arizona.

Mr. President, as this body knows, and as my numerous votes on the issue have clearly demonstrated, I have long had reservations about the President's Central American policy and have consistently opposed the provision of lethal assistance to the Nicaraguan resistance. Likewise, I opposed the previous President's request for the initial aid to the Ortega government after the revolution that brought the Sandanistas to power. I have always felt Ortega was a dedicated Communist, and I did not want to be part of anything that would strengthen his chances of long-term success.

In Nicaragua there were some well-intended individuals, many of whom were comrades in arms or political associates of the Sandanistas early on, who were burned and turned. Likewise, many in the United States, embarrassed by their early and terrible mistakes in supporting the Sandanistas, signed on the Contra cause as if, when one revolution failed, the logical thing to do is to start another. Somehow we have fallen into the trap that if American taxpayer funds are used to by ammunition to kill Communists, it must be a good investment. That is where the Reagan policy has led us, with the constant implication that if one is not for the Contras. Then you were for the commies. While continuing diplomatic relations with Nicaragua, our Government took on overt and covert actions in a civil war to overthrow a duly elected government not to our liking. We are led to believe that that is democracy in action.

I believe each Member of the Senate, the Secretary of State and, I hope, even the President understands that the root causes of the problems in Central America are poverty and exploitation—from both the political right and the left. Democracy is not the main goal of an average Nicaraguan trying to exist. To the typical citizen of Nicaragua, and Ortega is no better than a Somoza. Each type of leader causes the breeding ground of insurrection to continue to fester. We have, to date, not adequately addressed these root causes of conflict.

My concern that the President has wrongly relied upon covert programs of questionable legality and large doses of Contra aid remains. However, so does my distrust for the Sandinista regime of Daniel Ortega. I have never trusted the Sandinista government and was one of the first in the Senate to recognize it as Marxist. The indisputable close ties among the Sandinistas, Cuba, and the Soviet Union are, indeed, worrisome to me.

I have consistently stated that should offensive weapons such as Mig aircraft or missiles be introduced into Nicaragua, the President would have no choice but to remove them. We have obligations to the other Central American nations in this regard as the leader of this hemisphere. So let there be no doubt, Madam President, about American's resolve to protect our national security interests and those of our allies in this part of the world.

Madam President, last August a serious peace process finally began in Central America. It was not Ronald Reagan's peace process, but it had credibility. Finally, the other four Central American Presidents stood up and were counted for democracy and peace in the region. And they at least managed to drag Daniel Ortega to the conference table where he signed on the dotted line. While I do not know his intentions, and do not trust him, at least there are standards in place to measure his performance, these standards were not imposed by Uncle Sam. They were imposed by his democratic neighbors.

As I suspected, Daniel Ortega has complied with the Arias peace plan only in a limited way. He has done so only then under the pressure of the other Central American Presidents and, to some degree, the threat posed by growing Contra strength. There is no doubt that the greatest obstacle to peace in Central America remains Ortega's Nicaragua.

This does not give the United States a free hand to do whatever it wants in the region. Ultimately, it will be the Central American people who will have to shape their own destiny. I believe they should be afforded the opportunity to do so and our Nation should provide a helpful hand rather than a dictatorial one.

I have expressed these concerns personally to the President and told him that I could not accept his request as he originally presented it. A more reasonable approach, and one I told the President I could support, would place the lethal aid in escrow for a period of time to give the peace process more time to hopefully work. During this period, the United States would consult more closely with the Central American Presidents and Cardinal Obando y Bravo, the negotiator in Nicaragua, to determine how that process is evolving. At the end of that time, the Congress would then play a role in determining whether lethal assistance would go forward. For whatever reason and belatedly tendered as it was in his Tuesday evening address, the President has come a long way in his effort of compromise and has satisfied me that no lethal aid will go forward without congressional consent. There are many sincere opponents who believe cutting all aid now will enhance peace chances. Given the Ortega character, I cannot be confident that is a risk we can take now.

It is my best judgment that the chances of success for the Arias peace plan are best assured, and our national security interests best served at this time, by allowing the humanitarian aid to go forward as the President has formally requested, and place the lethal aid in escrow pending developments in the Arias peace efforts. There should be a clear understanding that any subsequent release of any lethal aid should have joint Presidential-congressional approval.

I heard parts of the debate in the House and have listened with interest to the likewise heated debate here. I heard some impassioned appeals on both sides of the proposal. The more impassioned the debate, the more convinced I became that the impassioned-inclined ones are probably no more sure or secure in their positions than those of us who do not share their zeal and absolute assumed knowledge of what is right or wrong on either side of this issue. Some just talk that way to shore up their own doubts. In my view this is not a "dead certain" call as to what is the correct course here. It is a call that we have to make and it is a call that we should make. And I am not sure what is the right course of action.

The Arias peace plan is not perfect. It may not even work. But after 7 years of war, it deserves a better chance and I believe my vote helps that process. I hope and pray I am right because lots of Nicaraguan lives are at stake. Thus far no lives have been lost in Congress by any of the combatants in the debate.

I do not choose to urge my colleagues to vote one way or the other on this issue. I do want them to know I will support the President's revised plan and urge all to only vote their convictions after careful consideration.

Mr. CRANSTON addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. PELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. I yield 3 minutes to the Senator from California.

The PRESIDING OFFICER. The Senator from California.

Mr. CRANSTON. I thank my colleague and chairman of the Foreign Relations Committee.

Madam President, last night's vote in the House was a vote for peace in Central America. It was a vote against continued violence and bloodshed. The Reagan administration's Contra policy

is symptomatic of a greater ill which besets U.S. policy toward all of Latin America. This administration has no real coherent long-term policy for peace in the region. The House vote gives us a chance to end a dark chapter in American history and to open a bright new chapter of cooperation and peace.

We are about to close the books on U.S. financing of a futile, bloody, unnecessary war.

The Central American peace plan put forth by President Arias gives us a chance to fashion a coherent policy to support reconciliation, and to aid in the political and economic development of the region.

What we need instead of arms and logistical supplies to the Contras is a willingness to help this delicate peace process move forward. The administration should seek to assist the process, not keep trying to figure out ways to throw a monkey wrench into the peace machinery.

In the weeks to come, the House leadership will propose a carefully limited and circumscribed humananitarian aid package to the Contras. But let me underscore this point. When the humanitarian aid bill comes to the Senate floor, unlike the situation in the House, it will be open to amendment. And there is a danger, probably a likelihood, that there will be a new attempt by supporters of the Contras to amend the bill to provide military aid. I say "danger" because such an amendment would endanger humanitarian aid.

Even if a military aid amendment were to pass the Senate, I would oppose it. It most certainly would not be accepted by the House. Therefore, supporters of the Contras should be aware and now is none too soon to put them on notice that any attempt to turn the humanitarian aid bill into a resurrected military aid bill will indefinitely delay humanitarian aid and perhaps kill it altogether.

So I urge any Senators inclined now to offer such an amendment at that time to consider very carefully the consequences.

Madam President, Congress and the administration should be working together to fashion a constructive policy to assist the Central American nations in building democratic institutions and addressing their serious economic and social problems. I hope we do not have to wait to see the President in the White House to get this process going.

The administration's policy of funding the Contra war has brought a great deal of violence and hardship to civilians. The general policy of responding militarily to regional unrest has not contributed to growth and development in the region. It has only exacerbated the problems of underdevelopment.

Last night's vote in the House demonstrates that there is a willingness in that Chamber to work on a new policy toward Central America, and Nicaragua. We in the Senate should underscore that vote with a vote of our own for a more rational approach to the problems of our Western Hemisphere neighbors.

So I urge my colleagues on both sides of the aisle to vote down this proposed package of further military aid to the Contras.

I yield back any remaining time.

Mr. McCAIN address the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. I yield myself 30 seconds.

I would like to respond to the statement of my friend from California concerning the requirement for Members on their side who are in favor of lethal aid to somehow agree to a humanitarian package. I would like to remind my colleagues that the United States administration policy was repudiated by the House of Representatives last night. Therefore, the onus is on my colleague from California and his friends on the other side to come up with a policy that is acceptable to the majority of both Houses of Congress. Otherwise he will fail in their efforts to achieve peace in Central America. The ball is in his court.

Mr. CRANSTON. We know the ball is in the court of those who stated they are going to offer a humanitarian aid proposal. There will be a humanitarian aid proposal.

Mr. McCAIN. I did not yield, Madam President.

The PRESIDING OFFICER. Excuse me.

Mr. CRANSTON. May I respond to the Senator's statement?

The PRESIDING OFFICER. The Senator from Arizona has the time.

Mr. McCAIN. I yield back my time.

The PRESIDING OFFICER. Who yields time.

Mr. CRANSTON. Would the Senator yield me a brief moment to respond?

Mr. PELL. I yield 1 minute to the Senator from California.

Mr. CRANSTON. The ball certainly now is in the court of those who stated they are going to offer a humanitarian aid proposal. That will originate with some of the House leadership but that will be in consultation with Senators and I think with people on both sides of this issue. The only point I was making was that if friends of the Contras would like some humanitarian aid to go to them—and I believe they would—they will delay and possibly kill that if they seek to attach military aid once again to a humanitarian package. The reason for that conclusion is that it is very plain that the House in the present circumstances will not accept military aid, so they would not accept a Senate version that included military aid.

The PRESIDING OFFICER. Who will yield the time?

Mr. PELL. I yield 5 minutes to the Senator from Mississippi [Mr. STENNIS].

Mr. STENNIS. Madam President, I thank the Senator very much for allowing me this time.

I understand anyone voting as they see fit on this matter. What I am going to do is what I think is best for our cause. I think it is time that we make up our minds and come to a conclusion, that it be known we are going to stand on it and try even harder with the money we do appropriate to get results.

This is not intended as a personal reference, but I was in the Senate when we went to Korea, and there was great hope that merely by going there, that would bring about a settlement of the matter.

I was in the Senate when we went to Vietnam, and there were strong assurances that that was the only thing, the sane thing, to do, and that it would only last for a matter of weeks.

I watched the development here, as the average fellow would, and I have a pattern. I voted for each of these proposals. I may have voted to reduce the sum at one time, but I have watched it and conferred with many Senators who have been there and have come back with eyeball evidence; and I believe we are closer than we have ever been to a condition being brought about that is more favorable to our interests. I am not saying that I think we can make this conflict evaporate overnight, but I have been strongly convinced all the while, until recently, that we had our future in that area in our hands. And I have been concerned that we would be forced into a situation in which we would have to send our own men to this area.

I am going to play the other side, as far as I know how and can, that we do the things that not bring about conditions of that kind.

I am convinced that if we abandon this matter now, withdraw and pull back our support, for little reasons here and there, the great sum total of this thing would be that we lessened our position, we worsened our chances to have a real victory and a final solution to this situation, that we have thrown it to the wind.

After all the investments we have made, I think we ought to stand firm, continue to try this plan that we have been working on and practicing so rigidly and faithfully.

This is not a matter of speculating on who is going to win an election or anything of that kind. These are the facts of life that could pertain to the life and death of our boys.

I am not trying to scare anyone. I try always to do the opposite. But if we go on and on neglecting and leaving the situation down there to the Communists and to the areas already affected, something bad is going to brew and happen; and we will have to pay the price, even, God forbid, maybe with the human flesh of our own men.

Instead of arguing endlessly—and I respect the right of every Member to do so—let us get together and pass this matter and hasten to the preparation of a permanent solution to this problem as soon as we possibly can.

I do not think anything less than this approach is going to bring results. We are standing together perhaps more than ever before. I hope we take one more step.

Madam President, do I have any time remaining?

The PRESIDING OFFICER. The Senator from Mississippi has 15 seconds.

Mr. STENNIS. Madam President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. McCAIN. I yield 10 minutes to my colleague from Idaho [Mr. SYMMS].

Mr. SYMMS. I thank my colleague for yielding.

Madam President, I agree with the President pro tempore of the Senate, Senator STENNIS.

I say to you, Senator STENNIS, that many of us will miss you when you go into retirement next year. You have been a staunch patriot and you have recognized throughout your long and distinguished career that freedom is worth supporting, and I thank you for your continued support of it.

I must say at the outset, with respect to the comments of my good friend from California, who said that the vote last night in the House means that we will now have peace in Nicaragua. That we all have room for difference of opinion in this matter. However, I think that, more likely, the vote last night in the House means that the kind of peace we are going to have in Nicaragua is the same kind of peace they have in Vietnam today; the same kind of peace they have in East Berlin, where, if you try to leave town, they shoot you when you try to crawl over the wall.

I think it is most unfortunate, at a time in the latter part of the 20th century, when we are finally getting genuine, public support, of wars of liberation against Communist dictators—against the Soviet proxies that are entrenched in places like Afghanistan, Angola, and Nicaragua. Of course, the Soviet army itself is in Afghanistan. But for the first time, we are seeing people who have a desire to be free to challenge the Brezhnev doctrine of irreversible Communist expansion and consolidation. At this time, it is a tragedy if the Congress of the United States will not help support those forces of freedom so they can achieve their own freedom in their own countries.

In my judgment, peace and freedom are inseparable. We cannot say that we are going to keep the peace and then leave people locked in a slave camp where you know that the next step will be to expand the slave camp into the next country, until finally the day will come when we will be asked to use U.S. troops to fight a war that the Contras are fighting today to liberate their own country.

I am not surprised, Madam President, after a recent trip to Pakistan, that the Soviet dictators are trying to get out of Afghanistan right now. I see a parallel between Afghanistan, Angola, and Nicaragua where we have an opportunity to really make some major foreign policy victories for the United States. More importantly, foreign policy opportunities for people on this Earth to have a chance to live their life in some kind of a democratic system and society and to actually throw out the slave camps.

I heard the same arguments that were used in the other body when I was a Member of the House. I heard all those same arguments that the South Vietnamese did not need the money, did not need the help, and we know what the results of that were. We know what the result was in Cambodia, with two out of every seven people being killed.

My definition is that if you talk to the Communist dictators in Cambodia today, they will tell you they have peace there, but the price they paid to get it was to kill two out of every seven people, and anybody who speaks up and opposes the government today, they kill them, too. That is not our definition of peace. Our definition of peace means that people are free to continue the basic freedom we take for granted in this country.

The Mujahideen in Afghanistan are winning that battle out there. They are doing it now that they are well-armed. They held the ground for 5 to 6 years; and now that we have given them the support, they are actually defeating the Soviet army on the battle field, and we should continue that effort there. That is why the Soviets want to get out. It is not glasnost; it is not any other reason. The reason they want to get out is that Ivan is literally getting his tail handed to him on a platter by well-armed resistance forces in Afghanistan, and we are getting a victory and should continue to support that effort, as we should continue to support the effort in Nicaragua.

Such has been done at a terrible price to Afghanistan and its people. The Soviets, never ones to adopt half measures, have rotated into Afghanistan hundreds of thousands of Soviet occupation troops, they have carried out a campaign of terror, and have adopted a "scorched Earth" policy throughout the countryside. They have implemented a strategy of genocide against the Afghan people that will leave the country shattered and ready for Soviet rebuilding—a rebuilding that will do away with Afghan culture and tradition and substitute the "new Soviet model" in, its place.

They have killed innocent civilians.

Today in Afghanistan, Madam President, there is a KGB operation run out of Kabul that is setting off bombs in Pakistan killing innocent civilians. These are the same people that are backing the Daniel Ortegas and the leadership of the Sandinista Communists in Nicaragua. The same people, same sphere of influence, same parallel.

But, at least for now, a determined people have prevented the Soviets from consolidating their hold on Afghanistan. We must not abandon them in their fight.

I find it very frustrating to see that we can get support for the freedom fighters in Afghanistan but we cannot get support passed through the Congress for the freedom fighters in Nicaragua.

In another part of the world, Madam President, a similar battle is taking place, and that is Angola. We observed that Dr. Savimbi and the freedom fighters, the UNITA forces, are doing a very good job in Angola in fighting the MPLA, a Marxist proxy force.

The MPLA, a Soviet sustained regime, came to power in Angola in 1975 through behind the scenes maneuvering and intrigue. The MPLA is a minority in Angola and would have long ago been overthrown by the popular resistance but for the massive intervention of Cuban and Soviet forces. The situation in Angola today is that it remains a colony. Angolans have virtually no control over their own sovereignty. The MPLA is subject to the dictates of thsoe that keep it in power. The Cubans have an "internationalist force" of up to 47,000 in Angola; the Soviets provide the weaponry and goods and; the East Germans provide the internal security. The internal security apparatus is typical of most Third World Soviet client states. The basic administration of the government on a day to day basis is in the hands of the former colonial bureaucrats—Portuguese socialists that have stayed on—while top level decisions are made in a committee whose membership includes senior Soviets and Cubans.

It is ironic and most regrettable that most of this activity is funded by American oil interests. Through royalties and other fees paid by United

States oil companies to the MPLA, the United States subsidizes the destabilization of this region of Africa.

Against this Soviet attempt to consolidate Angola as a client state stands UNITA. The Union for the Total Independence of Angola under Dr. Jonas Savimbi has denied the Soviets a victory in his country. From the bleak days of the "long march" shortly after the MPLA took power, UNITA has reestablished itself through grassroots organizing and a program of truly national appeal.

Mr. President, despite the massive Soviet and Cuban presence in Angola, UNITA has fought the MPLA to a standstill. Politically, the MPLA has nothing to offer Angola other than an ill-defined "African Marxism" which Angolans are quick to translate as being Soviet colonialism. Militarily, UNITA has met and defeated the Cuban proxy forces in a series of MPLA offensives. UNITA now controls a third of Angola and is attacking the Luanda regime at will throughout the remainder. UNITA is able to do this, even though the MPLA has superior military force, because of popular support among the populace. UNITA grows stronger with time as more and more and more Angolans rally to the cause of freedom and true independence.

There is a parallel there, Madam President. We are making headway. I am happy to say the Senate and House of Representatives supported my efforts to repeal the Clark amendment which was described to me by Dr. Savimbi as a pro-Marxist amendment. We repealed it and have been doing the right thing since. We are starting to achieve victory in those fields of battle and freedom will prevail.

We started those efforts and I praise my colleagues for their support. Shortly, the Senate will vote on Continued U.S. assistance to another group of men and women that seek nothing other than a free and democratic future for their country. They, as other "democratic resistances," seek to truly reclaim control of their homeland in the name of pluralism and freedom. The so-called Contras in Nicaragua, like their counterparts in Afghanistan and Angola, seek to keep their countries free of the enslavement characteristic of "communism."

At this point, it should be clear to all that "communism" "Marxist/Leninism" or whatever it may be labeled, is and always has been a bankrupt and false doctrine. It is today an ideology that masks drives for power by elites. The elites take different forms—from the "apparatchiki" of the Soviet Union and Warsaw Pact countries to the "vanguards" or "wars of national liberation." The Sandinistas are the new "elite" of Nicaragua. The new "elites," as they are called, are the Daniel Ortegas and the commandantes. They seek to achieve total domination over Nicaraguan society using the "Cuban model" of totalitarian control.

As in Afghanistan and Angola, the only force preventing such from happening in Nicaragua is a band of patriots fighting in opposition to Communist expansion.

I find it disturbing, Madam President, that we cannot seem to make a parallel. Maybe some of us who are trying to get this program through, such as the President and others, have somehow not made the case.

I must say that I think that ABC, CBS, and NBC did not do the country a favor by their refusal to put the President on the news the other night and let him say his case to the American people. I found them wanting to play God instead of letting the American people make the decision for themselves to be able to call their Congressman and speak to them.

After all, the vote that was lost yesterday in the House, it would have only taken five Members to change their votes and it would have gone the other way.

In this fight, we need all of the support we can get. The Contras are not going to be able to win against a strong, well armed Nicaraguan Sandinista Communist army without having some sophisticated weapons.

In order for this struggle for freedom to continue we should be giving the people who are supporting freedom an opportunity to fight for that freedom.

We in the United States cannot be so shortsighted, so smug in our own liberty to believe that we have nothing at stake in this battle in Nicaragua.

We must face the reality and recognize that we are not an island unto ourselves and that we cannot be a free country while all the world around us is enslaved by the totalitarian rulers. I hope that we will eventually work this out and support these people.

I was told today on the floor by the distinguished Senator from New Mexico, Senator DOMENICI, that Daniel Ortega is already on the airways in Nicaragua calling for the Contras to surrender, that the United States has abandoned them, the United States can no longer be trusted, and they should surrender.

I respect my colleagues, and I know there are a lot of people who say we want to give peace a chance but the Daniel Ortega's and Thomas Borge's definition of peace is a state of silence where they may work their will free of internal or external interference so they will not be conflicted by anyone trying to interfere with them running the show the way they want to do it with the denial of the basic freedoms for the people of Nicaragua.

In this fight, raw courage, fierce determination and gallant patriotism go only so far against sophisticated massed weaponry which the Soviets use and are supplying their clients in volume. In order for the struggle for freedom to continue, these groups must receive the backing and support of free people around the world. We in the United States cannot be so shortsighted, so smug in our liberty, to believe we have nothing at stake in these battles. We must face reality and recognize that we are not "an island unto ourselves" and that we cannot be a free country while all the world around us is enslaved by totalitarian rulers. We must continue our support of peoples seeking their freedom.

Concerning Central America, people are caught up in the refrain of "let the peace process work." Here in the United States, the opponents of continued support for the Nicaraguan Democratic Resistance cry, "give 'peace' a chance."

Madam President, we all want peace. Peace is a precious commodity too scarce in today's world. We all strive for peace, but in doing so we must remember that words are often used in a context which is the exact opposite of their ordinary and customary meaning. To us in the free world, peace is a state of harmony and tranquility where we may enjoy our freedoms and be free of oppression. To the Ortega's and the Borge's, peace is a state of silence where they may work their will free of internal or external interference. Obviously, such definitions are in direct conflict and cannot be reconciled.

Nonetheless, we are assured by administration opponents that the Sandinistas, as signers of the Guatemalan accords, are bound by their signature and are serious in the pursuit of a democratic and open society. It is stated that if we will only give the peace plan a chance, the Sandinista's will follow their liberal tendencies and power sharing will be a natural outgrowth of reduced tensions in Nicaragua. It is stated that further aid only results in continued killing, maiming, and bloodshed, and for that reason alone we should abandon the Contras.

Madam President, it is true that armed conflict is a terrible, devastating thing, but how much more terrible is the day-to-day horror of living under a totalitarian dictatorship. Patrick Henry asked if "peace" was to be purchased at the "price of chains and slavery?" Hundreds of thousands of people in Asia, Afghanistan, Angola, and Nicaragua are responding to that question on a daily basis by their willingness to risk their all in a fight for freedom against seemingly overwhelming odds. If people are willing to endure the horror of war in a quest for

freedom, can we abandon them in their fight?

In past statements, I have set forth what I believe to be the motivations which have brought the Sandinistas to the negotiating table. There can be no doubt that they have created a facade of liberalization in an effort to relieve the mounting pressure against their rule. The actions on their part to give the impression of compliance with the Escipulas II agreement are merely designed to gain advantage. As self-avowed Marxists, they act not in good faith, but act to further the revolution. As the Soviet Zinoviev said in 1919:

> We are willing to sign an unfavorable peace. It would only mean we should put no trust whatever in the piece of paper we should sign. We should use the breathing space so obtained in order to gather our strength.

Such an approach has become standard operating procedure for the Sandinistas. Humberto Ortega, Sandinista defense chief and brother of Daniel Ortega, gives us an insight into the FSLN and their struggle for power prior to the overthrow of Somoza:

> One cannot say that we have any formal alliance with the anti-Somoza bourgeoisie. We are taking advantage of a situation where certain sectors of the bourgeoisie, unable to present their own alternatives, have drawn closer to us. The Frente must use all situations which contribute to the takeover of power.

On another occasion Humberto cautioned his comrades:

> It is right that we demand in our ranks more (regarding) standards and party life, more class consciousness and more Marxist ideological clarity, but let us not do this on an open and mass level, since we run the danger of becoming sectarian and isolating ourselves from the masses.

And so it goes up to today. The Sandinistas operate, as a matter of policy, using secrecy, deceit, and subterfuge.

But today, they find themselves under seige. The euphoria of Somoza's overthrow has long since faded. The veneer of pluralism initially adopted by the Sandinistas has long since worn away. They have failed to deliver. And though they desperately seek to blame their faults and shortcomings on the United States and the Contras, Nicaraguans today are not buying that. The economic problems which the country faces are to a large extent the result of the Sandinistas own ineptness and that of their Cuban, Bulgarian, and East German mentors. They face economic collapse and a defection of the populace to the Democratic Resistance. The Sandinistas continue in power only because of Borge's secret police, block committees, and the Sandinistas army. They survive only because of staggering amounts of Soviet military and economic aid.

It is little wonder that Daniel Ortega and the commandantes of the ruling junta desperately seek an end to U.S. assistance of the Contras. That is why they are at the negotiating table, that is why La Prensa and Radio Catholica are operating today, that is why a token number of political prisoners have been released from Tomas Borge's prisons. It is all a hype to give Sandinista supporters in this Congress the cover they need to pull the rug out from under those seeking to stop the Marxists in Nicaragua. Let there be no mistake about that. There are those in the United States that directly counsel the Sandinistas on how to defeat U.S. policy.

Daniel Ortega and the commandantes have no intention of jeapardizing their rule in Nicaragua. As Ortega himself admitted in December:

> In the hypothetical case that (the) Sandinista Front lost an election, the Sandinista Front would hand over government, not power.

Even as Mikhail Gorbachev and Daniel Ortega were publicly talking about the need for peace, they were secretly laying plans for an unprecedented buildup of the Sandinista military well into the next decade. Nicaragua will not be a country with a army, it will be an army with a country.

The battle to determine the future of Nicaragua—whether it will be free or another Soviet client state is not just being fought in Nicaragua. As in Vietnam, the outcome will probably be determined here in Congress. The determinant is not necessarily the courage of the freedom fighters, but the political courage we have to support those that fight. This is not lost on Communists. They realize that as Clauswitz said, "War is an extension of politics by other means." Daniel Ortega recognizes this. In talking about Che Guevara, Ortega stated of Che's struggle in Bolivia:

> From the tactical, military standpoint, it was a failure, and he died. But from the political and moral standpoints which are the factors that are determinant in revolutionary struggles, Che never died.

The Sandinistas are attempting to have the Congress do what it cannot do in Nicaragua—destroy the Contras.

If Ortega is correct and the Sandinistas have a stronger political and moral will than the U.S. Congress, then we will abandon 20,000 men and women fighting inside Nicaragua today. We will abandon Nicaragua to a consolidation of power by a Marxist, Soviet dominated clique. We will abandon the region to subversion and intimidation by a dominating military presence. Perhaps in the future we will have further peace plans in Costa Rica, El Salvador, Honduras, Guatemala, and the biggest prize of all, Mexico.

I would submit that if we do not aid those in Nicaragua willing to fight for national freedom and independence today, we will be forced by events to commit United States forces to protect our interests on the Rio Grande.

Madam President, I hope we do not make the serious mistake of thinking peace is at hand and abandoning our friends in Nicaragua.

When you go to Nicaragua you find the people there are friendly to Americans. They want Americans to be there. They cannot understand why Americans are so hesitant to get involved in this situation.

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

Mr. SYMMS. Madam President, I ask unanimous consent to have printed in the RECORD the article that was in the Washington Times, February 3, "Pinning Failure on the Donkey" by Pat Buchanan, and the article by our distinguished colleague in the House, the distinguished Congressman from Illinois, Congressman CRANE, "Tactics Designed to Defeat."

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

PINNING FAILURE ON THE DONKEY

No matter how the vote goes in Congress on Contra aid, rely upon it: The Democratic majority will vote to abandon Nicaragua to communism. Led by Reps. Jim Wright of Texas, Thomas Foley of Washington, and Tony Coelho of California, four-fifths of the House Democrats, cheered on by the seven dwarfs, will vote to disarm the anti-communist rebel army, just as a predecessor Congress voted to abandon the Vietnamese.

This time, too, we will be drenched in self-congratulatory rhetoric about how the party is truly America's conscience, willing "to take risks for peace." But the message sent to the Nicaraguans will be that these Democrats, in the name of "peace," will happily sacrifice any and all of their freedoms. The "champions of the little man" really don't give a damn about the people fighting in Nicaragua for the very freedoms the Democratic Party was celebrating last year. What a sea change in a quarter century.

In 1947, Harry Truman came to the defense of Greece and Turkey, then challenged by insurgencies supported from Moscow, Truman acted, because he saw communism's advance into the Aegean as a threat to the West, and because he believed Greeks fighting for freedom merited American support. Henry Wallace ("I would say that the communists are the closest things to the early Christian martyrs") broke with Truman and left the Cabinet.

Containment, halting the advance of the communist empire, became America's foreign policy. While Democrats had committed the folly of trusting Stalin, it was also Democrats who first stood up to Stalin and said: thus far and no farther. Truman sent U.S. forces into Korea; and John F. Kennedy and Lyndon B. Johnson committed American power to Indochina.

During Vietnam, however, something snapped. Disillusioned with the war into which they had led us, Democrats broke with President Johnson, calling Vietnam "the wrong war in the wrong place." Others went further, declaring, with their candidate in 1972, that Vietnam was "dirty and immoral." Others, not just Jane Fonda,

began supporting the enemy. Students chanted, "Ho, Ho, Ho Chi Minh; the NLF is going to win," and Viet Cong flags hung out of the windows of federal poverty agencies.

When Vietnam collapsed, Sam Brown, President Jimmy Carter's choice to head the Peace Corps, showed up in New York to embrace Hanoi's U.N. delegation; and Robert Elegent wrote a seminal piece charging many American reporters with having favored the other side.

In its approach to Congress, the administration has failed to recognize that the Harry Truman wing of the Democratic Party has been thoroughly routed by the Henry Wallace wing. And, in its aid request, the administration is making the Vietnam mistake all over again. Instead of asking for what is required, $500 million for the Contras for two years, and demanding Congress vote the money or take responsibility for the Soviet conquest of Central America, the administration scaled back its request to a piddling $36 million, with a paltry tenth of that for weapons. The White House is asking for what it might get, not what it needs.

Even at this late date, the clarity necessary to rally the American people remains absent.

President Reagan should have declared that the end of U.S. policy was not "peace" in Central America, but the "liberation" of Central America, the ovethrow of the communist government in Nicaragua and the removal of all Soviet-bloc personnel. He should have demanded Congress provide as much military aid, as long as required, to keep the Contras fighting, until Daniel Ortega's Sandinista regime collapses.

"Democratization" should not be the goal of American policy; rather it should be reestablishment of the Monroe Doctrine, which says the alien Soviet ideology of Marxism-Leninism has no place in our hemisphere. (Indeed, if the Nicaraguans want a king, rather than a Congress, that's their business; and neither the Afghan resistance nor UNITA is likely to set up some parliamentary democracy.)

Partially because of the energetic pursuit of the Reagan Doctrine, by the president and a few of his men, communist regimes are embattled on three continents: in Afghanistan, Mozambique, Angola and Nicaragua. Even in Cambodia. If one or two of these fascist regimes could be dumped over and buried by local patriots, shock waves would reverberate throughout the Soviet empire; and Mr. Reagan would go down as an historic, pivotal president. In this cause, however, the "San Francisco Democrats" are not a partner with whom we can compromise; they are an impediment that needs to be confronted, defeated and removed.

TACTICS DESIGNED TO DEFEAT

By all accounts, the upcoming Contra aid vote will go down to the wire. Conservative Republicans and liberal Democrats have made up their minds on this issue and will vote accordingly. A relatively small group of conservative Democrats and moderate Republicans will decide whether the president's request will be approved or rejected and, given the high stakes of this vote, they could well determine the future of Central America.

As these legislators finalize their positions, they must decide for themselves whether the Sandinistas' self-proclaimed Marxist-Leninists can be trusted to abide by the Arias plan.

To this end, they should recall Lenin's advice to his fellow communists. On many occasions, he counseled them to reject the idea of a universal code of ethical norms and to use deception as a legitimate and, indeed, a necessary ingredient to further their objectives. Throughout history, Marxist-Leninists of all stripes have employed Lenin's cynical tactics, as they broke numerous peace agreements and promises of political freedom to serve their own political objectives.

In 1945, as part of the Yalta Agreement, Stalin convinced the Allies that the Soviet Union would allow Eastern Europe to hold free elections, that the Soviet Union would not interfere in the internal affairs of these countries, and that the Soviet Union would accept the results of these elections. But, as we all now know, Stalin had no intention of keeping his word and these countries fell into communist hands.

In 1973, we signed an agreement with North Vietnam to end the war. The communists agreed to hold free elections, protect the human and political rights of their opponents, and above all, refrain from additional military action against the South. Two years later, a mechanized, modern army rolled into Saigon and defeated our former allies.

Again, in 1973, we supported a historic peace agreement in Laos, which created a coalition government between the communist Pathet Lao party, the Royalists and the Neutralists. At the time, the State Department called this a "historic agreement," a model of diplomacy, even as the communists started purging their opponents. Today, Laos is a brutal communist state.

In 1979, when the Sandinistas needed the support of the Organization of American States to legitimize their regime, they promised to allow political pluralism, maintain a truly mixed economy, respect human rights and conduct a nonaligned foreign policy.

As the Sandinistas broke these promises, purged their opponents and started building a Marxist-Leninist state dependent on Soviet and Cuban military assistance, President Carter stopped giving them aid. In the years that followed, the Sandinistas consolidated their control over the country with a Marxist government.

Today the Sandinistas appear to be complying with some aspects of the Arias Plan. In the last few weeks, just before the Contra vote, the Ortega government reopened Radio Catolica, lifted its state of emergency, offered a limited amnesty to the Contras and allowed opposition parties to demonstrate in public.

Given the unwillingness of the Sandinistas to keep their earlier promises, what assurances do we have that they will not simply abolish these new freedoms once the Contras have ceased to be an effective fighting force, as American aid runs out?

Given the allegiance of the Sandinistas to Marxism and Leninist thought, why should we believe that the Sandinistas will act in any way different from their compatriots in the Soviet Union and Vietnam?

These members of Congress who will determine the fate of Contra aid must recognize that the Sandinistas are employing traditional communist tactics of deception to defeat their enemies.

Only by our keeping the Contras in the field and fighting will the communists have any incentive to share power with the democratic resistance.

As history records, no communist government has ever exchanged its dictatorship for a democratic system. Why should we believe that the Sandinistas will keep their promises and set such a precedent?

Congress must pass the President's Contra aid request.

The PRESIDING OFFICER. Who yields time?

Mr. PELL. Madam President. I yield 15 minutes to the Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DIXON. Madam President, in the past, I have been a consistent supporter of Contra aid. At the same time, I have unequivocally called for a negotiated settlement as a permanent end to all hostilities in Central America. These two positions have gone hand-in-hand. I believe that the pressure of the Contras was one of the primary reasons that President Ortega signed the Guatemala accord, pledging to a systematic democratization of Nicaragua. The peace process, initiated by the accord, is an important opportunity for a lasting peace in Central America. Assistance to the Contras has played an important role in bringing about this diplomatic and political process.

We must not forget that Daniel Ortega is a Communist and that the Sandinistas are a small group of Marxist-Leninist who have monopolized the political decisionmaking process in Nicaragua. This Government has alienated its democratic counterparts in the revolution, and if the Sandinistas are able to consolidate power they will be a threat to every other country in the region.

Equally important, we must remember that the fundamental goal of our policy is peace and democracy in Central America. I have strongly supported the Guatemala accord because it establishes the framework for long lasting peace. The peace process provides an important opportunity which must be taken very seriously. If this process fails, there is no end in sight to the hostilities in Central America.

By signing the Guatemala accord, Nicaragua bound itself to a process of democratization which includes lifting the state of emergency; allowing complete freedom for television, radio, and the press; permitting complete political pluralism; negotiating with the Contras for a cease fire; implementing an amnesty program; and finally, holding free and fair democratic elections.

This is the basic program of change I have been calling for as long as this issue has been before Congress. It is based on President Arias' firm conviction that, "without democracy there can be no peace in Central America." Full compliance would significantly democratize Nicaragua and provide the foundation for a lasting peace.

Since the peace plan was signed, Congress has provided sufficient aid to keep the Contras alive in the field. I have supported this policy. In order to promote the peace process in Central America, we must carefully employ a policy of carrots and sticks. For the Sandinistas, the carrot is the end of the Contra war, the stick is renewed Contra assistance. At the same time, this policy must be carefully coordinated with Central American diplomacy called for by the Arias plan.

I believe this approach is working. After signing the peace accord, the Sandinistas acted slowly to comply with its provisions. On January 15, Nicaragua was sharply criticized for lack of progress at the summit of Central American Presidents. They were also told by Members of Congress that the only way to stop Contra aid was to comply with the peace plan. Under the pressure of the Central American leaders, and prospects for new aid, Ortega announced a series of concessions: lifting the state of emergency, abolishing the people's tribunals, offering to engage in direct talks with the Contras, offering to release 3,300 political prisoners if a cease-fire is reached, permitting the resumption of a number of radio news broadcasts, and agreeing to hold municipal and regional elections. While I believe that some of these steps are tentative and not as far reaching as called for by the peace plan, they are the most dramatic steps taken so far, and demonstrate that the process is working.

Therefore, the fundamental question to ask about this package is: "Will it help further the goals of the Central American peace process?" I have been riding the train with the administration to help the people of Nicaragua, but I never agreed to get on a nonstop diesel deluxe. That is exactly what this package is—a nonstop diesel deluxe. While the Contras can be an effective stick to pressure the Sandinistas, this Contra aid package is a club which could smash the entire peace process.

First, the request is a substantial escalation of Contra funding. The $36.25 million of lethal and nonlethal aid, alone, works out to an annualized rate of $108 million. This is a rate 8 percent higher than Congress has ever approved.

This amount is completely out of line with levels of aid Congress has approved during the peace process. The $32 million in nonlethal aid is double the rate of aid provided in the long-term continuing resolution—listen to that: double the rate that we provided them last time when we voted for the long-term continuing resolution—and triple—triple the rate of the two short-term continuing resolutions.

Further, the $36 million is just one portion of the package. It also includes $20 million for airplane indemnification, and about $7 million in passive air defense support and surveillance. This brings the total package to over $60 million. A package this large is not only inappropriate, it could well be counterproductive. Ortega would be given an excuse to take back his concessions and back away from the peace process. He could argue that he has acted in good faith to comply with the provisions of the peace plan, but the United States has failed to comply by ceasing aid to the Contras. He might then claim that it was the fault of the United States that the peace process has broken down.

The second flaw of the plan is that it lumps together nonlethal assistance, with $3.6 million in military aid, including antiaircraft rockets, small arms, and ammunition. However, the Contras have sufficient amounts of arms and ammunition. This portion of the package is unnecessary from a military standpoint, and politically threatens to derail the peace process.

I believe this will not be the last vote on Contra aid, and I am not backing away from the Contras. I continue to believe that through a carefully implemented policy of carrots and sticks the Contras can pressure the Sandinistas to act in good faith. The goal of Contra aid is to promote the peace process. Currently the Arias plan is working, slowly and tentatively, but it is working. I believe that because of the size and nature of this proposal, it could disrupt the peace process and be counterproductive to the goals of peace and democracy in Central America.

I yield back any time that may remain.

The PRESIDING OFFICER. Who yields time?

Mr. GRAMM. Madam President, on behalf of Senator McCAIN who is not here, standing in his stead, I yield myself 10 minutes.

The PRESIDING OFFICER. Senator McCAIN?

Mr. McCAIN. Madam President, I yield 10 minutes to my distinguished and assertive colleague from Texas, Senator GRAMM.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Madam President, I thank my distinguished colleague.

I would like to begin by talking about giving peace a chance. I guess if there is a catch phrase of this debate it is "give peace a chance." And I would like to begin by talking about the chance we have already given peace.

Our colleagues act as if it was only yesterday that anybody talked about negotiated settlement in Nicaragua. Why, I remember July 19, 1979, almost 9 years ago, when the Sandinistas came to power, Commandante Ortega came up to the White House, met with President Carter, talked about a negotiated settlement, and peace and democracy. We opened up the purse strings of the working men and women of America and we gave him $118 million of the taxpayers' money. We set up a worldwide aid package of $1.6 billion.

Commandante Ortega and the Sandinistas met with the Organization of American States with the United States and they made some commitments—and this is 9 years ago—and I would like to remind my colleagues of those commitments.

They committed to free elections. They committed to a broad-based democratic government. They committed to full respect for human rights. They committed to fundamental liberties: to freedom of religion, to union rights, to a mixed economy, to an independent foreign policy of nonalignment and a minimum of a permanent military corps.

Now, my colleagues, that was 9 years ago—9 years ago the Sandinistas committed to this. And, as a token of our approval, we gave them $118 million of the hard-earned taxpayers' money. We lined up $1.6 billion of aid. And 9 years later, is there anyone in this body who will stand up and say that there have been free elections in Nicaragua? Is there anybody here who believes that in Nicaragua today we have a broad-based democratic government? Is there anybody here who believes that we have full respect for human rights? The plain truth is that for 9 years we have had promises and we have never, ever had any action.

Now, Commandante Ortega has had a lot of excuses for why he has never done these things, but in 10 minutes I am not going to waste my time giving his excuses.

He signed another agreement in August, and in that agreement he basically committed to this same old list of promises. And yet, when the time limit expired, had he fulfilled any of them? No. Then there was an extension.

Then, on the eve of the meeting, as the four democratic Presidents in the region were set to denounce Commandante Ortega and reject the peace plan, suddenly he talked about negotiations for a cease-fire; not negotiations for a national reconciliation, but negotiations for a cease-fire. He talked about amnesty if some other country would take the people who were given amnesty. What kind of amnesty is that? You are let out of prison if you leave your own country and you do not come back?

I do not need to remind our colleagues here today that, all the time that promises were being made, we are all aware, both from a high-level defector and from the brother of Commandante Ortega himself, that there clearly were plans underway to build a massive military force long after the

Sandinistas were projected to be in full control of Nicaragua and the Contra rebels or freedom fighters were to be gone.

The truth is we already have a settlement. What each of the opponents of aid are asking for today, we already have. We have had it for 9 years.

What we do not have is a country that is living up to its commitment, and that is the Communist government of Nicaragua, which has shown no evidence of doing that.

I had the great privilege the week before the meeting of the four Presidents and of Commandante Ortega on the so-called peace plan, to be in Central America. During that visit we met with the Presidents of the four democracies, and I think it is fair to say that with the exception of Arias, each of them was convinced that the pressure of Contra aid had been critical in promoting movement by the Sandinistas. We met with Cardinal Obando y Bravo, who made it clear that the Sandinistas had made no effort to comply with the commitments they had made. And when I raised this with the Sandinistas, do you know what they said? They said: That is his opinion.

And I said, well, that is interesting because you appointed the cardinal as the overseer of your compliance, to which they said: We have not been able to eliminate all opposition. We have differences of opinion.

They were asked why they had not opened up the 20 radio stations that asked for licenses. And just right straight out of the movies, they said: "That is all a misunderstanding." The plain truth is, here we have a Marxist dictatorship that has its foot on the throat of its people, people who cry out for our help, people who are dying today in the jungles of Nicaragua, and we are on the verge, after 9 years of lies by the Sandinistas, of cutting off aid and snuffing out the last light of freedom in Nicaragua.

Now, clearly, people have differences of opinion but clearly there is a lot of naivete about our situation. I remember vividly a conversation that we had, and three of the four of us who were there are in this Chamber now, with President Arias. We were talking about cutting off aid, and the advantages and disadvantages, and President Arias said: If we cut off aid, one advantage is that the Sandinistas need an enemy and without the Contras they will not have an enemy. They will not have a war. They need a war.

So, sort of having a different view of things, I pointed out to him: Well, they will not have a war inside Nicaragua, but they can find another war. They can create one. They can have a war outside Nicaragua. They can have a war with you.

To which President Arias responded: They cannot have a war with Costa Rica because we do not have an army.

To which I pointed out, well, it would be a short war.

What we are deciding today is not whether there is going to be war in Central America. We are deciding whether there is going to be war in Nicaragua, as people are fighting for their freedom there, or whether there is going to be war in El Salvador and Honduras and Costa Rica and Guatemala, as a Communist dictatorship consolidates power on the mainland of the Americas.

Some may say: What difference does Central America make? There was a day in this great Congress when you could stand up and talk about freedom, about people yearning for freedom and being willing to die for it, and that carried weight. It does not carry that weight today. The House vote, I think, makes that clear. But what is our stake in Central America? Well, there are 100 million people between the Panama Canal and the border between Texas and Mexico. One out of every five Nicaraguan citizens is now a political refugee in their own country or in somebody else's country. The Communists cannot produce anything. Their people are starving in Nicaragua. But they are excellent at producing political refugees.

If we let this cancer spread in Central America we are looking at 20 million refugees coming across the border. Madam President, if 20 million refugees come across the border into Texas, what Senators here are willing to sign up for a refugee sharing program? What Senators here, that are going to oppose this aid, are willing to take their pro rata share? I suspect few if any.

We have vital interests in Central America. I have no doubt that we will not commit American troops in Central America. But when Mexico is threatened, when that tinderbox of collapsed economy and corrupt government is exposed to the flame of communism and ignites, we will then commit American troops.

I have two sons, one 12 and one 14, and I support this aid because I do not want my sons dying in Mexico, fighting a war that we could stop from being fought today. The House has made a grave mistake. I wanted to cast a vote today because I want people to know where I stand on this issue. But I wanted to cast a vote because I do not accept the finality of the vote in the House. I believe this issue is going to come back again and again and again until the American people awaken, until they awaken to the fact that our interest is challenged. And the great tragedy is that all over the world people are turning to democracy and freedom; communism is unappealing. We are on the march. The Soviets are losing the cold war. Let us not let a hot war break out in the Americas.

I yield back the remainder of my time.

The PRESIDING OFFICER. Who yields time? The Senator from Rhode Island.

Mr. PELL. Madam President, I yield 5 minutes to the Senator from South Carolina.

Mr. HOLLINGS. I need 15. I can start with 5. That is what you gave Senator DIXON.

Mr. PELL. Ten minutes?

Mr. HOLLINGS. Well, we will start with 10.

Madam President, I wish we were debating a true solution to the crisis in Central America. I have watched the evolution of our policy over the years. We have had Operation Pan America, under President Eisenhower; the Alliance for Progress under President Kennedy. Time and again we have attached a nice, catchy title to the hit-and-run policy of the day. Regrettably, we have been big on promises, but short on real progress.

Time and again, we have sent money to Latin American nations. Too often, it goes to the ruling class, to the military dictator or to whomever. Most of it winds up in their personal bank accounts—and Mexico is no exception. It is like delivering lettuce by way of a rabbit. Only crumbs find their way to the hungry poor. Likewise, the ruling class, the military oligarchies refuse to allow the development of a middle class.

Unless and until we can foster the development of a sizeable middle class, then true democracy will be a fleeting dream. Certainly, we will not attain peace by invoking a piece of paper, whether it be the Arias plan or any of the many other plans. Perhaps our greatest opportunity for encouraging a democratic evolution in Latin America lies on the trade front. We have tremendous leverage as the world's richest market. Consider the potential if America were to reallocate import quotas to the advantage of our southern neighbors. For starters, how about reallocating 5 percent of textiles from the People's Republic of China, 10 percent of footware from Korea, 15 percent of hand tools from Taiwan, 30 percent of electronics from Japan. These reallocations would be an enormous economic propellant behind our quest for democracy in Latin America. We would begin to build a vibrant middle class there with a stake in the system. This would be the first pillar of a genuine democratic construction: All our fine talk about free elections would begin to have a realistic economic and social basis.

Unless and until we take such steps, we will continue to be confronted by the tragic spectacle of peasant boys and girls fighting in desperation against repression, or abandoning their homelands entirely.

Five hundred thousand Nicaraguans have already voted with their feet, fleeing into neighboring countries or to America. Another 15,000 or more have been fighting the best they can for some seven years.

Don't forget that we originally gave military and economic assistance to Ortega and the Sandinistas. I opposed him originally here on the Senate floor back in 1979. But I remember my friend, the late Senator from Nebraska, Ed Zorinsky, saying, "Come up to my office on the fourth floor. We have the junta up there."

I had not met a junta recently, so I thought that would be an education. Accordingly, Senator Zorinsky, Senator Stone, and several others joined me in meeting with Commandante Ortega. Ortega said, "We want the same things that you want. We want free elections, freedom of the press, freedom of religion, democracy like you have in America."

Right to the point I said, "I do not believe you, but I want you to prove me wrong. I am going down on the floor and I am going to help Senator Stone and the others get you aid money." And so we did, to the generous tune of $117 million.

How ironic that, several months ago, we heard a remarkable outcry here that $100 million was to much to give the Contras. One hundred million? Nine years ago, we gave $117 million to the Sandinistas. The Soviets have now given the Sandinistas $4.7 billion. The Sandinistas have run up a foreign debt of another $9 billion. So they have had plenty of money to consolidate their iron grip and build the largest army in Central American history. They have had plenty of money to build their political prisons. At the same time, they have done away with free newspapers and independent radio, and every other freedom. Yet now they dare play on the inexhaustible gullibility of Americans by enticing us with empty gestures of so-called democratization.

Indeed, they have received expert advice on how to manipulate the Congress. We have witnessed the disgraceful cynicism of a gentleman speaking on the House floor who had recently gone to Central America to advise Ortega on what to do. We have U.S. congressmen coaching the team down there, saying, "If you give a little bit of this and a little bit of that we can make a case on the floor and keep the Contras from getting aid."

Who is kidding whom? There is no education in the second kick of a mule. We trusted Ortega once and were betrayed.

As our old acquaintance, the former Attorney General John Mitchell used to say, "Watch what we do, not what we say." Likewise, let us not be overly impressed by the devalued coin of the Nobel Peace Prize. Patrick Henry said, "Peace, peace, everywhere men cry peace, but there is no peace." Richard Nixon said we would have "peace with honor." Le Duc Tho went to Stockholm to pick up his Nobel Peace Prize. In the years that followed, literally millions perished in Vietnam and Cambodia. Today, those millions rest in peace. Many more millions suffer in the terrible silence of communist totalitarianism.

Opponents of further aid to the Contras strike a pose of magnanimity. They say they favor humanitarian aid. But they do the Contras no favor.

Thank God the French did not limit themselves to humanitarian aid during the American Revolution. Thank God that Lafayette was not a pacifist. Our own country was not founded by humanitarians. It was founded by revolutionists. We waged a long and bloody war for our freedom.

That is the trouble with my fellow Democrats. I am embarrassed by them. They are not committed. They are not committed to fight for anything. They are only willing to posture and talk. They are in thrall to the opinion polls.

Winston Churchill said years ago that nothing is more dangerous for democracy than for politicans to live in the constant temperamental atmosphere of the Gallup Poll.

It is no secret why Contra aid failed in the House yesterday. All along, it has been a personal power struggle between President Reagan and first Speaker O'Neill and now Speaker WRIGHT. The merits of the Contra cause have been lost in the scuffle.

It was a matter of honor with Speaker O'Neill. Our friend Tip got EDDIE BOLAND to put forward his amendment. We would meet in the conference committees and appropriations and there was no chance of getting any kind of bill passed unless you went along with the Boland amendment. You knew the Speaker would kill the measure unless it included Boland. Meanwhile, the White House was saying, "Do not mind, we will sign it. We are not listening anyway. We will get aid for the Contras through other sources."

Everyone knew about the back-channel funding of the Contras. Excuse me, everyone knew except the President. And the President, he says he did not know anything. Nonsense. The whole administration knew it. We had 6 or 8 months of hearings on that caper.

Speaker JIM WRIGHT, who got elected by vowing to kill Contra aid, is now carrying through on commitments to his liberal friends, calling, "Peace, give peace a chance." I say, let us give hope a chance. But there is no hope in Nicaragua without aid to the Contras. Surely JIM WRIGHT knows that.

Likewise, my distinguished colleague from Connecticut knows it, or ought to. Peace plans? The Marxists only understand the language of force.

Let me quote Christopher Dodd in the Washington Post, because he is the best defender of this peace plan nonsense I know of:

> Contra aid didn't reopen the antigovernment newspaper La Prensa; the Arias plan did.

Who could believe that? The Contras have forced the Sandinista concessions, such as they are. In fact, the Sandinistas are not giving up anything. Look at the timetable. There was a November deadline which they extended to January, and now a majority of the Latin American Presidents, a majority, have done nothing.

> Contra aid didn't create a forum for political reconciliation, headed by a key Sandinista opponent, Cardinal Miguel Abando y Bravo.

But the real forum is a Contra plan. I can tell you that. You can see how much consideration they gave to Cardinal Bravo.

> Contra aid didn't secure the release of 1,000 political prisoners, with the likelihood of many more; the Arias plan did.

The Arias plan called for 10,000 freed prisoners.

> And Contra aid didn't initiate cease fire negotiations . . . the Arias plan did.

The Contras know differently.

> The President's aid request does not give the plan a chance; it dooms it.

Will $3,600,000 doom peace in Nicaragua? Nonsense. It is the bare minimum necessary to keep up the pressure for peace.

The PRESIDING OFFICER (Mr. HARKIN). The time of the Senator has expired.

Mr. HOLLINGS. Will the leader give me time? I am just getting started. We are supposed to have 10 hours of debate.

Mr. BYRD. Mr. President, I wonder if the Senator will allow me to make a request.

Mr. President, I understand from Mr. PELL that he has requests that add up to 2½ hours. Is that correct?

Mr. PELL. That is correct.

Mr. BYRD. The Republican leader has canvassed his side. I would like to see if we can enter into an agreement. If Mr. Pell has 2½ hours, that takes us up to beyond 6:30. More requests are coming in.

Mr. DOLE. If the majority leader will yield, I wonder if we might agree to vote at 7:30 and equally divide the time. I think some of ours can reduce it a little bit, perhaps.

Mr. BYRD. Mr. Pell would have to speak to them. In view of the fact that he has 2½ hours, and I assume he has promised it, if the Republican leader has to take 2½ hours, that puts us up to 9 o'clock.

Mr. President, I do not think the prospects are very good for getting an agreement now. I hope that we will be

able to get some reduction in the time. There is a nondebatable motion that could be made. I do not want to make that motion. I hope we do not go until 10 o'clock. I hope we can reduce it to some extent.

I would like to yield the floor now and not make any further requests. I hope that the Senator from South Carolina would be given some more time, but in the meantime perhaps we can continue to shop around and see what happens.

Mr. PELL. After the blandishments of the majority leader, I am delighted to yield another 5 minutes.

Mr. HOLLINGS. I thank the distinguished managers of the bill.

Mr. BYRD. Mr. President, I thank the Senator for yielding.

Mr. HOLLINGS. I thank the distinguished majority leader for his blandishments.

Mr. President, we remember exactly what happened in Vietnam after the so-called peace with honor when we reduced the military force and, finally, withdrew in helicopters from the Embassy rooftop. The result was genocide. The result was a reign of terror and repression throughout Vietnam, Cambodia, and Laos—and it continues to this day. We are well aware of the catastrophic consequences of Marxist victory in Southeast Asia.

I am ashamed that Members of Congress would coach Ortega on the fine points of manipulating American public opinion and the U.S. Congress. I am amused by their chagrin when Ortega goes to Moscow after a key Contra-aid vote. His coaches say, "How could he embarrass us like that?" That is the blind and naive nature of the approach of many. The truth is that Ortega knows what he is doing. He is a savvy leader, he and his brother. They have wrangled $4.7 billion in Soviet aid and built a huge military force. It certainly is not for self-defense, unless you believe the Costa Rican police force is preparing an invasion. They have the artillery, the tanks, the attack helicopters, the whole panoply of offensive warfare. So Ortega is going to Moscow to show that he is not listening to the American concerns. Ortega knows what he is doing. He went to Moscow to finalize his plan for a 600,000-man army. Once again, the Soviet Union is on the march. Enough of the argument that the Soviets are broke and need to cut a deal. We heard that same line on the INF Treaty. We have heard it for 20 years around here. Well, if the Soviet economy is so weak, why do they not do like the People's Republic of China? Deng Xiaoping cut his army from 5 to 4 million. He cut 1 million out of the army. He knows how to develop an economy, and it is his example that is putting so much pressure on Gorbachev. Well, if the Soviet Union is so strapped, why don't they get out of Afghanistan and Ethiopia and Yemen and Angola and Cuba and Nicaragua.

Where is the common sense of Democrats in Congress? Ordinarily, my Democratic friends are leading the way for freedom. It was a great Democrat who said we must pay any price, bear any burden in the cause of freedom. Yet today the Democrats are the "bug-out" party. Put on the pressure and we will bug out. Sure, we will tender a pittance of humanitarian aid. But the Democrats' motto has become, "When in doubt, do nothing, and stay in doubt all the time."

I understand the dilemma of Democrats who voted on the House side. They were voting for their Speaker, and he is an outstanding individual.

Indeed, JIM WRIGHT has had the character to stand up and say we need to raise taxes and pay our bills. He was criticized by many Democrats, who said that this was stupid politics; do you not remember Mondale? Stupid politics or not, we do indeed have to start paying the bills, and the Speaker is to be commended for leading the way.

However, he has gone astray on the Contra issue. In his zeal to carry through on his commitment to the former Speaker and to EDDIE BOLAND, he went astray. And now our entire party has gone astray. The Democratic Party is now hostage to the behavior of a foreign junta. Democrats have cast their lot with the Sandinistas.

What kind of nonsense is this? Talk about hostage taking. Now we are political hostages to the whim of a Central American Marxist dictator. So we try to supplicate him. To show our heart's in the right place, we say we will send him humanitarian aid. And, politically, we stick it in the President's face on a measly $3.6 million Contra aid request. Heavens above, $3.6 million would hardly pay for 100 yards of interstate highway.

I will reserve time, because I hope to join the Senator from Connecticut in a colloquy on his opposition to Contra aid.

I thank the distinguished manager.

The PRESIDING OFFICER. Who yields time?

Mr. McCAIN. Mr. President, I yield 10 minutes to the Senator from Oklahoma, Mr. NICKLES.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized for 10 minutes.

Mr. NICKLES. Mr. President, I compliment my good friend and distinguished colleague, the Senator from South Carolina, Senator HOLLINGS, for his outstanding statement. We do not hear, in my opinion, too many statements actually made from conviction, and we probably hear even fewer statements made from courage. I compliment him for his statement. I think it is a message that we need to hear.

Mr. President, we have heard time and time again—I listened to part of the debate in the House of Representatives, it was an interesting debate. From the House, we heard two different philosophies. We heard time and time again individuals saying I am opposed to assistance to the democratic resistance forces in Nicaragua because I want to give peace a chance. We also heard other people—and I put myself in this category—who said let us do give peace a chance, let us help the peace process, let us put pressure on the Marxist Sandinista government. Do not take the pressure off if we are really going to help the people who are negotiating, who are trying to restore freedom; political freedom, economic freedom, religious freedom, and freedom of the press. If we are going to help people restore freedom in Nicaragua, we need to give them some leverage at the bargaining table.

Certainly, if we withdraw all assistance, we are giving the democratic resistance nothing to negotiate with. The Ortega brothers may have accomplished their goal through the negotiating process, and through the peace process. That goal is to defeat the freedom fighters. The Sandinistas may well have accomplished this goal because the United States fell for their promises. Promises which have been made time and time again by the leadership of the Sandinistas, which have been broken time and time again since they came to power in 1979.

They made many promises this past August. In the so-called peace accords they stated they released political prisoners. They released 985. There are still over 8,000 in prison. They said, "We will have press freedom." Yet, that has not happened. They talked about religious freedom. Yet, religious leaders are still being expelled or locked up; political freedom, yet they still lock up the opposition leadership. They talk about elections, the same promise they made in 1979. Who really believes that will happen? Particularly if there is no force, no pressure to force the Sandinista Marxists to provide that type of freedom?

The United States needs to keep the pressure on. The Sandinistas have a track record. That track record is nothing but broken promises, and I do not think this Congress should trust the Sandinistas or the Ortega brothers. After the August accords were signed, Defense Minister Humberto Ortega, made a statement, and said "yes, we have a goal." We are going to increase the military forces from 80,000 to 600,000. They have a goal and that goal is to continue the military buildup of the Communist regime.

During 1987—one of our colleagues said, "We are putting in too much money, and we are increasing the rate

with an 8-percent increase over what we did in our most generous year, 1986." In 1986, we appropriated $100 million, $70 million of which was humanitarian, $30 million of which was military.

Do you know that in 1986 the Soviets put into Nicaragua $600 million of military assistance? We put in $30 million in military assistance. In 1987, the Soviets gave the Sandinistas $505 million in military equipment. We are debating on the floor of the Senate and the Congress whether or not we are going to help hold in escrow $3.6 million like that will be the difference between night and day, when the Soviets continue to put in hundreds of millions of dollars of supplies and military equipment. The Sandinistas have 150 tanks, five airfields, and are building up ports where they can continue to receive munitions, armored vehicles and aircraft. This is an unbelievable military buildup for a country the size of Nicaragua. Yet the U.S. Congress has been very silent.

What is the United States going to do? The President asked us for $36 million. He said they will hold 10 percent of it in escrow as leverage that will not be released if the Sandinistas actually keep some of their promises. In other words, we will have a little pressure to bring to bear. You know that the Sandinistas were feeling the pressure from the freedom fighters because the concessions they have made have not been as a result of the Arias peace plan. They have been the result of trying to influence Congress to stop supporting the democratic resistance in Nicaragua.

Think about that. It is awfully important. The concessions that have been made have all been directed not at complying with the Arias peace plan, but directed at the Congress. The Sandinistas want to influence Congress. I know that they are very happy about last night's vote—very, very happy. They succeeded. They made just enough concessions. They did not even come close to complying with the Arias peace accord, but they did just enough to influence just enough Members of Congress so aid would be shut off.

Mr. President, the aid we have been providing—and I say "we" because I am talking about Congress—has been sporadic, on again, off again; it has not been consistent. I think that is a mistake. The President has been consistent. He has been asking for support. But Congress vacillated back and forth.

I will put in the RECORD, a listing of Congress' on-and-off-again policy as far as support. I ask that the chart showing this policy be printed in the RECORD.

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

AMERICA'S ON-AGAIN, OFF-AGAIN NICARAGUA POLICY

[From the Republican Policy Committee]

On November 1981: Covert U.S. assistance to Contras begins.

U.S. AID: ON-OFF

March 1982: First major Contra military actions.

Off and On—December 1982:

Congress passes prohibition of aid to groups trying to overthrow Sandinistas or trying to provoke hostilites between Honduras and Nicaragua. Covert funds not cut off due to President Reagan's claim that Contras are funded for purpose of interdicting arms flow from Nicaragua to El Salvador; reportedly, classified section of bill provided $19 million for Contras.

On—December, 1983:

Congress provides covert aid for Contras in FY 1984, limited to $24 million.

Off—October 1984:

Congress prohibits further U.S. aid to Contras. Contras receive no further official U.S. aid until October 1985.

On—August 1985:

Congress provides $27 million in humanitarian aid to Contras to be obligated by March 1986.

On—October 1986:

Congress passes $100 million in aid to the Contras (of which $30 million limited to humanitarian purposes). Deliveries begin in November 1986. Of the $70 million presumably slated for military purposes, $40 million not available until after February 15, 1987.

Off and On—March 1987:

House of Representatives votes six-month moratorium on further Contras aid. Congress considers whether to again shut off U.S. assistance for good.

(Later approval of humanitarian aid: $3.5 million in September 1987; $3.2 million in November 1987; $8.1 million in December continuing resolution and about $6 million in transportation.)

Mr. NICKLES. Mr. President, support for freedom fighters has been working. Why all the opposition to assisting the resistance in Nicaragua? We are supporting the freedom fighters in Afghanistan, and it is working. They are making real progress. Thank goodness, they are. There are over 130,000 Soviet troops in Afghanistan today, and they are talking about leaving.

We have provided assistance in Angola and Dr. Savimbi and UNITA have had success.

We stood firm against the Soviets as far as the INF. We actually deployed the Pershing II's when a lot of people in this body and the other body said no, let us not, let us have a moratorium, let us have a freeze, let us not deploy. We held firm. We did deploy the Pershing II's, and as a result the Soviets are moving out the SS-20's. Persistent, consistent, firm policy in dealing with the Soviets, dealing with the Sandinistas, and dealing in Afghanistan and Angola has had success.

The vacillation on support for the Nicaragua democratic resistance that was shown by a loss of eight votes in the House was tragic. I do not know what the result will be in the Senate, but I hope we will be successful, that we will be consistent. Unlike our colleagues in the House, the Senate has provided fairly consistent support for the last 7 or 8 years to the Nicaraguan freedom fighters. I hope we have a positive vote today, one that will send a clear signal that we still are interested, not just in peace, but also peace with freedom. Freedom is very, very important. It might be possible to have peace in a totally controlled Communist military society but to have no freedom whatsoever. I pity the poor people who lose their freedom or those of us who have sons and daughters who may at some time have to fight to try to regain or hold back Communist forces from our own land.

Yes, we have a very, very serious problem, one that I hope Congress will have the courage to address. I hope we will address it positively by passing this resolution tonight.

Mr. President, I ask unanimous consent to insert in the RECORD a table on the Nicaraguan military buildup for the period August 1979 through January 1, 1988.

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

NICARAGUA—THE MILITARY BUILDUP, AUGUST 1979 to JANUARY 1, 1988 (U)

Yearly military supply activity			Status of forces							
During	Number arms shipments per thousands metric tons	Million U.S. dollars	As of	Total force [1]	Tanks	Other armored vehicles [2]	Fixed-wing aircraft/ helicopters [2]	Airfields	ADA Guns/ Msl Lchrs	Radars
			July 19, 1979	6,000	3	31	30/8	4	2/0	0
1979	-/-		Jan. 1, 1980	16,000	3	31	38/8	4	2/0	0
1980	-/1.6	10	Jan. 1, 1981	24,000	3	25	40/8	4	39/6	0
1981	2/9.4	160	Jan. 1, 1982	39,000	30	45	40/10	4	100/6	0
1982	6/11.2	140	Jan. 1, 1983	41,000	50	45	40/15	4	150/30	0
1983	25/13.9	250	Jan. 1, 1984	46,000	50	90	44/15	4	150/30	(*)
1984	37/20	370	Jan. 1, 1985	67,000	150	200	45/20	5	200/300	(*)

NICARAGUA—THE MILITARY BUILDUP, AUGUST 1979 to JANUARY 1, 1988 (U)—Continued

Yearly military supply activity			Status of forces								
During	Number arms shipments per thousands metric tons	Million U.S. dollars	As of	Total force [1]	Tanks	Other armored vehicles [2]	Fixed-wing aircraft/ helicopters [2]	Airfields	ADA Guns/ Msl Lchrs	Radars
1985	35/20.8	280	Jan. 1, 1986	74,850	150	199	45/25	5	200/300	(4)
1986	50/22	600	Jan. 1, 1987	74,850	150	220	44/57	5	300/300	(5)
1987	62/21.7	505	Jan. 1, 1988	80,000	150	250	35/52	[3] 5	400+/400+	(5)

[1] Active duty and mobilized militia/reserves. Figures since Jan. 1, 1985 have been revised upward to reflect newly declassified figures.
[2] Losses (combat and otherwise) may result in no net gain or a lower figure than prior year estimates.
[3] Construction at Punta Huete continues with approximately 3,000 meters of the runway paved.
[4] Some.
[5] 4 sites.

The PRESIDING OFFICER. Who yields time?

Mr. DODD. Mr. President, I yield 5 minutes to the Senator from Maryland.

Ms. MIKULSKI. Thank you very much, Mr. President.

I ask unanimous consent to revise and extend my remarks.

Mr. President, I had the honor of recently going to Central America as an official observer to the peace process. I return now more convinced than ever that we must oppose the President's package. I do that because I truly believe that the only thing that has worked in Central America is the peace process and I say that as someone who has very deep suspicions about a Marxist-Leninist government. With a name like MIKULSKI no one could be more suspicious of communism than myself. However, I do believe that after all of these years, it is the peace process initiated by President Arias that has moved the Sandinistas to do what they are doing, for whatever reason, whether they are sincere or cosmetic.

The pressure on President Ortega to comply with the agreement came from the other Central American Presidents. They want to pursue cease-fire negotiations in their own countries. They want peace and stability. They want to pursue economic development. They cannot pursue these goals in such a small region while war is raging throughout it.

Since the signing of the peace agreement, the Sandinistas have taken steps to comply with it. They appointed one of their most active critics, Cardinal Obando, to be the negotiator with the Contras. They granted a limited amnesty. They allowed La Prensa to print again. In the past 2 weeks, they lifted the state of emergency. They initiated direct meetings with the Contras to negotiate a cease-fire. Whether these actions remain genuine or not is still unclear. Whether they are taking these actions only for cosmetic reasons, I'm not sure. I am sure, however, that we should not give the Contras military aid at this time. I have a number of reasons that explain my position.

The peace agreement, authored by Costa Rican President and Nobel Peace Prize recipient Oscar Arias, will be undermined by further military aid to the Contras. The peace agreement specifically prohibits any government to provide military aid to "insurgents" or guerrilla groups in the region. The peace plan's international verification commission, consisting of representatives from the United Nations, the Organization of American States, and foreign ministers of 14 Central and Latin American nations, stated in its last report that a cutoff of aid to all rebel groups is an "indispensible element" to the success of the plan. President Arias has stated that Nicaragua will clamp down on civil and political rights and freedom of the press if more Contra aid is approved.

Six years of war have not brought the Sandinistas to the negotiating table. Six months of a peace agreement, pressure from the other Central American presidents, and a woeful economy have led to significant Sandinista concessions.

The administration's decision to fund the Contras will torpedo the cease-fire negotiations. More Contra aid gives the Sandinistas an excuse to get out of the peace agreement. It gives the Sandinistas the excuse to blame the United States. More importantly, it strips away any incentive for the Contras to negotiate a cease-fire in good faith. If the Contras get more military aid now, and they know they will get more in July when the administration puts forth another request, what is the impetus of the Contras to stop the war? And when will the war ever end?

The Contras will not die on the vine if they don't receive more aid now. The aid approved in the fiscal year 1988 continuing resolution is providing the Contras more aid per month than at any time since the conflict began. In the past 3 months, twice as many military and logistical supplies were provided to rebels inside Nicaragua than in the preceding 3 months. According to the State Department, the Contras have enough military equipment to carry them "well into" this year.

Let's take a a look at the administration's request. It is going to provide more than humanitarian aid. We are not just talking about boots, cans of Spam, and Tylenol to the Contras. We are talking about helicopters, radios, and the leasing of airplanes. By any definition, that is military assistance. Military assistance is not only bullets and handgrenades. It is infrastructure that we pass on today. This is a slyly conceived military aid package masked as a humanitarian gesture. Make no mistake, there is a big difference between humanitarian aid and nonlethal aid.

Let's not be deceived about what this package really is. It will do much more than keep the Contras alive. It will keep the war going through the better part of this year.

The Contras do not advance our national security interests in the region. Nicaragua by itself does not pose a threat to our security. Soviet missiles and submarine bases could be a very real threat. But what good would the Contras be in such a situation? Certainly U.S. action would be necessary. The best way to reduce this threat is to deal directly with General Secretary Gorbachev at the bargaining table, not through the Contras.

The Contras do not now and will not prevent the Sandinistas from expanding their revolution throughout the region. Military experts agree that Nicaragua is not capable of such action. Even if they did pursue this course, the United States would have other options.

The Contras do not advance our foreign policy concerns in the region. We want peace, democracy, and economic development in Central America. The peace agreement is our best hope. It has brought the Sandinistas to the cease-fire bargaining table. Pressure from the other Central and Latin American leaders is our best hope for democracy. This pressure has brought a limited amnesty, more freedom of the press, and the end of the state of siege in Nicaragua. If we provide more support for democratic institutions throughout the region, we can surround the Sandinistas with successful and prosperous democracy. This is our best defense against the expansion of the Sandinista ideology.

And finally, economic development can come from the United States and the rest of the world. The Caribbean

Basin Initiative is not working now because unrest pervades Central America. But it could work as an effective CarribBean and Central American common market. We could start a Tennessee Valley-style initiative for the region by tapping the hydroelectric power in Honduras and Guatemala. We could start a rural electrification program with high-tech assistance that provides more services for the people of the region than the banana and coffee bean markets ever did. But these programs cannot start—and economic development cannot happen—until the war ends.

The Sandinistas know they can face up to the bullet. They know the Contras are not a legitimate fighting force that threatens Sandinista control. The Contras have not conquered any significant amount of Nicaraguan territory, nor have they gained any legitimate political support within Nicaragua. The biggest threat to Sandinista control is not the bullet, it is the ballot.

President Reagan wants to hold the Contras as a bargaining chip, but there are other ways of doing that without furnishing the Contras with additional military aid. The peace agreement allows for—and we do have an obligation to provide—food, clothing, and resettlement assistance to the Contras. This can be distributed by the U.N. High Commissioner for refugees or the International Red Cross. But this is an obligation that comes only with a cease-fire agreement and an end to military aid to the Contras.

Ultimately, this debate should not be framed with the question, "do you trust Ronald Reagan or do you trust Daniel Ortega?" It's a question of the administration request for military aid versus the peace process. For 6 years, the administration's policy of war in Central America has not worked. In the past 6 months, the peace process has worked very effectively. This is one Senator that prefers peace rather than war.

The PRESIDING OFFICER. Who yields time?

Mr. McCAIN. Mr. President, I yield myself 10 minutes.

The PRESIDING OFFICER. The Senator from Arizona is recognized for 10 minutes.

Mr. McCAIN. Mr. President, the news that was heard concerning the vote in the other body last night was listened to carefully by the freedom fighters in Nicaragua. It was listened to by them, and by those who fight near Kabula and Angola, and those who struggle for freedom in East Berlin and Poland. Everywhere in the world where people struggle for freedom, a message was sent last night telling them that, once again, the American government—and they cannot differentiate between our Congress and our executive—was abandoning people we have trained, armed, equipped, and encouraged to fight for freedom.

I cannot help but be reminded of a quote by Winston Churchill, who approached Neville Chamberlain after the Prime Minister's return from Munich, where he said the 1938 version of, "Give peace a chance": or, "Now we have peace in our time." He said, "Neville, you had two choices—war and dishonor. You chose dishonor. We shall have war."

Yesterday, the House of Representatives chose dishonor. We will have war. We will have a continuing war in Central America as long as there remains in Central America an expansionist Marxist-Leninist government which, in their own words, is committed to a revolution without borders which, as we speak, continues to train, arm, equip, and operate subversion into their neighboring countries; and the evidence remains very clear of their commitment to destabilize—indeed, to remove—the governments from those countries—governments which, unlike Nicaragua's have been democratically elected.

I think it might be well to review what the administration's proposal was. The administration's proposal was just over $32 million in humanitarian aid and $3.6 million in lethal aid. The lethal component would not be disbursed if the President received from the Houses of Congress confirmation that the Sandinistas were in compliance with the peace plan.

In other words, this proposal of the administration did give Congress a voice in the peace process. It did give Congress a voice as to whether lethal aid should be extended. I think it is absolutely insane that it was rejected.

The debate this evening is not based on whether we should sell Central America to the Communists or whether we are for another Vietnam war. This debate revolves around the perception of the threat that the Sandinistas pose to peace and stability in Central America and to the vital national security interests of the United States.

On the one side, I believe that the opponents of aid to the Contras believe that the Sandinista Government can somehow be made to behave; that, if left alone and prodded, with moral suasion and all the other wonderful words President Arias uses, that they somehow will confine themselves to their own borders and, over time, will allow some modicum of democracy to the people.

The viewpoint held on this side of the debate is that we are faced with a Communist-Marxist expansionist government that cannot truly change its ways, and that it will pose a threat to peace and stability in Central America until the Nicaraguan people are afforded the democratic freedoms promised by the Sandinistas in 1979, promised again on August 7—promises with which they are still not in compliance. That is the difference in this debate, and I would suggest that the track record of the Sandinista Government indicates that without the military pressure of the Contras, they will once again fail to come into compliance.

I keep hearing over and over, "Give peace a chance." I ask what kind of peace we want to give to the people of Nicaragua. Is it the kind that was referred to in 1974, during the debate, when my esteemed friend and colleague, CLAIBORNE PELL, said:

> By reducing American aid, we will be saving precious funds we can ill afford to spare. More important, the United States will be demonstrating its firm conviction that political accommodation must be found in Vietnam. Our aim should not be military victory for the South, but rather a political settlement consonant with the Paris accords of January 1973. Reconciliation and reconstruction, long overdue, require a context of peace. The continuing war in Vietnam, to a significant extent made possible by American arms supplied to the South, must come to an end.

We gave peace a chance in Southeast Asia. Three million were slaughtered in Cambodia; two million have fled Indochina, and hundreds of thousands are still in reeducation camps throughout Vietnam.

I think it is important to understand also a little bit about the elements of warfare. Soldiers cannot fight without bullets. A simple extension of humanitarian aid to people fighting in the field, having to stay on the move constantly, does not allow them to defend themselves. It is very easy, as we sit here in the Nation's Capitol, with the luxuries and the comforts that surround us, to say "we will just give them a little more humanitarian aid, and that will be just fine."

Ask any soldier who has fought in combat in guerrilla warfare, and they will tell you they cannot fight without bullets. To leave these people in the jungles without the means to defend themselves is an outrage. To claim that a little more humanitarian aid will solve the problem is an insult to the intelligence of those of us who know a little bit about a war.

The economic situation in Nicaragua is poor. The economy is in rapid deterioration, not so much because of the Contras, but because of the Marxist policies that exist, not only there but also in Cuba and Eastern Europe and the Soviet Union and every other country dominated by Marxist-Leninist-Communist economic policies. The situation in Nicaragua will not improve economically for the people if we cut off aid for the Contras. In fact, it will probably worsen.

The only way the economic conditions for the people of Nicaragua will improve is if the kind of government

that is representative of the people is installed.

Mr. President, I think the situation as it exists in Nicaragua can best be described by the man that I respect more than any other I have met in the five visits that I have traveled to all of the Central American countries, Cardinal Obando y Bravo.

Recently, in a meeting with him, on the 12th day of January, I asked the cardinal, as we always do, how he felt about extending aid to the Contras. The cardinal said:

As a mediator, I must be prudent. If I say there should be aid, I will anger the Sandinistas; if I say I am against aid, the Resistance will be angry. The Nicaraguan Resistance represents western democracy; the Sandinistas represent the complete opposite. The Nicaraguan Resistance, while they possess the means of continuing fighting, will continue to insist on democracy. The Sandinistas will never change their objective. There is no doubt that it is in the interests of the government to stop aid.

Tragically, this debate is not over. Tragically, this debate will go on and the killing will go on and the dying will go on.

It will continue until the issue is resolved in Nicaragua, either through the complete repression and oppression of the Nicaraguan people, forcing the United States to intervene, or by reversing the unfortunate decision made last night, and aiding those people who are struggling for freedom in the fulfillment of promises that were made to them, rights that should be obtained by all people throughout the world. Then and only then will this unfortunate and divisive debate and wound that exists throughout our Nation be healed.

I yield back the remainder of my time.

Mr. DODD. Mr. President, how much time remains on the Democratic side?

The PRESIDING OFFICER. The Senator from Rhode Island controls 46 minutes; the Senator from Texas controls 10 minutes, and the majority leader controls 1 hour and 44 minutes.

Mr. DODD. I yield 15 minutes to the distinguished Senator from Hawaii.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. Mr. President, I am opposed to the administration's request for $36 million in additional aid to the Nicaraguan resistance. I have come to this decision only after considerable thought and reflection. I have been guided not only by discussions with my constituents and officials of our Government, but also by a close reading of the history of United States involvement in Central America. Moreover, as with previous votes on this issue, my decision is born of a profound concern for the welfare of the people of Nicaragua and the future of American foreign policy in the region.

I wish to assure my colleagues and my constituents that I have deliberated long and hard over the possible consequences of a vote against further Contra aid. For nearly 8 years I have grappled with this issue. I have listened intently to the arguments on all sides of the debate and have tried, time and time again, to respond with both compassion and realisism to the changing political environment in the region.

Mr. President, I have weighed the danger of an expanded Communist presence in our hemisphere against the rirk of the United States being drawn into an ever-widening conflict. And, Mr. President, I have reflected on past efforts to aid the Contras and how these have, regrettably, too often led to the wanton destruction of remote villages and brought untold hardship to thousands of innocent campesions.

Most importantly, though, I have tried to listen to the people of Nicaragua and to the people of Central America and to discern how the majority would like to see the turmoil resolved. I have asked what kind of life do the Nicaraguan people want for themselves and for their children? What kind of democratic reforms would they like to see instituted in their country? What do they believe the role of the United States should be in the region?

From these competing, and often conflicting considerations, I have concluded that our response to Sandinista provocation must be a measured one—proportionate to the real danger posed to United States security interests, and discriminate in the effect our actions have on the region as a whole. We must balance the threat of military force against the danger of a protracted conflict in which American lives ultimately might be placed at peril.

Mr. President, the administration asks the Congress to provide additional funding to the Contra resistance forces so that military pressure can be maintained against the Sandinista regime, while negotiations in the peace process continue. Contra supporters argue that a cutoff of aid will send the wrong signal to Managua—that it will deprive the resistance of effective bargaining leverage, and will reward the Sandinistas without first having secured any concessions at the peace table.

Mr. President, I submit that it has not been the sword of war which has brought the Sandinistas to the conference table; it has been the pen of peace. Since Costa Rican President Arias proposed his peace plan the Sandinista Government has taken several steps, albeit modest ones, to move the peace process forward. Not only has the opposition newpaper La Prensa been reopened and permitted to publish without censorship, but also large numbers of political prisoners have been released. These are small, but significant gestures which defy the logic of the pro-Contra aid advocates.

Mr. President, we have now arrived at a critical juncture in the life of this Congress and the life of the beleaguered nation of Nicaragua. Before us is a peace process initiated by Central Americans, for Central America. It will rise or fall on the strength of our commitment and the honesty and fair dealing of the comandantes in Managua. We all share the responsibility for the future of the region and for the legacy of war or peace which we bequeath to our children.

I need not remind my colleagues of the bitter history which has scarred Nicaragua and the ignominious role the United States has played in that history. If we are to condemn the faults of others, then we must first acknowledge our own part in the turmoil which has engulfed that nation over the course of nearly 150 years.

It is a sad but true fact that the United States Government has supported a succession of unpopular regimes in Nicaragua—regimes which plundered the country and mortgaged its sovereignty as the price of continued friendship. A 1911 treaty, for instance, gave the United States an exclusive right of intervention in Nicaragua in return for the reorganization of the country's finances. One year later President Taft invoked this pact and dispatched 2,700 marines to the country.

For the next 22 years the United States maintained a military presence in Nicaragua, propping up the country's leaders and attending to its administrative affairs. Let us not forget that it was this Government which helped establish the notorious national guard which in time became the personal sword and shield of the Somoza family dictatorship. Under their ruthless sway, and beneath the unprotesting eyes of the United States, the Somozas were able to intimidate local peasants and businessmen and suppress any opposition to their absolute rule. The country's wealth was systematically looted until 1979, the time of the anti-Somoza revolution, when it is estimated that the Somoza family owned nearly one-third of all the land in the country and controlled nearly all major industries.

All of these events weigh heavily on the collective Nicaraguan memory and, to this day, form the basis of the suspicion which dominates the relationship between our two nations.

Mr. President, I do not seek to absolve the Sandinista government of the wrongs they have committed or to lessen the terror wrought by Communist totalitarian government. Surely the acts of violence and intimidation

in which members of the Nicaraguan secret police have participated are as reprehensive as any found behind the Iron Curtain. Surely, any act of subversion perpetrated by Nicaragua against its neighbors is as intolerable as any conducted by the Soviet Union, Cuba, or Vietnam. When these states support each other's sinister plans, the offense is only the more repugnant and must be condemned.

Mr. President, what I seek to demonstrate by my vote against Contra aid in my sincere desire for peace in Central America. By opposing further aid for the resistance forces we would pose a direct challenge to the commandantes in Managua—will you choose the path of democracy for your country or will you choose repression?

Mr. President, I will cast my vote against Contra aid with full awareness that Daniel Ortega might very well renege on his commitment to the peace process. But I am also certain that, if he does so, he will be risking the wrath of the four Central American Presidents.

The Sandinista government must recognize that any hope they have of achieving legitimacy now hangs in the balance. If they betray the confidence which others have placed in them, they will be regarded both as traitors to the cause of peace and as those who have betrayed the very ideals of the revolution which brought the downfall of the Somoza dictatorship.

Mr. President, the countries of Central America are not banana republics and we are not their masters. They are sovereign republics with independent-minded, peace-loving peoples. We can not alter the wrongs of the past any more than we can change the geography which links the destiny of this hemisphere. Only the future is within our grasp. Only a vote against Contra aid will give peace a chance.

Mr. President, in view of the action taken by the House yesterday, I realize that this vote is largely symbolic. Nonetheless, I urge my colleagues to defeat this request for additional funds for the Contras.

I yield back the remainder of my time to the manager.

The PRESIDING OFFICER. The Senator from Texas.

Mr. BENTSEN. Mr. President, as I understand it, under a previous order, I had 10 minutes allocated to me.

The PRESIDING OFFICER. The Senator will suspend. The galleries will please cease and desist from showing any outward manifestations of support or nonsupport for any of the speakers on the floor of the Senate, or the Chair will be compelled to ask the Sergeant at Arms to take appropriate action.

Under the previous order, the Senator is recognized for 10 minutes.

Mr. BENTSEN. Mr. President, I support the Arias plan and its goals of peace in Central America and democracy throughout the region. I also support continued aid to the Contras, including military aid, because I believe that the military pressure of the Contras is the only reason we have seen any movement at all toward democratization in Nicaragua and fulfillment of the Arias plan. I believe that the Senate should express its determination that such aid is needed, in spite of the action taken by the House last night.

I am convinced that the continuation of this pressure is the only guarantee we have that the gains made thus far in Nicaragua will not be temporary ones, to be thrown out by the Sandinistas once the Contras have been abandoned.

We have seen the willingness of General Secretary Gorbachev to discuss the withdrawal of Soviet troops from Afghanistan. No one, I hope, believes that this is being offered out of the goodness of his heart. No, I submit to you that Secretary Gorbachev has seen the light on Afghanistan because he has felt the military heat generated by the Afghan resistance.

It is reported publicly that we and others have been giving hundreds of millions of dollars per year to the Afghan resistance. I hear no one arguing that we should turn our backs on the Afghan resistance and depend on the good will of the Kremlin and on glasnost alone for an end to that conflict.

We can also look to the example of the INF Treaty, which is before us for ratification. This agreement will eliminate intermediate range missiles from Europe and the Soviet Union. It was made possible, we can say with a fair degree of certainty, only because the United States deployed the Pershing 2 missiles to Europe.

It took the pressure of the Pershings to get this arms control agreement, and it will take the pressure of the Contras to make the Sandinistas live up to the promises they made to their fellow Central Americans in August of this past year—promises of democratization, cessation of support to the guerrillas in El Salvador and elsewhere, and complete freedom of the press and political pluralism.

It is ironical, as I have pointed out in this Chamber on other occasions, that most of us are quite willing to stand up for the right of the Afghan people 10 thousand miles away to have a government of their own choosing, one that is not forced upon them by the military power of the Soviet Union.

At the same time, there is a great reluctance to support that same privilege for people here in our own hemisphere and to furnish supplies to Nicaraguans who are fighting for democracy in their own country.

It is important to emphasize that it is Nicaraguans doing their own fighting—not American soldiers or Marines in there doing it for them. It is Nicaraguans believing enough in the cause of democracy that they risk death to free their country.

Here we are, debating whether to give them what they need to continue the fight—the modest sum of $36 million—while the Soviets gave over $1 billion in aid to the Sandinistas last year, including over $500 million in military assistance alone.

Let us not mistake, either, the nature of the Sandinista regime in Nicaragua. It is not a group of peaceful leftists, content to practice their controlled—and I might add, rapidly disintegrating—Marxist economy. These are violent revolutionaries, men and women who are dedicated to spreading their brand of communism anywhere they can reach.

They have proclaimed a "revolution without borders." In an interview in 1983, Tomas Borge was asked about charges that Nicaragua wants to export its revolution, that, in the words of the interviewer, "Nicaragua is the first domino in Latin America. That since the revolution triumphed here, it will be exported to El Salvador, then Guatemala, then Mexico." Borge replied, "That is one historical prophecy of Ronald Reagan's that is absolutely true."

No, there should not be any doubt about the intentions of the Sandinistas, nor about their willingness to carry them out. Even after signing the Arias plan, according to information supplied us by Maj. Roger Miranda, a Sandinista army officer who defected in October 1987, the Sandinistas had plans to build an army of 600,000 men.

When Miranda revealed this information, I am sure there were skeptics who doubted him. The next day, though, Sandinista Defense Minister Humberto Ortega, the man for whom Miranda had worked, publicly admitted the accuracy of these plans.

The day after that, Humberto's brother, Nicaraguan President Daniel Ortega, atttempted to smooth over the situation by down-playing these plans. The fact is, some of the nine Sandinista commandantes—especially Humberto Ortega, Tomas Borge, and Bayardo Arce—actually told the truth about what they are planning and doing.

What happened then was that Daniel Ortega, a man who is more conscious of public relations than are some of his colleagues, stepped in to contradict what has just been said, and provide a smokescreen for those who do not want to believe that these men are who and what they publicly say they are.

We have all seen the pattern from the Sandinistas. They offer Contra-vote concessions immediately prior to congressional consideration of a pro-

posal such as this one. Then following the vote, they show their true colors.

We saw Daniel Ortega fly off to Moscow to visit his supporters there after one vote; we saw the closing of La Prensa after another; we saw an invasion into Honduras after a third one.

We also have seen what the Arias plan means to the Sandinistas. In August they signed the agreement; yet they continue to support the FMLN guerrillas in El Salvador. They allowed the opposition Social Christian Party to march in Managua in October; then they arrested 18 marchers and drafted them into the army. They released 900 political prisoners; but they retain 9,000 more in jail. They announce complete freedom of the press; but they—the Sandinistas—control the only television station, and they refuse to allow another to open. They proclaim political pluralism; then they arrest opposition political leaders.

Let us not deceive ourselves. The only reason the Sandinistas have agreed to the limited steps taken so far in compliance with the Arias plan is the military pressure of the Contras.

This leaves us with two alternatives: take away the pressure of the Contras and rely on the good faith of the Sandinistas to live up to the Arias plan, or continue the pressure for as long as it takes to put the Arias plan into full effect.

I am not certain what the action of the House will mean with regard to prospects for additional Contra aid. It seems clear that further military aid will be very hard to get.

Nevertheless, given the record of duplicity established by the Sandinistas, including their history of pre-vote promises and post-vote repression, I am still persuaded that continuing aid to the Contras is our only hope of making the Arias plan more than a shattered dream and a memorial to the betrayal of Central American democracy.

I have listened to the wishes of the other democratic Presidents in Central America, and I wish them well. But unfortunately they do not have the muscle to back it up. We are the only country that does. Down there you have some people fighting desperately for the freedom of their country, fighting the fight that in time could well be our own.

I do not want to see American boys down there. I do not want to see American soldiers or American Marines. But here we have someone fighting for freedom, trying to stop us from having a Communist-dominated satellite of the Russians on this hemisphere, people who have the express purpose of exporting that revolution. We ought to be trying to stop it while we can.

I yield the balance of my time.

The PRESIDING OFFICER (Mr. DASCHLE). The Senator from Arizona.

Mr. McCAIN. Thank you, Mr. President. I would like to yield 15 minutes to the distinguished Senator from Colorado, Senator ARMSTRONG.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ARMSTRONG. I am grateful to my colleague for yielding to me.

Mr. President, when a handful of pathetic survivors came limping out of Hitler's death camps they looked in the eye the leaders of Western nations and asked a question for which there was no answer satisfactory to conscience. They said: "Where were you when Hitler was establishing these camps?"

Is it because we did not know what was going on in Europe? No, we knew. We were told. Our predecessors in this body had every reason to know; had ample evidence of what was transpiring in Germany and Eastern Europe. But they pretended that they did not. They refused to look full in the eye the evil that was occurring there and so they let it happen.

Fifteen years ago last week in Paris, more or less the same thing happened. We pretended that the result of the Paris Peace Accord would be a fair and just peace in Southeast Asia when we knew or had reason to know that nothing of the kind in fact was likely to result; that the probable result would be death and deprivation; would be the consolidation, perhaps for many, many years to come, of a brutal dictatorship; that the result would be millions of refugees and untold human suffering. But we let it happen.

Mr. President, one of the enduring features of human nature is an unwillingness to look seriously at the developments which we find unsettling, at things which are unpleasant, at issues and circumstances and trends which provoke our conscience and call upon us to do something which we do not want to do or which are controversial or which put a burden on us.

Mr. President, there is another tradition in America. There have been moments, the Paris Peace Accords I think are a classic example—the conduct of our foreign policy in the 1930's are an even worse example. But there is another trend in the thought life of our country, to which I would appeal today and which I join with my colleague from Texas and my colleague from Arizona in appealing to within this body. It is the tradition that where men and women stand to fight for human freedom, the spirit of America goes forward to help them.

I think this is a moment, Mr. President, not for a fancy talk or for great emotion, but for plain words. And I have about three very plain points that I want to make.

First of all, there is no truthfulness in the Communist government of Nicaragua. A great literary critic of the 19th century, John Ruskin, wrote:

> The essence of lying is in deception, not in words. A lie may beguile by silence, equivocation, or by the accent on a syllable, by a glance of the eyes, a particular significance to a sentence, and all of these kinds of lies are worse and baser by many degrees than a lie plainly worded.

Now, the fact of the matter is, Mr. President, that the Communist government in Nicaragua, while it is guilty of many other offenses, of crimes against humanity, is also guilty of lying and lying and lying and lying, day after day, since they have been in power and even before they came in power.

Mr. President, I send to the desk and ask unanimous consent that there appear in the RECORD immediately following my remarks a document prepared by the Republican Policy Committee under the heading "Sandinista Promises." It is a detailed listing of the promises that have been made by the Sandinista regime, by the Communists before they took power and since they have been in power.

They promised free expression, freedom of religion, a mixed economy, union rights, an independent nonaligned foreign policy, a minimum permanent military establishment and other generally accepted human rights principles; and they did not tell the truth on a one of these promises. They did not just make these promises once and then break them. They made them and broke them and made them and broke them and they have done it over and over again.

I send this to the desk and ask unanimous consent that it be printed in the RECORD following my remarks.

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

(See exhibit 1.)

Mr. ARMSTRONG. Second, Mr. President, I want to just state plainly and for the record that it is a copout for somebody to come to this body and say: "I am for the freedom fighters; I am for the Contras; but I am just against this bill."

That is tantamount to saying that at a time, as the Senator from Texas has pointed out with great perspicacity, that the Soviet Union is spending hundreds of millions of dollars in economic and military support to the Communist government in Nicaragua that we are going to deny minimal aid to give those who are fighting for freedom something with which to defend themselves. That is a travesty, to make such a suggestion.

While I do not question the good faith of someone who makes such an argument, my own conscience compels me to say that is pure sophistry; nothing less. It is plainly a copout.

Mr. President, the third point I want to make is this, that a vote against this resolution is against the policy which

has been highly successful and which is working. President Reagan has made the pont in many ways and over a long period of time that the on-again/off-again nature of United States support for freedom fighters, for the democratic resistance in Nicaragua, has greatly complicated the problem of bringing peace with justice, peace with freedom, to Central America. And it is a fact.

We have been on both sides of the issue. For awhile we in fact supported the Sandinistas. Then we had aid to the Contras. We have cut off aid to the Contras. We have started it up.

It is no wonder, let me suggest, Mr. President, that the people of this country are confused about our policy and, indeed, every public opinion poll shows there is great confusion, not only about who is right but even about whose side the United States is on.

That is not surprising. But let me say that during this brief interlude during the last year or 2 when we have been faithfully supporting in word and deed and with modest amounts of humanitarian aid and military aid, the democratic resistance, they have mounted a very credible effort in the field, an effort which I believe is primarily responsible for what seems to be a growing willingness on the part of the Communist government of Nicaraguan to come to the bargaining table.

It is a policy which is working, which is achieving its intended effect.

Now, just as the fruit of that policy is about to mature, the other body, the House of Representatives, has said: No, we have had enough of that policy. It is time to switch signals again, pull the rug out from under the democratic resistance, stamp them out, cut off the aid, cut off the minimum military supplies they may need to defend themselves, even to cut off the humanitarian aid—although I guess there is floating around here someplace the notion under the right time and right circumstances, after all the political issues have been resolved, that we are going to send them some Care packages or something.

Mr. President, I will tell you that a vote against this resolution is a vote against a highly successful policy which is working. Mr. President, it is in my opinion a great misjudgment to listen to what the Central American Presidents and other leaders have said and conclude that it would be unwise to grant President Reagan's request as it is embodied here.

I have talked to some of these Central American leaders and I want to tell my colleagues something that many of them know but which we just need to talk plainly about. There are a lot of those leaders down there who are talking out of both sides of their mouths; who, for one reason or another, are either passive or only mildly enthusiastic about the notion of U.S. support for the democratic resistance.

Mr. President, I believe that at the bottom are two issues which are usually not spoken about but which we must speak about today.

The first is this: That a lot of that talk is for domestic political consumption. In fact, a number of the leaders have told me very frankly that is what it is. They said, "Do not pay any attention to what we have said; we do not really mean it. We hope you will continue to fund the democratic resistance."

The second is the insidious notion that if the Arias plan does not work, the United States will send in the 82d Airborne.

When I have been in Central America and talked to their leaders, I have made it plain that if they are banking on any such notion, they are making a mistake. I do not think the 82d Airborne will go down there, and I do not think it is very likely or possible that the American public will support such a development.

Yet I think many Senators know and have reason to know that is exactly the expectation of some of the leaders in that region.

Mr. President, the policy is working and if we continue, if we are faithful to it a bit longer, nor just another month or two or 6 months or maybe another year or 2—I do not know how long—I believe the result in the final analysis will be enough pressure on the Communist government to produce a reasoned and valid negotiated settlement that will entail not only a cease-fire but free elections, freedom of worship, a free economy, and all of the things that have been previously promised.

Having said that, let me say also that I do not know whether that is the Arias plan. I am not against the Arias plan, but I am not at all that impressed with the Arias plan because I remember the OAS peace plan of 1979. That was the plan which the Communist government, before they became the government, when they indeed were the insurgents, agreed to and in many ways that plan was actually more definitive and more responsible than the Arias plan. It was clearer and more specific.

And, in addition to that plan, it would have required the Sandinistas to forego the Soviet support which has really been the underpinning of the Communist government.

Then there was the San Jose peace plan which came out in 1982. That did not go anywhere.

Then there was the Contadora plan in 1983. We have not forgotten that. It is somewhere. It is still on the table. I do not know which table it is on, but it is still somebody's dream.

Then there was the Reagan-Wright plan and that lasted about a week, I guess.

Now we have the Arias plan.

I am not against what President Arias has proposed. I just do not think it has a chance of success, or at least a very slim chance, if we remove the military pressure which in my opinion has been a major contributing factor to bringing the Communist government to the bargaining table.

Mr. President, the opponents of Mr. Reagan's modest request have proven some things. They have proven, for example, that President Reagan may not get to address the country on nationwide television. I think that is a decision that the television networks are competent to make. I believe it was a bad judgment, a bad call, a bad mistake. I say that as one who is in that in real life.

In real life, I am an executive of a television station.

But they made that decision. I regret that they made that decision. They have the right to make it. It is their right to make that judgment. I believe that judgment will not be fortunate to those in the television industry who thought Jake and the Fat Man was more important that what the President had to say on this question of crucial national importance. But they had the right to do that.

The opponents of President Reagan's request have proven they can hotbox it in the House. I heard a bunch of bragging about how they bought radio announcements in swing districts and pressured vulnerable Members and turned enough of them around so that the thing went down by five or six votes. I guess a switch of four made a crucial difference. They have proven they can do that.

Mr. President, the opponents of President Reagan's request have proven they can tempt even the most senior Members and leaders of the Congress of the United States into a very personal confrontation. Make no mistake about it. That is what occurred last night in the House of Representatives.

Some of the most senior leaders of the other body decided this was going to be a test of will between them on a very personal basis with the President of the United States.

I do not say that on my own authority. I say that based upon talking to Members of the Congress, to Members of the House, who just said that is the way it was put to them. It was put to them, "You will have another chance to vote for Contra aid, but this time we have to show that we are going to back the Speaker. We are not going to back Ronald Reagan."

All right, they have proven that. But it does not change the fact. The fact of the matter is that a vote against

this resolution, against a modest amount of further aid for the democratic resistance, is, in fact, a vote to scuttle a policy which is successful, which is working, and which holds promise for the future.

Mr. President, we can talk at great length about the strategic implications, but I believe that every Senator tonight knows that what is happening is much to the strategic disadvantage of the United States. We can talk about what effect it has on the credibility of our Nation's foreign policy when we encourage people to go out into the jungle to fight for their freedom and say, "We are with you, we will back you," and then pull the rug out from under them. We all know what that means for our credibility in the Middle East, in Afghanistan, in Asia, the United Nations, and everywhere.

Mr. President, we can talk about the heartbreak for the refugees. There have been so many already and there will be so many more if the Contra movement collapses.

I would like to confide that upon reflection I do not think the democratic resistance is going to collapse, whether we pass this resolution or the House does, I do not think this issue is going to go away.

Mr. President, Victor Hugo wrote, "Greater than the tread of mighty armies is an idea whose time has come."

An idea has come in Central America, and that idea is not strategic, it is not credibility, it is not politics, it is not hotboxing Members of the House of Representatives. That idea is human freedom.

They may be able to stop Mr. Reagan from making an address to the Nation on the television, but I do not think they can quench human freedom that easily.

I believe and hope that we can send a message of humanitarian and military assistance. I believe freedom will fight on. I believe human freedom will prevail in Nicaragua.

EXHIBIT 1

SANDINISTA PROMISES

(By William L. Armstrong, Chairman)

There is hardly a promise on human rights and fundamental liberties that the Sandinistas have not made, and hardly one that they've kept.

This paper is a review of the extensive promises made by the Sandinistas from the days before they rode into Managua in 1979 up to the current round of promises they have made in 1987/1988.

THE ORIGINAL PROMISES

On June 17, 1979, while Anastasio Somoza was still in power, a Sandinista-dominated Nicaraguan Government of National Reconstruction (GRN) was formed in San Jose, Costa Rica. Of the five GRN members, three of them, including Daniel Ortega, were members of the Sandinista National Liberation Front (FSLN). (The non-Sandinista members were Violeta Chamorro, now editor of the opposition newspaper La Prensa, and Alfonso Robelo, now a member of the seven-man Directorate of the Nicaraguan Resistance—the Contras.)

On June 18, the GRN held a press conference in which they pledged their government's program would be "truly democratic," with respect for "fundamental liberties," including: free expression; freedom of religion; a mixed economy; union rights; an independent non-aligned foreign policy; a minimum permanent military establishment; and other generally accepted principles.

These pledges were instrumental in the action of the Organization of American States (OAS), which, with the support of the United States, adopted a resolution on June 23, 1979, calling for the replacement of the Somoza regime with a democratic government "which reflects the free will of the people of Nicaragua;" would guarantee the "human rights of all Nicaraguans without exception;" and, would hold "free elections as soon as possible," leading to "the establishment of a truly democratic government that guarantees peace, freedom, and justice."

On July 12, after active negotiation with representatives of the Carter Administration and the OAS, the GRN sent a letter to the OAS, citing the OAS June 23 resolution and promising free elections. Attached to the GRN letter were two other documents:

A "Plan to Achieve Peace," which detailed a step-by-step measure for the peaceful resignation of the Somoza government and the takeover by the GRN.

A formal "Program of the Nicaraguan National Reconstruction Junta," dated July 9, in which the GRN spelled out in specific detail its June 18 pledges.

Taken together, the documents submitted to the OAS on July 12—the letter, the peace plan, and the GRN program—constituted a comprehensive program of democratic guarantees. They included:

The structure of the new government, featuring a 33-member legislative Council of State representing "all the political, economic, and social sectors that helped overthrow the Somoza dictatorship;"

A guarantee of full human rights observance as set forth in the United Nations Universal Declaration of Human Rights and in the Charter on Human Rights of the OAS;

Freedom of press, religion, unions;

Private enterprise in a mixed economy;

A non-aligned foreign policy;

A new national army with only a "minimum" permanent military establishment;

A guarantee of the lives and rights of members of the National Guard; and

Many other guarantees of fundamental liberties.

On the basis of these comprehensive guarantees, on July 15 the Carter Administration and the OAS approved final transfer of power from Somoza to the GRN. Somoza submitted his resignation to the Nicaraguan Congress on July 16 and left the country the next day. On July 17 the Carter State Department noted the Somoza resignation and announced:

"From the beginning of the violence that has set Nicaraguans against each other, the Organization of American States and its member nations, including the United States, have worked to facilitate a peaceful and democratic solution to the civil strife in Nicaragua. . . .

"A caretaker government is in place to begin the process of national reconciliation. A Government of National Reconciliation, formed initially in exile, will assume power. . . . It has pledged to avoid reprisals, to provide sanctuary for those in fear, to begin immediately the immense task of national reconstruction, and to respect human rights and hold free elections."

On July 17 and 18 National Guard resistance ended. The Sandinista-led anti-Somoza forces entered Managua on July 19. On July 20 the GRN was installed and had the opportunity to act upon their previous promises and commitments. Particularly astonishing is the speed with which the Sandinistas moved to violate them.

Promise: That the lives of National Guard officers and soldiers would be respected, that they would not be subject to revenge or indiscriminate reprisals. Those guilty of crimes will be dealt with within the legal framework. [from the July 12 GRN promises to the OAS]

Performance: "After the 1979 revolutionary victory hundreds of prisoners, mostly members of the National Guard or supporters of the former regime, disappeared after capture and were later found dead. Of the dead, many were found in mass graves, as in the case of the prisoners in La Pólvora, . . . the former headquarters of the National Guard in the town of Granada. . . . [O]n October 3, 1979, José Estebán González of the CPDH [the independent Permanent Commission on Human Rights], traveled with several witnesses to the site and discovered human bones and remnants of clothing in a covered-over ditch.

"Similar reports led to the discovery of another site in La Arrocera, near Lake Nicaragua, where several more bodies were found. At the bottom of the crater of the Santiago volcano, near Managua, ten to fifteen bodies were sighted. Thirteen more were discovered in a mass grave in Catarine, a small town near Masaya. Approximately two hundred were found in a deep well near Leon.

"How many people were killed in this manner? Estimates based on names of prisoners who were captured and then declared missing or dead vary. The CPDH has documented the disappearance and most likely death of 785 persons who were captured by Sandinista authorities from July 1979 through September 1980 . . ." [Humberto Belli "Breaking Faith," The Puebla Institute, 1985, p. 120]

Promise: After the replacement of the Somoza regime, remnants of the National Guard and of the Sandinista armed forces would be formed into a new, non-political national army. This army would maintain a "minimum" permanent establishment. [from the July 12 GRN promises to the OAS]

Performance: The new national army was never formed. The Sandinista army continued to function as a Party armed force and in September 1979 was officially named the Popular Sandinista Army (EPS). In the so-called "72 Hour Document" of September 1979, a long-term program of the top FSLN leadership, the determination was made to create "an army politicized to an unprecedented degree." [from the document text, quoted in Shirley Christian "Nicaragua, Revolution in the Family," p. 151.] Already in October 1979, Interior Minister Comandante Tomas Borge stated the Sandinistas' intention to arm a militia of 300,000 men (other descriptions of Sandinista intentions refer to 200,000). This compares to a July 1979 force of no more than 7,500; Somoza's National Guard had fewer than 15,000, including support troops. During this period

there were no Contras, and the United States, under the Carter Administration, was the Sandinistas' biggest aid donor. By the end of 1987, regular Sandinista army forces numbered 80,000, plus some 40,000 militia. According to the revelations of Major Roger Miranda (confirmed by Defense Minister Comandante Humberto Ortega), the Sandinistas plan a total military and para-military force of 600,000 by the mid-1990s.

Promise: "An independent, non-aligned foreign policy will be followed which will link our country with all nations that respect self-determination and fair, mutually-beneficial economic relations." [from the July GRN promises to the OAS]

Performance:

The first Cuban military and security advisers entered Managua within a week of July 19, the day Sandinista forces entered the capital, possibly as early as the first day; by November there were two hundred of them. Assistance from Panama, which had provided major help to the Sandinistas in overthrowing Somoza, was rejected.

On July 21, the day after the GRN was installed, representatives from two Salvadoran communist guerrilla factions were in Managua to discuss military cooperation and assistance; these two factions joined with three others in May 1980, under Cuban and Sandinista auspices, in what became the Farabundo Martí National Liberation Front (FMLN).

On July 25, prominent junta members traveled to Havana to help Fidel Castro celebrate the anniversary of the beginning of his revolutionary movement. On July 27, Nicaragua and Cuba reestablished diplomatic relations, and within weeks relations were established with other Soviet bloc countries.

In eary August, Comandante Henry Ruiz travelled to the USSR, Bulgaria, Libya, and Algeria to conclude aid agreements.

By the end of August, hundreds of Nicaraguan children were being sent to Cuba for political indoctrination.

In September 1979, at a speech in Havana, Comandante Daniel Ortega gave a speech condemning U.S. "imperialism" and joining the Soviet Union in support for Vietnam, the Vietnamese puppet regime in Cambodia, other Marxist countries and political movements, and the Palestine Liberation Organization (PLO).

In eary 1980, Nicaragua abstained from a United Nations General Assembly vote condemning the Soviet invasion of Afghanistan, even though the vast majority of officially "nonaligned" nations voted for the resolution.

In March 1980, the Sandinistas established Party-to-Party ties with the Communist Party of the Soviet Union. In mid-1981, Defense Minister Comandante Humberto Ortega declared Marxism-Leninism the "scientific doctrine" that guides the Sandinista revolution; as of 1984, eight of the nine Sandinista comandantes had directly acknowledged their Marxist-Leninist convictions (the ninth, Henry Ruiz, was sent, on a Cuban passport, to Moscow's Patrice Lamumba University as a youth cadre of the Moscow-line Nicaraguan Socialist Party in 1966 but was obliged to leave due to his excessive views in favor of guerrilla warfare in Latin America).

In late 1981, Sandinista-controlled media were told to take a line against the "counterrevolutionary" Solidarity movement in Poland and only to report "facts" confirmed by the Soviet and Cuban press agencies.

When Leonid Brezhnev died in 1982, Sandinista media praised him and the Soviet Union for their "peace" policies.

The Sandinistas abstained from a U.N. vote in 1982 demanding Soviet withdrawal from Afghanistan and abstained from a 1983 vote condemning the shooting down of Korean Airlines 007 by the Soviets. By 1986, the Sandinistas' voting record in the United Nations was more anti-American than the voting records of Iran, the USSR, and all of the East European countries with the sole exception of Albania. Judged by U.N. voting record, the Warsaw Pact is more pro-American than Nicaragua is.

Promise: The legislative Council of State established by the GRN would have 33 members representing the broad spectrum of Nicaraguan society, such as political parties (including the Sandinistas), labor unions, business groups, the national university, and the national clergymens' association. [from the July 12 promises to the OAS, Program of the GRN]

Performance: In mid-April 1980, the Sandinistas issued a decree enlarging the Council of State from 33 to 47 members with a structure guaranteeing the FSLN and FSLN-controlled organizations a majority. The two non-communist members of the GRN Violeta Chamorro and Alfonso Robelo, resigned in protest.

Promise: Guarantees of free expression, religion, association, unions, press, private enterprise, etc. [from July 12 GRN promises to the OAS]

Performance:

Within a week of taking power, the Sandinistas nationalized banking and foreign trade; this meant that producers of major export commodities like coffee, sugar, cotton, etc., would have to sell to the government, giving the Sandinistas great control over hard currency and reinvestment in Nicaragua. Insurance and mining were nationalized in October and November 1979.

Businesses labeled "Somocista" were widely confiscated in the first weeks after July 19 with loose regard to whether the former owners had been close to Somoza or not; these included about one-fourth of cultivated land, about 130 industries and businesses, houses, estates, and vehicles.

A new Sandinista-controlled labor federation was created, which also seized many businesses; the Sandinista labor federation also attacked the non-Marxist unions as "counterrevolutionaries, thieves, and imperialist" and attacked their organizers. Strikes were banned thoughout the country on September 9, 1981.

In late July 1979 the Sandinistas confiscated one of the country's two daily newspapers (the other being La Prensa; a pro-Sandinista third newspaper began operation later) plus all television stations and most radio stations.

In December 1979 a private entrepreneur with a strong anti-Somoza record was refused permission to open a new, independent television station by Daniel Ortega, who stated that television in Nicaragua would belong to the people, not to "Millionaires of the bourgeoisie."

In April 1980, a radio newsman was sentenced to six months imprisonment for broadcasts "detrimental to the revolution," though no law making this a crime yet existed.

After anti-Cuban and anti-Sandinista demonstrations in the Atlantic Coast region in September 1980, La Prensa was order to not print any news from the region without government approval.

On September 10, 1980, the Sandinistas issued Decrees 511 and 512 making it a crime to publish any information that (in the opinion of Comandante Tomás Borge's Interior Ministry) "jeopardizes the internal security of the country," including information on shortages in staple products or which might bring about price speculation. Temporary closings of La Prensa began on July 8, 1981; full prior censorship was instituted in March 1982.

On July 31, 1979, the Nicaraguan Catholic bishops issued a pastoral letter welcoming the overthrow of Somoza and praising the new "spirit of freedom." Another pastoral letter on November 17 commented favorably on socialism if it were to be "an economic system planned with national interests in mind that is in solidarity with and provides for increased participation of the people." [Belli, "Breaking Faith," p. 149-150] Despite the supportive attitude of religious leaders, however, in mid-1980 the Sandinistas began to attack the bishops as "the Church of the rich." "The campaign escalated from initially mild criticism ('the bishops are too conservative, too fearful of opening themselves up to collaboration with Marxism') to a full-fledged attack ('the bishops are the voice of the bourgeoisie, have fallen into the hands of Reagan's policies, are vain, authoritarian, and counterrevolutionaries: enemies of the people')." [Belli. "Christians Under Fire." p. 40]

Meanwhile, the Saninistas promoted the Liberation Theology-oriented "Peoples Church," giving it a virtual monopoly of religious programming on the increasingly Sandinista-controlled media.

Overt repression began in July 1981, when the Sandinistas banned broadcast of the mass of the Archbishop of Managua. Restrictions were placed on broadcasting by the Church's "Radio Catolica" and on La-Prensa's coverage of Church activities. Physical attacks on churchmen began in November 1981 with an attack on Bishop Pablo Vega by a Sandinista mob.

Concurrent with the suppression of independent social activity, the Sandinistas began to build their party-controlled social apparatus. In July and August 1979, the Sandinistas created the Sandinista Defense Committees (CDS's), modelled on Cuba's "Block Committees," as a means of social surveillance and control.

The CDS's work closely with the Interior Ministry's security police, which began to function in late 1979 with unofficial detention centers.

The FSLN also founded new women's, peasants, and youth organization, and even an organization for small children called the "Carlitos" (after FSLN founder Carlos Fonseca) patterned after the Soviet Union's "Young Pioneers;" other FSLN politicized associations were founded for artists and writers, teachers, newsmen, etc.

Finally, in February 1981, the first Sandinista controlled mobs (turbas divinas, "divine mobs"), used by the Interior Ministry to attack Sandinista opponents, made their appearance.

Promise: The July 12 GRN promises to the OAS included a pledge to hold democratic elections. The OAS resolution of June 23, 1979, specifies that these be held "as soon as possible."

Performance: For over a year the Sandinistas stalled democratic elements in the GRN with the excuse that elections were not a "priority" compared to the literacy campaign, housing, health care, etc. Finally, in August 1980 Defense Minister Comman-

dante Humberto Ortega announced that elections would be held in 1985, with the electoral process not to begin before January 1985. In addition, Ortega pointed out that in the FSLN's view "elections shall be to strengthen revolutionary power, not to raffle it off, for power is in the hands of the people through its vanguard, the Sandinista National Liberation Front and its national directorate [i.e., the nine comandantes]."

"Elections" were finally held in November 1984 (earlier than the announced 1985 date), with most democratic parties boycotting rigged procedures and campaign restrictions. Fidel Castro was the only head of state to attend Daniel Ortega's inauguration in early 1985.

DENYING RIGHTS, BUT MAKING MORE PROMISES

Throughout this early period while the Sandinistas were busy abandoning their July 1979 promises, they were also making new ones, promising the same rights and freedoms.

On August 21, 1979, the Sandinistas formally enacted (Decree 52) their Statute on the Rights and Guarantees of Nicaraguans, a "Bill of Rights," covering the standard internationally-accepted individual, civil, political, economic, cultural, social, and other rights.

On September 25, 1979, the Sandinistas ratified the American Convention on Human Rights.

On March 12, 1980, they ratified the United Nations International Covenant on Civil and Political Rights, along with its Optional Protocol.

Aside from the unofficial violations of rights guarantees that started at the beginning of Sandinista rule, the FSLN has also officially suspended many of these guarantees:

The first major abridgement (Decree 812) was the "Law of State of Economic and Social Emergency," issued September 9, 1981, before any significant Contra activity. The effective period was to be one year.

Following the first major Contra action on March 14, 1982, the Sandinistas enacted (Decree 996) "The National Emergency Law" on March 15. This suspended virtually all rights specified in Decree 52 (the "Bill of Rights" of August 1979). The effective period was to have been one month but was repeatedly extended.

During the 1984 "elections," many of the restrictions under the 1982 State of Emergency were technically lifted (but key provisions, such as those relating to censorship, remained in force). But on October 15, 1985, Daniel Ortega ordered a new and expanded state of emergency, reimposing many of the 1982 rights suspensions.

THE MIDDLE YEARS—MORE PROMISES

All of the facts cited so far show that the Sandinistas made very extensive promises at the beginning of their rule as a means to achieve power and then they set about abandoning each and every promise as quickly as possible.

But the Sandinistas did not stop there. Incredibly, in the years that followed, they continued to make many of the same promises over and over again.

Three years after the 1979 promises for a mixed economy had been made and then broken, President Daniel Ortega was promising greater freedom for businessmen in Nicaragua. On February 15, 1982, Nicaraguan President Daniel Ortega promised his government would increase benefits available to businessmen who would work in the Sandinista drive to reinvigorate their recession ridden economy. President Ortega confirmed reports that the government released three businessmen, jailed the previous fall after signing a communique by a business council charging the leftist Sandinista government with "a definite Marxist-Leninist tendency." The government commuted the sentences of Superior Business Council President Enrique Dreyfus, Gilberto Cuadra of the National Confederation of Professionals, and Benjamin Lanza, president of the Nicaraguan Construction Council. [UPI, Jan. 15, 1982]

Five years after the 1979 promises to respect freedom of expression, Daniel Ortega (on July 19, 1984) was again promising that political parties would be allowed to hold meetings and that freedom of expression would be guaranteed. However, speaking at a rally in Managua marking the revolution's fifth anniversary, Mr. Ortega reaffirmed that there will continue to be pre-censorship of any report "that affects our country's defenses against American military power." [The Economist, July 28, 1984]

Five years after the 1979 promises of civil liberties, of press freedoms, and of free unions, Daniel Ortega was again promising (on August 7, 1984) to relax press censorship, restore the right to strike, and allow people to petition the courts for release from jail. The Sandinistas' announcement came the same day that the opposition newspaper La Prensa did not publish because government censors rejected stories about political violence and other events related to the pending presidential elections held November 4. [Christian Science Monitor, Aug. 8, 1984]

Five years after the 1979 promises for freedom of religion, a mixed economy, and free unions, Daniel Ortega was promising (in early November of 1984) to have a national dialogue with the regime's critics in the Roman Catholic church, the private sector, and the non-Sandinista trade unions. Such an exchange of views would allow all sides to help work out a constitution which the newly-elected assembly is to draft by 1987. [The Economist, Nov. 10, 1984]

Five years after the 1979 promises for religous freedom, in December 1984, Nicaraguan church spokesman Msgr. Bismarck Carballo said that President Ortega promised to exempt seminarians from the draft. However, at a meeting of church and government representatives last week, government officials argued that the students were not actually seminarians and would be eligible for military service. [Los Angeles Times, Sept. 6, 1985]

Six years after the 1979 promises for a mixed economy and political freedoms, on January 27, 1985, Nicaraguan Ambassador Carlos Tunnermann said the perception by Democrats in the U.S. of a worsening situation in his country is not correct. Ambassador Tunnermann explained that President Daniel Ortega had promised a broad amnesty program, continued mixed economy and political pluralism in a recent speech. The ambassador added that reports of draft resistance and monetary speculation are isolated cases. [The Washington Post, Jan. 28, 1985]

Six years after the 1979 promises to follow an independent, nonaligned foreign policy—promises which were ignored from day one—on February 28, 1985, the Sandinistas promised to send home 100 Cuban military advisers, and to refrain for an indefinite period from acquiring new weapons systems, including sophisticated interceptor aircraft. [The Washington Post, Mar. 1, 1985]

Six years after the 1979 promises of political pluralism and civil liberties, on April 20, 1985, Brooklyn Rivera, a leader of the Miskito Indian rebels, said that during six months of talks with Nicaraguan officials, President Ortega had expressed eagerness to end the conflict with the Miskitos; had promised to release 50 Indians jailed in Nicaragua; and, had pledged land and a broad degree of political autonomy for the Miskitos. [The New York Times, Apr. 21, 1985]

Eight years after the 1979 promises to respect fundamental liberties, on January 9, 1987, the Sandinistas enacted a new constitution containing all of the usual rights and guarantees, including right to strike, to privacy, and so forth. Several hours later, Daniel Ortega issued a new state of emergency suspending almost all the rights guarantees in the new constitution. [Washington Post, Jan. 10, 1987, p. A13]

THE CURRENT ROUND—MORE PROMISES

On August 7, 1987, in Guatemala City, Commandante Daniel Ortega joined the presidents of the four Central American democracies (Costa Rica, El Salvador, Guatemala, and Honduras) in signing the peace plan authored by Costa Rican President Oscar Arias. The peace plan committed each country to institute democratic reforms—and Nicaragua was the only signatory country that was not already a democracy. The peace plan commitments, to have been achieved by November 5, 1987, included these important elements:

Amnesty for political opponents and dialogue with unarmed political opposition;

A cease-fire with "irregular and insurgent groups" (in the Nicaraguan context, this meant a cease-fire between the Sandinistas and the Contras);

Democratization, including: (a) complete freedom for television, radio and the press; (b) rights of potential parties to have access to media, to associate, and to proselytize; and (c) lifting states of emergency; and

Cessation of aid to irregular and insurgent forces in the other Central American countries and non-use of national territory by such forces (for the Sandinistas, this means primarily ceasing support for the communist FMLN guerrillas in El Salvador and not permitting them to continue to be headquartered in Nicaragua).

The Sandinistas had taken almost no action to comply with any of these provisions in time for the November 5 deadline (even though, for example, Guatemala and El Salvador instituted direct cease-fire negotiations with their guerrilla opponents in early October). As the November 5 deadline passed, Comandante Ortega issued new promises and measures represented as initial compliance with the peace plan terms. These gestures included:

The promise to begin indirect cease-fire talks with the Contras through an intermediary (Ortega had announced a unilateral cease-fire offer, essentially a demand for the Contras to surrender in three, later four, small zones, on September 30 [Christian Science Monitor, Oct. 2, 1987];

The release of approximately 1,000 political prisoners (out of a total of about 8,000 to 10,000; the Sandinistas still insisted they would not declare a general amnesty, as had the other Central American signatory countries); and

The promise to lift the state of emergency and restore civil liberties—just as soon as the United States ceases support for the Contras. (The only measures taken in this

area prior to November 5 were the reopening, around October 1, of La Prensa and "Radio Catolica.")

Again, the Sandinistas exhibited little willingness to meet the terms of the peace plan before the next milestone, the January 15-17 summit meeting originally intended as a final compliance review. Instead, Comandante Oretega began the review summit with a proposal to extend the peace plan deadline to permit the Sandinistas more time to begin implementation of the measures they failed to take by November 5 or even January 15. Instead, however, the democratic presidents refused to agree to an extension and demanded immediate Sandinistas compliance. Only when faced with the prospect of the peace plan's total collapse (and renewed Contra aid) did Comandante Ortega announce, on January 17, 1988, new steps [from Washington Post Jan. 18, 1988 p. A18]:

A formal lifting of the six-year-old state of emergency;

An agreement to begin direct cease-fire talks with the Contras; and

An amnesty of political prisoners (to take effect upon "the achievement of an effective cease-fire agreement . . . In addition, if no cease-fire agreement is reached, the government will set free all such persons if the government of the United States or any other non-Central American government decides to accept them in its territory. They can return to Nicaragua as soon as the war ends").

WHAT THEY WERE DOING WHILE MAKING THESE PROMISES

The effect of these "compliance" steps is still uncertain. However, the record of Sandinista performance on peace plan requirements after the August 7, 1987, signing does not encourage optimism:

On August 15, one week after the peace plan signing, the director of the independent Nicaraguan Permanent Commission on Human Rights, Lino Hernandez, and president of Nicaraguan Bar Association, Alberto Saborio, were arrested and sentenced to 30 days imprisonment during a peaceful demonstration by the coalition of Nicaraguan opposition groups. Sandinista security forces used attack dogs, night sticks, electric cattle prods, and government-organized mobs to suppress the demonstrators. [AP, Jan. 17, 1988]

On September 12, two Catholic priests who had been expelled by the government were allowed to return. However, 18 other priests remained outside the country after having been expelled by the Sandinista regime. [New York Times, Sept. 14, 1987 p.A3]

On October 1 and 2, respectively, the Sandinistas allowed La Prensa and "Radio Catolica" to resume operations without censorship. However, censorship decrees were not revoked and licenses were refused for other radio programs and an independent television station. Newspapers, television and radio stations confiscated by the government continued to operate as government or pro-Sandinista organs. [AP, Oct. 19, 22, 1987]

On October 22, members of the January 22 Mothers of Political Prisoners Movement were attacked by a Sandinista group during a peaceful vigil. Sandinista police did nothing to stop the attack. [AP, Oct. 22, 1987]

During October 1987, according to Sandinista defector Major Roger Miranda, the Sandinistas provided training to 15 Salvadoran communist FMLN guerrillas in the use of hand-carried surface-to-air missiles, such as the Soviet SA-7 and SA-15 and the U.S. REDEYE. This occurred two months after the Sandinistas had signed the peace plan requiring them to cease support for the FMLN. [Department of State]

On November 13, President Ortega announced an 11-point cease-fire proposal which called for the surrender of the Resistance—essentially a reworking of their September 30 unilateral cease-fire offer. The Sandinistas then refused to initiate an indirect dialogue with Resistance in Central America and refused to allow Resistance members to travel to Managua to deliver their cease-fire proposal personally. [Los Angeles Times, Nov. 13, 1987 Part I, p.1]

On November 17, 1987, the publisher of Nicaragua's sole opposition newspaper, La Prensa, strongly criticized Managua's Sandinista government and said the paper faced continual threat of closure. Violeta Chamorro, whose newspaper resumed publication in September after a 15-month government-imposed suspension, said President Ortega had broken promises to lift emergency powers that enable him to order the closing of the newspaper at any time. [Reuter's, Nov. 17, 1987]

On November 22, 985 political prisoners were released, leaving over 8,000 more in Nicaraguan jails. [Los Angeles Times, Nov. 23, 1987 Part I, p.1]

On December 3, and 4, the Sandinistas rejected a proposal for an interim truce put forward by Miguel Cardinal Obando y Bravo and rejected a Resistance cease-fire proposal. [AP, Dec. 5, 1987]

On December 13, in a speech to a labor group, President Ortega said that while the Sandinistas might give up the government, they would never give up power. [Reuter's, Dec. 15, 1987; New York Times, Dec. 14, 1987 p.A12]

On December 14, the Sandinistas cancelled the second round of cease-fire talks, which were scheduled to begin that day. [UPI, Dec. 14, 1987]

On December 15, the director of the independent Permanent Commission for Human Rights charged that the Sandinistas were flouting the peace plan provisions by continuing to shell civilians using Soviet-built equipment, holding thousands of political prisoners whom the Sandinistas exploit as slave labor, and stepping up mob attacks on the opposition. [Washington Times, Dec. 16, 1987 p. A6]

In December 1987, according to defector Major Roger Miranda, the Sandinistas offered the Salvadoran FMLN guerrillas 10,000 automatic assault rifles (including U.S.-made M-16s, presumably from Vietnam) from Nicaraguan Interior Ministry stocks. [State Department]

On January 5, fourteen opposition parties issued a joint statement accusing the Sandinistas of intransigence and not entering into dialogue with the opposition, as required by the peace plan. Representatives of other opposition groups criticized the Sandinistas for failing to grant amnesty to political prisoners, not stopping to aid insurgents, and not instituting democratic reforms. [Washington Times, Jan. 7, 1988 p. A1]

On January 15-16, 1988, the Sandinista state security police arrested four civilian opposition leaders (representing the Nicaraguan Bar Association, the Conservative Party, the Democratic Coordinating Group of the opposition, and the Social Christian Party) for participating in a public meeting with Contra leaders in Guatemala City earlier that week. The arrests came as Comandante Daniel Ortega was in Guatemala City for the regional peace plan review summit. According to a Sandinista Interior Ministry spokeswoman, Comandante Ortega was aware of the arrests. [Washington Post, Jan. 17, 1988 p. A28]

On January 22 (after the latest promises for peace plan compliance made by Daniel Ortega on January 17), Sandinista mobs attacked the offices of the Democratic Coordinator (a broad umbrella organization of opposition groups) and attacked the January 22 Mothers of Political Prisoners Movement during a peaceful demonstration held as a memorial of a massacre of protesters by the National Guard in 1967. Sandinista police did nothing to stop the attacks. [New York Times, Jan. 23, 1988 Sec. p. 5]

CONCLUSION

The Sandinistas have issued many promises since before they took power in Managua in July 1979—promises to the Nicaraguan people, to the other countries in the Western Hemisphere, to their immediate neighbors in Central America, to the United States, to the international community of nations. In this eight-year period it is difficult to find one promise they have fully kept.

The most recent round of Sandinista promises, made in the face of the January 1988 near collapse of the Central American peace plan, is no guarantee of freedom in Nicaragua or peace in the region. The Sandinistas have yet to weaken their hold over Nicaraguan society in any way that could not be immediately reversed as soon as the Contras were abandoned. Presently, there is no evidence that Nicaragua has ceased support to Salvadoran FMLN and other insurgent groups. There is no evidence that the Sandinista regime has altered its policy of implementing a Marxist, state-controlled economy while giving lip service to the goal of a mixed economy and pluralistic society. There is no reason to think that free expression will be respected or that all political prisoners will be released. There is no evidence that Sandinista dependency on Moscow, Havana, and the rest of the socialist bloc has lessened.

In short, there is no reason to think that, absent pressure from the Nicaraguan opposition, the Sandinistas will live up to these latest promises any better than the others they have made—and violated.

Mr. PELL. Mr. President, I yield 8 minutes to the Senator from Alabama.

The PRESIDING OFFICER. The Senator from Alabama is recognized for 8 minutes.

Mr. HEFLIN. Mr. President, as my colleagues are no doubt aware, last night the House of Representatives voted down the President's request for additional assistance for the freedom fighters of Nicaragua. As a strong supporter of the Contras, I was disappointed that the House voted against the President's request of aid to the Contras. I believe the Contras should be assisted in their fight for freedom, and for liberty in Nicaragua.

Because of the House vote, many now wonder what the future holds for the freedom fighters of Nicaragua. The compromise that was reached last December during the budget process guaranteed a Senate vote on the President's request for assistance to the Contras. But in light of the House

vote, the effect of today's vote is unclear. While many may view the Senate vote as an exercise in futility, as beating a dead horse, I disagree. I believe the Senate has a great opportunity to send a strong message to Daniel Ortega, to the Sandinistas, and to the Soviet Union that the Contras have not been abandoned. I believe the Senate has a deep responsibility to show Daniel Ortega, Fidel Castro, and the Kremlin that the U.S. Senate and the people of America will not tolerate the communization of Central America. In the upcoming vote, I hope the U.S. Senate will tell the world that America will not stand for a Soviet military buildup in Central America. I hope the Senate will today show Daniel Ortega, Fidel Castro, and the Soviet Union that we will be watching their every move. And I hope the Senate will today show the Contras that their fight is not in vain—that they have not been abandoned by the American people—and that some of us stand behind them in their fight for freedom, their fight against dictatorship, and their fight against communism in Central America.

During the last few days, many arguments have been lodged against aid to the Contras. I suppose the argument I have heard most often is, "Give peace a chance. Let the Arias peace proposal run its course. Let's see if Ortega's promises of democratic reform are sincere." This question of Ortega's sincerity must be asked—and answered—in the minds of all. And I believe the answer to Ortega's sincerity lies in the past.

From the past, it is clear that Ortega has already had his chance for peace and democracy. And from the past it is clear that Ortega and the Sandinistas ignored their chances for peace and democracy.

If my colleagues will remember, in 1979 the Sandinistas promised that they wanted a democracy in Nicaragua. Daniel Ortega came to Washington, met with Members of Congress and, as my distinguished colleague from South Carolina [Senator HOLLINGS] said yesterday, Ortega said, "he wanted the same democracy in Nicaragua that we wanted in the United States: free elections, freedom of the press, freedom of religion." So in 1979 and 1980, over my objections, Congress gave him a chance. Congress voted the Sandinistas about $115 million dollars in assistance—a proposal that I voted against. In 1980, Congress even added Nicaragua to a "list of faithful countries to be supported by the United States against external subversion and 'terrorism' "—another proposal I opposed. I didn't trust Daniel Ortega then, and I don't trust him now.

What did Ortega and the Sandinistas do with their chance for freedom and their opportunity for democracy? In 1980 they announced that elections would not occur until 1985. Also in 1980 they started to assist leftist guerrillas in El Salvador—which was, incidentally, another country on our list of faithful nations to be supported by the United States against external subversion and terrorism. In 1979 the Sandinistas started receiving military and economic aid from the Soviets which now totals over $4 billion.

What did the Sandinistas do with their chance for peace and freedom in Nicaragua and Central America? Nothing! And this was at a time when they received U.S. assistance.

Why, when the Sandinistas ignored this chance in the past, do my colleagues believe they are sincere today? Why, in light of their past broken promises, do my colleagues believe the Sandinistas are sincere in their support for the Arias peace plan today?

I believe that it is clear the Sandinistas are not sincere. But out of fairness to my colleagues, let us look at the Sandinistas' commitment to the peace proposal at hand.

The Sandinistas had months, I repeat months, to comply with the terms of the Arias peace proposal, and yet only begrudgingly resorted to limited compliance in the last few weeks. The Arias peace proposal calls for a demilitarization in Central America, and yet the Sandinistas have new plans for a 600,000-man army to be equipped with Soviet assistance. The terms of the Arias peace plan calls for an end to the assistance of insurgents in other nations and yet the Sandinistas persist in aiding the leftist guerrillas in El Salvador and elsewhere. The Arias peace plan calls for the liberty of political prisoners and yet the Sandinistas hold thousands of political prisoners in their jails. The Arias peace plan calls for democratization, and yet the Sandinistas have announced that, even if they ever were to hold elections and lose, they will not surrender power in government. The Arias peace plan calls for freedom for opposition groups to meet and yet the Sandinistas break up opposition demonstrations with troops. The Arias peace plan calls for freedom of speech, and freedom of the press, and, although the Sandinistas have allowed token opposition newspapers and radio stations to operate, this does not constitute freedom of the press and freedom of speech.

Have the Sandinistas really demonstrated a commitment to the Arias peace plan? I say they have not!

In this debate, opponents of Contra aid have urged the undecided Members of Congress to give the Central American peace proposal a fair chance by withholding additional aid to the Contras until such time as the diplomatic efforts are exhausted. As I said the day before yesterday, Members of Congress have been urged to wait and see what happens, wait and see if the Sandinistas hold up their part of the bargain, wait and see if they implement democratic reforms, wait and see if the Sandinistas, themselves, suspend aid to guerrillas in El Salvador, Honduras, Guatemala, Costa Rica, and Ecuador. A "wait and see" period without aid will weaken the Contras, reversing all advances they have made. A prolonged "wait and see" period will destroy the resistance movement, and will doom with it all hopes for democratic reform and freedom in Nicaragua.

In my judgment, this vote offers the Senate the choice between peace with freedom in Central America, or temporary peace at the cost of freedom. In my mind, the conflict in Nicaragua between the Sandinistas and the Contras extends beyond the realm of a civil war. The conflict is a clash between the United States and the Soviet Union, it is a battle between democracy and communism, it is a fight between freedom and dictatorship.

Therefore, I believe that it would be disastrous to suspend aid to the Contras. Indeed, I contend that the only hope for peace with freedom in Nicaragua and in Central America is to continue to provide both military and humanitarian aid to the Contras. We must not sacrifice freedom for short-term, short-lived peace in Central America.

Now is not the time for the diplomatic peace process. Historically, diplomatic efforts have been pursued either from a position of strength, or because there was no hope for success. For slightly over a year, the Contras have benefited from uninterrupted aid. Therefore, in light of the recent peace proposal, I must ask this question: Are the Contras in a position of strength or capitulation?

It is doubtful that they are in either position.

Rather, it appears that, while the Contras could not immediately pose a serious threat to Daniel Ortega and the Sandinista regime, they are not likely to disband either. Indeed, the Contras are gaining support, are growing stronger, and offer opposition that is troublesome to the totalitarian Marxist government the Sandinistas have established in Nicaragua. Therefore, the Sandinistas have sought to relieve some of this pressure by agreeing to the Arias peace plan, agreeing to limited reforms, and taking some steps, for show at least, designed to convince sympathizers that the Sandinistas are committed to democratization. But let us not fool ourselves into thinking that the ultimate goals of the Sandinistas are nothing less than a Communist dictatorship and a "hatchery of revolution" for surrounding countries.

In 1938, with hopes for peace, the leader of Western democracy took at

face value the assurance of a dictator bent on dominating the world. He returned home proclaiming victory. "I believe it is peace in our time," he announced. That peace led to the bloodiest world war in the history of the world. Let us learn from the mistakes of the past. Let us learn to put our trust in deeds, not words. Let us learn to read the writing on the wall, and let us not confuse our hopes with what is written in plain sight.

The United States cannot abandon the Contras for the flimsy words and shallow promises of Daniel Ortega. When the Sandinistas assumed power, they made promises of democratic reforms. For these false promises, the Sandinistas actually received approximately $100 million in financial assistance from the United States—from the taxpayers of America—assistance I strongly objected to and voted against. Yet, today, more than 9 years after the Sandinista came to power, these promises remain unfulfilled. The citizens of Nicaragua are not allowed to choose their own representatives in government. Citizens who have dared to stand against Daniel Ortega have been imprisoned and murdered. Oppression was even evident immediately following Ortega's announcement that democratic reforms had been instituted and that the state of emergency had been lifted.

Yet, as long as the Sandinistas are opposed in some manner, they will not be able to consolidate power and turn Nicaragua into another Cuba. And eventually they will be forced to make some reforms. As the freedom-fighters gain in strength, the Sandinistas will be forced to grant more liberties and expand reforms, or face the political consequences. Therefore, for peace, for freedom, and for our own national security, we must provide U.S. assistance to the freedom-fighters of Nicaragua, and I intend to continue in this battle for aid.

While I feel that current diplomatic efforts which would attempt to resolve the conflicts and establish freedom in Central America should be encouraged, we must not abandon the Contras for unsubstantiated promises and mere hopes of progress. The needs, aims, and goals of the United States and the citizens of America should be tantamount in the minds of all members of Congress. In my opinion, any compromise or effort would not achieve our national goals unless it contained three criteria, which, in my judgement, must be integral parts of any peace plan for it to be acceptable to the United States.

First, the freedom of the Nicaraguan people must not be sacrificed for short-term peace. The cost for such a peace would be too high.

Second, any peace must contain provisions which will end all Soviet and Cuban influence in Nicaragua, and in Central America.

Finally, any Central American peace plan must provide for democracy, free elections, and freedom of the press and freedom of speech in Nicaragua. In my judgment, the opening of token opposition newspapers and radio stations does not constitute freedom of the press.

If any peace were to be implemented without accomplishing each of these aims, the national goals of the United States, and of our freedom-loving allies both in the Western Hemisphere and throughout the world, would be severely compromised. Therefore, I believe that the United States must take all action to ensure that these goals are met. Providing additional assistance to the Contras carries the hopes of achieving these goals. Therefore, assistance should be approved.

During the last 25 years, the Soviet Union has become increasingly involved in the politics of Central and South America and the Caribbean. In 1960, the Soviets had diplomatic relations with only 5 countries in the Western Hemisphere. Today, the Soviets enjoy full diplomatic relations with 16 countries, and Cuba is regarded by the Soviets as a major asset in their military strategy.

Cuba is only 90 miles from the Florida coast and the Soviets have armed Cuba to the teeth. It is the location of the most sophisticated intelligence gathering facility outside the territory of the Soviet Union. The Soviets have equipped the Cubans with almost 1,000 tanks, hundreds of advanced jet fighters and armed helicopters, bombers, various frigates, submarines, torpedo-equipped patrol boats and, more recently, amphibious landing ships, various sophisticated surface to air missiles, and anti-aircraft weapons. Thus, the armed forces of Cuba are the largest in Latin America—larger even than Brazil's, which has a population that is 12 times greater than Cuba.

There is no doubt that Cuba has been active in spreading revolution throughout our neighboring countries in Central and South America. The Soviet Union uses Cuba to do its dirty work—spreading the seeds of dissent, and distributing arms to guerrillas so that the Kremlin is not viewed as a participant in these terrorist activities. Cuba was instrumental in providing Maurice Bishop, the Prime Minister of Granada, with weapons. Cuba was also instrumental in helping the Sandinistas overthrow the Somoza regime in Nicaragua. Cuba has provided aid to the guerrillas seeking to overthrow the government in El Salvador and elsewhere. The United States cannot afford to allow the Soviets to have another foothold like Cuba in the Western Hemisphere.

However, this has already begun in Nicaragua. After the Sandinistas seized power, both the Kremlin and Castro began to provide Daniel Ortega with arms and with military advisors. Today, there are reportedly about 4,500 Cuban personnel in Nicaragua. These include military/security advisors, troops, civilian intelligence gatherers, other civilian advisors, and teachers who are constantly spreading the propoganda of communism through the schools of Nicaragua. Additionally, there are approximately 200 Soviet and Eastern bloc advisors, roughly 50 of whom are from Russia, and the remainder from countries such as East Germany, Czechoslovakia, Bulgaria, and elsewhere.

The weapons that have been provided by the Soviets to the Sandinistas are formidable—especially in comparison to the Contras. Nicaragua has approximately 150 tanks, and about 250 other armored vehicles. They have roughly 50 military helicopters, 10 of which are the advanced M1 24/25 HIND type, and many of the others are the Soviet HIP type, which are comparable to our own Huey helicopters. The Nicaraguan Air Force has recently been growing in size. In addition to the MIGs they have requested and I understand plan to receive in the next few years, they have already received several of the Soviet AN-26 transport planes, some of which have been equipped with bomb racks, as well as various other planes. Additionally, their airbases have been upgraded and they have completed three runways which are capable of accommodating jet aircraft of any size. The Nicaraguan Navy has also been greatly improved with Soviet help. They have a total of about 30 ships, not counting their fishing boats which are, in effect, armed trawlers. Of the fleet of 30 naval ships, approximately 20 are patrol boats, six are mine sweepers, and they have other antisubmarine warfare (ASW) ships. I might add that Nicaragua is the only nation in Central America that has these ASW ships and mine sweepers. The Sandinistas also have about 400 SA-7, SA-14, and SA-16 surface-to-air missile launchers, and about 300 mobile radar-equipped antiaircraft guns. With regard to field artillery, the Nicaraguans have about 120 guns of over 100 millimeters, almost 300 AT-2 and AT-3 Swagger antitank missiles, more than 35 of the Soviet BM-21 rocket launchers, and various other missiles which can be infantry held or helicopter mounted. This is by far the largest arsenal of field artillery held by any Central American country. Furthermore, according to DOD estimates, the Sandinistas have an army of approximately 80,000 regular troops, plus about 120,000 militia. This, Mr. Presi-

dent, is a formidable and well-armed force in Central America.

In contrast, the Contras have mustered an army of about 15,000 troops. Their weapons are scant. They have planes, but these are old and often undependable.

Many of my colleagues may argue that the Sandinista military buildup is certainly within their rights as a nation. However, I cannot stress too strongly that, in my judgment, this is not a Nicaraguan military buildup. Rather, this is a Soviet military buildup in the Western Hemisphere. Since 1979, the Soviets and Warsaw Pact Nations have provided the Sandinistas with an alarming $2.3 billion in military supplies and over $4 billion in total aid. In contrast, the United States has provided the Contras with only approximately $244 million from 1981 to 1987.

Opponents of Contra aid may argue that the Sandinistas have been forced to receive Soviet assistance because of the United States assistance to the Contras, and the threat the Contras offer. However, from approximately November 8, 1984, until September 30, 1985, Congress appropriated no aid to the Contras while the Sandinistas received a total of $730 million in military and economic assistance from the Soviet Union and Eastern European nations.

Many of my colleagues question the wisdom of providing aid to the Contras. This is certainly their prerogative. Yet, Mr. President, I believe that we must continue to provide aid to the Contras—military and otherwise. We must confront the Soviet build-up in South and Central America. Nicaragua is often viewed as some far-away place, which poses no threat to the United States. This may be the opinion of individuals in the northern regions of our country, but as the good people of Alabama are aware, Nicaragua is closer to Mobile, AL, than Chicago is. I believe that we have a choice of either aiding the Contras now, or being faced with the prospect of sending American troops into that region at some point in the future, And nobody wishes to see that happen.

Supplying the Contras with arms and other assistance accomplishes many goals.

First, it challenges the Soviet and Cuban military buildup in Central America, in our own backyard. The United States must send a strong message to the Soviets, and to the world, that revolutionary tactics which attempt to undermine the security and peace of free nations in the Western Hemisphere will not be tolerated, and will be challenged. I believe that we sent this message when the United States, at the request of various Caribbean nations, expelled the Soviet controlled Communist element from Grenada. And I believe that we must send this message again by providing aid for the Contras, who are fighting against communism and dictatorship in Nicaragua.

A second, and equally important reason for supplying aid to the Contras, is that, if we allow it, Nicaragua would be an ideal stronghold for Soviet expansion. Unlike Cuba, which is isolated by water, Nicaragua is of enormous strategic importance. The Panama Canal is within striking distance, and Nicaragua is well suited for transporting revolution throughout Latin America. Indeed, evidence has demonstrated that Nicaragua has already provided aid to guerrillas in El Salvador, in Honduras, in Guatemala, in Ecuador, and in Costa Rica. Despite the provisions of the Arias peace plan, Nicaragua continued to provide aid to leftist guerrillas.

Are we to sit idly by as the Sandinistas, the Cubans and the Soviets work to undermine the governments of Panama and Mexico, as well? I voice a resounding "No." As long as we bolster the Contras and help them to fight against communism, for freedom and democracy, the Soviets and Cubans cannot complete their revolution in Nicaragua. They cannot complete the process of turning Nicaragua into a Soviet "hatchery for revolution," an incubator of dissent and training ground for guerrillas to overthrow freedom-loving and democratic-minded countries in Central America and throughout South America.

A third reason I consider aid to the Contras as essential is that the pressure the Contras place on the Ortega administration in Nicaragua demands concessions, and will, hopefully, ultimately result in freedom for the Nicaraguan people. The Sandinistas seek to eliminate all opposition. They have attempted to accomplish this goal at all costs, murdering and imprisoning hundreds and thousands of dissenters. If they are allowed to eradicate their opponents, there will never be any prospect for freedom in Nicaragua—only tyranny and dictatorship. By aiding the Contras, we further the hope of freedom loving people for democracy in Nicaragua.

Mr. President, I was a member of the committee investigating the sale of arms to Iran, and the diversion of funds to the Contras which completed its hearings last year. Although the hearings were criticized by many as an attempt to subvert the President's foreign policy in Central America, I must disagree.

I have no doubt but that the hearings helped to educate the American people of the important concerns and issues our Nation faces in Central America. More people understand the struggle the Contras have made, and they realize the dedication and determination with which the Contras oppose dictatorship and communism in Nicaragua. They realize the dire threat posed by an increased Soviet influence in Central America. Furthermore, the American people were afforded a glimpse of those who fight for freedom in Nicaragua that they, otherwise, would not have seen. Adolpho Calero, who was the leader of the Contras, testified before the committee, and provided his first-hand assessment of the situation in Nicaragua.

And I must emphasize that the hearings were not an effort to subvert the administration's policy in Nicaragua. As I have already indicated, I am personally supportive of the Contras and believe that we must provide aid to the Contras, military and otherwise. My record will show that I have voted with the President every time this issue has been brought before Congress. I believe, and among the members of the Committee, I was not alone in this view, that the aid the administration has requested through the years is but a small price to pay to keep the dangerous threat of communism and the Soviet and Cuban influence at bay in the Western Hemisphere.

Mr. President, many decades ago, Nicaragua was the subject of a heated debate which occurred in the United States Senate. The central focus of the debate was whether the United States should approve funding of a canal that would be built through Nicaragua. There are many similarities between that debate and the discussions we now face relative to aiding the Contras. Then, as now, the influence of a foreign country was a major concern. Then, as now, opponents of the plan claimed that the expense was too high—the cost would not justify the results. Then, as now, there were allegations of fraud, bribery, and profiteering. Yet, in February 1891, the Senator from my home state of Alabama, a man named John Tyler Morgan, who served in this body for 30 years, and whose portrait now hangs on the third floor of the Capitol, just outside the Senate Library, spoke these words which are, ironically, as accurate today as they were nearly 100 years ago.

"We believe, sir," he said, "that the time has now arrived for action on the part of the Senate and the Congress of the United States, and that unless we act this matter will drift out of our control; that we shall no longer have an opportunity to gain power or control over it hereafter . . ."

Mr. President, unless we provide adequate funding for the Contras, the Soviets will surely establish another stronghold in the Western Hemisphere. Unless we act now, this matter will surely drift from our control. The consequences we risk are frightening, indeed. We risk the threat to the national security of the United States of America, and the threat to the freedom of peoples throughout the West-

ern Hemisphere. I believe that we must aid the Contras. We must renew our fight against dictatorship and communism throughout the world. I hope that my colleagues will join me in this battle and will support further aid to the Contras.

Mr. President, as I said earlier, I strongly support the plan for aid to the Contras. I do so feeling that it is inadequate, but, nevertheless, that it is sufficient to keep the Contra movement alive.

In order to address the Nicaraguan situation, let me go to another side of the world, to Afghanistan.

An interesting observation and statistic has come out of the Russian invasion of Afghanistan. There have been more Russian casualties in Afghanistan than in all the wars, police actions, battles, or skirmishes that have occurred since World War II relative to Russian military personnel.

That is a rather astounding figure when you realize that Korea has occurred, Vietnam has occurred, in Poland there have been many instances of insurrection. But what does it mean? It means that the Russians have had a plan of action by which they have used the troops of other nations to accomplish their goals.

If you will look and follow what has occurred with Russia and the spread of Marxism and communism, it is not always the same but is basically the same, you will see that there has been a modus operandi, as the police call it. It occurs time and time again, and it is, therefore, predictable for the future.

First, they pick out a country that is ripe for a revolution, where there have been atrocities, deprivation of human rights, dictatorships, and many, many other elements that we all are familiar with. That country which is ripe for a revolution, where poverty prevails, where the wealth is concentrated in a few hands, is picked out. Then they go in and they begin to identify the dissidents and train them in revolutionary activities, teaching them the tactics of guerrilla warfare, then supplying the arms and the military supplies and they overthrow the existing government.

Then they go in and they set up a government. That government then becomes an incubator of dissent in surrounding countries. It then becomes a hatchery for revolution in the surrounding countries. It then becomes an arsenal for weapons to be used in revolutions of surrounding countries. Then it becomes a school for the takeover.

This practice has been followed time and time again. It was followed in Cuba. But generally speaking they have not been able to use Cuba as a base for the hatchery of revolution to other countries because it was isolated, since it was an island. But we have in Central America, in Nicaragua, the same modus operandi that has occurred. The Soviets are starting a base with which to accomplish their goals.

Is there anyone who would believe that the Sandinista government is not going to continue to take military aid and other forms of aid from Cuba, from the Eastern bloc countries, and Russia? I just do not believe that anybody believes that.

Now, let us also see what else they have done in Nicaragua. Military advisers. There are reports of various amounts, but look at it. We know that there are at least 3,000 military advisers.

We look to the school system in Nicaragua. Cubans and others have gone into the school system. They are teaching their ideology in the school system and also training them in military subjects.

Now, they are not down there for the purpose of teaching those students how to play tiddlywinks. They are there for a purpose and the modus operandi follows. They are down there to spread revolution and communism, to isolate America.

I do not think the Contras are in great strength—I have seen figures, maybe at most 17,000—but they are at least keeping the Sandinista government occupied and prevented it from pursuing its goal of trying to consolidate power and then create a hatchery of revolution for other countries.

Other Central American countries may now be ripe for revolution. There is abundant povery that exists in Panama. There is abundant poverty that exists in Mexico and all of the surrounding countries. I do not want to have to send American toops down there; we still have the lingering memories of the Vietnam war, but we must keep the Sandinista government occupied. Thus, it is in America's interests to support the Contras. This is the reason why we ought to look at it not so much from the viewpoint of what it is doing in that country but from a viewpoint of what it means to America 5 years from now, 10 years from now, 20 years from now.

We all want peace. We want the peace process to work. But does anybody feel that the Contras are strong enough to negotiate peace at this time? Does anybody believe that the Contras are strong enough to further freedom at this time?

We look at what aid has been supplied to both the Contras and the Sandinistas. Over $4 billion has gone from Russia and Cuba and other Soviet block countries to the Sandinistas. Our total humanitarian and military aid for the Contras amounts to $245 million—probably only a very small percentage in comparison to the Russians if you make the mathematical calculations.

If you are going to have a peace process, then No. 1, the Contras have to be in a position to be a formidable threat to the Sandinistas. They are not in that condition today. If we have a peace, I wonder how long it will last? Does anyone really feel that the placing of 4 billion dollars' worth of aid in Nicaragua is going to be wasted by the Russians? I do not feel the American people realize what is going on down there. This vote is an opportunity to bring it to their attention. Again, I urge my colleagues to support this request for aid to the Contras.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. I yield 10 minutes to the Senator from Minnesota, Mr. DURENBERGER.

The PRESIDING OFFICER. The Senator from Minnesota is recognized for 10 minutes.

Mr. DURENBERGER. Mr. President, I rise today to oppose the request for aid to the Nicaraguan resistance. Last night the House of Representatives voted the package down 219 to 211. The Senate vote on this resolution lacks real meaning and clearly has no force, and for that reason I earlier opposed the motion to proceed. Although the Senate may send an approved aid request back to the House, it will not be acted upon. It is now quite clear, Mr. President, that further United States aid to the Contras will come only when this Congress decides that funding a militarized attack on the Sandinistas is the only way to free the Nicaraguan people.

So today I will vote against this aid request, not because I trust Daniel Ortega and his comandantes. I do not. I will vote no today because I believe the aid package the President has proposed will continue the weakening of the United States national security interests in Central America and will not further the goal of peace with justice in the region.

I agree with my colleagues that the Sandinistas continue to move toward totalitarianism. Their preference for Soviet-style people's democracy over genuine democracy is clear and there is no doubt that Nicaragua has been subverting the fragile democracies in Central America. My colleague from Alabama referred to them appropriately as a "hatchery of communism."

I sat in the Senate Intelligence Committee chair long enough to know Central America's democracies cannot survive with a Marxist-Soviet/Cuban troublemaker in their midst. And I do not doubt that many of the FSLN leaders would like to continue to export their revolution. Ortega has threatened to send surface to air missiles to the antidemocratic guerrillas in El Salvador. These are clearly not the words of a mere socialist interested in domestic reform.

But if Nicaragua is a security threat to Central America, and it is, the Contras are not the solution—they are part of the problem. Seven years of Contra war did not lead to the promises and concessions that 7 months of the Arias peace plan produced. What the Contras have done is provide the Sandinistas an excuse to fulfill their dictatorial tendencies. What continued funding at the $100 to $270 million a year level does is provide the Sandinistas an excuse not to negotiate an agreement.

What the peace plan has done is to force the Sandinistas into granting some of the basic freedoms they have withheld from their people for so long. Sandinista actions do not guarantee a democratic outcome—not by a long shot. But Ortega has taken steps that are controversial amongst the commandantes themselves. The divisions within the Sandinista directorate should be encouraged—and the best way to do that is to continue to press for democratization without providing the FSLN an excuse to halt the process.

None of us trust the Sandinistas to live up to their promises but the matter before us is not predicated on trust. I believe what we must do is test the Sandinistas—test their commitments and promises, test their intentions, and test their willingness to allow a political opening to expand. Testing simply means calling the Sandinistas' bluff or it may mean beginning a process that the Sandinistas cannot easily control or reverse.

While no one believes that $36 or even $136 million will enable the Contras to overthrow the Sandinistas, $36 million is clearly enough to provide the Sandinistas with an excuse to halt the limited reforms they have allowed. They have done it before. There is no reason they will not do it again. For too long our policy toward Central America has been based on yearly allotments of Contra aid approved by razor-thin margins. Such a policy cannot continue. It is propaganda not policy.

Supporters of Contra aid have long argued that there is no viable alternative to continued funding but that is not true. Last month I for one and others have done this—read them in the paper from knowledgeable political leaders in this country—last month I laid out an alternative set of directions for United States policy that we could pursue in order to gain our twin goals of democracy and peace in Central America. First, I wholeheartedly support the peace process. Unlike this series of plans laid out here by my colleague from Colorado earlier, this is the first since 1979 Central American Peace Plan. I so endorse it.

If the process is going to break down it should not break down because of what we do on the floor of the U.S. Senate. But if the peace process breaks down nobody should be able to doubt it was the fault of the Sandinistas.

We all agree that Nicaragua is the key to lasting peace in Central America. The United States could do much more to encourage democracy in Nicaragua. The Contra political leaders—genuine democrats like Alfonso Robelo and Alfredo Cesar—should return to Nicaragua and join with the peaceful internal opposition—that has been there from the beginning in much the same way as Ruben Zamora and Guillermo Ungo returned to El Salvador.

The United States should refocus its efforts from the armed opposition made up largely of peasants and farmers from the northern portions of Nicaragua to support for the internal opposition that has remained in Nicaragua and fought valiantly for democracy over the last decade.

Aiding the internal opposition does not simply mean providing money: it means diplomatic support and it means using the National Endowment for Democracy. This means using a variety of affiliated national and international institutes to their full capabilities. Instead of focusing on a false choice between the Contras and the Sandinistas, a choice between one army and another, and one police force and another, we should devote our energies to the peaceful "freedom fighters." We have virtually ignored the political parties that make up the democratic opposition. We never have them over to the White House. Administration spokesmen rarely mention the labor and business groups working for democracy inside Nicaragua. And I wonder if we actually care about the plight of the Miskito Indians and other Atlantic coast peoples. Brooklyn Rivera is now engaged in dialog with the Sandinistas—but he has been cut off from the U.S. assistance program because he would not submit his movement to dictates from the Yankees. U.S. policy should aim at aiding all democratic opponents of the Sandinistas—not just the Contra force created in 1981.

The United States does, as many of my colleagues have stated, have an obligation not to abandon the Contras to the Sandinista military machine. Since the program of paramilitary support for the Contras began, I raised the question behind the closed doors of the intelligence committee of what happens, if this Contra army disappears or is entrapped? What happens if we get a Bay of Pigs? We have moved way beyond the possibility of a Bay of Pigs. Now the problem is—and I raised these questions over the last 6 years—what happens if our policy goals change or the tactics for achieving those goals change? Our country has a poor track record of support for paramilitary operations—whether the Ukranians in the 1940's, Cubans in the 1960's, or Hmong in the 1970's.

Building a mercenary force carries a heavy obligation. When it is an indigenous paramilitary force engaged in counterrevolution, it's even more difficult because the goals and the objectives, Mr. President, are not necessarily synonymous.

Now we have to face up to the question I asked 6 years ago—what do we do with the thousands of Nicaraguans who have chosen to risk their lives to oppose the Sandinistas when we decide to support a political solution. If I thought the Contras were going to be at the mercy of the Sandinistas without this aid, I would take a different view. Wouldn't you wonder about the real strength of a guerrilla force which disappears without yearly infusions of U.S. aid.

The fact is that the Contras are not going to go away because of the House vote yesterday or the Senate vote today. The U.S. Senate does not know how many supplies are sitting in Honduras—but we know there are some. The U.S. Senate does not know how long the Contras air supply line can continue without U.S. aid—but we suspect for some time. And the U.S. Senate does not know how many Contras will be able to fight on inside Nicaragua by living off indigenous resources—but there are likely to be many.

In fact, I would say most of them—the indigenous sources—are going back to the farm. They are not going to Miami. We spent much of last year, Mr. President, trying to determine just how far our Government went in trying to get financial aid to the Contras. We still do not know the answer, though, to the political questions that drive the military aid requests. Can the Contras win? My colleague from Colorado says they are winning. What is winning? When? Well, he did not want to answer that question. Nobody wanted to answer that one for 6 years.

Who is going to decide the settlement terms with the Sandinistas? The Contra military? Some of the freedom fighters' civilian leaders, the President of the United States, the Congress, the American media, the next vote we have here?

Mr. President, I recognize that the United States has legitimate security interests that Nicaragua jeopardizes. We cannot allow Nicaragua to be a platform for Soviet weapons like jet fighters. We cannot allow Nicaragua to continue to subvert its democratic neighbors even though we tolerate both of these in Cuba. But the Contras are not the answer.

Further aid to the Contras only provides a rationale and an evasion for Daniel Ortega when he is faced with accusations about his support for

guerrillas in neighboring states. As long as Honduras provides support for the destabilization of Nicaragua, the democratic case against Sandinista subversion is weakened. This is the essential truth recognized by the Arias peace plan.

As we vote today, I hope we will face up to the fact that our security interests in Central America will not be solved by providing more aid to the Contras. I urge my colleagues to reject this proposal. By giving the peace process time to work, we have a chance to build a real consensus about U.S. action in Central America. If the Sandinistas act as some predict they will in the next few months, that consensus may be for Contra aid later this year. And if the real pressure for democratization comes from Nicaragua's neighbors, that consensus may be to follow the course I have tried to sketch today.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. Mr. President, I yield 5 minutes to the Senator from Maine.

The PRESIDING OFFICER. The Senator from Maine is recognized for 5 minutes.

Mr. MITCHELL. Mr. President, I shall vote against the President's request for additional Contra aid.

The President's formal request for Contra aid states that the purpose of U.S. policy is "to advance democracy and security in Central America, and thereby to assist in brining a just and lasting peace to that region, in a manner compatible with the Guatemala peace accord" signed by the leaders of Central America last August.

But the Guatemala accord clearly requests that outside powers cease providing "military, logistical, financial or propagandistic aid" to irregular forces or insurgent movements. The accord calls the halt of aid to guerrilla groups "an essential requirement for achieving a stable and lasting peace in the region."

American policy cannot be "compatible with the Guatemala peace accord" if it directly violates that agreement.

In their San Jose declaration of January 17, the Presidents of Central America reaffirmed that the end of aid to irregular groups is "an indispensable condition" for a lasting peace in Central America.

It should be clearly stated, and clearly understood by the American people, that it is not simply Nicaragua's President Ortega who believes that additional Contra aid will harm the peace process.

The San Jose declaration was composed by the democratically elected presidents of El Salvador, Guatemala, Costa Rica, and Honduras—our friends and allies in the region. So there can be no mistaking the fact that the language and interpretation of the Guatemala accord—which President Reagan says he supports—directly contradict the President's request for aid before us.

From the beginning, American policy has been motivated in part by a desire to help the people of Central America realize peace and democracy. Well, now the Central Americans have come together for the first time to work on their own peace plan.

If we meant what we have been saying all these years we should be supporting the Central Americans, our friends and allies in their peace effort. We should not be undermining them in their effort. And yet, the President's request now before the Senate directly violates the peace accords which the President says he supports. And, therefore, by any standard of logic or analysis of our interpretation of this accord, the administration's proposal is contradictory to our stated policy objective.

President Reagan has portrayed his request as a modest insurance policy for peace. It is not. If extended over 18 months, it would equal the administration's original $270 million request. It would provide the Contras with a higher annual level of aid than ever before.

The request would triple current levels of militarily significant aid, in the form of helicopters, jeeps, communications gear and other equipment. The administration describes such equipment as nonlethal. That is a play on words. Helicopters and jeeps are equipment used in the waging of war.

Under the President's request, lethal aid, along with stockpiled weapons and ammunition, would be delivered after March 31 if the President certified that no cease-fire had been achieved.

But what greater incentive could the United States provide the Contras to refuse a cease-fire offer? The escrow provision would directly undermine efforts to reach peace in Nicaragua.

Yet the President says he supports the Guatemala accord and the peace process now unfolding in Central America.

Neither the President nor anyone else can have it both ways. Either we support the Contras and a military solution in Nicaragua, or we support the Guatemala accord and a peaceful solution in Central America.

This vote on continued Contra aid measures our support for the peace process.

It is a referendum on a policy that has failed for over half a decade.

When the administration first began organizing, training, and arming the Contras, the American people were told that the covert program was needed to stem the flow of Sandinista arms to other Central American countries. The reasons for supporting the Contras have ranged since then from ensuring free elections to making the Sandinistas cry "uncle."

But despite the shifting justifications and extravagant rhetoric, it has become clear to most Americans that the Contra's goal is the military overthrow of the government of Nicaragua.

The majority of the American people do not support that policy. Americans recognize that the United States has serious interests in Central America. But Americans do not accept that funding the Contras will best advance those interests.

And the American people are right.

Supporting the Contras has not—and cannot—advance the U.S. main policy objectives regarding Nicaragua: promoting regional security and advancing internal democracy.

The Contras have made Central America less stable and secure, as the Sandinistas turned to the Soviets for military assistance and the Contras set up camp in Honduras and Costa Rica. Nicaragua's neighbors worry, with reason, that fighting will spill across their borders.

The Contras have helped precipitate and justify Sandinista repression. When the CIA and Contras destroyed important Nicaraguan bridges in 1982, a national state of emergency was imposed. The October 1985 Contra aid vote was followed by renewal of the state of emergency and a further clampdown on internal dissent. After $100 million was voted for the Contras in 1986, the Sandinistas closed the opposition paper La Prensa.

The Contras represent an external, American-backed threat which the Sandinistas have used to excuse their egregious mismanagement of the economy, political repression, and violations of human rights.

All Americans agree that the ideal outcome is real democracy in Nicaragua and in every other nation across the globe.

But America does not promote democracy in Nicaragua by arming and legitimizing a military force still tainted by undemocratic remnants of the Somoza dictatorship. Democracy is not advanced by funding a force that targets civilians, schools, health clinics, and the economic infrastructure upon which the people of Nicaragua rely.

In Nicaragua, the means we have chosen are incompatible with our ends. And they have not worked.

It is time to try another route.

An alternative exists in the peace process set in motion by the Central American governments themselves.

It is an initiative that reflects the best of American diplomacy in the post-World War II era. Our Nation was instrumental in the founding of the United Nations. Until the Contra war, we supported the International Court of Justice. We worked with our neighboring nations to create the Organization of American States.

We did so in the belief that the principles of international law, buttressed by negotiation, best serve our long-term interests and reflect the principles for which America stands.

The Guatemala accord is in this tradition. It is an effort to solve regional problems in a regional context. The Central American Presidents, supported by international opinion and sustained by regional pride, are willing to work and take risks to realize their common goal of a peaceful Central America.

It would be a tragic irony if our Nation, which has so often urged negotiation instead of violence, should prove unwilling to take the far lesser risks that the peace process involves for us.

The question is not whether the United States should ever use military force. We must be prepared, not just to give military assistance to our allies, but to employ force when our national interests are at stake. All recognize that such circumstances can and will arise.

The question is whether in these circumstances, in the case of Nicaragua, the Reagan administration's reliance on force—and virtual exclusion of diplomacy—best serves American interests. In judging the past 7 years, it is clear that force has not advance American interests. Change in Nicaragua has emerged from an alternative source.

The peace process is just that—a process. It is not a blueprint with each step clearly marked. Nor is it an instant solution to the region's complex economic, social, and political problems. Progress toward peace and democracy has far to go in every Central American country execpt the democracy of Costa Rica.

But with respect to Nicaragua, the peace process has one important fact in its favor: In 6 months it has done more to promote democracy and human rights in Nicaragua than have 7 years of the Contra war.

The peace process deserves the opportunity to be tested.

It is the peace process, not the Contra war, that has moved the Sandinistas toward easing repression inside Nicaragua.

In meeting their obligations under the Guatemala accord, the Sandinistas agreed to lift the state of emergency, grant amnesty to thousands of political prisoners, allow La Prensa and other press to operate without censorship, abolish the extrajudicial "people's tribunals," and negotiate directly with the Contras.

No one believes that these Sandinista concessions have changed the fundamental nature of that regime.

None of these actions is irreversible. The state of emergency can be reimposed; political prisoners can be rearrested; newspapers and radios can again be closed. There are no guarantees for future progress.

But continued funding of the Contras would virtually guarantee that progress would be set back.

It would provide greater incentives for increased Soviet aid to Nicaragua, at a time that the Soviets have indicated a desire to reduce their support.

It would send a clear signal to other Central American nations that the United States is unwilling to fully support their peace plan.

And it would very likely lead to a renewed clampdown inside Nicaragua. This is predictable. We don't need Daniel Ortega's warning that the Sandinistas won't abide by the Guatemala accord if we refuse to do so.

The Contras cannot guarantee democracy for the people of Nicaragua. They can guarantee more bloodshed and hardship.

This is why the United States should not continue on the failed path of the Contra war.

Within the context of the Guatemala accord, there is a role for Contra aid. Relocation aid to help Contra fighters and families resettle and integrate back into society is permitted under the terms of the accord. We have incurred, as one legacy of our failed policy, an obligation to help the Contras in their transition. But first there must be peace.

It is time to face the fact that the Guatemala accord has been more effective in advancing the causes of security and peace in Central America.

It is time for the United States to work in partnership with the governments of Central America, and support their efforts to solve their conflicts through diplomacy and negotiation.

The peaceful resolution of conflicts is a goal that the United States has done much to promote during past decades, and it is a goal that the American people support.

It is time to reaffirm America's commitment to peaceful change. This is the best way to address our legitimate concerns about democracy and security in Central America, and it is the most promising course available to us.

Mr. PELL. I thank my colleague.

Mr. McCAIN. I yield 6 minutes to my colleague from South Carolina and 8 minutes to my colleague from Washington.

The PRESIDING OFFICER. The Chair informs the Senator from Arizona that, under the agreement, he has 8 minutes remaining.

Mr. McCAIN. Then I yield 6 minutes to my colleague from South Carolina.

The PRESIDING OFFICER. The Senator is recognized for 6 minutes.

Mr. THURMOND. I thank the Senator.

I wish to express my appreciation to my colleagues, Senator KASSEBAUM and Senator EVANS for their courtesy.

Mr. President, I rise in support of President Reagan's request to provide $36 million in aid to the democratic resistance in Nicaragua. The underlying issue is quite simply whether the U.S. Congress will assist in freeing an enslaved people, who are quite willing to fight for their freedom, or whether we will stand by as communism is consolidated first in Nicaragua and then spread throughout the region.

Mr. President, in 1979 the United States, along with members of the Organization of American States, withdrew official recognition of the Somoza government in return for a pledge from the Sandinistas to institute democratic reform in Nicaragua. The Somoza regime fell and the Sandinistas took control as we waited for democratic reform to take place. It is more than 8 years later and we are still awaiting democratic reform.

The sad truth of the matter is that there is no hope for democratic reform whatsoever in Nicaragua so long as the Sandinistas remain in power. There is also the danger that they pose to their neighbors because the Sandinista dictatorship has stated unequivocally that their Marxist revolution is a "revolution without borders."

Mr. President, there has been a geat deal of false information concerning the popularity of the counter revolutionary forces in Nicaragua. Opponents of aid to the Contras repeatedly make the claim that this is not a popular revolution. Nothing could be further from the truth. Let me compare the growth of the Sandinista movement over time to the growth of the Contra movement.

It took the Sandinistas more than 15 years to assemble a movement of between 5,000 and 7,000 soldiers. In less than 5 years the Contras have assembled nearly 20,000 soldiers. In fact, the Contra forces today exceed the total number of men in Somoza's National Guard, which in 1979 totaled only 14,000 men both active and reserve. This is clearly a popular revolt.

Mr. President, there are critics of support for the Contras who would have us believe there is no hope for success even if we support the Contras consistently. This is also untrue. We must remind ourselves that the Sandinista revolt took more than 15 years to succeed against a small National Guard force. The Contras face the largest and most powerful army in Central America. The Contras who have swelled in ranks to their current size are fighting against an active army of 75,000 Sandinista soldiers backed by another 60,000 reservists and militiamen.

There are those who keep saying give peace a chance. We gave peace a chance once before with the Sandinistas and it failed. More than 8 years

later they are making similar hollow promises to buy time.

"Give peace a chance" will go down in history with other great quotes, such as "peace in our time" and "peace with honor." We can have peace in Nicaragua by cutting off aid to the Contras. The problem is we will have peace without democracy. Let us give democracy a chance and then give peace a chance.

Since 1981, the Soviets and her allies have provided the Sandinistas with more than $4.5 billion in assistance. During this same time frame, we have provided the democratic resistance with about $225 million. This Congress has stood by and watched as the largest land army in Central America has been armed, equipped and trained by our adversaries.

Mr. President, the Sandinistas offer nothing but totalitarian despair to the people of Nicaragua. Their only hope is through the success of the Contra movement. It would do us all well to remember this history of our own country and be thankful that the French Government did not send Lafayette to our shores with only humanitarian aid, or the empty phrase, "Give peace a chance." We should also remember that it was the United States Congress which helped give peace a chance in South Vietnam. The South Vietnamese liked their peace so much millions of them fled the country while countless others died trying to flee. I urge all of my colleagues to support President Reagan.

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

Mr. THURMOND. I wish to thank the able manager of the bill for this time.

Mr. McCAIN. I thank the distinguished Senator for those very important words.

Mr. President, I request unanimous consent that I be allowed an additional hour from the minority leader's time.

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

Mr. McCAIN. Mr. President, I yield 8 minutes to my colleague from Washington, Senator EVANS.

The PRESIDING OFFICER. The Senator from Washington is recognized for 8 minutes.

Mr. EVANS. I had an opportunity to speak yesterday on this subject, so I will not try to extend my remarks. I will, however, reiterate some of the things which I believe are important as we face this terribly difficult vote, difficult for all of us.

Since the time I arrived in the Senate, I have been an opponent of Contra aid because I felt that it simply would not do the job that its adherents suggested that it would.

Two years ago in a speech on the floor of the Senate, I said that it was time to embark on a comprehensive program in Central America, the guiding point of which ought to be that the Central Americans, themselves, would determine their own future. Long before the Arias peace plan, I believe I said that those for whom Spanish is the primary language ought to be the ones deciding on their own future.

I felt at that time and I still feel, that we as a nation, should have consistently offered the kind of economic aid called for by the Kissinger Commission to the four democracies in Central America.

We should be, as I hope we are, talking, through diplomatic channels, to the Soviet Union, telling them it was time to keep out of the Western Hemisphere.

I felt then that a combination of events could help isolate Nicaragua, that ideas would cross borders far faster than Contras, and that eventually we would see a change in Nicaragua from the inside.

Much has happened in the last 2 years; much has happened which I believe changes the circumstances. Economic aid has helped these fragile democracies, but continued insurgencies has made it terribly difficult to make very much progress in otherwise destitute lands.

More important, the leaders of all five Central America Countries have spoken. They did not say, "Let Nicaragua be". They did not say, "Isolate Nicaragua while the other four democracies go their own way." All of them, including the President of Nicaragua, said, "Democracy in all five lands, democracy now, not democracy tomorrow. Democracy under specific plans and very specific timetables."

I do not believe those who suggest that the Contra activity had no influence whatsoever in the movement, although reluctant, of the Sandinistas.

The Sandinistas were pushed. They were pushed into what they have done and what they have signed by the pressures they feel around them.

Now we are faced with this vote just as the House was faced with it last night. It seems to me this vote is going to be a loser, especially if it is the final word. It will be a loser regardless of its outcome, for all we are showing is our divisiveness: there was a very narrow margin against in the House and, regardless of which way it goes, it will be by a narrow margin tonight in the Senate. We need to show something more than this. We need to show our unity rather than our division.

I do not like the package the President sent to us. It is inadequate. It is aimed in the wrong direction. But it may be better than no package at all for a very important reason. This cannot be the final answer. We cannot simply walk away from Central America.

Tactically, I believe that a positive vote of the Senate will give us a better base from which to build the bipartisan package which is desperately needed.

A "no" vote in the Senate coupled with a "no" vote in the House will create huge apprehensions abroad, especially in Central America, during the next 10 days while we are in recess.

I, therefore, intend to vote in favor of this package tonight. Tomorrow morning I intend to start working with any and all of my colleagues and with the President and those in the State Department to craft a better policy, one that is bipartisan, one that brings unity, and one that combines executive and legislative concepts.

I think those elements, Mr. President, include placing whatever money we set aside in escrow for now. It should be a significantly larger amount than is in the current package and aimed primarily at economic and social benefits for Central America. We should base its release on the measurements the Central American Presidents have set forth explicitly in their peace plan. The release should be by quite explicit procedures, with the approval of Congress and the President. If the peace plan is adhered to the money should not go to just four nations that are now democracies but to all five nations of Central America.

Let Nicaragua join with the others in the economic and social rebuilding so desperately necessary.

Finally, we must have some statement in this bipartisan package to tell us and to tell others what we would do if peace fails. To do less would leave our friends in Central America, our friends in Costa Rica, Honduras, Guatemala and El Salvador, with no available response if the peace plan fails.

What would happen to them then? What would they do? What power do they have to insist on adherence to a peace plan if the Sandinistas simply ignore it?

These are some of the possible elements necessary for a successful plan. It is going to require something from all of us. It is going to take all of the goodwill we can bring together. It will take some new thinking and it will take the laying aside of old shibboleths that all of us have on this issue.

I call on all my colleagues to think anew, to talk, discuss, debate, negotiate, even argue with one another but do not give up until we find a better, bipartisan answer. One which can join Republican and Democrat, House and Senate and executive and legislature together in a plan that truly will bring a lasting peace to Central America.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Rhode Island.

Mr. PELL. Mr. President, I yield 5 minutes to the Senator from Florida [Mr. GRAHAM].

The PRESIDING OFFICER. The Senator from Florida is recognized for 5 minutes.

Mr. GRAHAM. Thank you, Mr. President, and I thank Senator PELL.

I wish that we were not engaged in this debate today. I wish that the calendar had been such that this Congress would not have been called upon at this point in the sensitive negotiations in Central America to have made a decision which is going to be subject to interpretation by all sides in a way that is likely to misrepresent the real intentions of the U.S. Government and to be a negative force in achieving the goal that we all seek, which is peace in a region of vital importance to the United States.

But that decision is not available to us. We will vote. I shall vote in favor of the proposal which has been presented by the President because I believe that that best represents the process which will achieve the goal of the United States, which is to be a constructive force for peace in the region.

I define "peace" as more than just the absence of war. There are other areas of the world, some very close to us in our own hemisphere, such as Cuba, which could be defined as being at peace in the sense that there is the absence of war. But I believe that America stands for a value of peace that transcends the absence of a direct confrontation, that those values which were spelled out in our Declaration of Independence are the values that we want to have available universally and that our commitment to peace is a commitment to a peace in which human rights, democracy, the rights of individuals, are respected and that we cannot assume that we have achieved our global responsibility and be faithful to our principles as a nation by accepting a peace which is defined solely as the absence of confrontation.

The United States also has important security interests in this region, interests which are incompatible with the presence of a military initiative on behalf of and to the benefit of our principal global antagonist. I believe that the method to achieve a peace which meets our definition is best achieved through the continuation of the potential of military pressure. I wish it were not so.

I wish that purely through diplomacy our goals could be attained.

The history of the last 9 years in this region has not been that through diplomatic initiatives alone our goals of peace could be achieved.

I am pleased, Mr. President, to follow a very distinguished Member of this Senate and I think one of the great Americans of our generation, in the literal use of that term, Senator EVANS, and the remarks that he has just made because I believe that while it may be unfortunate that we are debating this issue today if it achieves the purpose of contributing to the development of a bipartisan coalition of American action in a region in which we have special interest, if it serves to bring the Congress and the White House together, if it serves to broaden the agenda of what U.S. interests are, if there is a criticism of the proposal that has been presented to us, it is so minuscule in relationship to the extent of our interest in this region as to be laughable.

Mr. CHILES. Mr. President, will the Senator yield on that point?

Mr. GRAHAM. I yield.

Mr. CHILES. I do not want to interrupt his train of thought, but I think he makes such a very valid point when he says what we are talking about in this package, lethal aid, and know that again has to be approved before it is going to be released, goodness, I cannot understand at this time that this is the wise signal that we are going to send that we are pulling the rug or that we lost our determination, that we are going to take away the ability to continue to apply the pressure.

Now, you know there was a meaningful debate that took place in earlier years as to whether this was a valid policy.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. GRAHAM. Mr. President, I ask unanimous consent for an additional 3 minutes.

Mr. PELL. I yield an additional 3 minutes to the Senator from Florida.

The PRESIDING OFFICER. The Senators are recognized for 3 minutes.

Mr. CHILES. I thank the distinguished chairman.

To me history proves that the policy of applying pressure has worked and is working.

I just cannot believe that Mr. Ortega, out of the graciousness of his heart, is beginning to open up slowly some of the political process and religious process, press process down in that country. It is a little bit like George Washington sort of getting the message that, "Well, we know you may have Cornwallis sort of boxed in there, but we, the French, think it is time that we should not give you any lethal aid, so we are going to pull the string on you at this time."

Mr. GRAHAM. Mr. President, I concur in all of the implications of the message that we may be sending. What I see now as our responsibility is to tell those who share our values around the world, particularly in this region, not to despair; that out of this action of today may come the promise of a brighter tomorrow. And I will define that brighter tomorrow as including a continuation of those efforts that are necessary to achieve a genuine, lasting peace, a peace that Thomas Jefferson as well as Simon Bolivar will be proud to have as a representation of their legacy to the New World. It would also be a program which would lead toward the demilitarization of Central America.

Mr. CHILES. I think the Senator is so right. And if there was any reason that we felt—and some of us are concerned as to whether the administration is on board on the peace process as much as we would like to see them on board, some of us have that concern—but if there was any reason we felt the administration was dragging its feet, we do not have to give that final approval. But at least we would not be sending that signal that we are pulling the string now, that "Mr. Ortega, you have won. You can relax anything you were thinking about doing toward opening up the system of government in your country."

Mr. GRAHAM. And we would also need to recognize that there is a battle being fought against poverty and hopelessness and destitution and against an economic system that has deprived opportunity for many of the people of Central America. I would hope that that would be part of the message that we would send, that we are prepared to be a partner in a new day of opportunity and prosperity for our neighbor.

Mr. CHILES. I certainly concur in those remarks, as well.

Mr. GRAHAM. There are many good messages that we can send. Mr. President, I hope, as a consequence of this debate, that we will be that messenger and then we will be prepared tomorrow to begin to fulfill that message and give it reality.

The PRESIDING OFFICER (Mr. ROCKEFELLER). The Senator's time has expired.

Mr. McCAIN. Mr. President, I yield 8 minutes to my colleague from Kansas, Mrs. KASSEBAUM.

Mr. BYRD. Mr. President, if the distinguished Senator from Kansas will yield, I yield 1 hour to Mr. PELL for his further designation.

I thank the Senator.

The PRESIDING OFFICER. The Senator from Kansas.

Mrs. KASSEBAUM. Mr. President, even with the action of the House last night, the Senate vote on continued aid to the Nicaraguan resistance forces is a difficult one, at least certainly for some of us. Reasonable arguments can be made on both sides of this issue.

The peace process today is in a fragile phase. In recent weeks, the Sandinista government has made a series of steps to comply with the requirements of the Central American peace plan. While they have not fully met those requirements at this point, these steps,

if maintained, have improved the chances for peace.

Some will argue that any extension of aid to the resistance could be cause, either real or imagined, for the Government of Nicaragua to renege on promises they have made or even to withdraw from the peace process.

Others argue that the resistance forces have been a major reason for the Sandinistas to come to the negotiating table and that cutting off aid at this point would only weaken the chance for full and complete compliance with the peace plan.

Despite forceful debate, pro and con, both of these arguments have merit. Neither view can be dismissed casually.

I believe it is important to maintain the resistance forces as a credible presence in this effort, so that the Sandinistas cannot conclude that they are free to ignore the demands of the peace process. There was celebrating in Managua last night after the House vote. At the same time, I believe it is essential that we always make clear that our goal is peace, not a continuation of war. Our goal must be a sustainable policy not just a political issue.

Achieving these goals requires that we strike a delicate balance on the question of continued aid. I see no way that the resistance could remain a credible presence in the peace process if we terminate all aid at this time. I, therefore, support nonlethal humanitarian assistance. This type of aid is within the guidelines of the peace plan as the Nicaraguan Government itself has acknowledged.

The real difficulty, at this time, lies in the question of lethal aid, even the relatively small amount included in the President's request. Over the past 2 weeks, there have been a number of Senators who have discussed this issue with senior White House officials. We tried to make clear that any lethal aid should be held in escrow and released only after a vote by Congress.

As we all know, the proposal before us does not include this language. However, on Tuesday night the President took a step in this direction by agreeing to withhold all lethal aid if Congress objects. While this is not all that some of us had hoped for, I believe it is a good-faith effort to address the concern many have expressed.

As I have said, the choice before us is a difficult one. However, I believe the potential problems created by cutting off all aid are greater than the risks entailed in approving this package. I, therefore, support the President's request and will vote for the aid package this evening.

Mr. President, our vote today can be viewed as largely academic, as all of us know, and as Senator EVANS well stated earlier in debate. The House has rejected this request and is unlikely to give it further consideration. I am concerned that this may cause us to lose sight of the real objective and the very real need for a thoughtful and effective policy in Central America.

Our goal must be to make clear to all sides in this conflict that no unilateral victory is possible and that only negotiations can produce genuine peace in Central America.

I have long been concerned that our policy has been much more responsive to our own domestic politic debate than it has been to the concerns and events in the Central American region.

My concern has only sharpened over the past several months. Under the continuing resolution, we have provided for this one up-or-down vote on Contra aid under expedited procedures between now and July.

These provisions in the continuing resolution have set arbitrary and inflexible deadlines for considering what has become, since the Central American peace accord, a rapidly changing situation in Nicaragua.

We need an approach that meets the needs of the evolving diplomatic process.

I have recommended an alternative to the White House, as many have done, which I think meets these needs. My suggestion—and one I think has supporters in various forms, is to establish an escrow account which could be used for humanitarian, lethal, or relocation and economic rehabilitation aid between now and July 1988. The President could ask Congress for the release of this money in increments or all at once. But, Congress would approve by a vote any request the President made.

The intent of this package is to provide a more flexible framework to deal with the challenges of the diplomatic process in the region—and to provide this framework with bipartisan support.

Yesterday's vote in the House did not resolve the problems that we face in our policy toward Nicaragua and the Central American region. It only demonstrated the inadequacy of the procedures we have set up to deal with these very delicate and demanding problems. I stand ready to do what I can to meet the challenges that are before us.

I yield back, Mr. President, any time that I may still have remaining on the allocated time.

THE PRESIDING OFFICER. Who seeks recognition.

Mr. PELL. Mr. President, I yield to the Senator from Oklahoma, 7 minutes.

THE PRESIDING OFFICER. The Senator from Oklahoma.

Mr. BOREN. Mr. President, I thank my colleague from Rhode Island. Mr. President, I respect the sincerity of all of those who have spoken on both sides of this issue. I respect the sincerity and integrity of those who may come down on the other side of this issue from myself. But I feel compelled to share with my colleagues my own honest views about this matter.

Since I have been in the Senate, I do not know of any single issue that I felt was more important to the future of this country, on which we would be called to vote, than this one.

We are not talking about involvement of our national interest halfway around the globe; we are not talking about a situation in Asia or Africa or even in Europe. We are talking about our own vital, national interests, here in our own hemisphere.

Recently, I spent 9 days in the Central American region. I left from Tinker Air Force Base back in Oklahoma City on that particular inspection tour. I was in Central America more rapidly than I could have been in the Nation's Capital, as I made that flight.

I honestly and sincerely believe that the vote cast in the House of Representatives yesterday is one of the most tragic mistakes ever made by the Congress in the area of foreign policy. I hope that history proves me wrong. But I am willing to be judged by history, 5 years or 10 years from now, when I say that if that decision is not ultimately reversed, we are going to regret it for years to come.

Our Nation has been able to play a role in the world because we have been fortunate in not being threatened on our own borders or in our own hemisphere. We have not had to be concerned about our neighbors to the North or our neighbors to the South. We have, therefore, been in a position to lead the free world. We have been able to respond to problems, whether they were in the Persian Gulf, whether they were in Asia, whether they were a threat to the continued existence of great nations like Great Britain and other allies that were threatened during the period of World War II. We have been able to intervene and to help in recent crises in the Philippines and many other areas of the world. We could not exert that influence, we could not even begin to think about the influence we could exert through our alliances like the NATO alliance, if we had to be using our resources and dissipating our energies and our efforts to worry about our security in our own hemisphere.

Mr. President, without a doubt, if we allow the establishment of a permanent Communist base for subversion in our own hemisphere, and that is exactly what we are talking about, with the ability to have it based on the land mass which is contiguous with our own, we are ultimately going to endanger the security of this country, we are going to endanger the security of the next generation, and we are almost as-

suring that the next generation of Americans will have their own lives and their own interests threatened.

We are doing everything we can possibly do to increase the possibility that our young people in the future will someday be called into combat to protect our own interests in our own back yard.

Mr. President, to cut off Contra aid at this time would end all hope for success of the peace process in Central America and would give the Soviets a strong, permanent base for subversion in our own back yard. That was the unanimous view of a wide spectrum of Central American leaders with whom I had private talks during a recent fact-finding tour through the region.

I read in the newspapers that some of my colleagues said they were in the region and the leaders of the surrounding countries all told them that they felt that for us to continue to aid the Contras would undermine the peace process.

All I can say, Mr. President, without questioning anyone's honesty or integrity, is that I talked to people at the Foreign Minister, Defense Minister level, I talked to key Government officials, I talked to a wide spectrum of all sides of the political process, right and left, in the neighboring counties, and not one of them told me that. Not one of them.

Without exception they said to me, privately and personally—and I understand why they, perhaps, cannot say it publicly. Would you say publicly that you thought we ought to continue aid to the Contras if you were not sure we were going to do it? If you thought the House of Representatives might cut off the aid? If you thought you might be left there with hostile neighbors on your borders without the United States of America to even commit itself to come to your aid if you were attacked, as a neighboring democracy.

Mr. President, they said to me privately and personally: If you want the peace process to have a chance, go back and plead with your colleagues. Ask them to keep the pressure on. It is only because of the leverage, it is only because of the pressure that we have any chance to succeed.

The Sandinistas are willing to talk about democratic reforms only because of military pressure caused by recent Contra victories and by collapse of the Nicaraguan economy, with annual inflation of 13,000 percent.

The Contra military forces are able to move effectively through more than half the country. Sometimes we do not get that from our press reports. They were able to move thousands of soldiers over hundreds of miles within Nicaragua and still achieve total surprise in a recent major victory. This could not have happened without the support of the Nicaraguan people. We are helping and sheltering more than 15,000 freedom fighters inside the country.

Because the Sandinistas have lost so many helicopters in recent days, they no longer use them to dislodge the Contras when they occupy a town. Instead, they have resorted to indiscriminately bombing their own towns.

I was shown not by the CIA, not by our Government officials, but by an Associated Press photographer, pictures of unexploded bombs that the Sandinistas had dropped on their own towns because they were afraid to send in their own helicopters. That is exactly the same tactic that Samoza used. When we talk about human rights, how can you have any greater violation of human rights than the indiscriminate bombing of your own towns?

There is no mystery about the Sandinistas. They control their own people through a police state that gives food ration cards only to those who are politically loyal. In spite of their promises of democracy, they recently arrested several opposition political leaders just for meeting with the Contras, including the managing director of La Prensa newspaper.

There is evidence that their aim is the expansion of communism throughout Central America. We all know it. They have admitted to plans to expand their army to a force of 600,000, nearly 10 times the combined force of their neighbors. They have, in coordination with the Cubans and Soviets, supported Marxist guerrillas who are trying to overthrow democratically elected governments in El Salvador and Guatemala.

Mr. President, our eyes are open. We all know what they are. Who here is naive enough to stand up and say: I believe that people like that, out of the goodness of their hearts and concern for world opinion, will give up the power that they have unlawfully seized from their own people whom they control through a repressive police state? If anyone can tell me whenever in history that a repressive regime like that, particularly a Communist dedicated regime, has ever willingly shared power back with their own people through democratic reforms without some kind of pressure being brought to bear to force them to do it, I would like to know when it was.

I hope every one of my colleagues—this is not the time for playing politics—will ask themselves, do we want to pass on to the next generation that kind of problem in our own backyard?

We can avoid that by acting now to give the Nicaraguans the tools to fight for themselves, to give the peace process a chance. We must not remove the pressure on the Communist government.

I agree with columnist Charles Krauthammer, who wrote recently, "Congress votes next week on whether to save the Sandinistas by cutting off Contras. As of today, the odds are that it will."

Sadly, that was borne out by the House of Representatives.

"If the odds don't change, the United States will have managed the most extraordinary self-inflicted strategic surrender in memory."

Mr. President, the House has acted. The Senate has a chance to act symbolically. Let us take the chance to act symbolically so we can go on record that the Senate of the United States does not favor that kind of self-inflicted wound so we will have some chance when negotiations are renewed to build a stronger package and to ultimately do what all of us in conscience know we should be doing.

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

The Senator from Arizona.

Mr. McCAIN. Mr. President, the statement the Senator has just given has presented the finest picture on Central America, presented by the distinguished chairman of the Intelligence Committee, a man who exemplifies the bipartisanship that should characterize this entire debate.

Mr. President, I yield 10 minutes to my colleague from California [Mr. WILSON].

The PRESIDING OFFICER. The Senator from California is recognized for 10 minutes.

Mr. WILSON. Mr. President, let me join in the commendation paid Senator Boren, the chairman of the Senate Intelligence Committee, by my junior colleague, the Senator from Arizona.

While I am admiring Democrats on the floor, and I admire many, let me say that I also join in the observation made with considerable eloquence earlier today by the senior Senator from Texas who, to paraphrase what he said, finds it bizarre that in a virtually parallel situation we have no doubt about the wisdom of spending many, many times more funds than the paltry sums that we supply to the Contras in order to support freedom fighters in Afghanistan.

The parallels are obvious. In both situations we have a Communist oppressor being resisted by freedom fighters seeking to take back their own land and to restore to it the kind of freedom that should be the birthright of all men everywhere but clearly is not.

There is, of course, a significant difference that the senior Senator from Texas spoke upon, and that is that Afghanistan is halfway around the world, whereas here on our doorstep, literally within walking distance, we have in Central America a war going on that has produced a flood of refugees who are literally able to walk to the United States.

Indeed, the junior Senator from Texas asked how many Senators would be willing to support a refugee assistance program that would impact his State of Texas, and mine, Mr. President.

It reminded me that the distinguished Senator from Oklahoma and I were part of the United States observer team 3 or 4 years ago watching the election in El Salvador that brought the election of President Duarte. As we stood really quite stunned by the spectacle of people standing in line for hours in the broiling sun, in some cases with sniper fire, in order to vote in the first free election in the history of that nation, I wanted to talk to those people. I wanted to ask them two questions.

I wanted to ask them first: did they have family in the United States? They did. "Si, hermano in Houston, hermano in San Diego."

They all said they had gotten out walking. It is possible through this land bridge, if you are sufficiently determined to come to the United States.

In fact, when they were trying to determine who in a nation of 5 million people in El Salvador could and would vote, they were stunned to discover that three-quarters of a million were missing, not through dealth squad activity but because they had left as refugees.

The second question I asked these people standing in line to vote, who certainly would have been a model to American voters who take so casually their franchise, was why it was so important for them to withstand sniper fire, heat, privation, to wait for hours to cast their vote. I got several answers, but the common thread through all of them was la paz. The hope was for peace. That was quite profound.

These were peasants, not lettered men and women, people who understood that somehow their best hope for peace lay in electing a government, in having a say as to who would provide them leadership because somehow they thought that that held the hope that that leader would be responsive.

Well, they are absolutely right. Mr. President, the only way that peace will come to Central America is if democracy comes to Nicaragua through free elections, not the sham we have seen that made Comandante Ortega a President Ortega. No one was deluded about that. It was not an open, honest, fair election in which competing parties did, in fact, compete. They did not.

Some years ago I went to Nicaragua, in August of 1983. I discovered I was the first U.S. Senator to travel to that nation during the tenure of our then ambassador, and he had been there 19 months. I had a meeting with then Comandante Ortega. For an hour I pressed him as to when Nicaragua, when the Sandinista regime, was going to permit the kind of free elections they had promised in their celebrated telegram to the Organization of American States when in July 1979 they desperately sought the support and assistance of all member states, which they received, by the way, not just from the Carter administration but from the Reagan administration, generous, financial support, until it was clear that they were not bringing democracy in place of an illegal dictator who deserved to be overthrown. But, in fact, as the widow of Chamorro has said, they have traded in Nicaragua one dictator for another, one oppressor for another.

Finally, after I pressed him for an hour, during which he evaded the question, going back to 1909 and the Sandino Fruit Company, he finally said, "Our revolution is too important. We will never sacrifice it. We will never do anything that jeopardizes our revolution."

I said, "You are telling me you are never going to have those free elections that you promised."

That was the end of our interview and they have never had the free elections. They have had the sham.

I must tell you, Mr. President, that for a long time I really held no hope that the Contras could be a sufficient military force, or really be more than an irritant. They have surprised me. Their military success, I will tell you, has surprised me. I still do not look to them to be able to overthrow the Sandinista regime. My God, the Sandinistas have been supplied with literally billions of dollars of sophisticated Soviet war equipment. We have given a paltry sum to the Contras, nothing compared to what we have given to the Afghan freedom fighters.

But somehow, because they do have the support of native pockets, because that economy is crumbling, because of the oppression by the Sandinista regime, the Contras have enjoyed success and the support of the indigenous population.

What they have done is to put the pressure on the Sandinistas; no less an authority than that freely elected President of El Salvador, Jose Napoleon Duarte, has said so in clearest terms, imploring the Senate on a prior Contra aid vote not to back away from our commitment but to bring to them the only kind of hope that the people of Central America really legitimately can entertain, and that is only will they enjoy peace if there is democracy in Nicaragua which is not going to come voluntarily through efforts of the Sandinista regime.

Now, let us cut through this. Mr. President, peace can come to Central America if democracy comes to Nicaragua. Democracy can come to Nicaragua very simply: if those in power are willing to lose power in an election, a free election. If they had sufficient confidence in their ability to appeal to the people, they would not fear that. But there has been no free election. If they want the Arias peace plan to work, let them comply with it. It is very simple. As President Arias himself said, there need not be more time for compliance. They have had 150 days. In truth, they have had since 1979.

Give negotiations a chance. Mr. President, we have given the Sandinistas every chance and only when they have been pressured by two things, by the military pressure of the Contras and by the pressure of the other Central American Presidents, have they made even the slightest move toward progress, toward genuine democratization.

Six hundred thousand men, we are told, will be under arms in that nation with billions of dollars of Soviet equipment. Why? To protect them from Costa Rica, from the grave threat from Honduras or El Salvador? It is absurd.

Let us go back in history to the first anniversary of the 1979 revolution when a series of speakers in Managua celebrated the revolution and said, "It is not enough that we have a Sandinista Nicaragua. We will not rest until there is also a Sandinista Costa Rica, a Sandinista El Salvador, a Sandinista Guatemala, a Sandinista Honduras."

They were not talking about positive persuasion. They are engaged in subversion. And were we to turn away for good, that subversion would ripen into overt aggression against the fledgling democracies that are the neighbors of Nicaragua.

Mr. President, before I came over here, a young woman came to my office to discuss an entirely different matter. She saw this debate on the television screen——

The PRESIDING OFFICER. The Senator's time has expired.

Mr. WILSON. Mr. President, I ask unanimous consent that my time be extended by 2 minutes.

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

Mr. WILSON. This young woman, watching the debate with me, finally turned to me and said, "How will this come out?" I said, "It is in grave doubt because the House has disappointed our hopes." She said, "I worry terribly about my little boy." I said, "How old is your boy?" She said, "He is 9."

Mr. President, she sees with a greater clarity of vision than apparently many in government the threat to her child.

Mr. President, I will put it simply. I do not want it on my conscience that one day 9-year-old boys, 10-year-old boys, American boys, may one day

have to fight and die needlessly in a war that could have been avoided if this Congress had had the will and the wits to prevent the kind of crisis that she foresees, that all in Central America know to be a reality. The Gallup poll that was reported in the Wall Street Journal some months ago indicates a virtual reversal in terms of opinion. The opinion of the American people, colored by an incredibly successful campaign of disinformation, is not shared by those in the region. The people of Central America know the Sandinistas for what they are. They do not feel that they are going to be able to enjoy peace until genuine democracy comes and that it will not come through voluntary efforts by the Sandinistas.

Mr. President, I do not want that on my conscience. Let us say that the President's plan is one that lets Congress decide whether the Sandinistas are in fact in good faith, whether they are going to comply with the Arias plan. If they do, this discussion becomes academic. If they do not, we had better have a safeguard so that one day that small boy of hers does not have to bear arms in a needless conflict.

The PRESIDING OFFICER. The Senator's time has expired. Who seeks recognition?

Mr. PELL. Mr. President, I yield 7 minutes to Senator ADAMS.

The PRESIDING OFFICER. The Senator from Washington.

Mr. ADAMS. I thank the Senator.

My distinguished colleagues, I rise in opposition to this resolution which approves the President's request for nearly $60 million in additional aid to the Contras in Nicaragua, including lethal aid. Lethal aid will simply contribute to a continued war and killing in Nicaragua.

I have listened to my colleagues this afternoon, and I have stood on this floor many times since arriving in the Senate and urged my colleagues to vote against Contra aid. Many of my colleagues who supported Contra aid have in return asked me, "Well, how do you bring democracy to Central America if not by supporting the Contras?"

Today, unlike many debates we have had in the past, the answer to the question is clear, so my plea to you is that this is a very important and different time for debate on the Contra aid issue. I would have preferred that we simply stay with the position established by the House, but if we are going to debate it, let us look at what are the circumstances which will bring peace hopefully to Central America. Our hope is based now on a courageous regional Central American peace process under the leadership of President Oscar Arias of Costa Rica. It is also based on our confidence, and we should begin to have confidence in our country, that throughout the world the economic systems based on totalitarianism, with communism as an economic system, are failing. All one has to do is to read "Perestroika," by Gorbachev, to know that even in the homeland, the Soviet Union, they know that their basic systems are failing. This is not the flagship for the world's economy. Let us recognize and have some confidence in our system. Communism simply is not selling as the economic touchstone for the developing world.

Before making additional remarks, I compliment my colleague, Senator BILL BRADLEY, for his comments on this vote today. We have differed many times in the past on our approach to this issue, but in his remarks today he stated he was going to not support Contra aid because he wanted to give the peace process a chance, and that is what is important. President Arias has said clearly, "Do not aid the Contras at this delicate moment; let us proceed with the peace process."

I have pleaded in the Foreign Relations Committee for a bipartisan American foreign policy. I have tried to carry out that commitment by supporting, for example, President Reagan's proposal for an INF Treaty, as a bipartisan matter a Republican President and Democrats across the board joining with Republicans to do that. I urge that we do that with Contra aid and not give Contra aid another chance; we have a bipartisan coalition in support of the peace process. The House of Representatives has spoken. We can join with the House of Representatives and forge finally a peace process, and I hope others will join with Senator BRADLEY in his insightful position articulated on the floor today.

This is our chance in the self-interest of the United States—no one else, the self-interest of the United States—to declare victory in the peace process and withdraw our direct military intervention and assistance before we escalate this war, start using U.S. military advisers and then troops to help the Contras in a conflict that I have not heard a single U.S. military official say can ever be won.

Why, oh why, do we in our own self-interest get into another situation that is a complete and absolute military disaster? We cannot win and no one says the Contras can win the war. But even suppose we did, what has been forgotten on this floor and is so tragic is that we had supported a government in Nicaragua once before in this century. We had American troops in Nicaragua for years and years and years and we did not change or make that government into a government that was exactly as we wanted. Now we are going to start this all over again. I pray we just learn.

People talk about the histories of the past. I have not heard them mention today the years and years of United States military occupation of Nicaragua. That is what we would have to do if we were unfortunate enough to have the Contras win because they would never sustain it themselves. They cannot win the war in the field. We have to supply the things for them to operate with but even if they did, we would have to be in there to sustain them.

That to me is not in our self-interest. I think our self-interest is to spend our military resources and the other scarce resources of the United States in the portions of the world where our self-interest is directly threatened, and where our self-interest is immediately apparent to the American public. I can mention one very easily. That is the Central Plain of Germany. I think we are doing well there. I support that policy.

I want to state this: If the Contra aid policy that was established was to send a message, the message has been sent. We have negotiations. Now if we stop these negotiations by voting for a Contra war, we lose everything that we have done to this point. I do not judge whether it was right or wrong to have started. I happen to think it was wrong to have started. But even those that are right, they have gotten to the point that they want it. So if they think they are right, I will accept that. I will accept it in the name of bipartisanship, even though I think the killing and everything has been wrong. But it has been done.

We are at the point that this is a chance to get out of the jungles before we get to a circumstance of pouring in more aid, more troops, having the Sandinistas build up their army, because that is what they are going to do, have the surrounding countries ask for aid because that is what they are going to do, and have the United States pay more and more and use more and more scarce military efforts in one of the worst places we could do it.

To reiterate, I rise in opposition to this resolution which approves the President's request for what really is nearly $60 million in additional aid to the Contras in Nicaragua, including "lethal" aid that will contribute to a continued war in Nicaragua.

I have stood on this floor several times since coming to the Senate and urged my colleagues to vote against Contra aid. Many of you who have supported Contra aid have in return asked me—how do I propose to bring democracy to Central America if not by supporting the Contras? Today, unlike in many of the debates we have had in the past, the answer to that question is clear. So my plea to you today is different in this very important sense. This time my urgings are

based on a whole new set of circumstances—a hopeful set of circumstances that provide us the first hope in a long time of bringing peace, democracy, and stability to Central America. This hope is based on the courageous Central American peace process initiated under the leadership of President Oscar Arias, of Costa Rica. It is based on our confidence that throughout the world economic systems of totalitarianism based on communism are failing.

Before making additional remarks, I want to take this opportunity to compliment my colleague, Senator BILL BRADLEY, for his thoughtful approach to this vote today. While we have indeed differed many times on our approach to this issue, in his remarks today he has told us that even for some who have supported Contra aid in the past, giving the Central American peace process every opportunity to succeed is worth the risk of voting down this request for more Contra aid today. We have an opportunity to unite here today to form a bipartisan coalition to support the peace process. On this basis, I urge those of you who have supported Contra aid in the past to join Senator BRADLEY in his insightful position articulated on the floor of this Senate today.

This is our chance in the self-interest of the United States to declare victory in the peace process and withdraw our direct military intervention and assistance before we escalate to use of United States advisors then troops to help the Contras in a conflict that no United States military official I know about believes can achieve a military victory.

But suppose they did—have we forgotten United States troops were in Nicaragua for years.

The issues are not easy and they are not clear-cut. When we are dealing with war they never are. For 8 years now the Reagan administration, sometimes with congressional sanction and sometimes illegally, has supported war as opposed to peace in Nicaragua. The administration has repeatedly disavowed the charge that its goal is the overthrow of the Sandinista regime through military means. Instead, the administration claims it is looking for implementation of democracy.

If this was the Contra aid policy and we needed to send a message it was sent. We have negotiations—now if we stop this by voting for a Contra war we lose it all. The Contras stay in the jungles without winning. The Sandinistas build up their Army. The surrounding countries ask for aid and the United States pays and, worse, sends scarce military resources in this losing effort.

I want democracy in Nicaragua. That means self-determination. Self-determination means that each nation must choose its own form of government. In that context, please remember that we initially welcomed the Sandinistas when they came to power since we believed that they represented an acceptable alternative to a corrupt and totalitarian regime. Some favoring Contra aid are mad because Ortega did not do what they expected. I don't blame them.

The democratic nations of the region have developed this peace initiative to bring democracy to Nicaragua. While not all of its objectives have been secured, many positive steps have been taken. On January 20, the Sandinistas suspended a 6-year state of emergency which denied the political rights of Nicaraguan citizens. The printing presses at La Prensa are running. The Sandinistas have lifted the suspension on eight radio stations and four opposition publications which are operating once again. Certainly these are important steps toward democracy. Several labor union locals are operating again. They have even had two strikes. The Sandinistas are talking to the Contras. The Sandinistas are releasing political prisoners—not a general amnesty yet, but in light of the fact that we have not yet refused to stop funding the Contras—a step toward democracy. These are all steps toward democracy.

Much work remains before democracy will take hold in Nicaragua. How we get from here to there does not have to involve more violence—more killing and destruction of a nation already suffering from a war imposed on it by the United States. The nations of Central America want to make their peace plan work. They do not want aid going to the Contras. They do not think that kind of "pressure" will bring democracy to the region.

The International Verfication Commission set up to evaluate compliance with the peace plan recently issued its final report. In that report, the Commission concludes that an end to Contra aid is "an indispensable requirement for the success of the peace efforts." President Arias has repeatedly stated his opposition to continuing Contra aid. When are we going to get the message that Contra aid is not the answer?

If Contra aid is not the "Central American" answer to the region's problems, why should it be the answer to the United States' concerns in Central America? What do the Miranda disclosures tell us about the threat to U.S. security in Central America? What the Miranda disclosures tell this Senator is that if we persist in this misguided policy of funding the Contras, the Sandinistas will build up their military. Make no mistake, the Sandinistas will fight United States efforts to overthrow them either through a conduit internal force, or directly.

In other words, the decision is ours. Will we continue to up the ante with more and more dollars to escalate war in Nicaragua? The Soviets are prepared as we have seen to send as much as $5 to Nicaragua for every $1 sent by the United States. Or, should we start a new dialog with Soviet General Secretary Gorbachev who during the recent summit meeting said the Soviets are prepared to stop if we stop funding the Contras.

Finally, I want to say something about the "myth" around this town these days—that Contra aid is the "pressure" which is needed to keep the Sandinistas at the peace table. Those who think this way believe that as soon as we stop funding the Contras, the Sandinistas will walk away from peace and toward greater militarization, repression, and export of revolution to their neighbors. That conclusion just isn't logical.

The truth is that the Sandinista regime is in trouble if it does not start solving its internal domestic problems. The Nicaraguan economy is in crisis. Hyperinflation is running rampant. In 1 year, the inflation rate has increased from 1,800 percent to an unbelievable 13,000 percent. International trade is nonexistent. The Nicaraguan cordoba has become a worthless currency. Defense expenditures constituted 55 percent of spending by the Sandinistas last year. There is a crying need to concentrate on social priorities: improved health care, rebuilding infrastructure, and education. Moreover, the "pressure" for democratization from Nicaragua's neighbors is great indeed and will help propel democratic actions forward in Nicaragua.

We want a bipartisan foreign policy and many of us are trying to establish a bipartisan foreign policy.

Yesterday, the House said "no" to more Contra aid. On Tuesday, the Senate Foreign Relations Committee said "no" to more Contra aid. Under these circumstances, if it were not for the special provisions contained in the continuing resolution mandating this Senate vote today, we would not be here today voting on this matter. The way to move in this direction is to represent the American people who think we should halt aid to the Contras and place our bet on the peace plan. We should listen to the voices of our colleagues in the House and of the American people and join them in rejecting this request for Contra aid.

I just wanted to state one comment to some of my colleagues.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. ADAMS. I ask for 1 additional minute, Mr. Chairman.

Mr. PELL. I yield an additional minute.

The PRESIDING OFFICER. The Senator may proceed.

Mr. ADAMS. I know some of my colleagues who are now favoring Contra aid are mad because Mr. Ortega came up here and a number of others did and the United States gave money to the Ortega regime. We did that once with the Castro regime. We overthrew or had helped and supported people who overthrew a very totalitarian regime.

All I am saying is because we have gotten into interference, you can get interference, interference back, and interference the other way, but all of it led to the same bad conclusion of the self-interests of the United States. The self-interest of the United States is not to be involved in these regional wars. If you want a guarantee or standoff, you can do other things, but do not get in deeper and deeper.

I hope today that we will not vote to continue Contra aid. I hope we will listen to the voices of our colleagues in the House, that the United States will form a policy of getting people out of that area. Somebody said a little earlier, "Well, would some of those who oppose Contra aid be willing to help get the people out of the jungles?" The answer is "yes." I am willing to help keep them out of the jungles. I just do not want to send them any further in.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. ADAMS. I thank the President.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. I yield 10 minutes to my colleague from New Hampshire, Senator HUMPHREY.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. HUMPHREY. Mr. President, it might be useful at this juncture to consider the nature of the Sandinista regime. Who are the Sandinistas? What does Sandinista mean? It is a rather lovely word, has a pleasant sound as do so many Spanish words. What it really means, in reality, is Communist.

It is a pity that we have not called these people what they are, and indeed what they call themselves, Communistas—Communistas. They are Communists, and not Sandinistas.

Let me run down the short biographies of some of the principal members of the Communista national directorate, the politburo, if you will, of the Sandinistas.

Daniel Ortega, Comrade Daniel, got his start with the paramilitary wing of the Communist Party, placing bombs in Cine Tropical movie house; arrested in 1961 for firebombing U.S. Embassy vehicles. In September 1981, Ortega declared: "We are honored and proud to be called brothers of Col. Muammar Qadhafi." In February 1984 Ortega praised the Iranian Revolution for having "created new values in the history of humanity."

Tomas Borge, founder of the FSLN; first joined Moscow-line Communist Party in 1955 with the two other founders of the FSLN. Received extensive military training in Cuba in the early sixties.

Bayardo Arce, runs the Bureau, the FSLN assistance operation for Salvadoran and other foreign Communist guerrillas. Managed the largely fraudulent November 1984 elections, which he described in a secret speech as a "nuisance: imposed upon Nicaragua by the international bourgeoisie."

Humberto Ortega, another member of the directorate—took political and military training in Cuba, the Soviet Union and North Korea in the sixties and seventies. Main author of 1977 Sandinista Political-Military Platform, which set forth FSLN's plan to seize power and become "an iron-hard Leninist Party." Recently boasted that "thousands of Sandinista officers were being trained in use of advanced weaponry in Soviet bloc countries.

Henry Ruiz, attended Moscow's Patrice Lumumba University in 1966; received guerrilla training in Cuba in 1966; received military training with the PLO and North Vietnamese.

Victor Tirado. Former member of Mexican Communist Party who became Nicaraguan citizen in September 1979.

In addition to these members of the directorate, here are thumbnail biographies of rather high-ranking Communistas or Sandinistas they like to call themselves usually.

Renan Montero a former Cuban intelligence officer for over 20 years with the Americas Department of the Central Committee on the Cuban Communist Party. Received Nicaraguan citizenship after the 1979 revolution at the request of Fidel Castro. Now heads foreign intelligence for the FSLN.

Doris Tijerino. As a Communist Party youth, she studied at Patrice Lumumba University in Moscow, 1963-65. Now serves as chief of Sandinista Police.

Carlos Guadmuz. Jailed in late sixties for hijacking passenger plane. Now runs Sandinista owned and controlled Voice of Nicaragua Radio network.

Leticia Herrera. Studied in Moscow. A leader of the turbas, Sandinista mobs; first wife of Daniel Ortega; now vice president of the National Assembly.

Lenin Cerna. Bank robber and son of Communist Party cadre who named sons after Lenin and Engels. Brought the Ortega brothers into the FSLN. Now is chief of the secret police.

The point is, Mr. President, if anyone cares, for those who do care, the Sandinistas are not some romantic band of revolutionaries. They are Communists. They are Marxist-Leninists and many of them are outright criminals, thugs, gangsters, murderers, hijackers, terrorists. What a gang in whom to be entrusting peace.

It is not going to work. We may some day wish to deceive ourselves to avoid the hard choice which now faces us. This Senator believes harder choices will face us if we do not act responsibly and with conviction at this juncture.

The hard fact is that we have a Communist sore in Nicaragua. The hard fact is these Communists in Nicaragua have proclaimed their revolution to be a revolution without borders, without boundaries.

You do not have to be awfully sophisticated to know what that means. It means they are going to make trouble. Indeed, they have been making trouble for their neighbors, principally El Salvador.

Unless we check the spread of this Communist sore, it will enlarge and engulf other nations in Central America and ultimately come to be a threat to national security, not only of the region, but of the United States as well.

At some point down the road, unless we act with resolve and courage at this juncture, or soon, we will be faced with larger problems requiring larger and more expensive solutions. I feel that if we do not act, if we continue to pretend, if we continue to delude ourselves, if we continue to trust these Communists and gangsters to embrace democracy, ultimately the solution will require the spilling of American blood.

That is the thing we all fear, and well we should. There is not one of us who would have our children die in Nicaragua or elsewhere. No American wants that; and the way to prevent it is to nip this in the bud, to look the problem square in the face, to refuse to delude ourselves further, and to act in resolve to help those who are willing to help themselves—the freedom fighters of Nicaragua, the Contras, the anti-Communists. They are in the field. They are fighting. They want to bring the kind of democratic revolution which the Communists discussed, as the Sandinistas promised, but utterly and cynically betrayed.

That is the real solution to this problem. Does any Senator believe that these Communists or any Communists are going to yield to democracy? That has never happened.

Can a Senator point to a single example of a Communist regime that has given way voluntarily to democracy? I doubt it. I do not recall such an instance in history. I do not believe there is one, and it is not going to be Nicaragua that makes history by yielding to democracy, the first Communist regime to do so.

I do not know if the Contras can succeed. I do know that this so-called

peace process—and how we love to embrace this phrase, peace process, as though there is something magical and self-fulfilling about it. I do know that this Arias plan, if it is to work—and I am not at all sure it can ever work when you are dealing with Communists and gangsters—but if it has any chance at all of working, can only work if there is incentive for the Sandinistas, for the Communists, to comply in good faith; and if we withhold aid for the Contras, the freedom fighters, there simply will be no incentive.

It has taken the pressure of the Contras in the field to make the Sandinistas yield even an inch in granting these few concessions to plurality which have been granted in the last 6 or 8 months. They are small. I hope they will lead to more, but they are mighty small and even those concessions would never have been achieved without the presence of the Contras, without the pressure of the Contras.

Before the Contras became a substantial force, we had nothing from the Communists in the way of concessions to democracy, absolutely nothing. Indeed, repression was growing worse with every passing year. Communism was becoming ever more firmly embedded, the Sandinistas ever more firmly entrenched.

Only the advent of an effective Contra force has pressured the Sandinistas into yielding, however slightly, to democracy. Take away that leverage, take away that incentive, take away that pressure, as we will take it away by refusing to fund the Contras, and you can forget any further progress on human rights and plurality and democracy in Nicaragua.

It did not happen before the Contras, and it will not happen if we let the Contras fade away on the vine.

Mr. President, I rather suspect Senators are well decided at this point, but I thought it would be useful to take my few minutes to remind us, once again, of the true nature of this so-called Sandinista regime, which we should more correctly call, more effectively call, a Communist regime, for that is exactly what it is, by their own admission.

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

Who yields time?

Mr. DODD. Mr. President, I yield 6 minutes to the Senator from Montana.

The PRESIDING OFFICER. The Senator from Montana.

Mr. MELCHER. Mr. President, throwing money at the Contras, about $2,000 per person, by the U.S. Congress, out of the U.S. Treasury, is not going to bring any peace. Sending money just does not solve the problem down in Nicaragua. Sending outside armaments down to Nicaragua is a real problem.

Is there anything wrong with President Reagan talking to Gorbachev and just saying to Gorbachev, "It's unacceptable that the Soviets are sending armaments into Nicaragua"? Was there anything wrong with bringing that up when Gorbachev was here a little over a month ago? Or is there anything wrong with the President picking up the telephone and telling Gorbachev that?

What are we doing in a country with about 3 million people, with a sick government, a sick country, and leading ourselves or somebody else to believe that we are going to solve the problem with just another payment down there?

The root of their sickness in Nicaragua has been that there are outside armaments. They are not capable of producing armaments of any consequence in Nicaragua. The root of their problem, the basis of their sickness, is outside armaments. Attempting to keep the Contras going so they can fight some more is not going to treat the illness; it only spreads it.

My prescription is that the best the United States can help the Arias peace plan is to tell Gorbachev, "No more, no more Soviet armaments," and get ourselves out of backing these Contras. We are back at it again. I do not know how many times we have to vote. Unfortunately, at other times, we have always voted to continue sending millions down there.

We have about a billion dollars invested in nothing but misery in Nicaragua. The problem is the outside armaments. It is time to say what the real problem is and get off it and come back home and look at the problems we have here.

How many different groups of people do you think need $36 million today in the United States? Or how many different aspects of this sick economy that we are stumbling into do you think we ought to focus our attention? How many hours and days and weeks is this President of our focusing on that miserable condition down there and ignoring some conditions that are getting more miserable here at home?

We cannot buy anything that is any good by sending money to the Contras. Our problem is to get the armaments out of Nicaragua, take away their capability of war, take away what is perceived as a growing threat, a military threat in Central America.

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

Mr. MELCHER. I will be delighted to yield to the Senator.

Mr. HARKIN. I thank the Senator for yielding. He makes a very good point.

Information that has come out from the December summit meeting in Washington between Mr. Gorbachev and President Reagan shows that Gorbachev did, in fact, raise this security matter with President Reagan. Gorbachev offered to reduce Soviet shipments of arms to the Nicaraguans if, in fact, the United States halted its aid to the Contras.

The President refused to even respond to that offer. In fact, a few days after Mr. Gorbachev left town the administration trotted out Major Miranda and began beating the drums for more Contra aid. It is unfortunate too that the President let that opportunity pass.

Mr. MELCHER. I thank my friend from Iowa. That is a very important point. I am grateful to him for having elucidated on it.

Mr. President, I think we are being misled. I think the President is wrong on this. He has been wrong before. We let him do it. We appropriated money, despite those of us who strongly opposed it.

I say once again oppose it now, get back on the right track, keep the armaments out of Nicaragua.

It may be peace can gradually come there. It will come hard and slow but maybe it can come there.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. McCAIN. Mr. President, I yield myself 30 seconds.

This issue did indeed come up during the summit. The President was unable to get any commitment from him not only on that but getting out of Afghanistan by May. That continues to be the case as noted later in the article by Assistant Secretary Abrams: "the more we approached the offer, the more it seemed to evaporate."

I yield 6 minutes to the Senator from Nebraska, Mr. KARNES.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KARNES. Thank you, Mr. President.

Mr. President, when I returned from my visit to Central America with the minority leader and other Senators last September, I announced that I would support assistance for the Contras if the request was consistent with the goal of achieving Nicaraguan compliance with the Guatemala City Agreement. I believe that the administration's request is consistent with the goal of achieving full compliance. The President's announcement that lethal assistance is to be held in escrow and released only if the Nicaraguan Government fails to comply reinforces my belief that the President's package is consistent with the peace process.

Also the President has clearly provided in his proposal for direct and decisive input from both Houses of Congress in the lethal aid decisionmaking process, indeed a significant compromise.

Progress in securing lasting peace through this peace process, the Guate-

mala accords, depends not on promises, not on hope but on compliance, past, present, and future.

It is clear that the Nicaraguan Government has not yet complied with the terms of the Guatemala City agreement. That was made clear at the recent meeting of the Central American Presidents in San Jose, Costa Rica just 2 weeks ago on January 16 where the joint communique issued by the Presidents stated, and I quote from the text of that communique:

> Since all of the Esquipulas II commitments have not been entirely fulfilled, the presidents commit themselves to satisfying unconditional, unilateral obligations that bind the governments to the total and inexcusable fulfillment of the agreements. Among these are dialogue, the cease-fire negotiations, a general amnesty, and, above all, democratization.
>
> This necessarily entails the lifting of the state of emergency, total freedom of the press, political pluralism, and the dismantling of special tribunals. The commitments reported as not having been met by the governments must be immediately fulfilled in a public and obvious manner.

Again, this statement of January 16 by the Presidents of the Central American democracies indicates that we do not have compliance. I believe we must keep the pressure on the Nicaraguan Government to comply fully, and to modify its policy of piecemeal, half-hearted, half-baked compliance. Contra assistance is the best form source of leverage we have with the Nicaraguan Government. Maintaining this source of leverage is not only consistent with the peace process, I believe that it may well be essential to any realistic hope for peace and democracy in the region.

Mr. President, assistance to the Contras serves as an insurance policy for the peace process. The Nicaraguan Government has broken its promises to establish a democratic system of government and not to pose a threat to its neighbors; most notably these promises have been broken through Nicaraguan disregard of the OAS resolution of 1979.

Colleagues of mine on both sides of the aisle have learned from bitter experience about the Nicaraguan Government's willingness to break commitments. Continued aid to the Contras will send a powerful message to Managua that there will be penalties for failure to comply with the Guatemala City agreement and their pledges to establish democratic institutions and regional peace.

Mr. President, those opposed to the President's package seem to want to force the United States into making a choice between doing nothing and using American troops to maintain security in Central America. Democratic leaders in Central America have made it clear that if Nicaragua takes aggressive action they will move to invoke the Rio Treaty.

I am concerned about this, deeply concerned, and so yesterday I met with the Ambassador to the United States from Costa Rica, and he confirmed that invoking the Rio Treaty would be their first and essentially only option in the face of aggression from Nicaragua. In other words, if the Contra army disappears and the peace process does not proceed to a successful conclusion and the Sandinistas follow President Ortega's pledge of several years ago to lead a revolution without borders, the only army that will be able to respond in the mind of this Costa Rican Ambassador will be the United States Army, the United States Armed Forces. Under such circumstances under the Rio Pact the United States will have a responsibility to send military aid and likely its troops to the region.

Mr. President, aid to the Contras adds greater flexibility to our foreign policy. I see no reason for limiting our options toward resolving the pressing problems facing us and the future of democratic development in Central America by a negative vote on the President's proposal.

Finally our policy toward Central America must recognize our understandable national interest in this region. As I see it there are four specific national concerns that our policy toward the region must address. First, we must protect the vital sealanes that sit astride this region. Second, we must ensure that Nicaragua does not become a strategic military threat, as Cuba did in 1962. Third, we must not allow Nicaragua to become a source of subversion in Central America. Last, we must continue our efforts to bolster democracy in Latin America.

I believe that a carefully designed package of Contra aid, such as the one proposed by the President, directly or indirectly serves each of these interests. Perhaps the lost element in this debate is the fact that assistance to the Contras is not meant solely to improve the prospects of peace with freedom and democracy for the Nicaraguan people, though that is important in and of itself; it is also meant to allow regional democracies to grow and flourish.

There has been much talk about giving peace a chance in this Chamber. Unfortunately, there has been precious little discussion about what happens if democracy and true freedom in the region is not given a chance. The defeat of Contra aid almost guarantees that the outcome will not be in our favor.

Thus, Mr. President, for the reasons that I have stated, I will support the President's request for assistance. This I say being fully aware of the negative House vote last night, because I hope that positive action in the Senate today will serve as an impetus for the continuation of a rational policy toward Central America and not simply an empty gesture.

I urge my colleagues to vote for this package—this is a reasonable, responsible package—to vote for the people of our country and for the people of Central America.

Thank you very much.

The PRESIDING OFFICER. Who yields time?

Mr. HARKIN. Could I have 1 more minute to respond?

Mr. DODD. I yield 1 minute to the Senator from Iowa.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. I thank the Senator for yielding.

I want to respond to my distinguished colleague from Arizona, in regards to who raised the issue of whether or not we wanted to seek some security agreement with the Soviets with regard to Nicaragua.

I refer to an article in today's New York Times, in which the White House said—I will quote:

> The White House said today that the Soviet Union in recent weeks had offered to cut off most military aid to the Nicaraguan Government if the United States ended its aid to the contras and all military assistance to the nations of Central America.
>
> The offer was rejected out of hand. The White House spokesman, Marlin Fitzwater, called it "absolutely unacceptable" and "ludicrous."
>
> The Soviet proposal grew out of a comment made to President Reagan by Mikhail S. Gorbachev, the Soviet leader, during their summit meeting in Washington last December.

So, the White House itself admitted that it was Gorbachev that made the offer to cease sending arms to the Sandinistas if we would stop sending arms to the Contras.

I ask unanimous consent, Mr. President, that this article be printed in the RECORD. I think that article should lay this issue to rest.

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

[From the New York Times, Feb. 4, 1988]

U.S. SAYS KREMLIN PROPOSED TO CUT AID TO NICARAGUA

(By Joel Brinkley)

WASHINGTON.—The White House said today that the Soviet Union in recent weeks had offered to cut off most military aid to the Nicaraguan Government if the United States ended its aid to the contras and all military assistance to the nations of Central America.

The offer was rejected out of hand. The White House spokesman, Marlin Fitzwater, called it "absolutely unacceptable" and "ludicrous."

The Soviet proposal grew out of a comment made to President Reagan by Mikhail S. Gorbachev, the Soviet leader, during their summit meeting in Washington last December.

HOUSE BEGINS AID DEBATE

The details of the proposal were made public this morning as the House of Representatives began debate on the President's request for at least $43 million in aid to the contra rebels that would last into the summer.

The House debated the request late into the evening. Undecided Congressmen were lobbied all day by President Reagan, Secretary of State George P. Shultz, and Adolfo Calero, a contra leader, and by Democratic leaders who oppose renewed aid.

REQUEST WHITTLED DOWN

The Senate prepared for a vote on the issue whichever way the House vote went; a required vote by Thursday after a House vote for the aid, or a largely symbolic one at the urging of Republicans, after a defeat. The Senate majority leader, Robert Byrd of West Virginia, said debate on the procedure would be limited to 30 minutes.

The contra aid request had been whittled down considerably from the $270 million over 18 months that the President sought last November.

Of the $43 million, $32.6 million would be used for food, clothing, medical supplies and the like—so-called nonlethal aid—and $3.6 million would go to military aid. An additional $7 million was requested for electronic equipment, including radar jamming devices to assist contra supply aircraft.

PEACE MOVES CITED

The Administration's lobbying efforts ran into a widespread view among House Democrats and some moderate Republicans that renewed assistance would hamper peace moves under way in Central America.

Supporters of aid to the contras, however, declared that the Marxist Sandinista Government of Nicaragua was untrustworthy, despite recent concessions made in conjunction with the peace process, and that the aid to the rebels was needed to put pressure on Managua.

The Soviet Union's Central America proposal came when the Administration asked Moscow to explain an ambiguous comment Mr. Gorbachev made to President Reagan during the summit conference in December.

At the time, American officials took Mr. Gorbachev's brief remark to mean that the Soviet Union would end military assistance to Nicaragua if the United States cut off aid to the contras. But Administration officials acknowledged that they did not press the matter while Mr. Gorbachev was here.

Since then, Mr. Shultz and other American officials have questioned Soviet officials about the matter, and "the more we approached the offer, the more it seemed to evaporate," Assistant Secretary of State Elliott Abrams said today.

Although Administration officials have known of the Soviet response for several weeks and have previously alluded to it in public, they chose to make it public in detail today partly to influence the vote on renewed contra aid.

The White House also wanted to rebut a remark that Representative Lee H. Hamilton, an Indiana Democrat, made Tuesday night.

In his response on behalf of the Democrats to Mr. Reagan's address to the nation urging that aid to the contras be continued, Mr. Hamilton said: "U.S. officials say Gorbachev told President Reagan he was prepared to cut off Soviet military aid to Nicaragua if we cut off aid to the contras. We ought to put the Sandinistas and Gorbachev to the test."

Implying that Mr. Hamilton had been unfair, Mr. Fitzwater said that Lieut. Gen. Colin L. Powell, the President's national security adviser, had written to Mr. Hamilton on Monday explaining the nature of the Soviet offer.

"He had it on Feb. 1," Mr. Fitzwater said.

But Mr. Hamilton said he wrote to Mr. Reagan on Jan. 25 asking the White House to clarify the Gorbachev offer, "and they gave me the Powell letter at 11:30 this morning—after the fact."

Despite the atmosphere of ambivalence that has characterized each major vote on contra aid, House Democrats expressed confidence that the Administration's package would be defeated.

The House Speaker, Jim Wright of Texas, also asserted that Mr. Reagan's offer Tuesday night to give Congress a greater voice in determining the release of the $3.6 million in military aid had not changed many minds.

After offering to consult Congress before releasing the military aid, the President, in a letter delivered today to the House minority leader, Representative Robert H. Michel of Illinois, promised to "refrain voluntarily" from releasing the military assistance if the House and the Senate jointly adopted a resolution declaring that lethal aid should not be delivered.

"I believe that this arrangement will afford Congress and the executive branch the opportunity to address jointly the central question of Sandinista compliance with the commitments made at the San José summit," Mr. Reagan said.

Representative Mike Lowry, Democrat of Washington and chairman of the House Democratic Study Group, said that the President's offer to give Congress a voice on releasing military aid "changing nothing."

Mr. Calero, the contra leader, said the rebels would "press on with our last breath" even if the aid package is defeated. "The fight for freedom will go on forever," he added.

He conceded that without continued United States aid the rebels would "be in a very difficult position, but we will come through."

The PRESIDING OFFICER. Who yields time?

Mr. DODD. Mr. President, I yield 10 minutes to the Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, many have said that minds will not be changed and it may well be that no votes will be changed, but this vote is so important that there are things yet to be said and I think that is clear from the participation in this debate.

It has been said before, but I would like to emphasize, that this is not a small amount of money that is being requested, not a mere helping along of the peace process. This $36.2 million to be spent on lethal and nonlethal aid between now and June is in and of itself a tripling—a tripling—of the current aid levels to the Contras, from $2.6 million each month to over $8 million a month. But that is only the beginning of the story, Mr. President.

In addition to the direct aid, the package provides for $20 million to be made available from Defense Department funds for the replacement of aircraft which are shot down.

Furthermore, this aid package allows for "unlimited" transfer of electronic equipment, radar, and other air defense equipment from the Department to the CIA to assist Contra supply flights. And that equipment is estimated to cost several million dollars each month. Over the 4 months that this aid package is in effect, the additional electronic surveillance alone could amount to $12 million.

Mr. President, let us not be fooled and let us not see the American people fooled about what this package is about. It is a package asking Congress to appropriate more than $68 million for the Contras and it represents, on an annualized basis, a funding of some $270 million.

Mr. President, this is a down payment effort, nothwithstanding what the House has done, a down payment message with respect to the desires of this administration in Central America.

Mr. President, there is both a terrible and cruel hypocrisy regarding our application of judgment on Central America. The President, in his State of the Union Message, as well as in his Tuesday message, talked of flourishing democracies surrounding Nicaragua. Was he talking about General Noriega in Panama? Was he talking about the death squads in El Salvador? Was he talking about the Honduran death squads trained by our own CIA which are currently on trial in Costa Rica, two witnesses of which were killed just recently? Was he talking about corruption within the military of El Salvador, which has grown, much of it, from our own aid programs?

Mr. President, I do not know the answer to that, but I know that there is only one country in Central America that is a full democracy that protects the rights of human beings and that has been struggling for peace, and that is Costa Rica; a full democracy, Mr. President.

Now, this peace process has been far from perfect. Yes, it has. It has been far from perfect. But, Mr. President, our participation in this peace process has been far from perfect.

While we have talked about freedom and democracy, we have broken the law. We have walked out on the Manzanillo peace talks. We upset and frustrated the Contadoras peace talks. We avoided altogether the World Court, which we helped to establish. We ignored the Organization of American States whose charter allows us to use force to protect our interests in the region if we are indeed truly threatened. We have delayed payments of AID funds. We have diminished our commitment to the Treaty of Rio, and we have diminished the meaning in the process, of the Treaty of Rio. We

have undercut the efforts of President Arias, both directly and indirectly. And we have made war on a foreign population through a proxy force which concentrates on "soft targets" like health clinics and rural electrification sites and civilians.

In thinking about whether or not to vote for more funds for this "policy instrument," we should remember the words not of a liberal, not of an opponent, but of a participant in this process, none other than Robert Owen—Robert Owen, the "eyes and ears" of Oliver North:

> In the spring of 1986, Owen told North that the civilian leaders of the Contras were a front, "a name only," that power lay in the hands of Adolfo Calero, "A creation of the USG," surrounded by people who are "liars and greedy and power-motivated." Owen, who spent many weeks with the Contras over many months, and came to know the Contras well, warned North that "this war has become a business to many of them, there is still a belief the marines are going to have to invade, so let's get set so we will automatically be the ones put into power. If [new funds are] approved and things go on as they have these last 5 years, it will be like pouring money down a sink hole."

Well, since Robert Owen wrote those words, we have indeed poured another $121 million on the Contras, and still there is no real light at the end of the tunnel. But we are violating the peace plan, as Senator MITCHELL competently and articulately pointed out, we are violating the peace plan—"we," the United States of America—by wanting to provide aid.

Now, argument after argument has been made on the floor—and I have listened carefully—about how we need the Contras because they are necessary as a strategy for peace. We need the Contras because they are pressure to create negotiations. But pressure for what? Pressure for what? Pressure to negotiate?

Mr. President, we all know the history of this administration in negotiations. They walked out of Manzanillo. They frustrated Contadora. They left Ambassador Philip Habib, one of our most distinguished and capable diplomats, dangling and isolated so much that he resigned. And they have not only refused to negotiate directly with the Sandinistas and push the Arias peace plan, but they have frustrated that plan.

Now, think about that, Mr. President. I remember going down to the White House and having a meeting with the distinguished manager here, the Senator from Connecticut, and others, with the President of the United States. I asked him personally, "Mr. President, are we going to negotiate directly with the Sandinistas?"

And his answer was, "No, that would be like the colossus of the north trying to dictate the outcome down there."

Then the Secretary of State said we are not going to negotiate, and others picked up that hue and cry. So, Mr. President, there are no bilateral talks.

But when Central America makes up its mind what it wants and endorses a plan and the Presidents speak and they say, "Don't give aid," all of a sudden we are ready to be the colossus of the north again. All of a sudden it does not mean anything to let them decide; mere words, mere hyprocrisy. And that is where we are, Mr. President.

But then we know that negotiations are not really the key because we keep hearing from supporters of Contra aid: "Why talk about negotiations? Communist regimes never negotiate themselves out of power." And that is true, Mr. President, they do not. So, of course, this notion that we are going to fund the Contras in order to provide pressure to negotiate when we do not negotiate is a farce. And then they are not going to negotiate because they will not negotiate themselves out of power. So here we are negotiating for a nonnegotiable purpose.

We are, indeed, I believe, locked in a kind of catch-22. Your aid to the Contras is to force them to negotiate, but then you do not negotiate. So you maintain the dream of overthrowing the regime, which is the real purpose, and the only truth of that is that it will always be a dream. There is not one military adviser or even one Senator who has been willing to argue that the Contras can overthrow the Sandinistas. So you fund the Contras and you are locked into an eternal process of killing for no ultimate purpose but supposedly to pressure a regime that will not negotiate.

Mr. President, I really believe that those who support Contra aid actually choose a far more dangerous course for the United States of America. Because, for every ounce and penny of aid, we give the Sandinistas more license to arm. We give the Sandinistas more license to seek aid from the Soviet Union. We give greater probability to confrontation. And we give them the ability, Mr. President, the ability—as I know my colleague from Connecticut will discuss—to turn their back on the Arias plan. Provide the funding and Daniel Ortega has the greatest excuse in the world to say, "OK, folks, you're in breach of the plan. Now we are going to arm," and on we go.

Mr. President, I say that the better plan is to lay bare the intentions of the Sandinistas, lay bare their intentions to the world. Take away Contra aid and you take away the excuses. Take away Contra aid, and the Contras are not going to disappear overnight if they are for real.

Mr. President, I ask unanimous consent that I may have an additional 3 minutes.

Mr. DODD. Mr. President, I yield to the Senator 3 minutes.

The PRESIDING OFFICER. The Senator is recognized for 3 additional minutes.

Mr. KERRY. Mr. President, if the Contras are real they are not going to disappear in a few months; but let us have clean hands, a doctrine in law of equity called clean hands.

The United States should approach this with clean hands. Take away the Contra aid and I believe you provide the most direct challenge possible to the Sandinistas, and they will know what the choice is. They will either fulfill their promises or they will have exhausted the patience of the most patient. They either provide pluralism, democratization, and amnesty that they talk about, or they will have invited the unanimous ostracization of North America and Central America alike, as well as our allies in Europe, who currently do not support our plan.

I believe they will then have provided us with the foundation for multilateral steps which legally and effectively allow us to hold them accountable in their own hemisphere.

Mr. President, I believe the Sandinistas have abused their revolution and I believe they have been less than forthcoming in the peace process. But nothing in my experience, I believe, is based or nothing in my position in support of opposing aid is based on the notion that we should trust them or that we should have faith in what they are going to do. But I am convinced that we face a difficult path in Central America. We have to build a policy of bipartisanship and consensus.

This is the moment. If we were to deny this aid, lay bare their intention, then there cannot be any critics afterward. If they do not follow through, Mr. President, there are all kinds of alternatives available to us through the Organization of American States, through our allies, to ultimately even go to the steps of a quarantine or an embargo. There are countless ways to bring this small country of 2.7 million people and 150 old tanks and no air force to their knees if they truly threaten the United States of America.

Mr. President, we are not behaving like a great nation. We are simply not behaving as history has taught us we can to enforce policy around the world. You cannot prosecute a policy that involves the loss of people's lives, surrogate or otherwise, without the support of the American people.

There are many lessons of Vietnam, some of them still in dispute. But I think that one of the lessons is that we do not put Americans in harm's way, directly or indirectly, without the American people supporting the policy; without having exhausted the process of peace so as to understand

why it is that lives may have to be lost.

I keep hearing people talking about how, in Central America, the Contras are roaming the countryside. Sure, it is countryside. It is in the north. It is where Somoza was strong. It is where the national guard was recruited from. But, Mr. President, the question here is can this policy work without the support of the American people? I respectfully suggest that, unless we give this peace process a chance and exhaust the possibilities, we will not have that support. A vote of 53 to 47 in the United States Senate is not bipartisan. It is not consensus. It is a doomed foreign policy.

This debate here today is not really about Contra aid, Mr. President. This debate comes about because for 7 years this policy has failed and it cannot succeed in the last 11 months of this administration and so this vote is really about who to blame for the failure of that policy.

Well, Mr. President, we who vote against Contra aid are not going to be intimidated by that political box. We will vote against it because we believe that we cannot continue to lose lives, ours or other people's, and we cannot pursue an illegal policy that does not have the support of the American people and is condemned to lead us down the same path as it has before in such recent times. That is why I think it is important to oppose it and that is why I think the House of Representatives took the courageous step it took yesterday.

Thank you, Mr. President.

Mr. McCAIN. I yield 10 minutes to our distinguished colleague, Senator HATFIELD from Oregon.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. HATFIELD. Mr. President, I thank the manager of the bill on our side, the Senator from Arizona, Senator McCAIN.

Mr. President, if one is to accept the prevailing arguments which have fueled this debate, I am afraid that the real issue will be lost. If we cling to the notion that this is but a roll of the political dice—a wager on the trustworthiness of Ortega pitted against the diplomatic leverage of the Contras; the essence of this conflict will continue to elude us. Because if you isolate the single most fundamental, most essential element of this conflict it is the simple fact of civil war.

And as we learned through our own tragic Civil War experience—as dissimilar as it may be in so many respects—it is not only the military dimension of the conflict which decides the ultimate result, it is the existence of leadership to heal the wounds which lie at the core of the conflict. My colleagues, there is not an Abraham Lincoln on either side of this battlefield. History is defined and intellectual honesty is disgraced if we suggest that there is. There is only the peace plan. That's all. That's all we have as a substitute for the great and compassionate leadership this nation was fortunate to possess in its struggle over a century ago.

We must ask ourselves what kind of national reconciliation we are supposedly trying to achieve in Central America. If your goal is to purge every last Sandinista, Soviet, and Cuban from the soil of Nicaragua, then the peace plan is not your cup of tea. But if you believe that violence should be the last resort, that political behavior can be moderated and that the world need not be recreated in our image, then the peace plan is all you have got. And the truth is that if you do support the peace plan, you cannot stand on this floor today and cast your vote for Contra aid and claim—honestly claim—that yours may not be the last nail in the coffin of this fragile process. The people of Nicaragua have suffered for the better part of a century from the arrogance of many of our political and economic policies. They deserve better than the Sandinistas, but they also deserve better than the Contras. The simple truth is that if either the Sandinistas or the Contras prevail, the result is ongoing civil war and bloodshed.

These Nicaraguans and their parents and grandparents who went before them have grown up under as much, if not more, tyranny as exists in Nicaragua today. Tyranny under different labels perhaps, but tyranny nonetheless. Their lives are full of the legacies of colonialism, imperialism, and adventurism. And none of it will disappear with a military victory for anyone.

As usual we are trying to have it both ways when we cannot. The message of the midnight hour has been filtering out: "The Sandinistas are on the ropes. Do not pull the plug now. We are close to doing them in." At the same time, Mr. President, the proponents of this package are arguing that it is the only hope for the peace process—that it is a necessary prerequisite to keeping the Sandinistas honest.

Let me remind my colleagues that we have been down this road before:

In 1984, before the vote, the National Security Council claimed that Soviet Mig fighter jets were being shipped to Nicaragua on a freighter. When the freighter was unloaded, there were no Mig's.

In 1985, before the vote, the White House said that the Contras were out of money and supplies and would collapse without U.S. aid. In reality, they were being supplied through the Iran-Contra network. Oliver North wrote a letter to Contra leader Adolfo Calero at the time:

We need to make sure that this new financing does not become known. The Congress must believe that there continues to be an urgent need for funding.

In 1986, before the vote, the United States sent $20 million in emergency funds to help the Honduran army counter an invasion by Nicaragua. The so-called invasion turned out to be one of a large number of periodic Nicaraguan sweeps of Contra bases over the Honduran border.

What I am asking is not just that we stop aiding the Nicaraguan Contras. That alone is not a policy, and that alone will not give peace more than a few shreds of hope. For the wounds in Nicaragua are deep indeed. If food is taken from a child's mouth to pay for a helicopter or a machine gun, Mr. President, I suggest to my colleagues that it makes little difference where that helicopter or machine gun is made: the child is still hungry. And the children of Nicaragua have been hungry for a long time. This is not a time to draw distinctions between Contra wounds of war and Sandinista wounds of war. It is time to heal the Nicaraguan wounds of war.

Mr. President, I suggest that we wait a couple of months. That we stop supporting the Contras and we wait. And if the peace process continues, we do something we should have done a long time ago: We implement a policy of genuine humanitarian aid. Not the kind that includes helicopters and spare parts, but the kind that includes seeds and books and medicine and food. And not the kind that goes just to those Nicaraguans who were willing to fight our surrogate war, but the kind that goes to all Nicaraguans in need. Let us try that kind of leverage now.

Let us put our moral strength as a nation into the healing process.

It might not work, Mr. President, but I guarantee you that it has a better chance of success than does our current policy.

Mr. President, I ask unanimous consent that an article by Congressman PAUL HENRY and a statement by a number of religious leaders be printed in the RECORD.

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

[From the Los Angeles Times, Jan. 31, 1988]

CONTRA AID: BAD ANSWER TO BAD QUESTION

(By Paul B. Henry)

One of my college professors repeatedly told his class: "To assure good answers, you must first ask good questions."

The question of continued funding for the Nicaraguan Contras has, unfortunately, been so poorly framed over the years as to ensure only bad answers. The question becomes the foreign-policy equivalent of "Have you stopped beating your wife?"

The Reagan Administration has allowed the Contra question to eclipse broader questions of American foreign-policy goals in the Central American region, and Congress has

been beguiled into debating the question on those limited terms.

In so doing, both Congress and the President have been backed into a "no win" corner. If military aid is approved this week, we risk undermining the diplomatic offensive that has achieved more in six months than military aid has accomplished in six years. Such approval would give the Sandinista regime an excuse to renege on its promises of political pluralism and the restoration of democratic processes.

On the other hand, a rejection of aid without qualification would send a signal to the Sandinistas that Congress and the President have reached a stalement on American policy toward Nicaragua. They would thus be tempted to disregard the promises made last August and expanded upon two weeks ago in Costa Rica.

Either way, the Sandinistas win, because the question has been improperly framed from the beginning. And Congress faces the dilemma of either reaffirming bad policy or rejecting it and creating the vacuum of having no policy at all.

Hopefully, the answer to this imprudent ultimatum will be yet another reprieve through an unglamorous compromise that segregates Contra support into non-lethal and lethal-aid packages, fencing off release of the latter for subsequent congressional consideration.

Such an arrangement would allow one more chance, perhaps the last, to return the Contra caboose to the back of the policy train where it belongs, and enable the Administration to forge a truly bipartisan, multidimensional and multilateral approach to the Nicaraguan issue.

Three critical dimensions of our Central American policy need to be resolved:

An honest attempt must be made to root that policy in genuine bipartisan consensus. Bipartisanship means more than simply securing the magic number of "swing" votes needed to join the majority of Republicans supporting the President on the issue. It means a jointly formulated policy in which there is a sense of shared ownership sufficient to engender a shared obligation to defend it domestically and abroad. Dividing Congress and the nation with "good guy-bad guy" rhetoric over charges of neo-isolationism or naivete regarding Marxist regimes can only serve to undermine this effort. Members of Congress ought not to usurp the role of secretary of state. But implementing foreign policy in the absence of reasonable political accommodation denies the stable and predictable foundation upon which foreign policy consensus must be built.

Our Central American policy must be explicitly multidimensional. If continued democratization of Latin American societies is to be nurtured, policies addressing the problem of the drug warlords, the burgeoning Latin populations, the restructuring of Latin American debts and revitalization of Latin American economies must be given just as dramatic a focus and attention as the effort to counter Marxist subversion and presence in the region. We must rigorously examine the impact that our policies may or may not be having in inadvertently remilitarizing the very region in which we are trying to sustain the growth of fragile civilian political institutions.

Our Central American policy must deliberately seek to strengthen multilateral participation of the region's nations. A sense of shared ownership of that policy is no less important to those affected by it than it is to those conducting it. Last fall, while Congress was once again debating additional millions to the Contras, the State Department advised the Organization of American States that the United States could not afford to meet its financial obligations to host the annual OAS meeting. And of course, it goes without saying that a Central American policy is doomed to failure if it runs counter to the joint efforts of the Central American presidents to develop a regional solution to their problems.

As long as policy-making is determined by lurching from Contra aid request to Contra aid request, there is little in the way of meaningful discussion and agreement on the broader goals and purposes of our policy in Central America, and how and when military force might be used to achieve them. In the present context of the diplomatic initiative undertaken by the Central American presidents, the continued fixation on further funding of the Contra is even less adequate as a substitute for a broader policy. Until we begin to ask the right questions, we shall be frustrated with a policy process that yields only bad answers.

(Paul B. Henry, a Republican, represents Michigan's 5th District (Grand Rapids) in the House of Representatives.)

FEBRUARY 1, 1988.

A STATEMENT ON CONTRA AID

We, the undersigned religious leaders, urge Congress to defeat any proposed new aid to the armed Nicaraguan opposition known as the Contras.

As men and women of faith who have leadership responsibilities within our religious bodies, we seek United States policies in Central America that are consistent with a deep sense of morality and justice, policies that rely upon diplomacy rather than the force of arms. We support the Guatemala peace accords and the ongoing peace process in the region. Sending additional aid to the Contras in any form or any amount would violate the Central American peace plan and contravene the expressed wishes of President Oscar Arias of Costa Rica. The immoral Contra war policy must finally be ended.

We ask all Senators and Representatives to vote against the request for new aid to the Contras on February 3 and 4.

AMERICAN BAPTIST CHURCHES, USA

Dr. Chester J. Jump, Jr., Interim General Secretary, American Baptist Churches, USA.

Dr. William K. Cober, Executive Director, National Ministries.

Dr. Donald G. Taylor, Executive Director, International Ministries.

Dr. Daniel E. Weiss, Executive Director, Educational Ministries.

Dr. Dean R. Wright, Executive Director, Ministers & Missionaries Benefit Board.

Rev. Kathryn W. Baker, Executive Minister, American Baptist Churches of the Niagara Frontier.

Dr. J. Ralph Beaty, Executive Minister, American Baptist Churches of the Great Rivers Region.

Rev. Helen Louise Bowser, Minister of Church and Ministry, American Baptist Churches of Rhode Island.

Rev. Donald H. Crosby, Executive Minister, American Baptist Churches of Rhode Island.

Dr. Telfer L. Epp, Executive Minister, Mid-American Baptist Churches (Iowa & Minnesota).

Rev. Robert A. Fisher, Executive Minister, Ohio Baptist Convention.

Rev. Carl E. Flemister, Executive Minister, American Baptist Churches of Metropolitan New York.

Dr. Heinz H. Grabia, Executive Minister, American Baptist Churches of Nebraska.

Rev. Sumner M. Grant, Executive Minister, American Baptist Churches of New York State.

Dr. Carlton B. Goodwin, Executive Minister, The Pittsburgh Baptist Association.

Rev. Pedro Hernandez, Executive Minister, Baptist Churches of Puerto Rico.

Dr. Paul T. Losh, Executive Minister, Vermont Baptist State Convention.

Dr. Calvin L. Moon, Executive Minister, American Baptist Churches of Maine.

Dr. Walter Parrish, Executive Minister, American Baptist Churches of the South.

Dr. Robert D. Rasmussen, Executive Minister, American Baptist Churches of the West.

Dr. Robert H. Roberts, Executive Minister, American Baptist Churches of Connecticut.

Rev. Carrol A. Turner, Executive Minister, American Baptist Churches of Monroe Association.

Rev. Larry K. Waltz, Executive Minister, Philadelphia Baptist Association.

Rev. George D. Younger, Executive Minister, American Baptist Churches of New Jersey.

CHURCH OF THE BRETHREN

William A. Hayes, Moderator.

Donald E. Miller, General Secretary.

Elaine Sollenberger, Moderator Elect.

Ronald D. Beachley, Executive, District of Western Pennsylvania.

Donald R. Booz, Executive, District of Florida and Puerto Rico.

Gordon W. Bucher, Executive, District of Northern Ohio.

Helen Constable, Associate Executive, District of Western Pennsylvania.

Janice M. Eller, Executive, District of Oregon and Washington.

Warren M. Eshbach, Executive District of Southern Pennsylvania.

Pamela T. Farrell, Associate Executive Mid-Atlantic District.

Ronald D. Finney, Associate Executive District of Northern Indiana.

Sylvus D. Flora, Executive, District of West Marva.

Martin A. Gauby, Executive, District of Idaho.

Larry W. Glick, Associate Executive, District of Shenandoah.

Terry Hatfield, Associate Executive, District of Northern Indiana.

Robert D. Kettering, Associate Executive, Atlanta Northeast District.

James L. Kinsey, Executive, District of Michigan.

Joseph M. Mason, Executive, District of Southern Ohio.

James E. Miller, Executive, District of Northern Plains.

Carl E. Myers, Executive, District of Illinois and Wisconsin.

Carroll M. Petry, Executive, District of South/Central Indiana.

Ronald D. Petry, Executive, Mid-Atlantic District.

Doris M. Quarles, Associate Executive, District of Virginia.

Merlin G. Shull, Executive, District of Shenandoah.

Ronald and Shirley Spire, Co-Executives, Southeastern District.

Irven and Pattie Stern, Co-Executives, District of Pacific Southwest.

Owen G. Stultz, Executive, District of Virginia.

James E. Tomlonson, Executive, District of Southern Missouri and Arkansas.

John D. Tomlonson, Executive, District of Western Plains.

Randall L. Yoder, Executive, District of Middle Pennsylvania.

Herbert D. Zeiler, Executive, District of Southern Plains.

Earl K. Ziegler, Executive, Atlantic Northeast District.

EVANGELICAL LUTHERAN CHURCH IN AMERICA

Bishop Herbert Chilstrom, Evangelical Lutheran Church in America.

Bishop John Adam, Slovak Zion Synod.

Bishop Harry S. Anderson, Northern Wisconsin-Upper Michigan Synod.

Bishop Dennis A. Anderson, Nebraska Synod.

Bishop J. Roger Anderson, Southern California.

Bishop James S. Aull, South Carolina Synod.

Bishop Darold H. Beekman, Southwestern Minnesota Synod.

Bishop L. David Brown, Northeastern Iowa Synod.

Bishop Guy S. Edmiston, Jr., Lower Susquehanna Synod.

Bishop Lowell O. Erdahl, East Metropolitan Minnesota Synod.

Bishop Lavern G. Franzen, Florida Synod.

Bishop Stefan T. Guttormsson, Southwestern Wisconsin Synod.

Bishop Lawrence L. Hand, Southeastern Pennsylvania Synod.

Bishop Wesley N. Haugen, Eastern North Dakota Synod.

Bishop Mark B. Herbener, Northern Texas-Northern Louisiana Synod.

Bishop Reginald H. Holle, Western Michigan Synod.

Bishop Robert L. Isaksen, New England Synod.

Bishop E. Harold Jansen, Metropolitan Washington Synod.

Bishop Herluf M. Jensen, New Jersey Synod.

Bishop John P. Kaitschuk, Central/Southern Illinois Synod.

Bishop Robert W. Kelly, Northeastern Ohio Synod.

Bishop Ralph A. Kempski, Indiana-Kentucky Synod.

Bishop Gerhard I. Knutson, West-Central Wisconsin Synod.

Bishop Charles H. Maahs, Missouri-Kansas Synod.

Bishop A. Donald Main, Upper Susquehanna Synod.

Bishop Rafael Malpica-Padilla, Caribbean Synod.

Bishop Lowell H. Mays, South Central Wisconsin Synod.

Bishop Curtis H. Miller, Western Iowa Synod.

Bishop Milton R. Reisen, Eastern Michigan Synod.

Bishop Peter Rogness, Southeastern Wisconsin Synod.

Bishop Robert H. Studtmann, Arkansas-Oklahoma Synod.

Bishop Paul R. Swanson, Oregon Synod.

Bishop Sherman Hicks, Metropolitan Chicago Synod.

Bishop Harold S. Weiss, Northeastern Pennsylvania Synod.

Bishop Wayne E. Weissenbuehler, Rocky Mountain Synod.

Bishop Paul M. Werger, Southeastern Iowa Synod.

Bishop David C. Wold, Southeastern Washington Synod.

Bishop Morris Zumbrun, Maryland Synod.

PRESBYTERIAN CHURCH (U.S.A.)

The Rev. James E. Andrews, Stated Clerk of the General Assembly.

The Rev. Frederick J. Beebe, Synod Executive, Synod of Southern California and Hawaii.

The Rev. Robert L. Brashear, Chair, 1987-88 Presbyterian Task Force on Central America.

The Rev. Linda B. Brebner, Associate Executive, Synod of Lincoln Trails.

Mildred M. Brown, Associate, Women's Unit.

The Rev. Vernon S. Broyles III, Director, Church and Public Issues.

The Rev. Tom Castlen, Executive, Presbytery of the Cascades.

The Rev. Clarence L. Cave, Associate for Racial Justice and Black Mission Development.

The Rev. George A. Chauncey, Deputy Director, Washington Office.

The Rev. Robert E. Coleman, Associate Executive, Synod of the Trinity.

The Rev. Robert T. Cuthill, Synod Executive, Synod of Lakes and Prairies.

The Rev. Gary Demarest, Member, 1987-88 Presbyterian Task Force on Central America.

Mary B. Diboll, Associate, Women's Unit.

Dorothy J. Doherty, Chair, Presbyterian Peacemaking Committee (Middle Tennessee).

The Rev. William J. Fogleman, Synod Executive, Synod of the Sun.

Ollie Gannaway, Associate, Presbyterian Peacemaking Program.

Carole Goodspeed, Staff Executive, Committee on Women's Concerns.

The Rev. Benjamin F. Gutierrez, Associate for South America.

The Rev. Dieter T. Hessel, Director, Committee on Social Witness Policy.

The Rev. Elenora Giddings Ivory, Chair, Committee on Social Witness Policy.

The Rev. Brad Kent, Chair, Synod of Mid-America Committee for Peacemaking.

The Rev. Richard Killmer, Director, Presbyterian Peacemaking Program.

Pam Laing, Moderator, Synod of the Sun.

The Rev. Lewis H. Lancaster, Jr., Associate Director, Global Mission Ministry Unit.

The Rev. Jorge Lara-Braud, Member, 1987-88 Presbyterian Task Force on Central America.

The Rev. John B. Lindner, Coordinator, New York Liaison Office.

Mary Ann Lundy, Director, Women's Unit.

The Rev. John D. MacLeod, Jr., Administrator, Raleigh Office for Synod D.

Dr. Belle Miller McMaster, Director, Social Justice & Peacemaking Unit.

The Rev. Bernadine McRipley, Executive, Newark Presbytery, Synod of the Northwest.

Jeanne C. Marshall, National President, Presbyterian Women.

The Rev. Robert D. Miller, Director, Education and Congregational Nurture Unit.

Margaret R. Montgomery, Interim Associate for World Service.

Clara Morgan, Scioto Valley Presbytery Women's Unit.

The Rev. George P. Morgan, Synod Executive, Synod of the Covenant.

Harriet Nelson, Member, 1987-88 Presbyterian Task Force on Central America.

Alice Nishi, Associate, Women's Unit.

The Rev. Kent Organ, Member, 1987-88 Presbyterian Task Force on Central America.

Mary Jane Patterson, Director, Washington Office.

Patricia M. Roach, Director, Evangelism and Church Development.

Dr. Isabel Rogers, Presbyterian School of Christian Education.

The Rev. Janet Schlerke, Associate, Synod of Rocky Mountains.

The Rev. Robert F. Smylie, Director, United Nations Office.

S. David Stoner, Executive Director, General Assembly Council.

The Rev. Charles A. Summers, Member, 1987-88 Presbyterian Task Force on Central America.

The Rev. David Tomlinson, Synod Executive, Synod of the Rocky Mountains.

The Rev. Eugene G. Turner, Synod Executive, Synod of the Northeast.

The Rev. Otis Turner, Coordinator, Black Justice.

Patricia Gill-Turner, Associate, Committee for Women of Color.

Elizabeth H. Verdesi, Associate for Council on Women and the Church.

The Rev. James Watkins, Associate Director, Presbyterian Peacemaking Program.

The Rev. Robert H. White, Associate for Presbytery Services, Synod of Mid-America.

The Rev. John L. William, Synod Executive, Synod of Mid-America.

The Rev. Sylvia Wilson, Associate, Racial Ethnic Unit.

The Rev. David L. Zuverink, Associate, Human Services.

United Methodist Church

Edsel A. Ammons, Bishop, the West Ohio Area.

James M. Ault, Bishop, the Pittsburgh Area.

Edwin C. Boulton, Bishop, the Dakotas Area.

Roy C. Clark, Bishop, the South Carolina Area.

Judith Craig, Bishop, the Michigan Area.

Jessee R. Dewitt, Bishop, the Chicago Area.

Ernest T. Dixon, Jr., Bishop, the San Antonio Area.

R. Kern Eutsler, Bishop, the Holston Area.

Elias G. Galvan, Bishop, the Phoenix Area.

William B. Grove, Bishop, the West Virginia Area.

Joyce Hamlin, Executive Secretary for Public Policy Women's Division

W. T. Handy, Jr., Bishop, the Missouri Area.

Pat Callbeck Harper, Chair, Section of Christian Social Relations.

J. Woodrow A. Hearn, Bishop, the Nebraska Area.

Kenneth W. Hicks, Bishop, the Kansas Area.

Leroy C. Hodapp, Bishop, the Indiana Area.

Earl G. Hunt, Jr., Bishop, the Florida Area.

Neil L. Irons, Bishop, the New Jersey Area.

Ed Iwamoto, Superintendent, the Vancouver (WA) District, Chair, Department of Peace and World Order, General Board of Church and Society.

Reuben P. Job, Bishop, the Iowa Area.

L. Bevel Jones, III, Bishop, the Charlotte Area.

Leontine T.C. Kelly, Bishop, the San Francisco Area.

J. Lloyd Knox, Bishop, the Birmingham Area.

David J. Lawson, Bishop, the Wisconsin Area.

Carolyn Marshall, President, Women's Division.

Calvin D. McConnell, Bishop, the Portland Area.

C.P. Minnick, Jr., Bishop, the Raleigh Area.

Robert C. Morgan, Bishop, the Jackson Area.

Donna Morton-Stout, Associate General Secretary, General Board of Church and Society.

Roy I. Sano, Bishop, the Denver Area.

F. Herbert Skeete, Bishop, the Philadelphia Area.

Forrest C. Stith, Bishop, the New York Area.

Melvin G. Talbert, Bishop, the Seattle Area.

James S. Thomas, Bishop, the Ohio East Area.

Jack Tuell, Bishop, the Los Angeles Area.

C. Dale White, Bishop, the New York Area.

Woodie W. White, Bishop, the Illinois Area.

Jodeph H. Yeakel, Bishop, the Washington Area.

UNITED CHURCH OF CHRIST

Rev. Avery D. Post, President, UCC/New York.

Ms. Marilyn M. Breitling, Coordinator, UCC/Coordinating Center for Women.

Rev. Carol Joyce Brun, Secretary, UCC/New York.

Ms. Beverly Chain, Director, UCC/Office of Communication.

Rev. Benjamin F. Chavis, Executive Director, UCC/Commission for Racial Justice.

Rev. Yvonne V. Delk, Executive Director, UCC/Office for Church in Society.

Rev. Scott S. Libbey, Executive Vice President, UCC/United Church Board for World Ministries.

Rev. Jay Lintner, Director, Washington Office.

Mr. Charles H. Lockyear, Director of Finance and Treasurer.

Mr. Charles Shelby Rooks, Executive Vice President, UCC/United Church Board for Homeland Ministries.

Ms. Patricia J. Rumer, Regional Secretary Latin America/Caribbean.

Rev. Reuben A. Sheares II, Executive Director, UCC/Office for Church Life and Leadership.

Rev. Robert Sherard, Moderator, UCC/Jamaica.

Rev. Jaime Rivera Soler, Executive Secretary, United Evangelical Church of Puerto Rico.

Rev. Martha Ann Baumer, Conference Minister, Illinois South Conference.

Rev. Charles L. Burns, Conference Minister, Florida Conference.

Rev. Carole C. Carlson, Conference Minister, New Hampshire Conference.

Rev. W. Sterling Cary, Conference Minister, Illinois Conference.

Rev. William Delke, Associate Conference Minister, Maine Conference.

Rev. Thomas E. Dipko, Conference Minister, Ohio Conference.

Rev. Peter B. Doghramji, Conference Minister, Pennsylvania Southeast Conference.

Rev. A. Gayle Engel, Conference Minister, Kansas-Oklahoma Conference.

Rev. Robert D. Fiske, Conference Minister, New Hampshire Conference.

Rev. Donald A. Gall, Conference Minister, Iowa Conference.

Rev. W. James Halfaker, Conference Minister, Washington North Idaho Conference.

Rev. H. Daehler Hayes, Conference Minister, Rhode Island Conference.

Rev. Clarence M. Higgins, Jr., Conference Minister, Nebraska Conference.

Rev. David Jamieson, Conference Minister, Northern California Conference.

Rev. Carroll E. Kann, Conference Minister, Connecticut Conference.

Rev. Teruo Kawata, Conference Minister, Hawaii Conference.

Rev. Carole G. Keim, Conference Minister, Southwest Conference.

Rev. Zoltan Kiraly, Bishop, Calvin Synod.

Rev. Reuben P. Koehler, Conference Minister, Missouri Conference.

Rev. Ron Kurtz, Conference Minister, New York Conference.

Rev. Murdale C. Leysath, Conference Minister, Minnesota Conference.

Rev. Philip Joseph Mayher, Conference Minister, New Hampshire Conference.

Rev. Edwin Mehlhaff, Conference Minister, South Dakota Conference.

Rev. Clyde H. Miller, Jr., Conference Minister, Rocky Mountain Conference.

Rev. D. Curtis Minter, Conference Minister, Vermont Conference.

Rev. Donald E. Overlook, Conference Minister, Penn Northeast Conference.

Rev. Ralph C. Quellhorst, Conference Minister, Indiana-Kentucky Conference.

Rev. Fred P. Register, Conference Minister, Southern California Conference.

Rev. Marwood E. Retting, Conference Minister, North Dakota Conference.

Rev. Paul B. Robinson, Associate for Justice, Southwest Conference.

Rev. Eugene Rose, Associate Conference Minister, Central Pacific Conference.

Rev. Rollin O. Russell, Conference Minister, Southern Conference.

Rev. John M. Schaeffer, Conference Minister, Montana-Northern Wyoming Conference.

Rev. Donald J. Sevetson, Conference Minister, Central Pacific Conference.

Rev. Horace Sills, Interim Conference Minister, Southeast Conference.

Rev. James Tomasek, Conference Minister, South Central Conference.

Rev. Frederick R. Trost, Conference Minister, Wisconsin Conference.

Rev. Lyle J. Weible, Conference Minister, Penn Central Conference.

Rev. Alfred E. Williams, Jr., Conference Minister, Massachusetts Conference.

Rev. Don Yungclas, Conference Minister, Michigan Conference.

Rev. Bernie Zerkel, Interim Conference Minister, Central Atlantic Conference.

ROMAN CATHOLIC CHURCH

Most Reverend Raymond G. Hunthausen, Archbishop of Seattle.

Most Reverend John J. Fitzpatrick, Bishop of Brownsville.

Most Reverend Joseph L. Imesch, Bishop of Joliet.

Most Reverend Raymond A. Lucker, Bishop of New Ulm.

Most Reverend Albert H. Ottenweller, Bishop of Steubenville.

Most Reverend John P. Snyder, Bishop of St. Augustine.

Most Reverend Walter F. Sullivan, Bishop of Richmond.

Most Reverend Donald Pelotte, S.S.S. Coadjutor, Bishop of Gallop.

Most Reverend Dale J. Melczek, Auxiliary Bishop of Detroit.

Most Reverend P. Francis Murphy, Auxiliary Bishop of Baltimore.

Most Reverend Peter A. Rosazza, Auxiliary Bishop of Hartford.

Most Reverend Nicholas D'Antonio, Vicar General, Archdiocese of New Orleans.

Most Reverend Thomas J. Gumbleton, Archdiocese of Detroit.

Most Reverend Charles A. Buswell, Bishop of Pueblo, ret.

Sr. Ann Carville, OSF, Executive Director, Franciscan Federation of the Brothers and Sisters of the United States.

Sr. Margaret Byrne, CSJP, General Superior, Congregation of St. Joseph of Peace.

Sr. Anne O'Neil, RSCJ, Provincial Superior, Society of the Sacred Heart, St, Louis, MO.

Sr. Margaret Nulty, SC, Associate Director Leadership Conference of Women Religions.

The Provincial Council of the School Sisters of Notre Dame, Baltimore Province.

Reverend Steven Tutas, President, Conference of Major Superiors of Men.

Reverend Walter L. Farrell, SJ, President, Jesuit Conference.

Reverend Alan McCoy, OFM, Executive Director, Franciscan Conference.

Reverend Howard Grey, SJ, Vice-President, Conference of Major Superiors of Men.

Reverend Roland Faley, Executive Director, Conference of Major Superiors of Men.

Luise Ahrens, MM, President of Maryknoll Sisters, Maryknoll, NY.

Patricia Johnson, OP, Overseas Prioress, Adrian Dominican Sisters, Michigan.

Barbara Karl, SND, Sisters of Notre Dame de Namur, Maryland Province.

Miriam Therese Larkin, CSJ, President, Sisters of St. Joseph of Carondelet, St. Louis, MO.

Sheila McGinnis, SCMM, Sector Superior, Medical Mission Sisters, Philadelphia, PA.

Margaret O'Shea, IHM, Provincial Councilor, Sisters Servants of the Immaculate Heart of Mary, Monroe, MI.

Janet Marie Peterworth, OSU, General Councilor of the Ursuline Sisters of the Immaculate Conception, Louisville, KY.

CHRISTIAN CHURCH (DISCIPLES OF CHRIST)

Dr. John O. Humbert, General Minister and President, Christian Church (Disciples of Christ), Indianapolis, IN.

Rev. Claudia E. Grant, Deputy General Minister and President, Christian Church (Disciples of Christ), Indianapolis, IN.

Dr. William J. Nottingham, President, Division of Overseas Ministries, Christian Church (Disciples of Christ), Indianapolis, IN.

Rev. David C. Downing, Regional Minister/President, Christian Church (Disciples of Christ), Greater Kansas City.

Rev. A. Guy Waldrop, General Minister, Christian Church (Disciples of Christ) in Kentucky.

Rev. Charles E. Crank, Jr., Regional Minister Christian Church (Disciples of Christ) in West Virginia.

Rev. Stephen V. Cranford, Regional Minister Christian Church (Disciples of Christ) of Mid-America, Inc.

Dr. Nathan S. Smith, Regional Minister and President, Christian Church (Disciples of Christ) in Illinois and Wisconsin.

Dr. Mark K. Reid, Regional Minister, Christian Church (Disciples of Christ) in Oregon.

Rev. David A. Vargas, Executive Secretary, Latin America and the Caribbean Christian Church (Disciples of Christ).

Rev. Carl R. Flock, Regional Minister, Christian Church (Disciples of Christ) in Alabama-Northwest Florida.

Dr. Margaret Owen Clark, Regional Pastor, Christian Church (Disciples of Christ) of the Pacific Southwest Region.

Rev. Cathy Hopkins, Moderator, Christian Church (Disciples of Christ) of the Pacific Southwest Region.

Dr. Eugene N. Frazier, Executive Regional Minister, Christian Church (Disciples of Christ) in Oklahoma.

Rev. Bruce L. Jones, Regional Minister, Christian Church (Disciples of Christ) in Arizona.

Rev. William Chris Hobgood, Executive Minister, Christian Church (Disciples of Christ) in Arkansas.

Dr. Howard B. Goodrich Jr., Regional Minister, Christian Church (Disciples of Christ) in Indiana.

Rev. James C. Suggs, Regional Minister, Christian Church (Disciples of Christ) in the Southwest.

Dr. Robert K. Welsh, Vice President, Council on Christian Unity, Christian Church (Disciples of Christ).

Rev. Dwight L. French, General Minister, Christian Church (Disciples of Christ) in Pennsylvania.

Rev. Frank C. Mabee, Coastal Plains Area Minister, Christian Church (Disciples of Christ).

Rev. Charles F. Lamb, Regional Minister, Northeastern Region, Christian Church (Disciples of Christ).

Dr. Jimmie L. Gentle, Regional Minister, Christian Church (Disciples of Christ).

Rev. Ralph L. Smith, Regional Minister/President, Christian Church (Disciples of Christ) Kansas.

Rev. Rolland G. Pfile, Executive for Church in Society, Division of Homeland Ministries, Christian Church (Disciples of Christ).

UNITARIAN UNIVERSALIST ASSOCIATION OF CHURCHES IN NORTH AMERICA

Rev. Dr. William F. Schulz, President.

Natalie W. Gulbrandsen, Moderator.

Rev. Dr. Eugene Pickett, President International Association for Religious Freedom.

Rev. Dr. James Luther Adams, Professor Emeritus, Harvard University.

Rev. Dr. F. Forrester Church, New York, NY.

Rev. Dr. Kenneth T. MacLean, Trustee.

Rev. Arie R. Brouwer, General Secretary, National Council of Churches of Christ.

Dr. Jane Cary Peck, Vice-President, National Council of Churches of Christ.

The Rev. Leonid Kishkovsky, Ecumenical Office, The Orthodox Church in America.

The Most Rev. Metropolitan Philip Saliba, Archbishop Antiochian Orthodox Christian Archdiocese of North America.

Dr. Edwin G. Mulder, General Secretary, Reformed Church in America.

The Rev. J. Ralph Shotwell, Executive Director, International Council of Community Churches.

Rev. Dale Bard, Conference Executive, Arkansas Conference of Churches and Synagogues.

Mr. Charles L. Jones, Executive Director, Southern California Ecumenical Council.

The Rev. John Moyer, Executive Director, Northern California Ecumenical Council.

Ms. Janine Chagoya, Program Director, Northern California Ecumenical Council.

Rev. Gilbert Horn, Executive Director, Colorado Council of Churches.

Rev. Stephen J. Sidorak, Jr., Executive Director, Christian Conference of Connecticut.

Rev. Donald E. Leiter, Executive Director, Georgia Christian Council.

Rev. James P. Ebbers, Executive Secretary, Illinois Conference of Churches.

Dr. P. Boyd Mather, Executive Coordinator, Iowa Interfaith Forum.

Ms. Roz Ostendorf, Program Coordinator, Iowa Inter-Church Agency for Peace and Justice.

Rev. Suzanne Peterson, Program Coordinator, Iowa Inter-Church Agency for Peace and Justice.

Mr. Paul Stanfield, Program Coordinator, Iowa Inter-Church Agency for Peace and Justice.

Ms. Dorothy G. Berry, Executive Coordinator, Kansas Ecumenical Ministries.

Rev. James L. Stovall, Executive Director, Louisiana Interchurch Conference.

Rev. Thomas C. Ewell, Executive Director, Maine Council of Churches.

Rev. Dr. James A. Nash, Executive Director, Massachusetts Council of Churches.

Rev. Diane C. Kessler, Associate Director, Massachusetts Council of Churches.

Rev. Dr. Gustav Kopka, Jr., Executive Director, Michigan Ecumenical Forum.

Rev. Charles W. Rawlings, Executive Director, New Jersey Council of Churches.

Rev. Dr. Wallace Ford, Executive Secretary New Mexico Conference of Churches.

Rev. Collins Kilburn, Executive Director, North Carolina Council of Churches.

Rev. Carlton N. Weber, Executive Director, Ohio Council of Churches.

Rev. Rodney Page, Executive Director, Ecumenical Ministries of Oregon.

Rev. Dr. Richard C. Brown, Executive Director, Rhode Island State Council of Churches.

Rev. Frank H. Dietz, Executive Director, Texas Conference of Churches.

Rev. Loren Arnett, Executive Director, Washington Association of Churches.

Rev. Dr. William B. Cate, Executive Director, Churches Council of Greater Seattle.

Rev. John F. Price, Executive Director, West Virginia Council of Churches.

Rev. John D. Fischer, Executive Director, Wisconsin Conference of Churches.

Rev. Joan Campbell, Executive Director, U.S. Office, World Council of Churches.

Rev. J. Graley Taylor, Executive Director, Religious Broadcasting Commission.

Rev. John Magnuson, Campus Pastor, Covenant House, University of Washington.

Fr. Elias Stephanopoulos, Representative of Bishop Greek Orthodox Church.

The Rev. Richard G. Cunningham, Minister, University Christian Church.

Ms. Mary Walton, General Secretary, Friends General Conference.

Stephen G. Gary, Chairperson, American Friends Service Committee.

Edward Snyder, Executive Secretary, Friends Committee on National Legislation.

Winifred Walker-Jones, Presiding Clerk, Baltimore/Washington Yearly Meeting.

Ruth G. Crutchley, Executive Secretary, (Acting), Baltimore/Washington Yearly Meeting.

Richard W. Taylor, Clerk, Lake Erie Yearly Meeting.

William B. Kriebel, Presiding Clerk, New England Yearly Meeting.

Mary Foster Cadbury, Clerk, New England Yearly Meeting.

Samuel D. Caldwell, General Secretary, Philadelphia Yearly Meeting.

Rev. Jim Wallis, Sojourners Ministry Editor, Sojourners Magazine.

Rabbi Eugene Lipman, President, Central Conference of American Rabbis.

Rabbi Joseph Glaser, Executive Vice President, Central Conference of American Rabbis.

Rabbi Alexander Schindler, President, Union of American Hebrew Congregations.

Al Vorspan, Vice President, Union of American Hebrew Congregations.

Rabbi David Saperstein, Director, Religious Action Center of Reform Judaism.

Eleanor Schwartz, Executive Director, National Federation of Temple Sisterhoods.

The Most Reverend Edmond L. Browning, Presiding Bishop and Primate, The Episcopal Church.

The Right Rev. John T. Walker, Bishop of Washington, The Episcopal Church.

Diana Paulsen, Executive Director, Reformed Church Women, Reformed Church in America.

Rev. Elizabeth Lunz, Associate for Women's Ministry Unit, Presbyterian Church USA.

Doris Anne Younger, General Director, Church Women United.

Sylvia Talbot, President, Church Women United.

Jean Miller, Associate Director of Women's Unit, Presbyterian Church USA.

Babette L. Hart, Executive Secretary, Moravian Church in North America.

Cornelia Swain, Cumberland Presbyterian Church.

Betty Gordon, Vice President of the Women's Division, Board of Global Ministries, United Methodist Church.

Marilyn M. Brittling, Executive Director, Center for Women in Church and Society, United Church of Christ.

Janice R. Newborn, Department of Church Women, Christian Church (Disciples of Christ).

C. J. Malloy, Jr., General Secretary, Progressive National Baptist Convention.

J. Alfred Smith, Sr., President, Progressive National Baptist Convention.

Gordon Sommers, President, Provincial Elders Conference of Northern Province, Moravian Church in North America.

Howard Housman, Chairperson, Board of World Mission, Moravian Church in North America.

Theodore Wilde, Executive Director, Board of World Mission, Moravian Church in North America.

William Gramley, Executive Director, Board of Christian Education, Southern Province, Moravian Church in North America.

John Hurst Adams, Presiding Bishop, Second Episcopal District, African Methodist Episcopal Church.

Clinton R. Coleman, Presiding Bishop, Fifth Episcopal District, African Methodist Episcopal Zion Church.

Earl R. Johnson, General Secretary, African Methodist Episcopal Zion Church.

The PRESIDING OFFICER. Who yields time?

Mr. PELL. Mr. President, I yield 10 minutes to the Senator from Iowa.

The PRESIDING OFFICER. The Senator from Iowa is recognzied for 10 minutes.

Mr. HARKIN. Mr. President, one is temped to reply to the rhetoric that has come around in like time. But the time has come to try to reduce the rhetoric now and to take a look at the recent history of Nicaragua. There are some salient facts that need to be recalled.

First, the revolution that brought the Sandinistas to power occurred in July of 1979. Nicaragua was devastated, completely laid to waste. The Nicaraguans tried to rebuild their country over the next year or so. In fact, the United States gave the Commandantes

who were running the country at that time, some hundred million dollars. That has been alluded to several times.

I remind my friends that 60 percent of that money went to the private sector and to this day no one has ever accounted for that money. Much of it, I assume, was taken out of the country by the private sector at that time.

So only 40 percent of the money went for any kind of infrastructure, health, rebuilding sewer systems, water, and other vital social services.

In February 1981, the Reagan administration began its efforts to coordinate the Contra affairs, to put the CIA in charge, and to begin the process of undermining the fragile government that was starting to form in Nicaragua at the time.

What we have is a revolution that laid the country to waste. And in less than 18 months, the Reagan administration began the process of destablizing the Nicaraguan Government.

Up until that time, in time there was still press freedom in Nicaragua, still freedom for the radios to operate, still freedom for political parties across the political spectrum to operate. It was only after the Contras began their way that the Sandinista Government began to close the political space inside Nicaragua.

In March 1982, the Sandinistas for the first time imposed a state of emergency after two bridges were blown up by the Contras in northern Nicaragua, the first big act taken by the Contras after the Reagan administration had involved the CIA in coordinating and funding the Contras.

In October 1985, the Sandinistas renewed their state of emergency after Congress approved $27 million in aid to the Contras.

To show how short our memories are, it was not June 1986 when the Sandinistas closed La Prensa. Again, it was June 1986. Not back in 1980 after the Sandinista took power, not even in 1981 after the Contras started. In June 1986, they closed La Prensa. Why and when? After the Congress voted $100 million in aid to the Contras.

There has just been this torrent of misleading information and, I might add, on the part of this administration, outright falsehoods, on the recent history of Nicaragua.

I do not mean to respond to all of the items, but I have listened to a few of them here on the floor and I would like to respond to a few of them.

I heard allegations made about sophisticated weapons in Nicaragua.

I happen to have been one of those who has been to Nicaragua several times. I have had occasion to fly out with the Nicaraguans to visit a Miskito camp. I have visited some of their military implacements. All I can say is if what I saw was sophisticated Soviet weaponry, then we can reduce our defense appropriations 50 percent and still meet the Soviet threat.

Their vehicles do not work; their airplanes will not fly.

Earlier today I heard the Sandinistas eliminated the church. I would like to have that person tell that fact to all the priests, nuns, Catholics, Methodist ministers and others who have been in Nicaragua, who have worked with the peasants there. They are unarmed, not accosted by the Sandinistas, and are still in Nicaragua operating freely in the countryside.

I heard about that the Sandinistas threatened the security of our hemisphere—the old threat to Harlingen, TX routine.

Again, if the Sandinistas are a threat to this hemisphere, we are in deep trouble. How can we be threatened by a small country the size of my State of Iowa, with less than 3 million people, with a per capita income of $600 per year?

Then I heard about the sham elections in Nicaragua. Well, they were certainly not the best elections ever held, but in 1984 the Sandinistas received 65 percent of the vote. The opposition got 35 percent. If this is a sham election, they sure do not know how to operate a sham election if all they can get is 65 percent of the vote.

There were international observers for the elections and of all the accounts I read the observers concluded that they were basically fair elections in Nicaragua in 1984.

We have had some recent elections in Haiti. Has anyone said they were fair and open? About the biggest sham in elections you can see just occurred in Haiti but I do not see this administration urging that Contras be sent into Haiti.

In the 7 years of the Contra war, some 40,000 Nicaraguans have been killed. Over $17 million is still missing from the $27 million "humanitarian" aid package we approved in 1985. The GAO says they cannot account for $17 million.

I personally tried to investigate a couple of years ago, to try to wade through the data to find where that $17 million went. Missing bank accounts, money going to the Cayman Islands. We try to make sure we account for our taxpayers dollars, but here is $17 million that no one can account for. Where is it? Swiss bank accounts?

Yet now we are to throw even more money to the Contras.

Last fall, in my talks with President Arias, a few things became clear to me. He said the United States was taking the military route in Central America and in doing so alienating itself from the rest of Latin America.

Quite frankly, what I think the Arias peace plan does and what President Arias himself was doing was really saving us from ourselves. As he pointed out, the Contras are part of the problem, not the solution. And I would submit, Mr. President, that President Arias is probably one of the best friends that the United States has ever had in Latin America in protecting the long-term interests of the United States in Latin America.

Mr. President, in the Atlanta Constitution on Friday, January 29, there is an article by William E. Colby, the former Director of the CIA, and his reason on why we ought to stop Contra aid. I believe it is a well-reasoned and logical statement on how we can best meet the three threats to our security in Central America. I ask unanimous consent that this article be printed in the RECORD.

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

FOR THE SAKE OF UNITED STATES AND CENTRAL AMERICAN SECURITY, STOP AID TO THE CONTRAS

(By William E. Colby)

As they prepare for next week's showdown vote on contra aid, many congressmen are, with good reason, posing a fundamental question: Is U.S. and Central American security better served by aid to the contras, or by stopping it? The answer is simple; by stopping it.

Nicaragua poses three potential security threats to the United States and the region. At best, the contras are irrelevant to these threats. At worst, they exacerbate them.

First, although tiny Nicaragua's military power does not and cannot in itself threaten the United States, a direct threat to U.S. security could arise in Nicaragua if that country were to provide a platform for *Soviet* military power—missiles, submarine bases, and the like. This possibility deserves to be taken seriously (although Nicaraguan defector Roger Miranda Bengochea disclosed that the Sandinistas and the Soviets have not discussed the subject and have no plan to do so).

But the reality is that if the Sandinistas should be foolhardy enough to permit the Soviets to establish bases on their soil, the contras could do nothing to prevent it, even if we doubled their size. If the contras have any effect at all, it is to *increase* Sandinista incentives to commit the Soviets to Nicaragua's defense by providing the Soviets with such facilities.

Unlike the contras, the United States does have the ability to prevent this eventuality. WE—not the contras—can and should obtain Soviet and Nicaraguan agreement to keep the Soviets out of Nicaragua. We—not the contras—can and should make it clear that we possess and will employ the military might to eliminate any direct Soviet military threat emanating from Nicaragua.

But we must offer them both some incentive to accept such a deal. Stopping aid to the contras is exactly such an incentive, removing any need or justification for them to refuse it.

The second possible threat that Nicaragua poses is that of conventional military aggression against its Central American neighbors. Military experts agree that Nicaragua does not currently pose such a threat. Nor do Miranda's disclosures suggest an intent to build one; the force he reported is a mili-

tia, to defend Nicaragua against American attack.

Nicaragua does not possess the capability to project military power beyond its borders for any period of time. Its Korean War-vintage tanks—which are older than the people who drive them—are inappropriate for the terrain that the Sandinistas would encounter in an invasion.

But in the event the Nicaraguans attempt overt aggression, the contras cannot provide the defense. On the contrary, the contras constitute, if anything, an incentive for Nicaragua to invade Honduras, since that is where their bases and their sources of supplies are.

The argument that the contras tie down the Sandinistas and keep them from invading their neighbors does not hold water. If the Sandinistas are thinking of invading anyone, what constrains them, beyond their lack of offensive military capability, is the United States. In the event of an invasion, we would have every right, under the collective-security provisions of the inter-American system, to respond to a request of the victim for assistance, including U.S. forces, in repelling the invasion. And there would be bipartisan support in Congress for this action.

The third—and more serious—security threat that Nicaragua poses is that of subversion of its neighbors. Here, too, the contras are part of the problem, not part of the solution. Central America's presidents have launched and sustained their peace process out of a conviction that their societies are only destabilized by the conflicts raging in the region.

The contras do nothing to protect Nicaragua's neighbors against subversion. On the contrary—as Costa Rican President Oscar Arias has recognized—involvement with the contras weakens the authority of the other Central American presidents to keep the pressure on the Sandinistas, and gives Nicaragua an excuse for hedging its compliance with the peace plan. A verification commission led by the five presidents can work against a violator only when the others have nothing to hide, as the Hondurans do as long as they house the contras.

We will begin effectively to insulate Nicaragua's neighbors against subversion when we help build successful, prosperous, democratic societies. Programs of political, economic and social development are the real barriers against subversion. Continued Central American wars divert our energies and make this impossible; that is what drove the five presidents to Guatemala last August.

In short, our contra policy works against all three of our security concerns with respect to Nicaragua. We further our security interests through verifiable agreements with Nicaragua and its patrons backed by U.S. power, and by helping Central Americans create the conditions for democratic development.

The contras could help us more as a political movement within Nicaragua than as a paramilitary one assaulting its borders. Congress should stop the present program as counterproductive.

Mr. HARKIN. Mr. President, we are told that we should give Nicaragua this $36.25 million. Now we know it is closer to $60 million when you add the $27 million for air defense and leasing aircraft. On an annualized basis that is $108 million, more than any other aid package ever approved for the Contras. But how much have we already given the Contras? The best we can figure, since the Reagan administration started in 1981, we have given the Contras over one-quarter of a billion dollars in aid, one-quarter of a billion dollars.

Well, it is tax time, Mr. President. Americans across this country are beginning to fill out their tax forms. They are beginning to see what Uncle Sam takes out of their checks they work so hard to get. Do you know what they are hearing from us? They are hearing we do not have any money for education; we have to cut back. We do not have money for a meaningful day care bill that the Senator from Connecticut has pending. We do not have money for parental leave. We do not have money to meet some of the needs of our elderly citizens; we have to cut back. But, boy, we have $60 million more, or $108 million on an annualized basis, to send to the Contras. We need that money in this country more than we need it for the Contras. Then you look and see what the directors are making. I wonder how many people in this country know that Adolfo Calero, the head of the directorate for the Contras, is getting around $7,000 a month tax free from the people of this country, $7,000 a month tax free. And not only is he getting that, the other directors of the Contras are getting it, too. Just ask yourself, if you are getting $7,000 a month tax free, do you want to sit down and negotiate with the Sandinistas? Heck no. Keep the pipeline open. Keep the Contras active. And they continue to get this money. No wonder they do not want any agreement.

And then, Mr. President, we see in the paper that the United States is going to give this defector $800,000. This is in the paper today.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. HARKIN. I ask for 2 more minutes.

Mr. PELL. I yield 2 more minutes to the Senator from Iowa.

Mr. HARKIN. "U.S. to Give Defector $800,000." This is Col. Miranda Bengoechea, who defected from the Sandinistas and came up here—I might also add, a guy who could not even pass one lie detector test.

Now, here it is. He is going to receive a lump sum of $500,000, plus $75,000 in resettlement aid and a 5-year contract worth $45,000 annually, all from the President's contingency fund. Well, it is taxpayers' dollars.

Mr. President, I ask unanimous consent that this article be printed in the RECORD.

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

[From the Washington Post, Feb. 4, 1988]

U.S. TO GIVE DEFECTOR $800,000

(By Tom Kenworthy and Don Phillips)

Roger Miranda Bengoechea, a former top aide to Nicaraguan Defense Minister Humberto Ortega who has become one of the United States' most valued defectors, is to receive $800,000 from the U.S. government in rewards, resettlement assistance and a contract for unspecified services, congressional sources said yesterday.

The amount is more than the Central Intelligence Agency generally pays high-level defectors, apparently reflecting U.S. delight with the defection Oct. 25 and his performance since then.

Other defectors have received more than $600,000 in lump payments or lifetime annual stipends, according to published reports, and some will receive considerably more, depending on how long they live. Many have been given far less.

Miranda, 35, defected on an official trip to Mexico City leaving his former boss aboard Nicaragua's version of Air Force One.

Humberto Ortega later called Miranda a "little worm" and said he was the "most important betrayal" in the seven-year history of Nicaragua's leftist Sandinista regime. Since then, Miranda has appeared at dozens of interviews and news conferences orchestrated by the State Department to denounce the Sandinistas.

According to the sources, Miranda is to receive a lump sum of $500,000, plus $75,000 in resettlement aid and a five-year contract worth $45,000 annually, all from the president's contingency fund. The sources said they do not know what services he is to perform under the contract.

An administration official confirmed the payment's general outlines but said the financial agreement is tentative and could differ slightly from figures given by congressional sources.

The House and Senate intelligence committees have been briefed on the agreements, and members of the traditionally close-mouthed panels would neither confirm nor deny the payments.

A major question is whether Miranda was offered the payment before or after his decision to defect. A State Department official insisted that Miranda did not know how much he would receive until Jan. 5, several weeks after he began his round of U.S. interviews.

"I can say categorically he was not contacted and did not contact any U.S. officials in Nicaragua," the State Department official said.

The official said that he could not confirm the amount of the settlement but that it is a "standard resettlement package" that would give Miranda a standard of living "roughly comparable to that he would have enjoyed in his country of origin."

High-ranking defectors generally can count on receiving $300,000 to $400,000 in various forms of compensation, although some particularly valued defectors received more.

Arkady Shevchenko, a Soviet diplomat who defected here in 1978 as U.N. deputy secretary general, reportedly received a $60,000 annual stipend. Former KGB officer Yuri Nosenko, who defected in 1964, reportedly was given a lump sum of $125,000 and more than $500,000 in consultant fees and other payments.

Miranda, who had access to high-level military and government secrets as Humberto Ortego's personal secretary, has al-

leged that the Sandinistas plan to use a regional peace plan as a cover to consolidate power and defeat the contra rebels.

Mr. HARKIN. Here is this guy getting $800,000. I thought he defected to come to freedom, to get away from this repressive government that he alludes to in Nicaragua to come to freedom. Is this the message we send, that anyone who leaves Nicaragua, leaves the Sandinistas, we will give them $800,000? Is that what we are saying? How much money is it going to cost to say to every person who leaves a Communist country to come to America, "Oh, we will give you $800,000 or $500,000," depending I suppose on how high ranking you are. I dare say we better look out, Mr. President. We are going to have a lot more Nicaraguans in the United States than we ever thought about if we start giving them $800,000.

Mr. President, I want to close by reading one of my favorite quotes from Walter Lippmann, who wrote the day after the Bay of Pigs:

> A policy is bound to fail which deliberately violates our pledges and our principles, our treaties and our laws. The American conscience is a reality. It will make hesitant and ineffectual, even if it does not prevent, an un-American policy.

It is time that we have learned the lessons over the past 7 years and begin to shape a new policy, a bipartisan foreign policy that will address the real issues not only in Nicaragua but all of Latin America—poverty, social injustice, and the need for economic development for the lowest of the lowest classes of people throughout Latin America. That is a policy we can all support. That is a policy in the long-term, best interests of the entire hemisphere.

I yield back my time.

The PRESIDING OFFICER. Who yields time?

The Senator from Arizona.

Mr. McCAIN. Mr. President, I yield 7 minutes to the Senator from Indiana, Mr. QUAYLE.

The PRESIDING OFFICER. The Senator from Arizona has 5 minutes remaining to yield.

Mr. McCAIN. Mr. President, I ask unanimous consent to be allowed to control the remaining time for my side.

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

The Senator yields 7 minutes to the Senator from Indiana.

Mr. QUAYLE. I thank my friend from Indiana.

Mr. President, a number of Senators have quoted President Arias, and I believe that he is a good, honest, decent man. President Arias has said, Mr. President, that we cannot have peace in Central America unless we have democracy. We cannot have peace in Central America unless we have democracy.

Now, as we contemplate the issue before us, do we really believe that Daniel Ortega, who is a dedicated Marxist-Leninist, wants to see democracy? Do we really think that Daniel Ortega is interested in pluralism? Do we really believe that he wants to see democracy come to his country?

I dare say that is not the case, and I do not believe anybody will come up and say that Daniel Ortega wants to see democracy come to his country. Yet President Arias has said if we want to see peace in Central America, we must have democracy.

There has never been a Marxist-Leninist leader who has been interested in democracy. What we are seeing is a classic Lenin move where you take one step forward and two steps back. You do not take your eye off the objective of a totalitarian state that wants to expand beyond its borders and be a threat to its neighbors. To achieve that objective, you may, as Lenin said, have to take two steps backward and, as Lenin said, you have to use technical flexibility to achieve your objective.

We know what Ortega's objective is, and yet we are on the verge—and it happened last night—of helping him achieve that objective because the House of Representatives cut off aid to the freedom fighters and resistance in Nicaragua.

Why do you think Daniel Ortega is having to take two steps backward? It is because of the resistance in his country, where you have 15,000 to 20,000 people in that country who want to see a change, who want to see democracy, who want to see a little bit of freedom. Yet, what happened yesterday is that this Congress rejected the advice of the President of the United States, rejected the advise of the Secretary of State, rejected the advice of the Secretary of Defense, rejected the advice of the Chairman of the Joint Chiefs of Staff, rejected the advice of the Deputy Chairman of the Joint Chiefs of Staff, rejected the advice of the Chief of Staff of the Army, rejected the advice of the Air Force, rejected the advice of the Navy, rejected the advice of the Chief of Staff of the Marine Corps but accepted the advice and the recommendation of Daniel Ortega to vote no on this aid package.

So we now have a situation where the Congress is now going to be running this foreign policy endeavor. When the Congress has contradicted the President, the Secretary of State, the Defense Secretary, and all the Chairmen of the Joint Chiefs of Staff, you cannot show me a place in history where Congress inserted its judgment for those people's that the Congress has been proven to be right in the long run. No, Congress is not doing what is right. It may be doing what is political but it is not doing what is right. Let us look at what is happening down there.

A recent Rand report said this, that the Nicaraguans, Sandinista leadership, and I quote "* * * is moving methodically to becoming a Soviet client." That is the Rand report. That is not a report by the Department of Defense, Secretary of State, or the President. That is the Rand Corp. report.

I would say that they actually go beyond being a client state. Let us face it, Nicaragua is an occupied state. You have 2,000 Cubans and Soviets that are down there advising. You have Bulgarians. You have East Germans. You have people from all over the Communist world that want to see this totalitarian dictatorship succeed.

You have Soviet economic and military aid—$2.3 million a day, Mr. President. We have heard the Sandinista military 5-year plan to go to 600,000. They are building a 10,000-foot runway, the largest in Central America. They have been promised Mig's. Nicaragua has a very strategic location because its ports will not only allow the Soviets the Atlantic and Caribbean but also for the first time the Pacific.

As we decide in the House of Representatives to cut off the aid to the Contras, we ought to think about what this is going to do if in fact Ortega is able to consolidate his power. We ought to have, and Congress better know, the responsibilities it is going to have to face up to by these decisions in the future.

It has been estimated that if we cut off aid to the Contras and if we want to contain the expansion of Ortega, once he decides to continue his revolution outside his border—right now he is contained inside, but once he consolidates power and wants to go outside, it is estimated by the U.S. Department of the Army that there will be 100,000 troops. The Navy might have to dedicate a carrier, and the Air Force a squadron of planes. Do we want to do that? That is what the Congress is saying. Do we want to pay for that? That is what the Congress is saying by cutting off the Contras. That is what it is going to cost in terms of real money and real military effort. And we do not need to see that we have people there that want to help themselves.

The PRESIDING OFFICER. The Senator's time has expired.

Who yields time?

Mr. BYRD. I yield the floor.

Mr. MURKOWSKI addressed the Chair.

Mr. PELL addressed the Chair.

I yield 10 minutes to the Senator from Hawaii, Mr. MATSUNAGA.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. MATSUNAGA. Mr. President, I rise in strong opposition to the President's request for $36 million in further lethal and nonlethal assistance to the Nicaraguan Contras. If my calculations are correct, on a monthly basis, this amount is three times the rate of aid currently being provided to the rebels. Counting funding for aircraft leasing and electronic countermeasures equipment, the total aid package could amount to as much as $68 million. This is on top of the millions of dollars worth of stockpiled weapons and supplies in previously authorized assistance which the President can release after the March 31 Presidential certification date.

Mr. President, I have taken to the floor on other occasions to express my opposition to Contra aid. My reasons were several.

First, I did not believe that a ragtag band of 12,000 assorted terrorists, criminals, and ex-Somocistas could exert significant military pressure on the Nicaraguan Government. Indeed, I feel it likely that Contra attacks would only strengthen the Sandinistas' resolve to crush the rebels, continue authoritarian rule over the country, and solicit more aid from the Soviets.

Second, the administration's Nicaragua policy flagrantly violated international propriety, custom, and law. Instead of encouraging a climate of international cooperation, we ignored a World Court ruling concerning the illegality of Contra aid by our continued support of a small rebel force bent on overthrowing a government with which we maintain diplomatic relations.

Third, rather than engaging in a peaceful dialog with the Nicaraguan Government, the administration sought to undermine every diplomatic initiative with military solutions to the Nicaraguan conflict.

Fourth, continued U.S. involvement in Central America threatened to draw American troops into an unjust war. As we experienced in Vietnam and the Soviets have realized in Afghanistan, we would find ourselves on the losing end of an interminable war of attrition.

All these reasons still remain, Mr. President. But now we have additional reasons to oppose the administration's request. For the first time, since the conflict began, a comprehensive, realistic framework for regional peace is on the table. The Arias plan, first espoused last August, provides for a cease-fire between warring parties among the Central American nations, a general amnesty for political prisoners, a halt to all outside aid to insurgents, renunciation of each Central American nation's territory as a staging area for armed struggle against any of the other nations, negotiations between government and rebel groups, and a series of democratization measures culminating in open, free elections.

Mr. President, although the plan experienced a rocky start, and not all of its provisions have been fully complied with, the Central American Presidents' meeting 3 weeks ago placed it firmly back on track again. At that meeting, rather than making concessions to the Sandinistas, the Presidents of Costa Rica, Honduras, Guatemala, and El Salvador refused to entertain any more delays in implementing the terms of the peace process.

Their resolve, coupled with the sincerity of their commitment to a nonmilitary solution to regional conflict, has elicited major, conciliatory gestures from the Nicaraguan Government, including the lifting on January 20 of the state of emergency, a promise of amnesty for thousands of political prisoners if a cease-fire can be effected, and an agreement to enter bilateral negotiations with the Contras for a cease-fire.

President Reagan insists that aid to the Contras is an insurance policy in the event that the Nicaraguan Government reneges on these concessions. The President is convinced that the Contras are the primary reason why the Sandinistas have come to the bargaining table. I disagree.

The Contras, despite $270 million in U.S. assistance, have not achieved any significant military victories in all the years they have been in the field. They lack the leadership, the troops, and most of all the popular support intrinsic to such victories. If the Contras have exerted any pressure on the Nicaraguan Government, it is of the sort that would drive it away from negotiations, and the kind with which we should not be associated. I refer to the innumerable Contra atrocities committed against innocent civilians and the great hardship endured by the common people of Nicaragua as a result of the Contras' disruption of the economy. No, Mr. President, the reason the Sandinistas have agreed to negotiate is that they have seen the viability of the Arias plan itself—an initiative developed solely by and for the Central American nations—and the firm resolve the Central American Presidents have displayed in their commitment to the terms of the plan.

Mr. President, the Arias plan presents the finest opportunity for a satisfactory end to the conflict in Nicaragua and in the other Central American countries. We should do our part to carry out the Nobel Peace Prize-winning plan by putting an end to Contra aid—and in so doing acknowledge the right of the peoples of Central America to determine their own destinies. We must relinquish the administration's morally, legally, politically, and militarily bankrupt policy and demonstrate to the world and ourselves that statesmanship, reason, and adherence to democratic principles are yet alive in the councils of government.

Mr. President, I urge my colleagues to oppose the administration's Contra aid request.

Mr. McCAIN. Mr. President, I yield 5 minutes to the Senator from Alaska [Mr. MURKOWSKI].

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. I thank the Senator.

Mr. President, much has happened in the Central American region since Congress voted early last session to raise $30 million in humanitarian aid for the Contras, but it is clear that today the Contras have become an important part of the peace process in Nicaragua.

It will be recalled that earlier the Sandinistas insisted that the United States be a part of the peace process, that there was absolutely no room for the Contras. This is obviously a substantial change and one of the benefits of the peace process that we hope will be successful.

The presence of the Contras, I am convinced, provided leverage which has caused President Ortega, for the first time in 9 years, to take action which can return a small measure of democracy to Nicaragua—and I say small.

The strength of the Contras has contributed to the working out of the Arias peace plan by forcing the Sandinistas—forcing the Sandinistas—to deal with them.

In that respect, the action of Congress just before Christmas to continue humanitarian aid has had a very salutary effect on this situation.

Make no mistake about it: It has been expressed time and time again before this body today that Ortega is under great pressure. The Contras remain strong; they remain a challenge to his grip on Nicaragua. He is under pressure from his neighbors to observe the various points of the peace plan.

Finally, the Nicaraguan economy is in shambles—and this is important, Mr. President. Inflation is going out of sight. Ortega is now a man without excuses. The prospect of a vote in Congress for more Contra aid has really forced him to take actions in the last few weeks that he clearly would not have taken. By simply planning a vote on Contra aid, we have advanced the peace process, and that is to the credit of Congress.

I view this measure before us as one essentially providing for humanitarian assistance to the Contras, in an effort to keep them a viable bargaining force in negotiating peace in the region.

The measure does not release military aid. It holds it in reserve, and the President would ask Congress for a

resolution if a cease-fire is not in place.

The argument over whether the Contra's military activities have or have not contributed to advancing the peace process in Central America is a painful one, and many Americans have strong views on it. I get them from my constituents, and it is not a subject on which people are neutral.

I have long said that our principal goal in Central America should be to remove Soviet influence there. Frankly, the administration did not have a clear goal in mind earlier in this process, but it does today. An important aspect of the President's proposal is that it makes, as I suggested a year ago, "an end to Soviet, Cuban, and other Communist-bloc military and security assistance to, advisers in, and the establishment or the use of bases in Nicaragua." A goal of American policy.

This specific policy objective needs to be enshrined in law.

Over the years, the Soviets have provided five times the military aid to Nicaragua that we have provided to the Contras. It is the Soviet military intervention that has transformed an internal conflict into an international conflict, a global conflict which has directly threatened the security of our hemisphere.

As long as Nicaragua is conducting, at Soviet expense, a military buildup far beyond its own defensive needs, then the United States must continue to exert its influence, because, after all, this is our hemisphere.

We must focus our attention on the best way to pursue the peace process and to pursue what must be our main objective, and that is to remove, as a priority, the Soviet and Cuban threat from Nicaragua.

According to our Constitution, as we know, foreign policy decisions are the responsibilty of our President, with the consent of Congress. Unfortunately, in this year, a Presidential year, partisan politics is short-circuiting the decisionmaking process.

After last night's action in the House, it is clear that those who control Congress, my friends—many of them are here today—now assume the responsibility for our Nation's role in Central America.

Make no mistake, Mr. President, the success or failure of their efforts will be measured on their watch.

The PRESIDING OFFICER (Mr. CONRAD). The time of the Senator has expired.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent for an additional 1 minute and 30 seconds.

The PRESIDING OFFICER. Who yields time?

Mr. McCAIN. I yield the Senator an additional 2 minutes.

Mr. MURKOWSKI. I thank the Senator from Arizona.

Mr. President, the measure that is before us is the only tool we have at the moment. Given the procedural posture we are in, the measure cannot be amended. While some in this body may question parts of this package, the President has indicated that Congress should be directly involved in releasing further aid, if needed.

However, on balance, I think this measure has contributed and will contribute to weakening the Soviet hold on Nicaragua and will advance the cause of peace.

Mr. President, things go full circle around here, as we all know, as we reflect on the $32 million package of humanitarian aid that was defeated in the House. Yet, now we are told about the possibility of forthcoming legislation for further humanitarian aid, perhaps a partisan package.

As we reflect on the reason why the participants in the Arias peace plan will not stand up and be counted, we have to recognize the rationale. They do not know whether America is going to be consistent, whether America is going to stand tall, or whether, indeed, they are going to be faced with the withdrawal of the American influence and the might of the Sandinista military capability, which far exceeds that of all the Central American countries put together.

So, as we reflect on the public utterances coming from those who speak for the people of Costa Rica, Honduras, Guatemala, and El Salvador, we have to recognize that they are looking to the United States; and they do not know, from our track record, whether we are going to be here today and gone tomorrow, as reflected by the type of debate that is going on here, not knowing whether they are going to be left with the threat of the Sandinistas who have the capability to run all of Central America, and those who predict that as a factual reality have to reflect indeed on what obligation this Congress would initiate to stop that threat if indeed this occurred.

I thank the Chair, and I thank my colleague from Arizona for the additional time.

Mr. BYRD. Mr. President, while the distinguished Republican leader is on the floor and other Senators, I think we have been able to agree on the time of 9 o'clock for a vote, and we have shepherded this around on the telephones and so on.

I ask unanimous consent that the vote on the resolution occur at 9 o'clock p.m.

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

Mr. BYRD. Mr. President, I hope that our respective Cloakrooms will get out the word. This gives all Senators 50 minutes advance notice, and no Senator should miss this vote if he is in town.

I yield to Mr. PELL. Whatever time I have he can use.

Mr. PELL. Mr. President, I yield 10 minutes to the chairman of the Western Hemisphere Subcommittee, Senator DODD.

The PRESIDING OFFICER. The Senator from Connecticut is recognized for 10 minutes.

Mr. DODD. Mr. President, first of all, let me thank my colleague from Rhode Island and commend him.

Mr. BYRD. Mr. President, will the Senator let me ask for the yeas and nays?

The PRESIDING OFFICER. Is there a suffcient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. BYRD. I thank the Senator.

Mr. DODD. Mr. President, first of all, let me commend my colleague from Rhode Island. Today this has been, we have stayed on the floor over the last 5 or 6 hours or so to go through this discussion here once again of the Contra aid program, which we have been through on countless occasions.

I will try not even to take the 10 minutes. My colleagues on both sides of the aisle have been patient. In the past when this issue has come up I have expressed my views. They are well known I think to both sides how I feel about it.

The bottom line here today, Mr. President, regardless of all the speeches that have been made, is that this particular request by the President has been rejected. This vote that will occur at 9 p.m. now will be a vote that will have less effect, quite honestly, than a Senate resolution. It has no binding legal effect whatsoever. The $36 million plus $20 million plus $7 million in aid that the President has requested under the terms of the agreement has been rejected by the vote cast last evening in the other body.

So we are going through the motions here today, a lot of the same speeches being given, the same intensity being expressed.

In fact, to quote the axiom, this is a lot of sound and fury, signifying nothing, in effect, despite the outcome of the vote.

Mr. President, I am always envious of those who speak with such certainty about their views in matters as complicated as this one. I would like to be able to stand before my colleagues and tell them that I am absolutely certain that if you follow the path that I have suggested, I will guarantee an outcome. Most of those people, I think, here who have listened to me know I have never made that statement. I do not know. I always said I hoped I was right. I was never absolutely sure I was.

For those who will stand before you and tell you that absolutely if you cut out this program, absolutely the following two or three or four or five things will occur, I can only say that I envy that certainty. There is not anything certain in this kind of business at all.

All we can do is make choices from time to time about courses of action that we hope will make the most sense for our country and for our allies. That is all we can do.

So today with the decision made last evening in the House at least temporarily we have made a choice to try to give the Arias plan a chance to work. I suspect over the next 2 or 3 or 4 weeks, before we will vote on this once again and we will hear the same speeches and the same intensity and the same certainties expressed by our colleagues, that we will have a better sense of where things are headed in Central America and hopefully be in a better position to make a decision about which course of action to follow.

In fact, this evening, if I could urge anything at all upon my colleagues and the administration, in light of what has occurred in the last 24 hours with the votes taken in Congress, it is to have some patience over these next few weeks before we start crafting alternatives and proposals and plans. It might be in our interest, as it is from time to time, not to do anything but to maybe think about some alternatives and let us see what happens over the next few weeks. The Contras are not going to go away. Nicaragua is not going to all of a sudden transform itself into Costa Rica. The Arias plan is alive and well. Let us see what happens with it. That is my advice whatever that advice may be worth.

I hope that is what will occur. I am hopeful that at the end of that period of time, we will see continued progress and see the Arias plan working. I hope I am expressing the views of my colleagues, regardless of the speeches they have given today, that they will wish for the same outcome, that this plan will be working.

So despite the vote, which I believe the administration side will prevail narrowly, will be divided almost 51 to 49 or 52 to 48, hardly a vote of confidence for anything, the net effect, the bottom line is here we are going to get a little time to see how this will work.

Let me make just a couple of observations, if I can, however, about some of the statements. I do not happen to believe, despite some of the speeches, this issue is really about democracy, unfortunately. We have heard in the past from some of the same people today urging a metamorphosis in Nicaragua in 160 or 180 days, the same people who urged on this body only within the last decade that we have patience in South Korea, because quite frankly, they needed more time to democratize. We heard of it in the Philippines, Taiwan, and South Africa. We heard it during the Somoza regime, give them a little more time, that they are going to democratize, in Guatemala, Paraguay, Argentina under the junta, and Chile, and Panama under Noriega. Countless times, we have heard for patience, let us see if they do not improve with a little more time.

Mr. President, I would be neglectful if I did not point out that many people on my side during those same debates have insisted upon democracy immediately in every one of those countries.

In our own country from time to time things have occurred that none of us are very proud of. During a civil conflict 120 years ago, one of the most distinguished, if not the most distinguished, Presidents of this country abandoned habeas corpus. He arrested press people in this city who were critical of the Union effort. And only a couple of decades ago we incarcerated an entire ethnic group of people prior to World War II, because we were frightened of what might happen here.

None of us are suggesting those things are things we would agree with today at all.

I cannot think of a single conflict, a civil conflict, in the world, were during that civil conflict, you have seen a liberalization. It just does not happen.

I am not apologizing or suggesting that Nicaraguans are right in doing that, but I know of no historical precedent where a nation involved in civil conflict liberalized and opened up its doors. It happens to be an ugly fact of history. It is the case today.

But nonetheless we are seeing some change, some progress, whether or not the Contras got the Nicaraguans to the table last August or not. Those who support it argue vehemently they did. Those who support the Arias plan and believe that effect we can debate that issue ad nauseum to no successful final result where one side wins or loses. The fact of life today in February 1988 is that they have signed an agreement. They are there.

I have heard my colleagues around here today quote a President who suited their side, quoted others who suited that particular point of view, quoted a Latin leader or the place they visited and talked to. I suspect, as my good friend from South Carolina will say, I spent too much time in that region. I suspect I probably talked to more of those people than probably anybody over the last 5 or 6 years. I would be the last one to stand here and tell you exactly how Oscar Arias feels tonight or Vinicio Cerezo or President Azcona or President Ortega or anyone else in that region, and I have listened to them for countless hours.

So I am not going to try and pretend I know what is in their minds at every single moment and what they would be doing if they were on the floor of the Senate tonight. This much I do know: they signed an agreement on August 7. The agreement is in pretty clear, plain language. It commits them to a process to try and restore some stability, peace, and democracy in the region through a process that they desire. That is clear. Regardless of whatever else they may have said along the way, that much is clear. And that particular proposal says, "Let's try this route." And that is really all of us on this side or those who have taken this position have argued for.

So tonight in this debate, which does not mean anything, my plea would be that we now take some time. Let us look at the next step. Let us watch what happens over the next few weeks. Speaker JIM WRIGHT has indicated they are putting together an alternative proposal over there that they hope will make some sense. I would encourage my colleagues, regardless of where they stand on this, to look at what he is offering. See if we cannot make some constructive suggestions to all of that and then see if we cannot maybe put together something that will make some sense.

With all due respect to the President and those of his advisers, I, unfortunately, think there are those around him who see this issue as some sort of theological question.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. DODD. Mr. President, I ask for 2 additional minutes.

Mr. PELL. I yield 2 additional minutes to the Senator from Connecticut.

Mr. DODD. That this is, as I said, some sort of theological question of absolute certainty. I also happen to know there are people around the President who are far more practical and pragmatic about this question. I know there are many colleagues today who will support this request who have urged the President to follow a different course of action, who urged, as some of us did, that we not have a vote this week, either in the House or here in the Senate; that certainly waiting for 30 or 45 days was not going to bring an end to everything.

So I know that in many ways those that will be voting tonight in favor of this program would have far preferred an alternative to the package that is this convoluted package that has been rewritten hourly in order to pick up some votes.

So I hope, Mr. President, that tonight when we finish this debate at 9 o'clock and we take a week off from here that we will come back and cooler heads will prevail and that we can start to move away from this intensity that people seem so certain of in their

views, give it a little time, and see if we cannot come up with some alternatives that make sense on this and start to serve our interests and our allies' interests in the region.

Again, I do not say that with any certainty, and I want to emphasize that tonight.

For those who are absolutely certain on their views, again, I envy you. I am not. I absolutely do not know if what I have said is right. All I can tell you is what I think, based on some time there, that will produce the best results for my country, not for Nicaragua, El Salvador, Honduras, Guatemala. I care about them, but my interest is for my country.

So I hope we will give this some time to see it worked out and come up with some alternatives and get about the business to start constructing some intelligent foreign policy.

Mr. McCAIN. Mr. President, I yield 10 minutes to the distinguished Republican leader, Senator DOLE.

The PRESIDING OFFICER. The Republican leader is recognized for 10 minutes.

Mr. DOLE. Mr. President, I thank the distinguished Senator from Arizona and all the others. I have been listening to the debate off and on. I happen to think the House of Representatives last night made a very grievous mistake. I think that mistake sends the wrong signal to Managua, to Moscow, to Havana, and everywhere else where people are struggling for their freedom and, in some cases, looking to us for leadership and support; a mistake which has undermined, not improved, the chance to achieve peace and freedom in Central America.

Now, we cannot undo that vote in the Senate. But at least we can send our own signal. We do not have to compound it.

So I think we must do a couple of things. First, we must pass this resolution. We must send our own signal to Ortega and his crowd in Managua—and Gorbachev and his crowd in Moscow. They must understand that many of us are not willing to abandon the freedom fighters, or the cause of freedom, in Central America. We have lost this round. But we have not given up.

And let me add this personal note: As a private citizen, as some one who has fought to defend the freedom of my country, and as someone who cares deeply about the freedom of all people: I intend to lend my personal efforts to find ways—legal ways—and I underscore "legal ways"; totally above board ways—for private Americans who feel as I do to show their support for the freedom fighters in Nicaragua; and to make certain that their vital effort in Nicaragua can be sustained.

The House of Representatives, by a narrow margin, has decided it will not support the freedom fighters; but I believe millions of private Americans will join me in making individual contributions to this vital effort.

Second, we must be sure that this House Democrat "surprise package" that we keep hearing about but never see—that any such package is more than a sham and a fig leaf, to cover up the abandonment of the Contras.

If the Contras are going to represent any kind of effective pressure on the Sandinistas, at a bare minimum, they will have to be able to remain in the field; with a reliable supply line, under American Government control; and able to defend themselves from attack or initimidation by the Sandinistas.

Let me serve my own personal notice: I will vote against, and work against, any package—that, under the guise of humanitarian aid, or keeping the Contras alive, will actually force the freedom fighters out of Nicaragua; and actually leave the Communist Sandinistas in uncontested control of that country and its people.

Mr. President, a good friend of mine over in the House, Congressman CONNIE MACK of Florida, pointed out something very interesting during their debate. He noted that, in the President's speech Tuesday night, he used the word "freedom" 10 times—but in the Democrat response, the word was not mentioned at all.

Congressman MACK was not suggesting, nor am I, that the democratic opponents of Contra aid are any less dedicated to freedom than we are. I do not challenge the sincerity of their belief that the votes they cast were votes for freedom and peace.

But I do believe the observation that Congressman MACK made does suggest an important difference in perception between the President and those of us who stand with him on this issue: and those on the other side.

The President has made every reasonable effort; gone many extra miles—to respond to legitimate concerns in Congress, and to work on a cooperative, bipartisan basis with the House democratic leadership.

I can only express my own deep disappointment that some on the House side have not met the President half way—that is all he asked, half way—have not even been willing to take the hand of cooperation he offered.

I can only express my concern that, instead of supporting the President's good faith efforts to support the Central American peace process, they have tried to forge their own foreign policy—and conducted their own private diplomacy—in Central America.

For all the differences of opinion I had over the years with Speaker O'Neill—and I had plenty, including on Central America—I never found him trying to act as Secretary of State, as well as Speaker.

It is freedom, as much as peace, that is at the heart of this issue; it is freedom, as much as peace, that is at stake.

And I believe, too, that peace will never come to Central America—until real freedom is established in Nicaragua.

Mr. President, I believe that the House has made a tragic mistake.

In the long run, it raises our stakes in Central America, while reducing our options. In the long run, it undermines the prospects for freedom, without improving the chances for real peace.

I read in the paper that, after the House vote, the Sandinista Ambassador here in Washington announced he was going to celebrate. We have a chance to send a message to Ambassador Tunnerman, and to Daniel Ortega, and to Mikhail Gorbachev today—don't start celebrating too early.

We—the Senate; America—we have not given up on the freedom fighters, or on freedom in Nicaragua, and we will not—ever.

And I would say, as I have been saying to many people across the country, it is not that we fear Daniel Ortega or the Communist Sandinista army. If we put the question to the American people: "Do you want another Soviet base in this hemisphere?" The answer would be "No" by a big, big margin.

When I read about Daniel Ortega and, as the distinguished Senator from South Carolina said earlier today, the Ortega brothers, and as I read about Russian plans and about expansion of the army and sophisticated weapons, I wondered what we may be talking about on this Senate floor 4 or 5 years from now, or 10 years from now, and whether then we will be making a plea to the Soviets or a plea to someone else: "Why didn't we listen? Why didn't we listen to the Senator from South Carolina, a Democrat, or why didn't we listen to the Senator from Arizona, a Republican?"

This is bipartisan. We are talking about America, about freedom.

I guess this vote does not mean very much, but it may mean that Daniel Ortega and Mikhail Gorbachev and Fidel Castro will understand that there still is some will left in the U.S. Congress and it is bipartisan—as it should be—that we do have a majority, though slim, in the U.S. Senate; and that we do not intend, those of us who support the President's position or some other position, on abandoning the freedom fighters in this hemisphere.

I do not quarrel with anyone else's motives, I do not suggest they are any less patriotic, but what are we going to tell the 18- and 19- and 20-year-old freedom fighters when it is all over? What do we tell them? That freedom is not worth it? I wonder if somebody would have told leaders in our country

that a couple of hundred years ago, it is not worth it.

I think it is worth it. I believe in the long run, if we persist as I assume we will on both sides of the aisle, that we will prevail and that we will have real freedom and democracy in Nicaragua.

I yield back the balance of my time.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. I yield 5 minutes to the Senator from South Carolina [Mr. HOLLINGS].

The PRESIDING OFFICER. The Senator from South Carolina is recognized for 5 minutes.

Mr. HOLLINGS. Mr. President, I thank my distinguished colleague from Rhode Island, the manager of the bill. He is very generous, because we have opposite views and he has been very kind to yield me this time.

I will try to be very brief. I just cannot reconcile, Mr. President, what I am hearing on the floor of the Senate. I was just back in the cloakroom watching the evening news. Arturo Cruz was being interviewed. Remember, he was one of the first of the junta with Ortega back at the very beginning. He later went with the Contras. Five minutes ago on the floor of the Senate I heard the Contras described as a bunch of ragtags, Somocistas, and bandits and ne'er-do-wells. But Arturo Cruz disagrees. He said, "Wait a minute. The Contras are peasants. Campesinos. They are farmers, working for freedom; former Sandinistas working for freedom."

Oh, I have listened to my good friend from Connecticut. He says this vote is all futility. We are wasting time. It is sound and fury, signifying nothing.

I listened closely because there is no one I respect more than CHRIS DODD of Connecticut. We have listened to him at least for 6 months, now, traveling to and fro, with all his certainty about the Arias plan. Now he says that nobody can be certain about anything and we all ought to wait for the next few weeks, just do nothing. He counsels: when in doubt, do nothing; and stay in doubt all the time.

By the way, he says, this debate could not be about democracy because he remembers Lincoln locking up newspaperman and suspending habeas corpus. I immediately flashed to the meeting I had just 2 weeks ago with the Speaker of the House of the Parliament in Zimbabwe. The Speaker of the Parliament told me how he sat in the U.S. Senate Gallery and, to his absolute amazement and astonishment, he listened to the debate as we overrode the veto of the President of the United States on South Africa sanctions. He said: I have been thrilled about America ever since, He said: We never could have done that in any country that I know of in Africa.

We Americans do indeed know what true democracy is, and we, the custodians, the trustees charged with espousing freedoms and defending it, should be willing at least to give a few dollars to the Nicaraguan freedom fighters.

As Senator DODD said, the President shifted gears on Contra aid, trimmed his sails. At the 11th hour, like the Mafia, he made an offer that the Congress could not refuse. The bare minimum amount, the bare-bones necessity to keep the Contras breathing.

Yet, even so, the House voted no. Meanwhile, the Soviets, over time, have given the Sandinistas $4.7 billion. The Soviet Union is committed to communism, the socialist form of government. They are willing to put in troops. They are willing to put in arms and advisers. They are committed. Yet we in the Senate give aid to the Contras like a dentist pulls teeth. It's excruciating. It's picky, picky, picky, every step of the way.

Heavens above, do not make the mistake of leaving war to the politicians. If you are going to commit men to fight and die, then God save them from the politicians. God save them from "Give peace a chance, give peace a chance." Heavens above, the Soviet Union mobilizes its money. They are committed. But we are pinching pennies here this evening over $3.6 million in lethal aid.

I have been a soldier in the field and there is no practical difference between the lethal and the humanitarian. A soldier marches on his stomach. You have to have good shoes and other necessities. I do not understand the distinction myself. I never did want to get into this talmudic splitting of hairs about lethal and humanitarian. The issue here isn't lethal versus humanitarian. The issue is democracy and freedom.

We have heard this debate before. When I first came to the Senate, we were talking about Cuba, a small island. They said, "Do not worry about that little island down there 90 miles away."

Now, Castro, has got an empire. He has got his troops in Africa, his government in Moscow and his people in Miami. He is all over the world. But don't worry about him.

What kind of peace have they got in Cuba today? Why, even the refugees in American prisons burn down the facilities rather than go back to Cuba. But we hear on the floor of the Senate that democracy and freedom are not the issue, the issue is negotiations and peace and "stop the killing."

Well, I know from hard experience, that is why I am speaking with conviction. We learned that so-called peace did not stop the killing in Southeast Asia. On the contrary, the peace treaty only started the killing. And so it is in Nicaragua. According to the Ortega plan, they will begin building their 600,000 man army after the Contras have been disposed of.

I ask unanimous consent to include in the RECORD a list of the equipment that the Soviets have deployed in Nicaragua over the last 7 years.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. PELL. How much time do I have remaining?

The PRESIDING OFFICER. The Senator from Rhode Island has 3 minutes remaining.

Mr. PELL. I yield 2 minutes to the Senator from South Carolina.

Mr. HOLLINGS. Mr. President, I ask unanimous consent to include a listing of this Soviet weaponry in the RECORD at this point, and we will ponder how much peace that Sandinista crowd wants.

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

MAJOR SANDINISTA REQUESTS FOR SOVIET HARDWARE 1986–95

Equipment	Diarangen (1986–90) request [1]	Diarangen II (1991–95) request	Total inventory if delivered
Air Force			
Mig–21		12	12
MI–25/Hind	3	12	[2] 24
MI–17/Hip	8	12	[2] 48–52
MI–8/Hip	7		[2] 14
AN–26		8	14
AN–12	NA	NA	NA
Antiaircraft artillery			
23 mm (ZU–23–2) gun	126	414	792
100 mm gun [3]	24	42	84
57 mm (S–60) gun		18	36
14.5 mm ZGU–1 machinegun	82		346
14.5 mm ZPU–2 machinegun	6		106
SA–7 (C–2M 9P58) Grail Sam	17		346
SA–14 (C–3M 9P58M) Gremlin Sam	471	[4] 276	775
SA–16 (IGLA–1M 9P519–2) Sam	219	[4] 276	411
SA–13 (C–10) Sam		36	36
SA–3 (C–125) Sam	48		48
SA–6 Sam		36	36
SA–9 Sam		NA	NA
Armor			
T–55 Medium tank	4	74	[5] 208
BTR–70PB armored personnel carrier	44	174	218
BTR–60PB armored personnel carrier	3		27
Ground artillery			
122 mm Howitzer		[6] 108	144
130 mm field gun		36	36
82 mm mortar	342	80	1,047
160 mm mortar	NA	NA	NA
76 mm (M42 ZIS–3) antitank gun [7]		156	240
100 mm T–12A antitank gun		114	[8] 138
AT–3 Maliutka antitank missile		90	90
122 mm Grad 1P rocket launcher	148	80	444
122 mm BM–21 rockt launcher		24	60
Infantry weapons			
Makarov pistols	21,481		41,631
Rifles (AK)	118,851	125,000	501,446
RPK and other light machineguns	5,052		12,000+
RPG–7 (V&D) grenade launcher	3,635		8,000+
AGS–17 grenade launcher	272		600+

[1] Figures in this column represent supplementary request for the last 3 years of the 5-year plan.

[2] These figures take into account Sandinista losses through October 1987.

[3] Documents identify current holdings as KS–19 but leave requested guns unidentified. May be substituted with 85 mm guns, according to documents.

[4] This figure includes both SA–14 and SA–16 SAM's. Final inventory assumes receipt of half of requested amount of each SAM.

[5] Includes 43 T–54 tanks.

[6] Includes 84 towed (D–30) and 24 self-propelled 122 mm howitzers.

[7] May be substituted with 85 mm D48 antitank gun, according to documents.

[8] Includes 24 identified in documents as 100 mm BS–3 antitank gun.

Soviet Bloc equipment delivered to Nicaragua

Equipment	*Defector figures*
Air Force:	
MI-25/Hind [1]	12
MI-8/Hip	14
MI-17/Hip [2]	24
MI-2/Hoplite	5
AN-2TP	17
AN-26	6
Antiaircraft artillery:	
23 mm (ZU-23-2) gun	252
37 mm (9M430 M-1939) gun	66
57 mm (S-60) gun	18
100 mm (KS-19) gun	18
14.5 mm ZGU-1 machinegun	264
14.5 mm ZPU-2 machinegun	100
14.5 mm ZPU-4 machinegun	56-66
SA-7 (C-2M 9P58) Grail Sam launcher	325
SA-14 (C-3M 9P58M) Gremlin Sam launcher	166
SA-16 (IGLA-1M 9P519-2) Sam launcher	54
Armor:	
T-55 medium tank	87
T-54 medium tank [3]	43
PT-76 light tank	22
BTR-50PU armored personnel carrier	1
BTR-60PB armored personnel carrier	24
BTR-152PB armored personnel carrier	90
BRDM-2 armored reconnaissance vehicle [4]	72
Ground artillery:	
122 mm (D-30) Howitzer	36
152 mm (D-20) Howitzer	60
B-10 antitank gun (S/R)	9
57 mm (M43 ZIS-2-57) antitank gun	354
76 mm (M42 ZIS-3) antitank gun	84
100 mm (BS-3 M1944) antitank gun	24
82 mm (M1937) mortar	625
106.7 mm mortar	6
120 mm (M1943) mortar	42
107 mm rocket launcher	16
122 mm Grad 1P rocket launcher	216
122 mm BM-21 rocket launcher	36
Infantry weapons:	
Rifles (AK)	257,595
RPK, RPD, RP-46, PKM, PRT machineguns	6,010
SVD (7.62 mm) rifle	460-520
SVDN-1 (7.62 mm) rifle	50
M9130 (7.62 mm) rifle	200
Makarov pistols	20,150
RPG-7 (V&D) grenade launcher	4,132
AGS-17 grenade launcher	254
RPG-70 grenade launcher	200

[1] Of 12 received, 6 were new and 6 had undergone major repairs that degraded engine performance.

[2] Includes 6 recently received but not yet operational.

[3] One document mentions a total inventory of 133 tanks.

[4] Includes 12 identified by the documents as "chemical reconnaissance vehicles."

Mr. HOLLINGS. Mr. President, we Democrats have supported $735 million in aid to the Philippines in recent years. We have supported $1.2 billion for the Afghan rebels. That is fine.

But here in our own hemisphere, because we do not want to assume responsibility, we denigrate freedom fighters as a rag-tag group. This is an insult to freedom. It is an insult to democracy.

Mr. President, what, in essence, the House has done is vote to make themselves hostages to the Ortega brothers. It is purely and simply that.

This is the stupidest politics I have ever witnessed. Anyone with smarts would have given Ronald Reagan the $3,600,000 and said, "Mr. President, you assume the responsibility because the outcome cannot be clear to anyone. Everyone admits that."

But rather than giving the President and the Contras the chance to keep the pressure on, the House is advertising now that the Government in Washington, the bastion of democracy, does not believe in democracy in Nicaragua.

Ortega has put us on notice that he will never give up his power. He is playing games with us.

It is an insult to democracy to come on the floor of the Senate and call the Contras a rag-tag group when they are fighting and dying down there. I thank the Senator for yielding time to me.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, I would be glad to yield 1 additional minute to the Senator from South Carolina if he wishes to continue for that time.

Mr. HOLLINGS. I thank the Senator.

I have watched this predicament develop. If you happen to sit on the conference committee on defense appropriations, as my distinguished chairman Senator STENNIS does, you know that the rationale of the Boland amendments was that we would take away Ortega's excuses. Well, it didn't work. Now we are faced with almost a personal political difference between the President and Speaker O'Neill, and Speaker WRIGHT adopted it when he became Speaker.

I understand that. I understand that.

What you really have in a vote on the House side is not a vote on democracy. You have Members who are scared to death and will never commit. We do have some isolationists in the Democratic Party. There is not any doubt about that. But a large, substantial measure of that vote was due to loyalty, friendship, and respect for JIM WRIGHT personally. That is what it was.

But the Senate can and must do better.

We lost 58,000 in Vietnam in a vain search for an ally willing to fight. You will remember Vietnamization in Vietnam. We were struggling and dying out there trying to find a crowd willing to fight. Now we have found a crowd willing to fight in Central America and we will not give them the barebone necessities to keep them going until we can really see how the Arias peace plan goes.

I hope the Members will not take this as has been indicated, as a partisan fight between Republicans and Democrats. It is a bipartisan struggle to do at least in this hemisphere, right here under our noses, what we are willing to do in Asia Minor and in the Far East.

Opponents of Contra aid say, "We are going to give them a humanitarian aid package later on." That is not to protect the Contras. That is to protect their political hides. Likewise, in the Senate they were scared to bring it up on the floor. They wanted to vote it down, to not even have it considered. They wanted everyone to say they were sophisticated now, that the vote would not mean anything.

They know the vote means everything, Mr. President. I would hate to have my name recorded when people are fighting and dying for freedom and democracy in the Western Hemisphere and say we do not even want to vote on it because it does not mean anything.

Mr. President, I yield the floor.

Mr. KENNEDY. Mr. President, this debate is about a dead vote on a dead policy. The House vote last night against war in Central America put the lid on an ill-conceived policy and today the Senate should nail that lid shut.

This policy has no one's support but the administration's. The American people do not support it, the Congress does not support it, the people of Central America do not support it, the four Central American democracies do not support it, the Contadora nations do not support it, and the International Verification Commission of the Arias plan does not support it.

The latest poll shows the President's policy has the support of a paltry 30 percent of the American population. The President does not even have the support of his own party—51 percent are against it and only 38 percent of Republicans support it.

The declaration of the Contadora and support group on February 2, urged the United States to cease—unconditionally, unilaterally, and immediately—all aid to the Contras. The International Verification Commission called for the "definitive cessation" of our aid to the Contras in its January 15 report.

The events of the last year underscore the high costs of this reckless pursuit of a government policy that does not have the support of its people. This administration has violated our most precious values in order to advance its support for the Contras. We are all familiar with the travesties of the Iran-Contra debacle. Lying to Congress, shredding documents, channeling funds illegally to the Contras, coercing other nations to contribute to Contras who are renegade mercenaries from the Somoza regime and who discredit the name "freedom fighters."

The revelations of abuse did not stop with the congressional investigation. Just last week, we learned that the FBI had infiltrated, wiretapped, and conducted surveillance on more than 100 organizations in this country which opposed the administration's Central American policies. One memo says:

It is imperative at this time to formulate some plan of action against . . . individuals who defiantly display their contempt for the U.S. Government by making speeches and propagandizing their cause.

Such language and practices have a frightening resemblance to the Red-baiting of the 1950's.

And just yesterday, it was revealed that the White House had struck a deal with Panama's General Noriega to train the Contras in exchange for American support for international bank loans. We learned that the White House had set up a secret operation for Panama to arrange for an East bloc arms shipment that would be captured in El Salvador and then blamed on the Nicaraguans. General Noriega even flew to Washington in the plane of a convicted drug dealer to meet with the CIA Director William Casey. As a former associate of Noriega put it, "If you supported the U.S. Contras, you could do anything."

This policy has tarnished our most fundamental values. It has made a mockery of our support for international law and human rights. It has isolated us in the region, in the hemisphere and throughout the world, it is a losing policy, and we have already paid too high a price. Finally and for all time, let us end this policy here today now by defeating this proposal.

Mr. President, I ask unanimous consent to put the following materials in the RECORD relating to the administration's Contra policy.

In addition to articles on the administration's dealings with Noriega, the recent poll on Contra aid and the text of the report of the International Verification Commission, I am including an excellent article by Juan Mendez, the director of the Washington office of Americas Watch in which he outlines succinctly how the Contra policy has increased Sandinista repression. I also include a number of recent Contra human rights abuses compiled by Americas Watch.

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

[From the New York Times, Feb. 4, 1988]

A U.S. FRAME-UP OF NICARAGUA CHARGED

(By Stephen Engelberg with Elaine Sciolino)

WASHINGTON, February 3.—A former senior Panamanian official said today that the White House set up a secret operation in 1986 that called for Panama to arrange an East bloc arms shipment that could then be captured in El Salvador and falsely linked to the Nicaraguan Government.

The Panamanian, José I. Blandón, is a former close adviser to Panama's military leader, Gen. Manuel Antonio Noriega. General Noriega is expected to be indicted on drug charges by a grand jury in Miami on Friday, Justice Department officials said.

Mr. Blandón said in a telephone interview that the deal was put together by Lieut. Col. Oliver L. North, the White House aide responsible for funneling aid to the contras during the period when the Administration was barred from providing military help to the rebels.

DISMISSED AS CONSUL GENERAL

Mr. Blandón was recently dismissed by General Noriega as consul general in New York, and in an interview with a Panamanian radio station he called on the general and his military associates to resign.

Government officials said Mr. Blandón had told investigators that General Noriega struck a deal with Colonel North to train the contras in Panama in exchange for American support for international bank loans. Mr. Blandón said the arrangement "could be possible," but indicated he had no direct knowledge of it.

Mr. Blantón added, "North and Poindexter handled the contra operation like a dictatorship," referring to Rear Adm. John M. Poindexter, the former national security adviser. "If you supported the U.S. contras, you could do anything," he said.

Lawyers for Colonel North have said for the past year that they would not comment on any matters. One of them said tonight that there would be no comment on this or any other aspect of the case.

A RELATIONSHIP WITH CASEY

An operation aimed at making it appear that Nicaragua was shipping arms to the Salvadoran guerillas would have fulfilled the Reagan Administration's longstanding goal of proving the Sandinista Government was exporting its revolution. The effort collapsed in June 1986 when The New York Times published an article reporting illegal activities by General Noriega, Mr. Blandón said.

It was disclosed last year that General Noriega had told Colonel North that he was willing to mount sabotage and assassination operations against Nicaragua and that Colonel North had endorsed the idea of a sabotage plan. But Mr. Blandón assertions suggest a deeper White House and Administration link to General Noriega.

Mr. Blandón also told investigators that General Noriega, who took power in 1981, had a close relationship with William J. Casey, who was Director of Central Intelligence, and once flew in the plane of a drug smuggler to Washington in 1983 to confer with him. It was not known if Mr. Casey knew of the plan to embarrass the Nicaraguan Government.

The new details about General Noriega's cooperation with one of the most sensitive foreign policy operations are significant because they could help explain why senior American officials were willing to cultivate a relationship with the military strongman, even as American intelligence was documenting charges of unsavory arms dealing and sales of banned technology to Cuba. Investigators from the Congressional Iran-contra committees examined in detail the arms shipment that Mr. Blandón said was to be falsely linked to the Nicaraguans and found no hint, in American Government documents, of such a plan.

It was unclear whether General Noriega, who has repeatedly accused the United States of trying to overthrow him to retain control of the Panama Canal, told Mr. Blandón of the reported operation in an attempt to discredit Colonel North or the Reagan Administration. A senior Latin American diplomat who believes the account said he understood that General Noriega seized the ship carrying the weapons because he felt "betrayed" by Reagan Administration officials, who he thought had provided derogatory information on him to The New York Times.

State Department officials declined to comment when asked about the relationship between Panama and the contras.

Another reason for American Government support for General Noriega is that he has provided a "platform" for the National Security Agency's eavesdropping operations in the region, according to intelligence officials.

Mr. Blandón, who served as chief political adviser to General Noriega when he was head of military intelligence, has provided details of these and other reported illegal operations before the Federal grand jury in Miami that is expected to indict the general on drug charges.

Mr. Blandón is scheduled to testify next week before the Senate Foreign Relations Committee.

SEALED INDICTMENTS

Government officials said Mr. Blandón had provided a wealth of information about corruption under General Noriega and his close military and civilian associates. While General Noriega's indictment will be made public, the indictment of his associates will remain sealed in the hope that some of them can be arrested and brought to trial.

Mr. Blandón's secret testimony to the grand jury and to Senate investigators, as described by the former consul general and Government officials, includes these disclosures:

General Noriega maintained a close personal relationship with Mr. Casey, who died last year. "Noriega definitely said he had the support of Casey," Mr. Blandón said. He said that on one occasion, General Noriega flew to Washington on the private jet owned by a convicted drug dealer, Stephen M. Kalish, for a secret meeting with Mr. Casey. Mr. Kalish testified before Congress last week that General Noriega borrowed the jet in November 1983.

A former intelligence official said that after Admiral Poindexter sternly told General Noriega to change his ways in 1986, Mr. Casey followed up with a more conciliatory approach that undercut the admiral's message.

The Salvadoran rebels asked General Noriega in late 1987 to help them buy sophisticated weapons, including American-made Stinger antiaircraft missiles. General Noriega agreed to help and later contacted Ricardo Wheelock, a Sandinista intelligence official. Mr. Blanón said he was later told the weapons had been delivered, although he said he did not know for certain whether the shipment included Stingers or some lesser weapons.

ONE VEILED REFERENCE

The Congressional Iran-contra committees looked into the relationship between General Noriega and Colonel North, but their report contained only one veiled reference to the general. It said that an unidentified Latin American leader had offered to help with operations aimed at the contras.

Congressional and Administration officials disclosed that in fact General Noriega had

told Colonel North that he was willing to undertake sabotage operations and possibly assassinations against Nicaragua. Admiral Poindexter warned Colonel North to stay away from any assassinations, but he approved the sabotage idea. The plan never went forward because the Iran-contra affair became public and Colonel North was dismissed.

The effort to ship a large quantity of East German-made arms and vehicles to the Salvadoran guerrillas also failed, and it resulted in a series of confusing stories about the travels of a Danish cargo ship carrying them, the *Pia Vesta*.

Mr. Blandón said he learned about the operation from General Noriega. The New York Times article about General Noriega was published on June 12, 1986, and the ship carrying the weapons was seized by Panamanian officials two days later.

According to Congressional officials the shipment was arranged by a Swiss arms broker who has ties to the the French foreign security service. Colonel North's notebooks do not contain a direct reference to the plan.

The cargo ship passed through Peru on June 6, 1986, remained there for a few hours, then steamed northward to Panama. When the ship was seized, the bill of lading instructions were for the weapons to be delivered to Gen. Adolfo Blandón, Chief of Staff of El Salvador's armed forces. The general is no relation to José I. Blandón.

LIST FOR GRAND JURY

Mr. Blandón said in the telephone interview that he had revealed to the grand jury the names of General Noriega's top military and civilian associates. Like the Panamanian leader, he said, the associates were involved in drug trafficking, money-laundering and other illegal activities. He said he did not know if the grand jury intended to indict any or all of them. The list of names was published in Panama today in the newly reopened daily, La Prensa.

The associates include Marcos A. Justines, chief of the General Staff of the Panamanian Defense Forces and second in command to General Noriega; Mayor Navaldo Madrinán, head of the investigative police and one of the officials closest to General Noriega; Luis Córdoba, head of the traffic police and former chief of Chiriquí Province, who opposition leaders believe was responsible for the beheading of the opposition leader Dr. Hugo Spadadora in 1985; Alberto Purcell, executive secretary of the General Command of the Defense Forces, and Lorenzo Purcell, head of the Panamanian Air Force.

BUSINESS FRONTS ARE NAMED

Mr. Blandón also listed a number of civilians who he said were involved in illegal activities, including the late César Rodriguez, who was murdered in Colombia, and Enrique Pretel, a well-known jeweler in Panama City.

Under a 1904 extradition treaty between the United States and Panama, neither country is required to hand over its citizens for extradition so the indictments against General Noriega and his associates could result in arrests only if they are out of the country.

[From the New York Times, Jan. 31, 1988]

AMERICANS ON CONTRA AID: BROAD OPPOSITION

[In percent]

	Approve	Disapprove	No opinion
Total population	30	58	13
By party and politics:			
Republican	38	51	11
Democrat	25	65	10
Independent	28	56	17
Liberal	24	68	8
Moderate	31	59	10
Conservative	34	51	14
By position on Reagan:			
People who approve of the way the President is handling his job	41	49	11
People who disapprove of the way the President is handling his job	22	70	9
By sex, race and region:			
Men	37	51	11
Women	23	63	14
White	32	55	12
Black	18	69	12
Hispanic [1]	27	66	7
Northeast	30	60	10
Middle West	25	62	13
South	35	50	16
West	26	64	10

[1] Hispanics are also included among whites or blacks if they identified themselves as such.

Source: Based on telephone interviews with 1,663 adults nationwide, conducted by telephone Jan. 17–21.

MEMORANDUM FROM AMERICAS WATCH, JANUARY 29, 1988

We have written to Adolfo Colero, Director of the Nicaraguan Resistance, to express our concern about continuing violations of the laws of war by the Nicaraguan Resistance. To date we have not received any response.

We requested information regarding the following cases:

—*Indiscriminate Attack:* Twenty-year-old Lucia Sequeira Campos, who was seven months pregnant, was living in a farming cooperative near San Miguelito, Rio San Juan, which was attacked by the RN at 2 a.m. one day in the week of November 15, 1987. The cooperative was defended by 40 reservists and militia. A bomb fell on her house and she was wounded by shrapnel on her left thigh; her 14-month-old daughter was burned on her knee. A *contra* leader who called himself "Walter" entered the house and ordered her to go with him, but she refused because of her wounds, so he left. The fighting continued until 6 a.m. Three children and two civilian adults were wounded, and one man died. the *contras* burned the children's dining hall.

—*Killing of Combatants Hors de Combat:* On September 21, 1987, *contra* forces kidnapped five men from Dlano Largo, Chontales, near La Libertad, and executed four of them, letting the fifth return home. Pablo Girón González was kidnapped from his house on September 9 by *contras* who asked for him by name, and who attempted to take away his 15-year-old daughter Giovanna. The same day, the group kidnapped Danilo Diaz Ramos and Emilio Diaz Laguna from a neighboring house. The same night, the group took Moises Salazar Silas from the farm where he worked. Pablo Giron was singled out because he was a member of the militia and worked for the local DGSE in La Libertad. The two Diaz brothers were members of the militia. The bodies of Pablo and Moises were found on September 23, on lands belonging to INA; their throats had been cut. Danilo and Emilio were found several days later. Both had their eyes gouged out and then bandaged, and they had died from deep slits to their throats. Danilo had an ear and fingers cut off.

Ambush of civilian vehicles: On October 17, 1987, two trucks belonging to CONDEMINA, the government's mining company, were ambushed by contras near Llano Largo, Chontales, on the road between Juigalpa and La Libertad. There were uniformed and armed soldiers riding in the back of both trucks, and nine civilians riding in both cabins. The *contras* opened fire without warning, with automatic weapons and grenades. Both vehicles were disabled. The soldier returned fire. One civilian, Denis Bartolo Arguello Mainor, was killed in the gunfire, and several others were slightly wounded. In our view, the attacking contingent did not comply with its obligation to minimize harm to civilians.

Kidnapping in Muelle de los Bueyes, Zelaya: On September 26, 1987, the brothers Catalino and Agripinio Murillo Amado, ages 23 and 20, were taken from the former's house in Las Conchitas, near Muelle de los Bueyes, together with Héctor Rosales Mendoza, 19. All three had served together in the Sandinista Army, but had been discharged in April 1987. They were forced to walk barefoot all night to a place called Cerro La Virgen, where they were interrogated and beaten. They were told they would be taken to Honduras as political prisoners. They spent six days walking north, and on the sixth day, the brothers were separated from the rest and their hands were untied. They escaped on the eighth night, when their guard dozed off, and walked to Mulukukú, Zelaya. Rosales Mendoza is still in captivity. Others seen in captivity by the Murillo brothers, include: Santos Pánfilo, 20, Agustin Valle Herrera, 22 and Pedro Martínez, 14, all from La Concha.

In accordance with the laws of war, demobilized soldiers are non-combatants and enjoy the same protections as civilians, so they cannot be held as prisoners of war. We urge you to provide us with a list of all prisoners now held by the RN in Honduras or elsewhere, and the reasons for the arrest in each case.

Kidnappings in La Conchita, Zelaya: Around Easter of 1987, a *Contra* group posted a list of five men in this *comarca* who had to turn themselves in because they were sapos (informers). One left town and the other four, who did not turn themselves in, were kidnapped by the *contras*. Two of them later came back, but one of these two was killed a few days later. His brother, Cándido Somoza, a Catholic Church Delegate of the Word, is still missing.

Indiscriminate fire: Muelle de los Bueyes was briefly seized during the *contra* attack on the Rama road on October 15. Though the main attack was on a nearby Army base, the contingent also fired indiscriminately in the main street in town. Three civilians were killed in their homes, and many more were seriously wounded. An Americas Watch researcher visited the town in November and found many houses with bullet holes in them.

Killing of Civilians: On November 3, 1987, the *contras* attacked a command post and then swept over the adjacent village in a farming cooperative in El Juste, Chontales. They shot and killed a woman inside her house, wounding her 10-year-old daughter, and shot her 16-year-old daughter in the back as she was running away with her two-month-old baby in her arms. The bullet exited the woman's stomach and destroyed the infant's knee. The *contras* burned the

house with the dead woman inside, and four other houses. Some reservists who defended the cooperative died or were wounded in the attack, but one of them was found with his throat slit and his corpse riddled with bullets. The woman who was killed was Rita Galeano Villachica, 40; the wounded were: Geraldina Martinez Galeano 16, her sister Elivet, 10 and her son, Alixe Antonio Zúñiga Martinez, 2 months.

Killing of Civilians: On November 2, 1987, a contingent operating in the area of Waslala, Zelaya, captured Santos Ochoa Vidaurre, his brother Tomás and his son Hilario, as well as Gumersindo Aguinaga and his sons Rolando and Cándido, and Julio César Oporta and his two sons. All of them are peasants, and Santos Ochoa is also a Catholic Delegate of the Word. The three Ochoas managed to escape, though Tomás was beaten by his captors. The remaining six were murdered; their neighbors found the bodies.

Killing of Civilians: On November 7, 1987, a civilian vehicle was ambushed in the same general area of Waslala. It belonged to the Ministry of Construction, and there were no soldiers in it. A MICONS engineer, Pedro Pastor Mora, 32, and Luis Nicaragua, 18, died in the attack; six other civilians were wounded.

Mass forced recruitment: In April 1987, the *contras* kidnapped 53 men from their houses in the area of Ortillo Arguello, in Zelaya, They were taken to a training base in La Guachinga, Zelaya. They were not physically abused, but all were threatened with death if they refused to go through training. The majority escaped anyway.

A similar incident took place in El Jicaro, a *comarca* 20 kilometers from Fonseca, the end of the road from Nueva Guinea, Zelaya. According to a Delegate of the Word, in April 1987, a group of *contras* interrupted a vigil held at the local Catholic chapel, and took ten boys, ages 14 to 20, saying they wanted to talk to them. An hour later, the *contras* came back and told the family members to say goodbye to these young men because they were going with them. Though the relatives pleaded, all of the young men were taken away, and they haven't been seen since. Rumor has it that some have died. The names of eight of the ten are: Heriberto Suárez, Gerardo and Antonio Martinez Silva, José Urrutia Arias, Severino Sequeira Ortiz, Carmelo Lazo Miranda, Santos Rizo Laguna and Sinforoso Brenes Flores.

[From the New York Times, Feb. 1, 1988]

SHOULD THE CONTRAS BE NEWLY FUNDED? NO, BECAUSE HUMAN RIGHTS WON'T BENEFIT

(By Juan E. Méndez)

WASHINGTON.—Many positive human rights developments have taken place in Nicaragua in recent weeks. After initially playing down their significance, the Administration now claims they have been brought about by the contras' continued pressure on the Sandinistas.

"Because of the freedom fighters," President Reagan asserted in his State of the Union Message, "the Sandinistas have been forced to extend some democratic rights, negotiate with church authorities and release a few political prisoners." This faulty premise leads to the facile conclusion that Congress should vote more funds for the contras—to obtain even more progress for human rights.

The facts do not support the President. Major setbacks for human rights and for political freedom in Nicaragua have been directly related to the Reagan Administration's military actions against the Sandinistas.

For example, the large-scale relocation of Miskito Indians from the Rio Coco border area in January 1982 took place immediately after contra border incursions from Honduras in December 1981.

The imposition of the first state of emergency, on March 15, 1982, which initiated press censorship, was a response to the bombing of two important bridges in the northern areas, the Contras' first major acts of sabotage.

Perhaps the most severe Sandinista crackdown took place in October 1985. The state of emergency was renewed and several hundred dissenters were arrested and held without charges for periods ranging from a few days to a few weeks. Many were mistreated in detention. That crackdown was provoked by the vote in the Congress of $27 million in so-called humanitarian aid to the rebels.

In June 1986, the Sandinista Government closed down the newspaper La Prensa indefinitely, expelled Bishop Pablo Antonio Vega and prevented the Reverend Bismarck Carballo, director of Radio Calólica, from returning to Nicaragua. All of these actions took place in immediate responses to the Congressional decision to provide $100 million in lethal and nonmilitary aid to the Contras.

By contrast, improvements in human rights have taken place in the context of some prospect of a negotiated solution. In some cases, those improvements have been lasting.

In 1984, the Sandinista Government decided to press forward with elections, originally scheduled for the following year, mostly as a way of legitimizing its position in the Contadora negotiations—those involving Colombia, Panama, Mexico and Venezuela.

Before the elections, there was a visible relaxation of the tight controls established by the state of emergency. The political parties and alliances created in those days have remained active regardless of whether they participated in or boycotted the election.

The signing of the Central American peace plan last August has provided the impetus for a new round of improvements. La Prensa has been allowed to publish again, this time with no censorship. Radio Católica, which has been closed for almost two years, was allowed to broadcast again, and recently was allowed to resume news programs.

During a visit in November, I observed the most outspoken public debate on the radio and in the press that I had heard in Nicaragua since 1982. Bishop Vega and Father Carballo have been allowed to return to Nicaragua. The Government has released almost 1,000 prisoners held for reasons related to the conflict, and has pledged a full amnesty for everybody else when other parts of the Central American peace plan are implemented.

More recently, Manaugua has lifted the state of emergency and abolished the special courts used to try counter-revolutionary offenders. Lifting of the state of emergency restores habeas corpus, and places time limits on pre-trial detentions, which should end many abuses.

One major aspect of the Nicaraguan human rights situation remains unchanged: the grim pattern of violations of the rules of war by the Contras. They have continued to attack nonmilitary targets, to kidnap civilians, to kill disabled or surrendering Sandinista soldiers and to disregard the safety of civilians found in the path of battle. This is reason enough to deny them new funds on human rights grounds.

To suggest that funding them is a way of getting the Sandinistas to respect human rights is ludicrous.

[The Report of the International Verification Commission, issued Jan. 15, 1988]

AGREEMENT ON PROCEDURE TO ACHIEVE A FIRM AND LASTING PEACE IN CENTRAL AMERICA: REPORT ON COMPLIANCE

1. The International Commission on Verification and Follow-up of the Guatemala Procedure has noted the clear desire of the Central American peoples for peace, their longing for the establishment or perfection of democratic, pluralistic, and participatory government, which are the result of their will as freely at the polls, and which will assure the full enjoyment of human rights, economic development, and the overcoming of unjust and obsolete social structure, as well as the legitimate right to decide their own free destinies without outside interference. The strong desire of the Central America peoples for peace and political, economic, and social democratization is being blocked by a geopolitical fight that does not concern them and by domineering interests that have nothing to do with their own aspirations.

2. Hoping to contribute toward achieving these legitimate aspirations, which are the underlying reason for the agreements of Esquipulas II, the International Commission on Verification and Follow-up wants to make the following points regarding the five Central American governments' compliance with the commitments they made when they signed the Guatemala Procedure for establishing firm and lasting peace in the region.

3. The five Central American countries, in spite of some initial reservations, have complied with the commitment in the Procedure to form National Reconciliation Commissions.

4. There has not been a uniformity of interpretation by the five countries regarding either the criteria for organization of the National Reconciliation Commissions or the way in which they take decisions. It would be well if the difficulties that have arisen were overcome.

5. In the spirit of reconciliation that sustains the Procedure it is desirable that the countries "which are experiencing deep divisions within their societies" would include among the members of the National Reconciliation Commission figures who represent the political parties or groups that are politically close to the irregular forces or insurgent movements, with the aim of strengthening their mission of reconciliation, as is the case in Nicaragua and was the case in El Salvador.

6. In effect, in the case of El Salvador, the original organization reflected the criteria set forth in the previous paragraph, but the withdrawal from the National Reconciliation Commission of the representatives of the political parties of the opposition has created an unforeseen situation which affects its work.

7. As concerns the commitment to dialogue with all the internal political opposition groups and any who have accepted the amnesty, the International Commission on Verification and Follow-up has found that in Nicaragua, where this dialogue was begun, it has been suspended because of the

withdrawal of the opposition parties. In the case of El Salvador, the International Commission on Verification and Follow-up has found that the government has carried on dialogue with wide sectors of the political oppostion but that some of them consider that the government has given priority to the dialogue with the armed opposition. In Honduras and Costa Rica, according to information provided by the government in the first case and the opposition in the second, the internal dialogue takes place through the exercise of unrestricted freedom of expression in the political institutions of those countries which result in elections. For the rest, in relation to the dialogue with the political opposition, the International Commission on Verification and Follow-up is convinced that it is necessary to persist and deepen the efforts of national reconciliation.

8. El Salvador, Guatemala, Honduras and Nicaragua have issued amnesty decrees, in spite of reservations in the case of Honduras regarding whether this commitment is applicable.

In the case of Costa Rica the International Commission on Verification and Follow-up does not consider it necessary for it to issue an amnesty decree. However, since certain foreigners who reside in Costa Rica are the beneficiaries of amnesties decreed in their countries of origin, the International Commission recommends that this government study these cases so that they may obtain their freedom.

9. As concerns the content and goals of the amnesty decrees there have been critical assessments made in certain cases. In the specific case of El Salvador, where a general amnesty has been issued based on the idea of forgive-and-forget, the International Commission has noted that the decree of amnesty has benefited political prisoners; but that it only allowed a period of fifteen days for those under arms to avail themselves of it.

10. In the case of Nicaragua, although the government of this country has issued a decree of amnesty to those who have taken up arms which continues to be in force and has issued a law of pardon, the entry into force of the amnesty decree for prisoners has been conditioned on the certification by the International Commission on Verification and Follow-up of compliance in the cessation of aid to irregular forces by states within and without the region, as well as the nonuse of territory for destabilizing attacks.

11. As regards the scope of application of the amnesty, the International Commission has heard testimony that in several countries there was to a varying degree a systematic practice, during previous governments, of the physical elimination of captured members of irregular groups or insurgent forces, who could have availed themselves of the recent decrees issued by the present governments.

12. It should be understood that the purpose of the amnesty is to open up political spaces in some countries to allow opposition groups to rejoin democratic life, mainly those who have taken up arms. It is consequently premature to issue a definitive judgment on the effectiveness of the amnesty decrees as an instrument of national reconciliation.

13. Point 3 of the Guatemala Procedure sets forth a broad scheme for democratization, difficult to achieve in scarcely five months in a region characterized by a turbulent history.

14. It is fair to recognize the stability and broad level of development of the democratic institutions of Costa Rica.

15. In the case of Nicaragua, the International Commission has been able to confirm that in spite of the wartime suffering it has made concrete steps toward initiating a democratic process. Nevertheless, certain spokespeople of opposition parties and nongovernmental organizations have said that it is necessary to observe greater distinction between state and party institutions and it is necessary to more broadly assure the exercise of civil and political rights.

16. According to the vast majority of information sources consulted, the intention of the Central American presidents to make possible the effective participation of diverse currents of opinion in democratic life and to promote the protection of human rights is impeded in certain countries by abuses of authority by security forces and by the action of paramilitary groups. The International Commission also received accusations of human-rights violations committed by irregular forces or insurgent movements.

17. The International Commission on Verification and Follow-up has confirmed that there does not exist a state of exception, siege, or emergency in Costa Rica, El Salvador, Guatemala, and Honduras. The Commission has received information that in El Salvador a decree-law is in effect that allows the authorities to detain a person for more than seventy-two hours. In Nicaragua, the lifting of the state of emergency is subject to the Commission's certification that the aid to irregular forces from states within and without the region has been stopped and that use of territory for destabilizing other states has ceased. The government said that in practice the application of the state of emergency is applied flexibly. In more than one country the inoperation, in practice, or the right of asylum or of *habeas corpus* means that often detentions occur longer and under worse conditions than provided by law.

18. The International Commission has noted with satisfaction the preparations for the establishment of the Central American Parliament in the five countries. The creation of this important institution will represent a significant advance in the process of democratization and will fortify the political, social and economic unity of the countries in the region.

19. In spite of the efforts made, the lack of agreement on a cease-fire in the countries with irregular forces or insurgent movements and the intensification of fighting since the signing of Esquipulas II, with the consequent human and material losses, is a reason for deep concern.

20. There has been no success with the appeals to irregular forces or insurgent movements in El Salvador, Guatemala and Nicaragua to agree on a cease-fire or to avail themselves of the amnesty and join the political process in their respective countries, as foreseen in the Guatemala Procedure.

21. In spite of the exhortation of the Central American presidents the government of the United States of America maintains its policy and practice or providing assistance, military in particular, to the irregular forces operating against the government of Nicaragua. The definitive cessation of this assistance continues to be an indispensable requirement for the success of the peace efforts and of this Procedure as a whole.

At the same time we have received the accusation of the government of El Salvador that Nicaragua secretly sends help to the irregular forces in its country and that the suspension of this aid is an indispensable prerequisite for the success of the peace efforts of the Procedure as a whole. The International Commission on Verification and Follow-up has received the denial given by the government of Nicaragua in relation to this accusation.

22. In relation to the commitment not to utilize the territory of one state to attack another, the International Commission has noted accusations by certain governments of the region and the testimony of nongovernmental sources about the aid to irregular forces or insurgent movements which other Central American governments are providing and the use of territory of certain states to attack others. In this sense, it has received accusations by El Salvador against Nicaragua and by Nicaragua against Honduras, El Salvador, and Costa Rica. The respective governments said that they could not accept such accusations without knowing their basis and substantiation. They expressed their willingness to allow an unconditional inspection of their territories. The International Commission must note that the use of territory of the states of the region to attack others with or without the consent of the government whose territory is being so used facilitates the activities of these irregular forces or movements and makes more difficult the attainment of peace. The International Commission is still not in a position to verify what was said above because to date it has no power to set up mechanisms for on-site inspection.

23. Regarding compliance with the mandate in point 7 of the Guatemala Procedure, the International Commission on Verification and Follow-up took note with satisfaction of the meeting in Caracas on December 10, 1987 to carry out the decision of the Executive Commission meeting in San Jose on October 27-28, 1987 to continue the negotiations on the pending aspects the Contadora Act on matters of security, verification and control, and on the disarmament of irregular forces who are ready to avail themselves of the amnesty decrees. The meeting took place with the participation of the five Central American countries and the Contadora Group in exercise of its mediating function.

The negotiations resulted in a refinement of the terms of reference of future negotiations, e.g.: commitments on arms and troops; military exercises; procedural and operational aspects of the formation or statutes of the Commission for Verification and Control in matters of security; and means for disarmament of irregular forces.

Agreement was reached on organizing future work and meetings to take place in the Contadora Group countries with their coordination. The next meeting will take place in Panama in the first week of February 1988 and Colombia has offered itself as the site for the subsequent meeting.

24. As regards refugees, the International Commission has noted with satisfaction the steps taken in both creating institutional forms and in concrete acts such as protection, assistance, and voluntary repatriation which are clear advances in the search for humanitarian solutions to the problems of the region. In this sense, the holding in the course of this year of an international conference on Central American refugees sponsored by the governments of the area with the collaboration of the United Nations High Commission on Refugees would be a significant contribution to the peace effort. The situation of displaced people continues

to be a grave problem of humanitarian character whose solution requires additional urgent efforts. The achievement of the goals of Esquipulas II would contribute substantially to a real solution of the problem of the refugees and displaced.

25. The goals of Esquipulas II which encompass the achievement of peace through a cessation of hostilities, amnesty, democratization, the cessation of aid to irregular forces and insurrectional movements, and the nonuse of territory for attacking other states, have not been completely achieved as of this date. The fact that peace has not been attained does not detract from the validity of the Guatemala Procedure. It makes a lasting political will for overcoming these obstacles even more imperative.

26. In evaluating the progress in complying with the Procedure For Establishing a Firm and Lasting Peace in Central America signed in Guatemala on August 7, 1987, it is important to understand that, just as its name implies, this procedure is a continuing process of ongoing actions. For this reason, 150 days after the signing of the accord, it would be as untrue to deny progress as it would be to claim success.

27. It must be remembered that just as the deterioration of the political, economic, and social structure of Central America did not occur suddenly, so peace in the area also cannot be obtained suddenly. The factors are by their nature complex and operate at different levels at the same time. Many of the actors on the Central American scene are not part of the accord signed by the interested parties, who are the chiefs of state of the region. The challenge is enormous because it wishes to put into practice a consistent, universally satisfactory, simultaneous, and verifiable agreement, which applies to certain parties who are part of the conflict but not signatories to the agreement. The task at this stage is not therefore to proclaim the success or failure of a process which is ongoing but rather to evaluate the progress attained, identify the work to be done, and find ways to do it.

28. For these reasons, the International Commission on Verification and Follow-up considers it necessary, after referring to the specific subjects of its mandate, to make two general statements, not only because they affect the most general issue of compliance with all of the Procedure by the signatories, but also because it considers it useful to make a contribution in this sense.

29. It is necessary to note the concern manifested by various non-Central American members of the International Commission on Verification and Follow-up in regard to the modality of participation by the Central American countries, which are parties to the conflict, in the task of verification. The Presidents can examine these concerns in their next meeting in order to make a practical distinction between participation in what is properly referred to as verification, of the non-Central American members of the International Commission on Verification and Follow-up and that of the Central Americans. Rigorously defined, this would not require changes in the letter of the Procedure. This subject is at the same time related to another problem which has been noted in the course of the meetings of the International Commission on Verification and Follow-up, which is the lack of a more operative procedure for taking decisions.

30. One of the primary considerations of the International Commission on Verification and Follow-up was the necessity to establish practical modalities for the verification of the accords contained in the Procedure of Guatemala. In order to verify the commitments made in security matters, to wit, the cease-fire, the nonutilization of territories for aggression against other States and the cessation of aid to irregular forces and insurgency movements, the necessity for in situ inspection is a sine qua non requisite for verification if it is to be done with objectivity, independence and efficacy. All the members of the International Commission on Verification and Follow-up accept this basic premise and no one doubts the necessity of this mechanism being duly established in order to be able to begin verification and follow-up.

31. In this sense, the Ministers of Foreign Relations who are members of the International Commission on Verification and Follow-up agreed to bring to the attention of the Heads of State of the Central American countries the usefulness of asking the Secretaries General of the United Nations and the Organization of American States to send an urgent Technical Mission to the region with the object of finalizing the details of establishing, in the five Central American countries, mobile units with the characteristics outlined in the second Mission Report.

32. In reference to commitments in the area of democratization, among them respect for human rights as well as free elections of candidates for national office and for the Central American Parliament, and refugees and displaced persons, the International Commission on Verification and Follow-up considers that its work of verification and follow-up could be aided by action by international organizations.

33. The International Commission on Verification and Follow-up considers it pertinent to note that there exist factors other than those of a structural nature which could affect compliance with the Procedure in their totality. These factors are described below.

34. The nature of Esquipulas II consists, more than in formal juridical obligations, in the political commitment which sustains it and in the incontrovertible fact that it has wide popular and unanimous international support. Nevertheless, the Procedure could be complemented by stipulations which would facilitate its practical instrumentation, such as a plan of execution and a schedule for the fulfillment of commitments.

35. It has become publicly well-known that what permitted an agreement on the Procedure of Guatemala was the smoothing out of differences between the parties regarding the sequences of compliance with the different commitments through an agreement that these would be complied with simultaneously. The international community expressed admiration for this formula which healed the apparently irreconcilable differences in regards to the conceptual problem of precedence between pacification and democratization.

36. The divergencies of opinion, precisely in regard to the sequence of actions, brought to light the reality that simultaneous compliance, if it is not articulated in more detail than the general framework foreseen in Esquipulas II, will be difficult to realize in concrete terms. This is a fundamental and urgent problem which is still not resolved despite the efforts which have been made.

37. The outline of an orderly, chronological plan for the execution of the Procedure, supposes negotiation. This complicated and unavoidable task could move ahead decisively during the opportunity offered by the meeting of Presidents in San Jose.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. How much time have I remaining, Mr. President?

The PRESIDING OFFICER. The Senator from Arizona has 11 minutes remaining.

Mr. McCAIN. Mr. President, I yield 8 minutes to the Senator from Wyoming.

The PRESIDING OFFICER. The Senator from Wyoming is recognized for 8 minutes.

Mr. WALLOP. Mr. President, I thank the Senator from Arizona and I thank the Chair, and I particularly thank Senator HOLLINGS for restoring my faith in his party after watching its performance on the floor of the House last night.

Mr. President, peace is only one part of an equation. Peace by itself does not beckon people. Freedom beckons people and peace with freedom excites people and energizes them.

We have heard on the floor of the Senate this afternoon all kinds of statements. We have heard the Senator from Maryland [Ms. MIKULSKI] say that the peace process is the only thing that has worked.

You have to ask why there is a peace process. There is a peace process because people hoped for freedom and challenged the Communist dictatorship of Nicaragua. They asked for our assistance and have in hand an intermittent level of that assistance. Only after we gave assistance in such proportion that it was possible for those freedom fighters to make a difference has there been a peace process.

The peace process did not materialize out of thin air, it did not materialize out of the Presidents of the surrounding Latin American countries' wishes. It did not materialize out of anything but the desire for freedom of those who were willing to shed their blood—not American blood, but their blood—on behalf of the pursuit of the freedom they thought they had won when that Nicaraguan revolution took power from the Somozas.

What will sustain the peace process if there is no challenge to that Communist dictatorship? It is inconceivable that a peace process lives without the fertilizer of the desire and the pursuit of democracy. The House of Representatives last night snuffed out that little hope that there would be a pursuit of democracy supported by the world's greatest democracy.

That message not only hit home in Nicaragua. That message was not only broadcast to the Contras hours after the House got finished voting by Daniel Ortega and his people saying, "Lay down your arms; the House has

forsaken you; America will no longer support you."

That hope and that light winked in Nicaragua, it winked in Afghanistan, it winked in Angola, it winked around the world where people believed the United States desired to support the pursuit of democracy, the pursuit of freedom.

Are we a nation that believes that people in pursuit of their own freedom ought to have a chance to establish it, or are we not?

Last night we said we are not. Tonight we have a chance to strike a tiny spark so that we may rekindle that hope and work toward the pursuit not of just peace but of peace with democracy, of peace with freedom.

I spent 8 years on the Intelligence Committee and Senator BENTSEN and others in this room were there with me. I tell you, Mr. President, that this process began not with Ronald Reagan but with Jimmy Carter and a finding in that committee that said we must change the emerging totalitarian nature of the Sandinista government.

The Senate believed at that time—having given the Sandinistas over $100 million in aid to expand the democracy they told us they wanted but in fact were snuffing out—that the first signs of aggression, of another country in this hemisphere were emerging in Nicaragua.

This is not new stuff. Let me read a statement from "The Challenge of Democracy: Conference on Efforts to Advance the Cause of Democracy Throughout the World," by the National Endowment for Democracy on May 18 and 19 of this year. The statement is by Armando Valladares, the great Cuban who spent 22 years in a Communist prison. He said:

> The Marxist dictatorships, on the other hand, belong to a transnational of terrorism, to a brotherhood of dictatorships, with the support of the Soviet Union. They have a defined philosophy, a battle tactic, the constant objective of establishing new dictatorships, and the support of extremist groups and parties from around the world, even democratic governments, the press, certain churches, and intellectuals.

We have seen ourselves bought intellectually by a group of people who tell us that peace is the only objective we ought to pursue. If it is the only objective we pursue, Mr. President, we need not ever have gotten involved, we need not ever have promised anybody anywhere in the world that their hopes for peace and freedom would gain the support of this country.

I cannot believe that this Senate and this Congress is about to give the Communist leader of Nicaragua more credibility than our own country's President, who says that we as a country have an obligation as people believing in democracy to support those around the world who pursue peace with freedom. If peace is all we want, we can have it at any time but it will be the peace of chains, the peace of totalitarianism, the peace that nobody in this country would submit to without a fight, make no mistake about it, even those who are voting against it.

I heard the Senator from Washington, Mr. ADAMS, tell this Senate that we had but to read Mr. Gorbachev's "perestroika" and we would know that communism was not working, that nobody is buying it around the world.

I ask that Senator, where is the opportunity for a Nicaraguan citizen to buy it? It is imposed upon him. It is not his choice. What we are being asked to do tonight is to say that we do not support the opportunity to let him gain that choice. The peace process simply will not work unless there is a process in place that is challenging the dictatorship. Dictatorship cannot by its nature begin to give up its own power. Supposing some benign power would come over Mr. Ortega and he would actually believe what he has been saying. Do you suppose that Mr. Tomas Borge, sitting right beside him, would allow him that choice? They live and exist by the power they hold, not by the power they are granted by the people they control. And until this country and this Senate and this Congress and this world believes that the only way we will ever get a change is by challenging it, nothing will happen. The peace process will emerge, peace will break out and so, too, will slavery in the very place from which we walk away.

Mr. ADAMS. Will the Senator yield, since he mentioned my name?

Mr. WALLOP. The Senator will not since he only has 8 minutes and we are coming up to the hour.

Mr. ADAMS. I thank the Senator.

Mr. WALLOP. I have to say that if this Senate chooses communism over the aspirations of freedom, over the choice of democracy, over the blood already shed in pursuit of freedom, then we will have done the most grievous disservice that the Nation can imagine to people whose courage was dependent upon a belief that America actually believed in democracy, that America actually believed at one moment in time that those who sought freedom had the right to know that we would be behind them. We told them from the House of Representatives last night that we did not have the courage to be there, that domestic politics were more important to us in the exercise of our freedom than the chance of their freedom. A guerrilla war is about killing. I heard one Senator say we were not winning. I think it was the Senator from Minnesota. we must remember that they are not fighting World War II.

They are fighting a guerrilla war that does not have battalions, occupy towns, and move to another place. And let me suggest to any colleagues that if the Nicaraguan democratic resistance were not winning, there would be no peace process today. Without the freedom fighters fighting, there can be no successful and just peace in Nicaragua.

The PRESIDING OFFICER (Mr. WIRTH). The time of the Senator has expired.

Mr. WALLOP. Mr. President, I urge this Senate to look to the cause of freedom as well as peace.

The PRESIDING OFFICER. The Senator from Arizona has remaining 3 minutes, the Senator from Rhode Island has remaining 1 minute.

Who seeks recognition?

Mr. PELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. I yield my 1 remaining minute to the Senator from Washington.

Mr. ADAMS. I thank the Senator.

I wanted to reply to the Senator from Wyoming, who did not quote my speech at all as to what I had said, which was that America should be standing tall in the understanding that our system is triumphing in an economic way throughout the world because it better be and we better win with our system in Nicaragua because we are better than the Communist system. There is not a military man in the United States who says that any amount of aid we send to the Contras is ever going to let them win that war. So we are putting money into people just like happened before in a war that does not succeed. Therefore, let us stop this foolishness. Let us go with the opportunity that we have, as I said this afternoon, to accept the proposition that George Aiken said about Vietnam, which was, for goodness sake, declare victory and come home while you got the chance. Because the worst thing that could happen in this case is that we would end up occupying the place. So I hope we vote this down.

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

The Senator from Arizona.

Mr. BUMPERS. Will the Senator from Arizona, even though I am not on his side, be generous enough to yield 30 seconds?

Mr. McCAIN. I would be glad to yield 30 seconds.

Mr. BUMPERS. I thank the Senator.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I debated this afternoon about whether to speak on this issue or not. It is meaningless to debate it; the issue has already been killed, but I want to say this. And it is not only on this issue, but it is on others but especially on this issue. No responsible person here should vote according to the polls, but every poll shows that the American

people oppose aid to the Contras by a minimal majority of 2 to 1. Never in the history of this country have the American people been as far out front and far ahead of the political structure as they are right now on this issue.

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

The Senator from Arizona.

Mr. McCAIN. Thank you, Mr. President. This has been a very long debate and one can add very little at this time.

Last night a signal was sent not only to the freedom fighters who live in the jungles of Nicaragua, but those who are struggling in the jungles of Angola, to the freedom fighters in the mountains and deserts of Afghanistan, to those who are struggling in the worker tenements and the shipyards of Gdansk, to all people throughout the world who are struggling for freedom. The message was that once again the American Government has encouraged them to arm, equip, and sacrifice for the cause of freedom, and then we have bailed out.

I cannot tell you how important a message that is. If we continue sending such messages, we will never have people who are willing to fight and die for freedom.

I would like to give you not my view of the Sandinistas, but to give you the view of Cardinal Obando y Bravo, a man who is most respected and revered by the people, except for the Sandinistas directorate, in his country. When I asked him if we should provide aid to the Contras, he said the following:

> As a mediator, I must be prudent. If I say there should be aid, I will anger the Sandinistas. If I say I am against the aid, the resistance will be angry. The Nicaraguan resistance represents Western democracy. The Sandinistas represent the complete opposite. Nicaraguan resistance, while they possess the means of continuing fighting, will continue to insist on democracy. The Sandinistas will never change their objective. There is no doubt that it is in the interest of the Sandinista government to stop aid.

I urge we affirmatively vote on this resolution.

Mr. SPECTER. Mr. President, I am today voting "yes" in favor of the procedural motion to proceed to consider Contra aid and "no" on the substantive issue against Contra aid because I believe that the Senate should decide this subject on the merits and that decision should be against the aid package.

The issue of aid to the Contras is one of great importance, should be the subject of extensive debate and then decided on the merits. The debate last night in the House of Representatives illustrates the seriousness of the issue, the intensity of the feelings on both sides and the closeness of the issue in the 219-211 vote. Even though the Senate's action today will not affect the outcome, since the House has turned down the aid package, it is worthwhile for the Senate to express its judgment on this issue.

While I respect the rights of the television networks to make their own judgments on coverage of events under our constitutional tradition of freedom of press and First Amendment rights, I personally consider it unfortunate that President Reagan's speech on Tuesday night was not covered by the three major commercial networks. On a matter of this importance, with this much controversy, it is worth the attention of the major networks and the American people to allow the President of the United States the coverage and to permit equal time to the opposing view. The absence of such major network coverage is a factor which weighs in my decision that the Senate should affirm the merits of open debate and public dialogue and decide the issue on the merits.

Accordingly, I am voting in favor of the motion to proceed even though most of my colleagues who oppose the substance of the aid package issue have decided the question differently on this preliminary procedural motion.

As to the merits, I continue to be opposed to aid to the Contras. In Nicaragua, war and bloodshed have resulted for years from a conflict which is financed by outside sources leaving many in the innocent civilian population dead or wounded. In my judgment, the preferable course is not to have the Contras financed by the United States, but instead our efforts should be directed to intensified diplomatic negotiations to try to resolve the dispute. While the $36.2 million in aid to the Contras is not decisive in the face of our enormous Federal budget, there are many more pressing domestic needs for the allocation of such funds.

Mr. CONRAD. Mr. President, I rise in opposition to the motion to proceed to the consideration of President Reagan's request for additional aid to the Contras. Since the House has voted to defeat this proposal, I see no reason for the Senate to consider it further.

If the Senate proceeds to act on the request itself, I will vote no. In my view, the most compelling reason to oppose this proposal for additional Contra aid is that President Arias of Costa Rica, chief architect of the Central American peace plan, has asked the United States to refrain. President Arias, who won the Nobel Peace Prize last year, has warned us that provision of lethal aid to the Contras would prompt the Sandinistas to abandon the peace process. While there are no guarantees that the plan will work, the United States should not give the Sandinistas an excuse to bail out.

It is possible that military pressure has brought the Sandinistas to the bargaining table. But I would argue that unrelenting economic pressures have greatly weakened the Government of Nicaragua and forced its hand. Mr. President, Nicaragua's economy has virtually collapsed. The inflation rate is an astronomical 1,800 percent—and continuing to rise. Electricity, gasoline, food and water are either being rationed or are available only intermittently. The country is on the verge of ruin because of prolonged conflict and mismanagement of its economy by the Sandinistas. These devastating economic conditions are the central threat to which the Sandinistas must respond. For these reasons, the Sandinistas' stake in pursuing the peace process should be relatively strong.

Over the past 7 years, the United States has provided $227 million of aid to the Contras. Our country has never received a complete accounting of how this money has been spent. Congressional investigations found that substantial amounts of money could not be tracked. Before additional assistance is considered, Congress deserves a full and accurate accounting of what has happened to the aid provided in the past.

I do not trust the Sandinistas, whose form of government represents a dictatorship of the left. There have been abundant abuses of power, repression of the press and political opposition, and unwillingness to protect basic human rights are abhorrent to any advocate of democracy. I am opposed to the practices of dictatorships—whether they come from the right or the left on the political spectrum.

At this stage of the peace initiative, I believe it is inappropriate for the United States to provide further aid to the Contras—particularly lethal aid. President Reagan's request for more guns, ammunition, planes and jeeps won't bring peace to Nicaragua; it courts the risk of wider war. I recognize that the Central American peace process could unravel—that the Sandinistas could break their promises. We should provide a fair test of the Sandinistas' commitment to the peace initiative—rather than providing them with excuses for failure. I believe the pressure is there—from sources besides the Contras—to keep the peace process alive.

Mr. BINGAMAN. Mr. President, today the Senate will once again vote on whether or not to support the Contras in Nicaragua. We all know, however, that this vote is, in fact, symbolic. Whether or not the Senate approves the President's request for $36 million in aid to the Contras, and I hope it is rejected, the fact is that the Contras will not receive those funds because

our colleagues in the House have already rejected the aid request.

I hope that in the Senate today we can move beyond the political symbolism of this vote and begin to build a consensus for a new direction in our policy toward Nicaragua and Central America. I urge my colleagues to vote against the pending Contra aid package. Let us join our colleagues from the House in saying "no" to the counterproductive, wasteful, and inhumane policy that the administration has waged against Nicaragua for more than 7 years. I can't help but mourn the fact that these past 7 years were wasted on fermenting and supporting civil war in that country, when that time could have been invested instead in constructive involvement in the advance of our interests in peace, democracy, and economic and social justice for Central America. And I can't help but mourn the fact that hundreds of millions of United States taxpayer's dollars have been poured out of our Nation's coffers and into a war against the Nicaraguan Government that cannot be won. I for one have found it difficult to go back to New Mexico and tell voters that while vital domestic programs—needed to build a brighter future for our Nation in such areas as education, nutrition and economic development—have been cut, we've sent millions to the Contras.

In the course of this current debate on Contra aid, many of my colleagues have already spoken eloquently on the futility of the administration's Contra policy. On numerous occasions since I came to the Senate in 1983, I, too, have spoken at length on this subject. I don't need to do that again today because the history of this policy speaks for itself. It is a policy that has clearly failed to advance United States interests in Central America. I urge my colleagues to consider the fact that if United States dollars continue to support war in Nicaragua, the peace process spearheaded by President Arias will not have a chance.

I hope that we will reject the President's aid request and this failed policy. And I hope that having rejected the President's request we can join together, finally, in a sound bipartisan effort, to embark upon a new policy in Central America. One based in diplomacy, not aggression. A policy designed to advance peace, not war.

Mr. GORE. Mr. President, I rise in opposition to the proposal which President Reagan has sent us for military aid, to the Contras.

I oppose this proposal for one very simple reason: It would make peace in Central America less, not more, likely.

I have opposed military aid from the very start of this policy for the same reason.

For the past few months we have been providing the Contras with limited amounts of nonmilitary assistance in an effort to begin implementing the Arias plan, and to keep a certain amount of pressure on the Sandinistas to comply more fully with the provisions of the Guatemala accords at a critical point in the negotiations.

In fact, this strategy has worked reasonably well. The Sandinistas still have a long way to go before they will fully comply with the democratization provisions of the Guatemala accords, but they have finally begun to show positive movement in this direction. Many in the Reagan administration would have had us believe such progress was impossible. But it also is not clear to me that these results could have been achieved had we simply ended all aid to the Contras while the Sandinistas still were refusing to even begin to move along the road mapped out by the Guatemala accords.

Now, however, we have before us an entirely different proposal. The Reagan administration once again is asking for military aid. Only $3.6 million, we are told, and only in escrow—but military aid in any amount and given at any point will only mean more war. It in no way serves either our own country's interests or the interests of the Nicaraguan people.

Moreover, we would risk undermining the basic structure of the Arias peace plan. We would be giving the Sandinistas an excuse, and arguably, a reason to abandon the peace process. We would be giving the Contras an excuse, and arguably a reason, to be obstructionist in the cease-fire negotiations. And we would be sending a message to the people of Central America and to their leaders that we have neither respect for nor confidence in their ability to handle their own affairs.

There should be no doubt about these consequences. That is the message President Arias sought so eloquently to send us in his address upon accepting the Nobel Peace Prize last December. That is also the message he delivered in private discussions I had with him a few days before that. Instead of increasing the leverage of the forces of peace and democratization, it would undermine the leverage that already has been built. Instead of being a bargaining chip, it would destroy the bargain that has begun to be struck.

What we should be doing is working to strengthen, solidify and support the prospects for peace in Central America. Toward that end it is time that we took the initiative for direct bilateral negotiations with Nicaragua. Ortega keeps calling for direct talks; he even wrote an article in the New York Times to that effect. If he really is prepared to negotiate an agreement which:

Removes the existing Soviet and Cuban military and paramilitary presence from Nicaragua, and flatly and firmly prohibits any future Soviet or Cuban military or paramilitary presence in Nicaragua: no military advisers, no troops, no bases;

Commits Nicaragua not in any way to threaten the security, violate the sovereignty or otherwise seek to destabilize its neighbors;

Establishes strict limits on both the size of the Nicaraguan military and the weaponry at its disposal; and

Which sets up the necessary procedures and mechanisms for reliable verification and enforcement; then so are we. And if he is bluffing, then it is time to call his bluff. The Ortega brothers need to know that there cannot be true security for anyone in the region if Nicaragua arms itself with MiG-21's and conscripts a 600,000 soldier army.

These bilateral negotiations must in no way be construed as a substitute for the direct ceasefire negotiations with the Contras. They are intended to reinforce the Arias plan, not supplant it; take the peace process the next step, not get it off track. We should be prepared to affirm our own commitment to nonintervention in Nicaraguan internal affairs, so long as the Sandinistas are prepared to make the same commitments toward their neighbors, and so long as we can verify and enforce that commitment.

At the same time we should make it very clear to Mr. Gorbachev that Soviet miliary aid to Nicaragua and a perestroika in United States-Soviet relations are incompatible. I strongly reject the Soviet effort to equate our aid to governments who are our neighbors with their aid to insurgent forces and governments in this hemisphere, thousands of miles from their borders. The only issue for discussion here is Soviet military aid to Nicaragua. And that aid must cease. We should make sure that Mr. Gorbachev knows that on this issue our country is firmly united. This is an issue on which we should test Gorbachev, and see if he is for real.

Beyond that, and looking to the future of our hemisphere, we must finally break out of the mind-set which substitutes firefighting for a long-term strategy. We need to start doing a much better job at "preventive diplomacy". We must stop waiting until a crisis is on top of us, for in so doing we relegate ourselves to a reactive role, and to a world in which the realistic options available to us are all too severely limited.

Preventive diplomacy means phasing out our support for dictators like Noriega and Pinochet sooner rather than later. It means working on a sustained basis with groups such as democratic political parties, labor unions, the free press and the church to strengthen the institutional infrastructure on which democracy ultimately must rest.

It means attacking the social and economic injustices which are the breeding ground of extremism—and doing so sooner rather than later.

Thus, if we really are serious about preventing both the extremes of more Marxist victories and more death squads, we need to start working today to build the foundations—the political foundations, the economic foundations, the social foundations—of stable democracies.

This is a battle worth waging, a commitment worth making. It is true to our own traditions, and it is a contribution to the future of other nations in which all of us—Republicans and Democrats, North Americans and Central Americans—can be proud.

The process initiated by the Central American Presidents is an important step toward this goal. Much still remains to be done, and we should not be content until both regional peace and democratization are firmly established. The reconciliation process must continue to move forward, and we should maintain our vigilance throughout. If over the next few weeks the Sandinistas do not continue to follow through and deliver on their commitments to democratization, it may still be necessary for us to continue some form of nonmilitary aid to the Contras.

And if the Sandinistas go back on their commitments, then we must be prepared to work with our allies—including President Arias—to bring diplomatic, political and economic pressures to bear on them.

But after the revelations of the Iran-Contra hearings, no American should have any illusions about the dark and dangerous path down which the Contra war has led us. Do we wish once again to head down that path—a path of more warfare and destruction for our neighbors, and of profound threats to our own political system and cherished way of life from the blatant disregard for the law considered justified in the name of the Contras? Or do we prefer to do what we can to work with our neighbors to build a peace which has the potential to serve all of our mutual interests?

The choice is a clear one. This aid package must be defeated.

Mr. HECHT. Mr. President, as I have in the past, I support the President in his request for United States assistance—both humanitarian and military—to the Nicaraguan democratic resistance forces. The actions of the House yesterday notwithstanding, I believe that if we are to have peace in Central America, we must continue the pressure that has been exerted upon the Sandinista's to negotiate a peace.

Mr. President, during our recess, I spoke with hundreds of Nevadans as I toured my State. As Senators from my part of the country can attest, our voters can be both vocal and specific about their wish to see a few clear choices coming from the Congress on policy issues. Their point is well taken—I urge all Senators to be clear; to stand united on supporting the Contras until we see evidence of long term, responsible conduct by the Nicaraguan Government—not just promises.

I perceive an effort by some Members of Congress to stand on both sides of the issue of opposing additional Communist governments in this hemisphere—most voters can see through this weakness. I think that they resent this lack of clarity, and I agree with them.

WHY SUPPORT THE DEMOCRATIC RESISTANCE IN NICARAGUA?

Mr. President, my own reasons are straightforward and simple:

First, at the risk of overstating the obvious—because the freedom and well-being of the people of the United States could ultimately be threatened by the entrenchment and development of another subversively oriented Communist government in this hemisphere—especially in Central America. I know that it is fashionable in Congress to think in short-range future terms only, but in the Senate I would hope we could be a bit more farsighted.

Second, because the freedom of the other democratic states in that region could be similarly threatened. To those who dismiss anything sounding like a "domino theory," I recommend discussions with the Laotians and Cambodians.

Third, because these prodemocratic, Contra elements, who are attempting to give their government back to the Nicaraguan people—that is, taking back a stolen revolution—deserve our support. We are developing a reputation in the world as a dubious ally, one who will cut and run if we cannot have a quick and easy victory. We cannot afford this reputation.

Fourth, our policy of support to the resistance forces is proving successful. Winston Churchill once wondered if the American political will was strong enough for us to stay the course as an international leader. Listening to some of the voices here on Capitol Hill recently, I understand his concern. It is difficult to understand why we would give up a program showing significant success—unless, of course, one cannot stand the thought of any success credited to a strong President; or perhaps, had no great objections to the growth of another Communist government in the Western Hemisphere to start with; and

Fifth, unless we are willing to support the development of democratic governments in our own neighborhood, we are sending a dangerous and foolish message to both friends and potential foes in the rest of the world.

Mr. President, the Sandinista's would not even be negotiating for peace today were it not for the freedom fighters. The President's policy has worked; it must be allowed to continue to work.

I urge each Senator to think carefully about the judgment of history on his position on this question, and to support the administration's request.

Mr. DASCHLE. Mr. President, I rise in strong opposition to Senate Joint Resolution 243, a resolution to send an additional $36.25 million over the next 4 months in aid to the Nicaraguan Contras.

The administration would have us believe that this aid is a "scaled-down" version of previously anticipated requests, that most of this aid is "humanitarian," and that this aid is consistent with our professed support of the Guatemala peace accord. I say to Senators, if you support Contra aid whenever, however, and through whomever, then you should support this resolution. But if you are seeking to send scaled-down humanitarian assistance that is consistent with the Guatemala peace accord, you should vote against this Contra aid package, for it has none of those characteristics.

First, the aid is not scaled-down. The administration argues that $32.6 million in nonlethal military aid is needed to keep the Contras in the field over the next 4 months. This is in conflict with the administration's fiscal year 1987 request, which sought $30 million in nonlethal aid over a 12-month period. It is also in conflict with the fact that the Contras still have funds remaining from their fiscal year 1987 nonlethal aid.

The claim that the Contras must have this military aid to stay alive is simply false. Furthermore, when the total $36.25 million request is coupled with accompanying funds for indemnification of aircraft and electronic countermeasures, the delivery rate far exceeds that of fiscal year 1987 and reflects its roots: The administration's original 18-month request for $270 million. So, it is not a scaling down, but an escalation.

Second, I want to address the claim that this package consists primarily of "humanitarian" aid. It is important to clarify this administration's definition of "humanitarian." In the context of Contra aid, "humanitarian aid" means food, medicine, boots, and other items distributed through the Department of Defense and the CIA—the same network that could not control past "humanitarian" aid.

In the past, "humanitarian" aid was clearly defined as food, medicine, and other essential items distributed through internationally recognized relief organizations. Contra aid has rendered the term almost meaningless.

It is also interesting to note that even using its expanded definition of humanitarian aid, the administration cannot call the "nonlethal" portion of this package—which includes military training, helicopters, jeeps, and other logistical aid and excludes only weapons, weapons systems, and ammunition—"humanitarian." So, it is unclear how much of this package is humanitarian, and it is unclear where it will go.

Finally, in spite of the administration's claims to the contrary, this Contra aid package is inconsistent with the United States-backed Guatemala peace accord. The agreement strictly prohibits U.S. aid to the Contras. The administration claims that the "nonlethal" assistance will only sustain the Contras "in case there is no cease fire," and that the $3.6 million in lethal aid will be held in escrow until March 31. The President would then be free to release the funds. This strategy, the administration argues, will force the Sandinistas to the negotiating table.

But what will force the Contras to the table? Certainly not this plan. This plan would actually reward the Contras for avoiding a cease fire. If they can hold out until March 31—and we will give them $32.65 million to ensure that they can—they can get more lethal aid. Sending further aid to the Contras at this point can only weaken our diplomatic position and discourage peace by giving the Contras, the Sandinistas, and all parties involved an outside excuse for a breakdown in negotiations. We should not offer them such an easy way out. Instead, we should do everything in our power to promote negotiations and a positive outcome.

Mr. President, it is a sad commentary on our policy in Central America that we are voting on this resolution at the same time the Guatemala peace accord, a fragile agreement the United States professes to support, it struggling to take hold. Nevertheless, we must vote. We have two choices: To give the peace agreement a chance to work, or to escalate the war in Nicaragua. For me, the choice is clear.

Mr. SIMON. Mr. President, I want to express my strong opposition to Senate Joint Resolution 243, the President's package of lethal and nonlethal assistance to the Nicaraguan Contras.

I have consistently opposed aid to the Contras, both in committee and during full consideration of this issue in Congress. On Tuesday, the Senate Foreign Relations Committee voted 10-0, with my support, against the President's request.

Contra aid is counterproductive. It is harmful to our long-term interests in this area of the world. Contra aid is the surest way to push the Sandinistas closer to the Cubans and the Soviets. And while the United States had funded a war, thousands and thousands have been killed and maimed, and lives destroyed. Moreover, it has all been for nothing.

A more productive policy would work to diffuse tensions, to reduce armaments, and encourage efforts of the democratic governments of the region to find and implement a way to end the war in Central America.

A sensible U.S. policy should be based not on fueling the war, but on ending the war. Our policy should vigorously encourage, not undercut, the Arias peace process. We have come to the most important juncture in this administration: a genuine opportunity for a negotiated solution to war. It is time, once again, to say "no" to Contra aid.

SAY YES TO PEACE, NO TO CONTRA AID

Mr. HARKIN. Mr. President, the Senate has the opportunity today to close the door once and for all on 7 years of Contra war against the Nicaraguan people.

The House has made its decision: no more Contra aid. We must give our full support to the peace process begun by Nobel Peace Prize winner Oscar Arias.

And I would urge my colleagues to not be misled by the false and fanciful claims of the Reagan administration as they seek to maintain some momentum to fight another day for Contra aid. We have heard these false claims before.

From 1982, when the Contra program first became public, to today, the President has fashioned the public presentation of this policy to fit the temper of Congress at the time.

In 1983, it was a program solely to interdict arms.

In 1985, the Contras would stop Soviet expansion and force the Sandinistas to the negotiating table.

In 1986, the Contras were agents of political pluralism in Nicaragua.

Now, the President calls the Contras an insurance policy to guarantee Sandinista compliance with the Guatemala peace accords.

To paraphrase an old saying, the lyrics may change, but the tune remains the same.

Behind all the rhetoric, one fact remains the same. The goal of administration policy is the use of force to overthrow the Nicaraguan Government.

And the President, in his determination to make the Sandinistas cry uncle, has methodically sabotaged the Latin American search for a political solution—first the Contadora process, and now the Arias peace plan.

For this reason, Mr. President, we cannot have it both ways. We cannot embrace the peace process with one hand while voting for the administration's Contra policy with the other.

Latin Americans realize this. The five Central American Presidents, at the conclusion of a 2-day summit in Costa Rica, signed a communique calling for an end to outside aid for all insurgent forces, including the Contras.

The American people know this. The most recent CBS/New York Times poll shows that by a 2-to-1 margin, the public opposes Contra aid.

President Arias could not have been more direct, when last October he said that the Contras are part of the problem, not the solution to the crisis in Central America.

And yesterday, the House of Representatives put itself on record when it defeated the President's request for $36 million in military aid to the Contras.

If our goals are the promotion of peace and democracy in Central America, as the President so often proclaims, then the Arias plan has already proven it can work.

More democratic reforms have taken place in Nicaragua in the 6 months since the peace accords have been in effect, than in the 7 years of the Contra war.

The record shows that major setbacks—not progress, but setbacks—for political freedom and human rights in Nicaragua have been in direct response to Contra military pressure.

In March 1982, the Sandinistas imposed their first state of emergency—in response to the destruction of two bridges in northern Nicaragua, the Contras first major acts of sabotage.

In October 1985, the Sandinistas renewed the state of emergency and arrested several hundred dissenters—in response to congressional approval of $27 million in so-called humanitarian aid.

In June 1986, the Sandinistas closed down La Prensa and expelled two Catholic bishops—in response to approval of a $100-million Contra aid package.

In contrast, the signing of the peace plan last August has begun a process of democratic reforms and a political opening unprecedented since the beginning of Contra aid.

The Arias plan—not the Contras—produced the opening of La Prensa.

The Arias plan—not the Contra war—helped put Radio Catolica back on the air and secure the release of a thousand political prisoners.

Further steps have been taken since the January summit of the Central American Presidents. The Sandinistas lifted the 6-year state of emergency, began direct talks with the Contras, and pledged a broader amnesty.

Seven years of war and a quarter billion of U.S. taxpayers' dollars haven't produced these reforms. The Guatemala accords—and political pressure by the four Central American Presidents—have.

It is difficult to predict what additional reforms the Sandinistas may

make or how lasting the effect of changes already undertaken may be. But it is certain that Sandinistas will use approval of more Contra aid as a reason not to comply with the peace plan and to stall the reform process now underway.

President Arias made this point during a discussion I had with him last September. The administration's military policy, Arias said, isolated the United States from its Latin allies and provided a cover, both domestically and in the international arena, for Sandinista policies.

So far, recent events have proven Arias correct.

Now is the time for the United States to embrace fully the peace plan and a policy of negotiations and end the force-first military program the administration has pursued for the past 7 years.

Before voting, we first must dispel the myth that this is a modest nonlethal aid package.

In reality, this package, when the $27 million for air defense systems and new aircraft are added, actually totals more than $60 million, not the $36 million advertised by the President. This represents the highest quality rate of Contra aid ever approved by Congress.

Make no mistake. This is not a humanitarian aid package. The aid we approve today will provide helicopters, military training, radar, and trucks, not just food and shelter for the Contras.

This aid will go for boot camps and battle gear, not soup kitchens, for the Contras.

This resolution will maintain the role of the CIA, increase Contra air drops, escalate Contra military activities, and discourage the Contras from taking the ceasefire talks seriously.

Seven years of Contras war have resulted in the deaths of 40,000 Nicaraguans. Nearly 25 Nicaraguans are killed each day. Approval of this aid package will not aid the defense of democracy. Nor will it promote the cause of peace.

Approval of this package will prolong the bloodshed that has become a tragic fact of life for the people of Nicaragua.

Another myth—what I call the security myth—must be dispelled before we cast our vote today.

The President claims that a vote for the Contras is a vote against Sandinista subversion of its neighbors, a vote against a Soviet buildup in our hemisphere, and a vote for our national security.

Does the President really believe that the Contras—a ragtag band of 6,000 fighting men and women, a peasant army that after 7 years of fighting and $250 million worth of United States aid has still failed to take a single Nicaraguan town—can defend us against Soviet subversion?

The Sandinistas have offered to negotiate reductions of its armed forces, to scale down their armaments, and to remove Soviet and Cuban advisers—only if the United States were to give a commitment not to overthrow them.

Mikhail Gorbachev, in a discussion with the President in December, offered to limit military shipments to Nicaragua in return for an end to United States aid to the Contras.

The President refused even to respond. He chose instead to wait until Gorbachev left town before parading out Major Miranda—otherwise known as the 800,000 dollar man—and his reports of an expanded Nicaraguan military buildup and threat of Soviet shipments of Mig aircraft.

But we could all rest easier if the President began taking the security issue seriously, and stopped manipulating it to scare Congress into supporting the Contras.

Surely, if we can negotiate reductions with the Soviets on intermediate and strategic nuclear weapons, we can make a deal on removing the Soviet and East bloc presence from Nicaragua.

In regards to the Nicaraguan buildup, the Sandinistas have consistently stated their willingness to discuss such matters in direct bilateral talks with the United States, which this administration ended 3 years ago.

I commend to my colleagues' attention a recent article by former CIA Director William Colby. He concludes that the President's Contra policy works against our security concerns with Nicaragua, and argues that we can insure our security interest through verifiable agreements with Nicaragua and its patrons.

We are not deciding on whether our security interests will be protected against Soviet expansionism. The Contras, even if funded, cannot adequately defend us. Negotiations, with the Sandinistas and the Soviets, provide a more realistic and effective means of defending against the threat of a Soviet beachhead in Central America.

We are deciding on whether the means we use to protect American national security will conform to fundamental American values, of respect for the law and respect for democratic institutions.

This administration's Contra policy has led to the production of assassination manuals, the illegal mining of Nicaraguan ports, the selling of arms to terrorist Iran and the illegal transfer of some of the profits to the Contras, and the trauma of our Nation's most serious constitutional crisis since Watergate.

For 7 years, this administration has been willing to undermine democracy at home in its alleged pursuit of democracy in Central America.

In its zealous pursuit of overthrowing the government in Nicaragua, the Reagan administration has waged its own holy war against the alleged Soviet menace, adopting the methods of our enemies and in the process alienating us from our allies in the region.

Today, we have the opportunity to turn away from this sad chapter in our Nation's history and chart a new course. Today, the Senate can begin the process that will realign our foreign policy with our basic democratic values and ideals.

The fact is, our real strength as a nation comes not from the barrel of a gun but from our ideals and our example. The writings of Thomas Jefferson and Tom Paine have done more to influence people in Latin America and elsewhere than all the Redeye missiles and M-16's combined.

Today, we can begin to stop dictating and start cooperating with our Latin neighbors. The United States can begin to support Latin Americans in their efforts to stop the killing and start the rebuilding in their countries.

For too long, the Reagan administration's obsession with Nicaragua has prevented us from advancing a long-term program for peace, democracy and economic development in Central and South America.

The strength of the Arias plan stems largely from the realization of this fact. The administration's support for the Contras has isolated us from the rest of Latin America. Our isolation has increased Latin solidarity with Nicaragua.

President Arias based his plan on the pursuit of a negotiated, rather than a military solution to the Central American crisis, and isolating Nicaragua, not the United States from the rest of Latin America. Through regional and international political pressure, Arias correctly believed the Sandinistas would be forced into reopening their society for democratic reforms.

Our obsession with the Contras has caused us to lose sight of the profound economic and political problems still facing the rest of Central America. As a contrast to Nicaragua, the President would have us believe that El Salvador, Guatemala, and Honduras are successful democracies, where civilian Presidents have consolidated their power, the military is ruled by the rule of law, and human rights abuses are all but eliminated.

This unfortunately is not the case.

In fact, in some cases, problems of military abuses have been exacerbated in the past 6 months.

The Government of Honduras, for example, has been taken to the Inter-American Court for Human Rights for its military's alleged responsibility for disappearing more than 100 of its

countrymen in the early eighties. Two witnesses in the case, including a leading human rights official, have been gunned down. Some claim that they were killed by the same military battalion responsible for the earlier political killings.

At the same time that the United States—justifiably—condemns the detention of 12 Nicaraguan opposition leaders, the Reagan administration remains silent while 2 Hondurans are gunned down because of their defense of human rights.

In El Salvador, the National Assembly's amnesty law has resulted in the release of the National Guardsmen responsible for the 1981 assassination of two American land reform advisers.

El Salvador's amnesty law, which President Duarte claims was enacted to comply with the Guatemalan accords, has further undermined his country's already weakened judicial system. In reality, the right and the military have used amnesty to destroy the limited steps taken so far to institute the rule of law in El Salvador.

Our Nicaragua obsession has distracted us from tackling the profound problems of drugs, debt, and poverty in the rest of Latin America.

The President constantly warns us of the threat of Nicaraguan-based Soviet subversion of the hemisphere.

Think instead of the consequences of a large-scale repudiation by Latin America of its external debt—which now approaches $400 billion. Latin America poses a greater threat to Wall Street than to Main Street, Harlingen, TX.

For Nicaragua's neighbors, we must help them grapple with social and political instability with a long-term commitment to regional economic development.

For too long in Central America, the United States has been concerned solely with putting out fires. It's time we help rebuild the houses damaged by the flames of social injustice and economic deprivation.

Latin America's wars in the nineties will be waged in the marketplace and at the ballot box, not on the battlefield. We must shape our foreign policy to respond to the new crises and the new realities of the next decade.

We are just now heeding the warning of Walter Lippman, who wrote after the Bay of Pigs:

> A policy is bound to fail which deliberately violates our pledges and our principles, our treaties and our laws. The American conscience is a reality. It will make hesitant and ineffectual, even if it does not prevent, an un-American policy.

It is time to take the lessons we have learned over the past 7 years and begin to shape a new policy, sensitive to the democratic aspirations of Latin America and true to our values and ourselves.

Mr. GLENN. Mr. President, I rise to express my opposition to the pending request for additional Contra aid. Congress has debated and voted on this issue many times over the past several years and one would be tempted to say that there is nothing new in this current round. But there is a significant new development which is relevant to, and I believe should be determinative in, today's debate. Since the Congress last approved significant new aid for the Contras, the five Central American Presidents have signed an agreement, initiated a negotiating process on their own, and that process has produced more constructive results in 6 months than the Contras have attained in 6 years.

Why does this agreement between five foreign heads of state impact on our consideration of the President's Contra aid request? Because that agreement explicitly calls for the cessation of aid to regional insurgencies. At their recent meeting in San Jose, the Central American Presidents called cessation of aid to irregular groups an indispensable condition for the attainment of peace in the region. Hence, to approve new aid, at this critical juncture when the peace process is beginning to produce results, would be to thumb our noses at the Arias initiative and torpedo this attempt by the Central Americans to work out their regional problems. I believe their initiative deserves our respect, not our disdain; merits our constructive cooperation, not our indifference. The administration says it supports the Arias plan, but this request belies that assertion.

While the President has offered to put the lethal portion of his aid request in escrow pending the outcome of cease-fire negotiations between the Sandinistas and the Contras, I believe it should be noted that the bulk of the remaining "nonlethal" aid is in fact logistic assistance. Such assistance contributes to the Contras' war-making capability, and thus runs counter to the spirit, if not the letter, of the Guatemala City accords.

Whichever way we go on Contra aid is a gamble. But I am placing my bet and my vote on the peace process, on a negotiated settlement of regional problems. I can offer no guarantees that this process will succeed, but I believe we have an obligation to give it every chance when the alternative is a continuation of a long, bloody, and costly war against the long-suffering people of Nicaragua and their shattered economy. History will judge us harshly if we contribute to the failure of the peace process.

Over the course of the many debates on this issue I have emphasized the need to pursue a negotiated solution as a first resort, and I disagreed with the administration's insistence on pursuing a military solution as its first and only resort. Now the Central American nations have offered us a negotiated course of action, they have asked for our help and cooperation. I believe it would be extremely shortsighted for the United States, the most powerful Nation in this hemisphere, to take an action so blatantly at odds with, and destructive of, the Central Americans' own peace initiative. President Arias has pleaded with us to give peace a chance, I hope we will be wise enough to do so.

Mr. HEINZ. Mr. President, the defeat of the administration's Contra aid request by the House of Representatives should not be an end point, but the beginning of a new phase in our Central American policy. It will be an end point if the House's refusal to approve the administration's request is the last word. That would be a tragedy. But it will mark a new phase if the opponents of Contra aid who won yesterday face up to their responsibility and provide genuine incentives for the peace process to continue.

The Sandinista government has come a long way under the Arias plan—even if it waited too long to do so. Due to pressure from the Contras and their democratic neighbors, the Sandinistas have begun—and I stress begun—to open up their society. While the progress has been real, there is every reason to believe that it may be temporary if pressure is lifted. One stroke of Daniel Ortega's pen can reverse every reform we have seen since August.

For that reason, I believe it is a mistake to abandon the Contras at this point. They are now engaged in face-to-face cease-fire talks with the Nicaraguan Government—talks the Sandinistas earlier claimed would never take place. If the House—and subsequently the entire Congress—fails to provide an adequate alternative to the administration request for assistance, it may pull the plug on the peace process just as it was gaining momentum.

I have several times cast votes for Contra aid. These have not been easy votes. The country is deeply split on our policy in Central America. Pennsylvania is also split, and this division is reflected in the mail and phone calls I receive on the subject, which over the past several months have together been running very even in favor and opposed to Contra aid. My objective in supporting the program has been to provide the Sandinistas with a concrete reason to reform and live up to the pledge of democracy and freedom that was the original rallying cry of those who bravely overthrew the corrupt Somoza dictatorship. I believe the pressure brought by the Contras has been a key reason for the progress we have seen to date.

I understand the concerns of both sides in this controversy. I have been

willing to carry the burden of doubt and criticism for my votes in favor of Contra aid to this point. I am somewhat hopeful that my approach all along—to provide the Sandinistas with concrete incentives to reform—is now being proven as the correct one.

But just as supporters of Contra aid have been willing, despite their reservations, to shoulder the responsibility of supporting a controversial policy, the opponents who have now defeated the administration's latest request must bear the responsibility of their actions. If no further assistance to the Contras is provided at this crucial time, if there is no reason for the Sandinistas to democratize there is a danger that the whole peace process will derail.

Without pressure to reform, the Sandinistas may return to their old—and bad—ways. We could see the development of the 600,000-man army that the Sandinistas have planned with Cuban and Soviet advice. We can only speculate about the possible restrictions on freedom that may be foreseen as needed in the next stage of the Sandinistas' revolution with a Cuban face.

This is the burden that opponents of Contra aid must now shoulder. They will be called to account if a cutoff of the Contras leads to the dire consequences many of us fear. The House and the Congress must now say where they will take our Central American policy. They must say how they will achieve the objectives of peace with democracy that all have supported as the proper aim of U.S. policy.

The ball is in Congress' court. The game is at a crucial stage, and the other players are watching the Congress to see what we will do. Those who have changed the rules had better come up with a way to win the game, or the cause of freedom, democracy—and ultimately peace in Central America will be an abandoned hope and a lost cause.

Mr. D'AMATO. Mr. President, my party's leader in this body, BOB DOLE, has just stood up and told us plainly what we should already know: that it is freedom that matters. It is in the cause of freedom, Mr. President, that we are here—every day. How can any of us forget that? And yet we labor over that fact with politics and posturing, too often the politics of rationalization and retreat.

Do we have the courage, and the character, to stand tonight for what much of the media and the polls and the professionals tell us is, at the moment, perhaps, an unpopular cause? Do we believe that support for peoples struggling for freedom is more important than mere politics?

For the last few weeks, Mr. President, we have listened to those who would retreat from the cause of freedom because it has become difficult just at the hour of maximum need—and maximum promise; those who would disassemble this Government's efforts just as they are beginning to bear the fruit of peace, and to bring the hope of restored democratic freedom; those who would, in the cause of partisan politics, abandon those who we have led to rely on our promises.

I have heard many times today, "give peace a chance." Mr. President, we all want peace. But first we must give freedom and democracy a chance.

All of us who have watched the continuing struggle for freedom—in Afghanistan; Poland, and Eastern Europe; and in Latin America, have been heartened by the unwaivering dedication of President Reagan to the cause of liberty. His refusal to flinch from his commitment to the fight for democracy, despite hostility, faintheartedness, and mounting political odds, is a beacon of hope and inspiration to those seeking freedom throughout the world. More than anyone in American politics, he has had the courage to do what's right.

And he has been right. His strong stand with the Soviets has brought us the INF treaty, a real chance at arms control; pressure on the Sandinistas has begun to bring us the first faint hope of democratic reform in Nicaragua. We should not now falter, or we fail.

Senator DOLE's statement tonight shows that spirit. His courage and clarity have made me proud to be his friend, and to serve with him in this Chamber. I hope that all of us are as firm in our dedication to the cause of liberty and to the President's efforts in that cause. I urge my colleagues to give freedom a chance.

The PRESIDING OFFICER. All time has expired.

Mr. BYRD. Mr. President, I ask unanimous consent that I may speak for 2 minutes.

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

Mr. BYRD. Mr. President, this will be the final rollcall vote of the day. The Senate will not be in session tomorrow. The next session of the Senate will be on February 15, Monday. George Washington's Farewell Address will be delivered that day by Senator TERRY SANFORD. There will be no rollcall votes that day. There will be no other business transacted that day.

On Tuesday, the unfinished business will be S. 2, the campaign finance reform bill, but there may be some other legislation at that particular time or on that day that we can take up and which could result in rollcall votes. I would urge all Senators to be prepared for an early vote on that Tuesday, February 16. That would be a vote I would say unless there is bad weather in which case we will delay the vote. That would be around say 9:30. That will be a 15-minute rollcall vote.

So I urge all Senators to be prepared for that vote.

HAPPY BIRTHDAY MR. PRESIDENT

Mr. BYRD. Mr. President, now, I want to thank all Senators and I want to close this debate on a happy note on which we all will agree, I am sure.

Mr. President, this upcoming Saturday is a special day, to which I take genuine pleasure in calling attention.

February 6, 1988, will be President Ronald Wilson Reagan's 77th birthday.

I know that all of our colleagues join me in extending to President Reagan the happiest and warmest of birthday greetings, and in hoping for him many added years of a full and rewarding life.

One of the qualities about our President often remarked upon is his robust health. An athlete from youth onward, and always a physically active and vigorous man, President Reagan is blessed with a constitution that belies his actual age. The zest for life that the President demonstrates is an inspiration to the growing body of Americans who have passed their 70th birthdays.

I am sure that the President, Mrs. Reagan, their family, and their close friends will observe the President's birthday this weekend in some fashion. At that celebration, I hope that they will keep in mind the sincere esteem in which President Reagan is held by millions of his fellow Americans, including the respect and admiration felt for the President on both sides of the aisle in the U.S. Senate.

(Applause, Senators rising.)

CONTRA AID

The Senate resumed consideration of the joint resolution.

The PRESIDING OFFICER. Under the previous order the hour of 9 o'clock having arrived, all time for debate has expired, and the clerk will read the joint resolution for the third time.

The joint resolution was ordered to be engrossed for a third reading, and was read the third time.

The PRESIDING OFFICER. The joint resolution having been read the third time, the question is, Shall the joint resolution 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 Delaware [Mr. BIDEN] is absent because of illness.

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

The result was announced—yeas 51, nays 48, as follows:

[Rollcall Vote No. 18 Leg.]

YEAS—51

Armstrong	Gramm	Murkowski
Bentsen	Grassley	Nickles
Bond	Hatch	Nunn
Boren	Hecht	Pressler
Boschwitz	Heflin	Quayle
Breaux	Heinz	Roth
Chiles	Helms	Rudman
Cochran	Hollings	Shelby
Cohen	Humphrey	Simpson
D'Amato	Johnston	Stennis
Danforth	Karnes	Stevens
Dole	Kassebaum	Symms
Domenici	Kasten	Thurmond
Evans	Lugar	Trible
Exon	McCain	Wallop
Garn	McClure	Warner
Graham	McConnell	Wilson

NAYS—48

Adams	Fowler	Moynihan
Baucus	Glenn	Packwood
Bingaman	Gore	Pell
Bradley	Harkin	Proxmire
Bumpers	Hatfield	Pryor
Burdick	Inouye	Reid
Byrd	Kennedy	Riegle
Chafee	Kerry	Rockefeller
Conrad	Lautenberg	Sanford
Cranston	Leahy	Sarbanes
Daschle	Levin	Sasser
DeConcini	Matsunaga	Simon
Dixon	Melcher	Specter
Dodd	Metzenbaum	Stafford
Durenberger	Mikulski	Weicker
Ford	Mitchell	Wirth

NOT VOTING—1

Biden

So, the joint resolution (S.J. Res. 243) was passed, as follows.

S.J. RES. 243

Resolved by the Senate and the House of Representatives of the United States of America in Congress assembled, That the Congress hereby approves the additional authority and assistance for the Nicaraguan democratic resistance that the President requested pursuant to the H.J. Res. 395 of the One Hundredth Congress, the Act making continuing appropriations for fiscal year 1988.

[Applause in the gallery.]

Mr. LEAHY. Could we have order, Mr. President?

The PRESIDING OFFICER (Mr. WIRTH). The Senate will be in order.

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that there be a period for morning business not to exceed 10 minutes and Senators may speak therein.

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

The Senate will be in order.

Mr. BYRD. Mr. President, business is being transacted. I hope that the Senate will be in order.

ABE STOLAR

Mr. LEVIN. Mr. President, I call to your attention the case of Abe Stolar, an American citizen who has been trying to leave the Soviet Union with his family since 1974. I have spoken many times in this Chamber on the Stolar family's behalf. Several times I have told of how his family has seemed to receive permission to emigrate to Israel, only to discover that they have been denied permission at the last moment.

Abe Stolar has reapplied for five visas to leave the Soviet Union with his family, including his young granddaughter. Unfortunately, Julia Stolar, one of the five and Abe Stolar's daughter-in-law, has been denied permission to leave with her husband, Michael. She has been denied an exit visa because she lacks permission from her mother. However, it appears that the Soviets have, at times, waived this procedure, in particular in the case of Yanna Begun. I have written to General Secretary Mikhail Gorbachev, urging him to grant Julia Stolar this same waiver. Julia's situation takes on new urgency now that she is expecting another child.

Many longtime refuseniks were allowed to leave the Soviet Union in 1987, and we rejoice in their freedom. But what do these highly publicized cases mean for the Stolars and others who wait like them?

Enough is enough. It is time that this U.S. citizen be allowed to leave the Soviet Union with his family.

Mr. President, I ask unanimous consent that a copy of my letter to General Secretary Gorbachev be printed in the RECORD.

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

U.S. SENATE,
Washington, DC, December 17, 1987.

MIKHAIL GORBACHEV,
General Secretary of the Communist Party of the U.S.S.R., The Kremlin, Moscow, U.S.S.R.

DEAR MR. GENERAL SECRETARY: I have just read in the press that a spokesperson in the office of Konstantin Kharchev, chairman of the Soviet Council of Religious Affairs, told a New York City Councilman that the requirement of a financial waiver from relatives of those who wish to emigrate has been abandoned. This is, indeed, very good news.

I understand that some Soviet Jews who have been denied exit visas because of the previous waiver requirement have been told to reapply. I am also aware of the fact that Yanna Begun has been given permission to leave even without her father's permission.

I am writing to you because Abe Stolar's daughter-in-law, Julia Stolar, has been denied permission to leave with the senior Stolars and her husband, Michael. The denial was based on lack of permission from her mother. I would gather that this is no longer an impediment.

It is my hope that Julia will receive her exit visa quickly and that the entire Stolar family will be allowed to leave for Israel soon. I would appreciate your assistance in this matter.

Thank you for your attention.

Sincerely,

CARL LEVIN.

CONVENTIONAL ARMS IN EUROPE

Mr. WIRTH. Mr. President, today I want to continue my survey of the literature and analyses of conventional arms in Europe by sharing with my colleagues a most helpful article that appeared in the Economist on August 30, 1986. Entitled "The Sentry at the Gate: A Survey of NATO's Central Front," a summarized version of the article is here presented as a helpful analysis for my colleagues and all interested students and observers of this important issue.

The article follows:

THE SENTRY AT THE GATE: A SURVEY OF NATO'S CENTRAL FRONT

Since the postwar demobilization, the American forces in Europe have been guarding the hilly southern part of West Germany which is comparatively easy to defend; the British forces, smaller and less well equipped, were left holding the gently rolling North German plain, the ideal invasion route to the industrial Ruhr, the low countries and France.

Some commenters still fret about this "maldeployment" of NATO forces. The danger arising from it, however, has probably always been overstated. Belgian and Dutch forces—which are weak but by no means insignificant—are also assigned to the North Army Group. And the terrain in the north is not quite as hard to defend (nor is that in the south quite as forbidding to an attacker) as some armchair strategists seem to believe. Nevertheless, the historic deployment created a real military problem and still does to a degree, although the worst features of it have largely been overcome.

The first, and most important, part of the solution was the creation of the new West German army, beginning in 1955. It grew rapidly into the biggest, and in many ways the best equipped and trained, army on the central front. The second component of the solution was the assignment of more American forces to the northern part of the front in the mid-1970s.

To keep up the appearances of meeting its NATO commitments, the Americans "dual-based" a number of army units and air-force squadrons. The forces were sent back to the United States, but most of the equipment was left in Germany, on the realistic assumption that the men alone could be flown back fairly easily.

With these extra forces available, an entire American army corps was assigned to the northern part of the central front. Most of the corps is dual-based—only one of its brigades is actually in place—but if it can be got back in time, it would beef up the North Army Group substantially.

On the other side of the equation, Canada, which at one time had a significant army and air force on the central front, gradually withdrew most of its forces. But the biggest blow to the alliance came in 1966-67, when France not only withdrew its forces from the NATO command structure, but also threw all other NATO forces out of France.

Although successive French governments have insisted that France would fulfill its commitments under the NATO treaty (which means it would fight if West Germany were invaded, for the treaty states that an attack on one country is an attack on all), they also add that French forces would

remain under national control even in wartime. So NATO commanders have been unwilling to frame their plans to include French forces. (However, a number of secret agreements have been made outlining specific methods of wartime co-operation.) And, although French army and air units conduct frequent exercises with regular NATO forces, using NATO tactical instructions and communication arrangements, French units today are not as well attuned to NATO ideas and doctrine as the others on the central front and not as well prepared to operate with other NATO forces.

Losing access to French territory, however, may have been even more troublesome to the alliance than the "loss" of French forces. Before 1966, the principal NATO lines of logistic support ran from the French Atlantic ports, mainly La Rochelle and St. Nazaire, across France to the central front. Now they run from Antwerp, Rotterdam and even Bremerhaven, all dangerously close to the West German frontier and all involving a few days' extra steaming in dangerous waters for ships coming from North America.

Besides being deprived of the French lines of communication, NATO also lost access to French airfields, which some observers believe was the most damaging blow of all.

It cannot be said too often to NATO's politicians, soldiers, sailors, airmen and voters that deterrence must not fail, and that if they screw their courage to the sticking place it will not fail. But courage means more than the will to face the enemy with conventional forces. It also means the political will to deploy and preserve ground and air forces strong enough to stabilize the front in three or four days. Further, it means the courage to keep nuclear weapons at the ready: tightly controlled but available for use.

The ground-force and air-defense nuclear weapons are all American except for the warheads on the French Pluton missiles. All the main armies on the central front except the French use the same 155mm and 203mm artillery, and nuclear shells for them are stocked in all corps areas, in American custody. The storage of these shells presents a special problem: they must be close enough to the front, so that the weapons will be available quickly if they are released to stop a disastrous breakthrough, but not so close that they might be overrun, and this part of the deterrent lost, in the first few hours of a war.

The Lance missile batteries—operated by the United States, Germany, Britain, Belgium and Holland—would bring all these nuclear warheads, in the custody of American minders, along when they took to the field in wartime. These units pride themselves on their ability to hide from enemy reconnaissance forces, so that their security problem is slightly less severe than that of the artillery ammunition.

The value of the battlefield nuclear weapons lies mainly in their ability to obliterate substantial concentrations of troops, even heavily armored ones, with a single shot. Even if these weapons are never used, their presence makes heavy concentrations of ground forces inviting targets. So the Warsaw pact generals have to plan to concentrate their forces at short notice, one of the most difficult maneuvers of all. Although the Warsaw pact need have little fear that its first attacking concentrations would be struck by nuclear artillery, there is little doubt that, if a breakthrough occurred, NATO commanders would be asking for authority to start the first nuclear war.

Although they are inferior in many ways to the Warsaw pact forces they face, the NATO conventional forces on the central front have a number of advantages. Their main strengths are that their troops are better trained, their equipment is generally of a higher quality and they have a stronger logistic support and back-up structure. Man-for-man, they would be expected to fight longer and more efficiently.

Being on the defensive itself has some advantages. Military analysts generally concede that an attacker needs a substantial superiority to break through. Oceans of ink have been devoted to the precise ratio that an attacker must have: three-to-one is the widely accepted one. Clearly the Warsaw pact does not have that sort of numerical advantage. It could muster such a superiority, or a greater one, in a small area where it meant to attack, but only by making widespread troop movements, and that would provide NATO that thing it needs above all others: warning time.

There are two reasons why warning time is so important to the central front. First, many of the troops and aircraft the NATO commanders count on are not at hand. They must be brought across the water from the United States and Britain, and this takes time. Second, most of the troops that are on the continent are stationed some miles away from their planned forward defensive positions. Thus it is essential to get moving early.

Solid clues that movements by the Warsaw pact forces are a prelude to invasion would almost certainly come in good time. The great fear, shared by NATO generals of all nationalities, is that the political leaders would waste time fretting about appearing provocative and withhold authority to make some essential movements until it is too late.

Many of NATO's frontline forces are a long way from their defensive positions. The Dutch and the Belgians have the farthest to go and the worst problems. The Dutch have more troops to move, but the Belgians have to go through mountainous and forested terrain which could take a lot of time if they came under air attack in bad weather. Two British divisions are mixed up with the Seventh German one; a certain amount of crossing over will have to take place, and this could be messy, particularly if there were large numbers of German refugees on the roads. Farther to the south, the greater part of one American division would have to cross the Rhine, which could be troublesome if the Russians destroyed bridges. Many NATO commanders consider this tactical maldeployment to be a greater problem that the strategic one of having the heavy American corps in the South and the smaller British corps in the north.

If the Warsaw pact decided to invade Western Europe from a "standing start", perhaps with the first movements of its armies and air forces disguised as an exercise, both sides would be obliged to start fighting with the forces that are now in place—before reinforcements could arrive from Britain and the United States, and maybe before the Belgians and the Dutch could get their armies moved into place. Such a short-notice attack is probably the most dangerous possibility for NATO.

Its commanders might have as little as 48 hours' notice. In this time they could do little more than put the alert system into high gear to get their reinforcements on the way, begin moving the troops in Germany forward toward their defensive positions and put the aircraft on full alert, including keeping some fighters in the air at all times. It would probably take at least three days to get all the front-line defensive forces properly in place. This is why it is vitally important not to delay the political authorization to start moving troops and equipment.

In such an immediate assault, the NATO forces would be outnumbered, but not overwhelmingly so. And they would be fighting a defensive battle on terrain they are familiar with and within a population that is friendly, a factor that is too often discounted.

The main battles, when they came, would be armored clashes, pitting biggish tank units against each other, with both sides' formations being supported by infantry (mostly carried in armored personnel carriers mounting fairly heavy weapons) and self-propelled artillery. Both sides would make maximum use of helicopters, both those mounting anti-tank weapons and the troop-carrying sort, that could insert light infantry units, armed with anti-tank missiles, into key spots on short notice.

Although NATO is likely to be outnumbered in all these vital ingredients, it will have two advantages. The first is mobility. The Warsaw pact forces can pick the time and place to invade, but NATO's heavy forces are highly mobile and with luck can arrange to fight their main battles from good firing positions on the terrain and maybe even at the time of their own choosing. Because of their superiority in night-vision devices and the specialized training required to use them properly, this would probably be at night.

The second principal advantage NATO has is that its tanks are streets ahead of those of the Warsaw pact. The German Leopard-2 (which is also operated by the Dutch) is probably the best of the lot. It has the best gun-aiming system in the world, a hard-hitting 120mm gun and a huge speed advantage over any tank the Warsaw pact has. The American Abrams, powered by a gas turbine, is even faster. Britain's Challenger is slightly less modern than these two in some important respects, but it also carries a 120mm gun and is about as fast as the Leopard-2.

In the air-versus-tank battle, NATO is less well off (although superior armour would protect the main tanks from most helicopter-fired missiles). Warsaw pact forces are well protected by ZSU-23 rapid-firing anti-aircraft cannon mounted on tracked vehicles, plus a whole array of anti-aircraft missiles, ranging from biggish mobile ones to the small, hand-held SAM-7s. NATO's helicopters and close-support aircraft, such as the British Harrier and the American A-10, would have a hot time attacking enemy armored units.

On the NATO side, all armies have hand-held missiles, but only West Germany has a modern, balanced anti-aircraft system.

The Warsaw pact forces might employ chemical weapons to secure a quick breakthrough. The Soviet leaders are clearly worried about the implications of using nuclear weapons, but seem to believe poisonous chemicals are legitimate, despite the fact that their country has signed a convention promising never to use them first.

Generally speaking, NATO forces are well provided with protective clothing, and would probably come through any gas attacks in fighting shape. But they would take casualties, and their efficiency would suffer from having to fight in cumbersome and restrictive clothing. The Warsaw pact forces

would be wearing it too, at least at the outset, as a precaution against their own chemicals and in anticipation of a chemical counter-attack.

They would actually get the worse of the restrictive-clothing trade-off, because their protective suits are made of impermeable material, so that they are much hotter and more debilitating than NATO's.

Because their protective clothing is so troublesome, the Warsaw pack soldier could not be expected to keep wearing it for long unless forced to do so. It would therefore be important for NATO be able to launch (or threaten to launch) its own chemical attacks as soon as possible, in order to keep them buttoned up. The Americans have chemical weapons stored in West Germany, but there is every indication that it would be difficult to get political authority to use them. However, time would be essential: a few days—or even hours—in which NATO troops were under gas attack but the enemy forces were not could make all the difference to the way the battle went.

It is possible that within a few days a determined assault would see Russian, East German and, maybe, Polish and Czech forces deep into West Germany. Close on their heels would be follow-on units to try to turn the battle even more their way. The fight could well be decided by which side could get extra troops into action faster.

On the NATO side there are precious few mobile reserves ready for battle. The Central Army Group in the south is slightly better placed than the northern one. The mingy Canadian contribution to the central front land forces—a single 4,000-man mechanized brigade of three battalions tucked into the south-west corner of Germany—is a long way from the front. However, it is highly mobile and might well be of some value in plugging a gap.

But the main hope of the Central Army Group, if a breakthrough occurred in the first two or three days of fighting, would be that the French army would join in. Although even in war the French forces would remain under national control, there is every reason to believe that they would fight alongside those of the other NATO allies.

Assuming the French do come, the battle could be stabilized on the second or third day.

Stabilizing the front as early as possible is what NATO's defensive plans are aimed at—not least, of course, because West Germany insists on it.

Beyond the first few days of fighting, everything would turn on reinforcements. In general, NATO can probably reinforce faster than the Warsaw pact in the first four-five days; up to about 10-14 days the Warsaw pact would start to catch up, mainly by drawing on the Polish army and the Russian army in the western districts of the Soviet Union. If both sides suffered the same numbers of casualties, NATO would become increasingly outnumbered between 30 and 90 days, when all its regular and reserve units would have been brought forward to the central front but before its new conscripts could begin to arrive. However, even during this dark period, NATO would still not be grossly deficient in combat power.

One of the most sophisticated studies of the central-front balance, conducted by Mr. William Mako for the Brookings Institution, attempts to resolve the wide and complex differences of manpower and firepower among the many units that would be engaged by reducing them mathematically to the common denominator of "armored-division equivalents" (ADEs). His figures show that on day five NATO would be outnumbered only by about 1.1 to 1 ADEs 1.2 to 1 by day 14 and no more than 1.9 to 1 at any time in the first 90 days. And these figures assume proportionate losses for the two sides. But if NATO could hold the front, it would almost certainly inflict much higher casualties on the Warsaw pact armies than its own forces would suffer.

However well the NATO troops might fight, they cannot do so without the "beans, bullets and black oil". In NATO, logistics is entirely a national responsibility, and for years the alliance as a whole did not care much about the matter.

Oil is the least of the problems. In one of its wiser decisions, NATO set up a pipeline system of its own—much of it through France—years ago, and it still operates effectively. But by the late 1970s a lot of the bean and bullet storerooms were half-empty, and many of them were a long way behind the forward defence zone. Individual countries began pumping millions into getting the logistics train up to the same standard that the front-line forces were. The millions have done wonders, but the problem has not entirely gone away. Nor is it ever likely to.

New technology is the main culprit. The NATO goal is 30 days' worth of everything. The spending effort has helped with many low-technology weapons that have been around a long time. The worst shortages today are in guided missiles, particularly the air-to-air ones; even the cheap models cost many thousands of dollars a shot.

But sustaining a big conventional force in a big way may be an even greater problem for the Warsaw pact than for NATO. Its combat forces are not organized for long-term combat as NATO units are. Its doctrine calls for a quick victory: each division would fight until it was exhausted—perhaps as little as 48 hours—and then, in the earthy words of one American general: "They'll drag it in the weeds and bring on another."

If there were no lightning victory, if the battle ground to a halt as NATO would try to make it do, the Russians would have to start providing sustaining support—ammunition, food, spare parts, replacement equipment, repair service and so on—most of it directly from the Soviet Union. Such support would have to start coming early, because the Warsaw pact divisions have so little back-up of their own. But even when it came it would be troublesome, because they are not well organized, trained or equipped to keep it flowing to small units in the field.

To those accustomed to thinking of European wars as having neat front lines, a fight on the central front today would have many unpleasant surprises: The Russians could conduct attacks on NATO's rear areas on an unprecedented scale. The helicopter has made such attacks possible. A second reason that the Soviet Union is expected to attack the rear areas is that NATO's deployment makes it particularly vulnerable there. The forward defence strategy not only requires a hard crust well up front, but also means that most of the combat forces would be moving forward in the first few hours after a surprise attack.

Defending the central front on the ground also means, of course, defending it in the air, and at the moment that would mean attacking Warsaw pact territory. NATO's airmen have always planned to blast targets deep in Eastern Europe within a few hours of an attack. Their prescription is to bomb the many enemy airfields at the outset of the war, and this mission is now well established as their first priority. For this purpose NATO countries have developed both specialized aircraft, such as the British-German-Italian Tornado, and purpose-built runaway-busting bombs.

Besides attacking enemy targets in Eastern Europe, and providing close-in attacks to support the ground troops directly, NATO's air forces must defend both those troops and the NATO countries themselves against attacks by Warsaw pact air forces.

The NATO fighter force is of extremely high quality, but it is much too small for its job. One wing (around 72) of American F-15s is based at Bitburg in West Germany and a squadron (about 24) at Soesterberg in Holland. The F-15 is probably the best all-around fighter on the central front. The F-16s, which function interchangeably as attack bombers, are at least as good at dog-fighting, using guns and heat-seeking Sidewinder missiles, but cannot fire radar-guided missiles as effectively. The United States, Belgium and Holland all operate the F-16.

A fairly cheap way for NATO to get more mileage out of the aircraft it does have would be to buy a fleet of around two dozen air-refueling tankers. For example, when a fighter is scrambled on a combat air patrol, it will return in about an hour, often without having fired its weapons. If it had a tanker standing by, it could stay on station for several hours or until it had fired its missiles. Not only would this procedure get more potential fighting time from the fighters, but it would keep them off the ground where they are liabilities: juicy targets for both air and ground attacks.

A tanker force would thus allow commanders to use better tactics. Instead of keeping the fighters on the ground until enemy raids began to show up on the radar screens, they could be flown off early and "parked" in the sky where they could react more quickly.

The fleet of NATO AWACS aircraft has worked well; it was bought from a central fund to which all members contributed on a sliding scale, and it is operated by mixed crews drawn from almost all member countries. A tanker fleet could easily be procured under a similar arrangement, perhaps for the central front alone. It would increase the potency of its air forces there by much more than if the same money were spent on extra combat aeroplanes.

In raw numbers NATO has fewer combat aircraft actually stationed on the central front than the Warsaw pact has. However, the differences are partly compensated for by the superior training of NATO's aircrews and ground crews. The pilots of NATO's dual-role aircraft train extensively at both ground attack and air defence. Warsaw-pact pilots do not. And because its ground crews are better, even without tankers NATO can get significantly more missions per machine than the Warsaw pact can.

Although NATO will probably continue to be outnumbered in the air on the central front in the near future, the total number of Warsaw pact tactical combat aircraft has been falling in recent years, and the United States is planning a slight increase. But the Warsaw pact has been catching up rapidly in the quality of its aircraft. Today's front-line Soviet aircraft have roughly three times the range and can carry twice the payload of the ones flying ten years ago. Many

authorities consider that the new MIG-29 and SU-27 (code-named Fulcrum and Flanker, respectively, by NATO) are the equal of the newest generation of NATO fighters.

As with the ground forces, both the United States and the Soviet Union have aircraft they could use for rapid reinforcements. The United States regularly exercises its reinforcement operations by deploying squadrons from American bases to West German ones—they fly all the way, being refuelled in flight.

The United States has plans to send about 1,600 aircraft, mostly fighters, to Western Europe within the first few weeks of war: all of these could be used on the central front if required. Beyond that the American air force has another 1,500 or so aircraft that it could send, although it would have to reduce its forces in the Pacific to do so. The American marines have another 500.

The Soviet Union has about 2,100 more combat aircraft available, not counting those it has deployed to its southern military districts and to the Far East. Besides these machines, it has nearly 1,000 interceptors assigned to the Air Defense Force (a separate service in the Soviet Union) that are not committed to the Warsaw pact forces. Most of these would be retained for air defense of the homeland, but some might well be sent to the central front to operate as air-defence fighters.

There is little doubt that the central front could be held against the first echelon of a conventional attack by the Warsaw pact powers. But then the question marks begin to appear. Would the French lend their weight in time? Would the congestion caused by West German mobilization and the massive American and British reinforcements become unmanageable? Could the attacks on the rear areas be contained? Would the allied air force be able to give direct support to the ground battle or would it break its back pressing home attacks deep into Eastern Europe? Would the air defenses stand up to the pounding they would be sure to receive?

There are no certain answers to any of these questions. But it is clear that if many of them go the wrong way, the alliance would be facing a catastrophe and therefore the most difficult decision of all: whether or not to release nuclear weapons. The wags who describe NATO's strategy as "fight for three days and then blow up the world" are off track, but not so far off that anyone can feel comfortable about it.

It is clear that NATO's forces on the Central front are very close to being strong enough to hold that front with conventional weapons. All it would take would be a workable FOFA system, a bit more artillery here, a few more aircraft there and a few more men, tanks and command-and-control equipment almost everywhere. Why do the NATO countries take such a risk when a little more money would make a nuclear war that much less likely?

The essential answer is, first, all countries of NATO Europe find it hard either to raise taxes or to cut into their social programmes by enough to buy the extra "insurance"; and, second, there is a feeling among many Europeans that they do not want to be able to fight a long conventional war on their soil, successful or no. They believe their security lies in a conventional force that is strong enough to last for a few days, but weak enough to indicate clearly to the Soviet Union and it allies that any attack on the West would soon encounter the nuclear might of the United States.

NATO's armies and air forces would have some chance of defeating a sudden, surprise attack completely and could almost certainly last for more than a few days against an attack by partially mobilized forces (which would give NATO more warning time). The chances of holding indefinitely without using nuclear weapons are impossible to calculate, but it is a fair guess that if the NATO's conventional forces could hold out for two weeks they could hold out for ever.

GENERAL NORIEGA OF PANAMA LIKELY TO BE INDICTED

Mr. HELMS. Mr. President, in all likelihood, the Department of Justice will shortly make public the Federal indictment of Gen. Manuel Antonio Noriega, the de facto head of Panama, and his coconspirators.

The litany of Noriega's sordid activities is beyond belief—but there is scant doubt about their accuracy. These include international drug trafficking, arms trafficking to Communist guerrillas, murder, illegal sales of computer technology to Cuba, illegal sales of visas to Cubans, unprecedented corruption, and the transfer of sensitive CIA intelligence to the Communists in Cuba and El Salvador. And there are other matters.

Mr. President, for a decade I have tried to warn the American people about Noriega's activities. In April 1978, I spoke in this Chamber about the involvement of high-ranking officials of the Panama defense forces in drug trafficking. Noriega, now at the helm of the defense forces, blatantly uses those forces to control the government. Needless to say, the people of Panama want this dictator out. They want their country back.

Noriega has developed a complex network of civilians and military men to handle his illicit operations. Many of these persons have been mentioned in recent press reports. The men who make up the civilian group are Enrique Pretelt, George Novey III, Carlos Whitgreen, Jorge Krupnik, Floyd Carlton—awaiting trial, and Cesar Rodriguez—murdered in Colombia last year.

Mr. President, at least eight key men form the group of military men who handle these operations for Noriega. They are: Maj. Nivaldo Madrinan, Maj. Luis Cordova, Maj. Luis del Cid, Maj. Cleto Hernandez, Maj. Jaime Benitez, Maj. Rafael Cedeno, Maj. Hilario Trujillo, and Capt. Luis Quiel. All of these worked for Noriega when he was in charge of military intelligence.

Furthermore, according to former Noriega associates, there is a group of Air Force officers who conduct drug smuggling operations for Noriega. They are: Col. Alberto Purcel., Col. Lorenzo Purcell, Maj. Alberto Fundora, and Col. Marcos Justines.

General Noriega was chief of Panamanian intelligence (G-2) from 1971 to 1983. Since 1983 he has been the commander in chief of the Panama defense forces. In the last 5 years he has converted Panama into a criminal's paradise.

He has seized control of every important Panamanian institution—which allows him to carry out with ease his drug smuggling and money laundering activities. The directors of the following departments report directly to Noriega: National Bank of Panama, Immigration, Customs, Civil Aeronautics, Treasury, Comptroller, Attorney General, and the President of the Supreme Court.

For several years I have been probing the situation in Panama and the gangster activities of Noriega and his associates. First, as chairman of the Western Hemisphere Subcommittee and now as ranking minority member of the Foreign Relations Committee, I have conducted hearings, taken depositions, and held personal interviews with scores of Panamanians, and directed staff to make thorough investigations. What has been discovered is that Panama is today a haven for drug traffickers, terrorists, and Mafia hit men.

Mr. President, it has become clear that Noriega is not involved solely in the exportation of drugs to the United States. He has been involved in the supply of arms to the Communist M-19 guerrillas of Colombia, which has enabled the guerrillas to kill the Minister of Justice, and half of the Supreme Court. Noriega then gave these terrorists protection in Panama.

Noriega has also been sending weapons to the Marxist-Leninist FMLN guerrillas of El Salvador. This connection first became public in 1980 when a Panama defense force plane crashed in El Salvador while delivering weapons to the Communist guerrillas. According to credible sources, these arms transfers to the Salvadoran guerrillas were continuing as recently as late 1987.

Mr. President, not only was Noriega arranging for arms shipments to the FMLN guerrillas, he was also known to be holding meetings with the most important leaders of these guerrillas. They have sought safe haven in Panama many times, and their leader, Guillermo Ungo, now lives there.

It is abundantly clear that Noriega has been providing protection for drug traffickers, money launderers, and terrorists for many years. These gangsters are free to roam the streets of Panama without any fear of being arrested. Some of Noriega's former associates have been convicted in the United States, or otherwise cooperated with the Senate. They have testified to us that they were routinely met at the airport by chauffeur-driven limousines and bodyguards while on Noriega's drug business. They have testified

that Noriega often places his personal aircraft at their service.

Recently there have been interesting revelations regarding Noriega's relationship to the Communist Sandinistas in Nicaragua. I have been able to confirm these facts independently. A Cuban and a Nicaraguan defector have stated that Noriega was sending arms to the Salvadoran terrorists through the Communist Government in Nicaragua.

So, Mr. President, finally the truth is coming out about the matters that some of us have known for years—Noriega's strong ties to known Communists and terrorists such as Cuba, the Soviet Union, Nicaragua, the PLO, and Libya. Fidel Castro has been one of Noriega's most trusted friends for many years. Senate investigators have been told by former Noriega employees of regular meetings between the two of them to discuss Central American strategy. We have also read in the media about Castro acting as an intermediary between Noriega and his friends in the Colombian drug cartel.

Noriega's ties with the Soviet Union are also emerging. In fact, the KGB has one of its most important agents operating in Panama. Furthermore, Noriega is currently working with the Soviets to allow them the use of airport facilities and the port terminals at the canal entrance. We have learned from our investigations that the Soviet Union will pay Noriega a 15-percent commission on the profits from these operations.

These same knowledgeable sources have disclosed that the Soviets plan to install a shipyard for the construction of gunboats and patrol boats in Panama. Such a project is intended to strengthen the ties between Panama and the Soviet Union.

The recent Sandinista defector, Maj. Roger Miranda, has publicly discussed Noriega's intimate ties to the Communist Government in Nicaragua. Miranda said that the Sandinista liaison with Noriega was Ricardo Wheelock. Major Miranda also confirmed that General Noriega sent weapons to the Communists in El Salvador through the Sandinistas.

Not only has Noriega made deals with Communists, but with terrorists as well. We have evidence that at the end of last year, Noriega sent a delegation to Libya to meet with Qadhafi and ask for support when the U.S. Congress was in the process of cutting off aid to Panama. We have been informed that Qadhafi promised Noriega $150 million.

Mr. President, at this point in history I do not believe that anyone doubts that Noriega is brutal, crafty, double-dealing, and a threat to hemispheric security. Noriega and his gang have taken Panama away from the people of Panama.

There are some in the United States including the U.S. Government who have supported Noriega for too long. We must pray that it is not too late to restore freedom to the Panamanian people. The United States appears now to be speaking with one voice, and it is crucial that we proceed to do whatever may be necessary to return Panama to the people of Panama.

CALIFORNIA DESERT PROTECTION ACT, S. 7, WILL PROTECT THE DESERT TORTOISE

Mr. CRANSTON. Mr. President, the alarming decline of the desert tortoise, California's State reptile, is a clear sign of the present failure to protect the fragile resources of the California desert and the need to do something about it now.

According to scientists, the loss of the tortoise could seriously affect the general desert environment—tortoises provide food for other desert species while tortoise burrows serve for nesting and shelter.

As brought out by a Los Angeles Times editorial this week, the desert tortoise problem is a dramatic example of the need to protect the California desert through the designation of national parks and wilderness areas as proposed in S. 7, the California Desert Protection Act. This legislation would increase desert protection and preserve delicate desert areas from misuse and development for future generations to study and enjoy.

As the sponsor of this bill, I want to share with my colleagues the LA Times editorial. I ask unanimous consent that the editorial "The Tortured Tortoise" be printed at this point in the RECORD.

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

[From the Los Angeles Times, Feb. 1, 1988]

THE TORTURED TORTOISE

The desert tortoise may not be one of the more glamorous or romantic of nature's creatures, but it is an important inhabitant of the vast arid regions of the Southwest. The tortoise is the California state reptile, is designated by the state as a protected species and is proposed for the national list of threatened or endangered species.

None of these protective devices have offered much protection for the tortoise, however. The tortoise population is declining in the California desert in alarming numbers, as staff writer Larry Stammer reported in last Tuesday's editions of The Times. The decimation is particular distressing in portions of the Desert Tortoise Natural Area established in 1980. "We're losing the species in the wild. In the Southwest the tortoise is in trouble," said Glenn Stewart, a zoology professor at Cal Poly Pomona who is the chairman of the Desert Turtle Council.

Some help is on the way. The Desert Tortoise Preserve Committee has initiated a campaign to raise $2.5 million to acquire 9.5 square miles of privately owned property within the natural area. The Federal Bureau of Land Management, which now administers much of the California desert region, has budgeted another $500,000. The California Department of Fish and Game also has joined in the land-acquisition campaign.

None of these actions are likely to stop the senseless decimation of the tortoise population, which has plummeted 90% in the last 50 years and has declined as much as 50% in the past decade. Many of the tortoises have been shot. Others are taken by poachers or run over by off-road vehilces. In some areas the tortoise population is suffering because livestock compete for the grass on which tortoises subsist. The tortoise is doing best in remote wild areas untouched by human visitors and development.

The loss of the tortoise can have a widespread effect on the general desert environment, scientists say. The tortoises provide food for the desert kit fox, coyote, bobcat, golden eagle and raven. Snakes, lizards and rodents use tortoise burrows for shelter. The burrowing owl uses the holes for nesting. Kristin H. Berry, a wildlife biologist for the Bureau of Land Management, said, "If we take care of the desert lands to keep the tortoise alive, we'll be taking care of most other species."

The plight of the tortoise is an indication of what can happen to the entire desert unless it is offered greater protection and unless the public uses it with more respect and care. The U.S. Fish and Wildlife Service should accelerate efforts to place the tortoise on the list of threatened or endangered species. And the tortoise problem should add impetus to the desert parks and wilderness bill of Sen. Alan Cranston (D-Calif.).

The need for wilderness is not just to preserve an area for the fun of a few elitist backpackers, as critics often claim, but to save fragile and delicate regions in their natural state from overuse and development for future generations to appreciate and study. The decline of the desert tortoise is a dramatic example of this need in the California desert now.

UNITED STATES-JAPAN NUCLEAR COOPERATION AGREEMENT

Mr. PELL. Mr. President, in testimony before the Senate Foreign Relations Committee February 2, 1988, former Secretary of Defense James Schlesinger made mention of the fact that the half-life of plutonium is 23,000 years. That is longer than the recorded history of mankind, and it is for this reason I am so very concerned about the proposed United States-Japan Nuclear Cooperation Agreement.

The agreement would provide programmatic approval for Japanese processing, transfer, and use of United States controlled plutonium for a 30-year term. During this period shipments of plutonium from reprocessing plants in Europe to Japan could involve as many as two to three flights per month. Each flight could carry as much as 300 pounds of plutonium, one of the most toxic elements known to man.

Last month the President forwarded a report, National Security of the

United States, which listed nuclear proliferation and international terrorism as principal threats to U.S. interests. The risks of proliferation and terrorism posed by this agreement are substantial, encompassing nuclear powerplants not yet built or designed, routes and shipments not yet specified, and plutonium casks not yet designed. To amplify these and other concerns of the Foreign Relations Committee, I ask that the testimony of Senator JOHN GLENN, who appeared before the committee December 15, 1987, be inserted in the RECORD.

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

STATEMENT BY SENATOR GLENN ON JAPAN NUCLEAR AGREEMENT

Before I begin my brief remarks, I would like to thank the committee for inviting me to discuss the proposed revision of our agreement for nuclear cooperation with Japan. I congratulate the committee for its decision to hold this hearing, and for its appreciation of the profound implications that this agreement—in its current form—will have for America's ability to regulate international traffic in the kind of nuclear materials that devastated Hiroshima and Nagasaki in 1945.

Mr. Chairman. I do not mean to suggest I am in any way suspect of Japan's intentions in signing this agreement. Japan is party to the Nonproliferation Treaty, a charter member of the nuclear suppliers group, and has accepted IAEA safeguards over all its nuclear facilities. Indeed, it is Japan's impeccable nonproliferation credentials that have allowed the administration to submit an agreement that would not even be considered in other cases. Nonetheless, I am deeply concerned about the risks raised by this agreement and the precedent it sets for future nuclear cooperation.

The problem we are facing today is not a new one. A few months after the sudden end of World War II, Secretary of State Acheson summoned a group of experts to review possible measures to control these materials. The resulting Acheson-Lilienthal report reached the following finding about prospects for international control over plutonium: ". . . Assume an international agreement barring the use of plutonium in a bomb, but permitting use of the pile for heat or power. No system of inspection, we have concluded, could afford any reasonable security against the diversion of such materials to the purposes of war."

Forty years after these words were written, Assistant Secretary of Defense Richard Perle—then the top spokesman of the Reagan administration on strategic arms control issues—told a European Arms Control Conference: "There is no place for the spread of plutonium around the world in any sensible policy aimed at restricting the proliferation of nuclear weapons and I think that traffic in plutonium ought to be halted and halted absolutely."

Mr. Chairman, these quotes reflect some refreshing continuity in US foreign policy. Indeed, throughout the entire postwar period there has been substantial agreement between Presidents and Congresses, Republicans and Democrats, and House and Senate that international trafficking in bomb-grade nuclear materials would be contrary to U.S. and international Security Interests.

The agreement now before this committee represents a radical departure from this stable and sensible tradition. By loosening U.S. control for 30 years over international commerce in plutonium, the agreement would condone the widespread use of this deadly material. The risks of nuclear proliferation, nuclear terrorism and environmental destruction that would result from this agreement require that Congress undertake a thorough and sober examination of its terms.

I hope that during the committee's review of this agreement, the focus will be less on narrow bilateral issues and more on the implications of the agreement for our ability to sustain this continuity of policy. To put it bluntly, Mr. Chairman, we must not let our passion to become a reliable supplier of nuclear materials overcome our duty to remain a responsible supplier of such materials. In the dangerous nuclear territory now before us, if conflicts arise between commercial expediency and the integrity of our national and international controls, our commercial goals must yield.

President Ford addressed this very issue back in 1976: "We must be sure that all nations recognize that the U.S. believes that nonproliferation objectives must take precedence over economic and energy benefits if a choice must be made."

Yet there is evidence throughout this agreement of a reversal of these priorities. Let me cite just two examples:

The agreement would subject future Japanese plutonium facilities to safeguards concepts that are only in the early stages of development. If difficulties arise in applying these concepts at a particular site, "The parties shall make every effort to ensure that this does not delay the operation of the facility." I am not being satirical here, these are actual words from the text of the implementing agreement.

Even in the event that the U.S. was faced with suspending the agreement due to a material violation of these admittedly imperfect safeguards, the agreement would require the U.S. to "carefully consider the economic effects of this suspension and . . . seek to the maximum extent possible to avoid the disruption of international nuclear trade and fuel cycle operations." Again, I am quoting directly from the agreement.

As I read these excerpts, I am struck by how far this agreement would stray from past policy and set a dangerous precedent for other nations. If the agreement is allowed to stand, Congress may soon be hearing requests to relinquish U.S. rights over plutonium produced from U.S.-origin materials in other countries with advanced nuclear programs. Where are we to draw the line?

The Reagan administration has worked quite hard to revise our entire historical approach to the regulation of bomb-grade nuclear materials in international commerce. Under a novel legalism called "advance programmatic prior consent", a concept that I have not been able to find anywhere in our laws, the administration would relinquish case-by-case physical security reviews over what other countries do with the nuclear materials that we export.

As a result of this policy, the quantity of US-origin plutonium that would appear in international commerce would no longer be measured in pounds or kilograms, but in ton quantities that would by comparison rival our current nuclear stockpile.

I have often heard the administration argue that the U.S. no longer has a monopoly in the world's nuclear business, and that we must yield to the civilian use of plutonium or be excluded from international nuclear developments. Yet according to the data I have seen in the case of Japan, the United States exercises case-by-case prior consent rights over more than 80 percent of Japan's nuclear materials. Yes, that is not a US monopoly. But it is still a rather significant margin of influence that the draft agreement would relinquish.

Given the growing capabilities of other nations to produce and export weapon-usable material, we should be encouraging these nations to follow our example of responsible, case-by-case reviews of nuclear material exports, rather than leading them to adopt their own versions of these so-called "programmatic prior consents."

The agreement that is before this committee is perhaps the most significant nuclear cooperation agreement in history. But its significance stems less from the benefits it will produce for nuclear nonproliferation—indeed, the administration has evidently failed to elicit a Japanese commitment to require full scope safeguards over its own nuclear exports. Its significance lies more in the procedures it creates for accelerating and legitimizing widespread commercial uses of plutonium before international society has devised the means to protect humans and the environment from its hazardous consequences.

Mr. Chairman, I have many concerns about this agreement.

I am concerned about the fact that the administration can say that it is fully confident about the ability of the IAEA to safeguard large reprocessing and plutonium storage facilities, when in fact such safeguards are only in the research and development stage. Evidently, my concerns are shared elsewhere in our government.

The Nuclear Regulatory Commission has expressed strong opposition to this agreement. The Commission's technical experts concluded that Japan could be expected to lose track of hundreds of kilograms of weapon-usable material at each of the large plutonium facilities it plans to build. Using the IAEA's number of 8 kilograms per bomb, one can easily see that this represents enough nuclear material to create dozens if not hundreds of nuclear weapons. On what basis can our "timely warning" criterion be maintained in such an environment?

The Department of Defense has also opposed this agreement. In its recent report on the inadequacies of existing standards for the physical protection of plutonium, defense concluded that "opportunities for terrorist acts, including attempts to steal civil plutonium, will increase substantially as a result of the increased commercial use of plutonium."

In hearings before my committee last March on "nuclear non-proliferation and U.S. national security", Assistant Secretary Perle discussed his Department's frustrations in dealing with officials in other agencies who apparently regarded these national security concerns as rocking the boat. When I asked Mr. Perle about DOD's involvement in the negotiating process that led to this agreement, his response was "We crashed the party, Senator, on a number of occasions . . . we invited ourselves to meetings . . . we made a general nuisance of ourselves." He added: "I am afraid that much of the negotiation between the U.S. and Japan had taken place without being reported to us."

I would like to submit for the committee's review the full text of Mr. Perle's remarks, along with some recent press reports about the serious interagency disagreements about the wisdom of this draft agreement.

Mr. Chairman, it would be grossly irresponsible for Congress to approve this agreement without a close examination of the precise reasons why NRC and DOD opposed this agreement on national security grounds. I have written to both agencies to request full documentation of their views on why they opposed this agreement, and I would strongly urge your committee to require both NRC and DOD to fulfill their responsibilities under section 123 of the Atomic Energy Act to "promptly furnish" your committee with these views.

I am concerned that the administration estimates that over the course of this agreement air shipments of ton quantities of plutonium will pass through U.S. and Canadian airspace, despite the fact that large plutonium transport casks are also only in the early stages of research and development. I have been pleased to join Senator MURKOWSKI in requiring that, before any such shipments may occur, these casks be certified as capable to withstand actual crash and drop tests, under worst-case circumstances.

I am concerned about the administration's claim to clairvoyance in being able to estimate future threats of terrorism and sabotage at large plutonium facilities, some of which have not yet even been built. How can one reasonably estimate the capabilities and intentions of terrorist groups that may exist in Japan in the year 2017, when we know so little about today's terrorist groups in Japan? In reviewing the materials that the administration has presented Congress, I have found no in-depth analysis of the precise physical security threats that would exist, especially for these future facilities.

I am concerned about the way this agreement was negotiated, with Congress, the NRC and the Defense Department being kept in the dark until the time for approval had arisen. And if the agreement's so-called "programmatic prior consent" language comes into force, there would be a crippling of the congressional oversight mechanism for scrutinizing such future uses of our sensitive nuclear materials.

I am concerned that the administration's desire to accommodate Japan's long-term energy planning has led it to reinterpret our basic atomic energy laws—such as the concepts of "prior consent" and "timely warning"—rather than to pursue the more reasonable course of addressing Japan's concerns by facilitating the timely processing of Japan's subsequent arrangement requests. During Senate floor discussions prior to enactment of the Nuclear Non-Proliferation Act [NNPA], Senators MCCLURE, PERCY, and myself all agreed that case-by-case approvals of subsequent arrangements should continue on a highly expedited basis as a way of addressing such concerns.

To clarify the meaning of "timely warning" as intended by the authors of the NNPA, I would like to submit a detailed analysis of that concept for the record.

Mr. Chairman, Japan has often expressed its desire to use plutonium as a fuel for its commercial breeder reactor program. I have noticed that Japan has just announced new energy plans indicating that it does not expect to have such a reactor in commercial operation until as late as the year 2030. Given the extremely-long-term nature of Japan's commitment to such a program, I think that it would be reasonable for the U.S.—in accordance with our antiterrorism and atomic energy laws—to seek to encourage other nations to defer the production of large stockpiles of separated plutonium for programs that may not come into existence for generations.

President Ford put it well in his 1976 statement: ". . . we must develop means to establish international restraints over the accumulation of plutonium itself, whether in separated form or in unprocessed spent fuel. The accumulation of plutonium under national control, especially in separated form, is a primary proliferation risk."

The present draft agreement, Mr. Chairman, does not negate the hard fact that nationally controlled stockpiles of plutonium and highly enriched uranium are primary proliferation risks. And this is certainly true here in the United States, as well as abroad among our friendliest of allies. We should at the very least maintain our ability—indeed our responsibility—to perform case-by-case reviews of the specific physical security measures taken by foreign governments to handle US-origin sensitive nuclear materials. There is no reason why such reviews cannot coexist with long-range energy plans of those governments.

When we wrote the NNPA back in 1978, every effort was made to accommodate the needs of foreign energy planners while protecting U.S. security and environmental concerns. Yet from what I have seen, this agreement achieves less of a reconciliation of these objectives, than a simple trade-off—our physical security priorities are being weakened despite the ever-growing threat of nuclear terrorism, while the administration shows an unbounded willingness to alter our laws and policies to conform to the needs of foreign nuclear programs. I am especially doubtful that the current agreement, applying as it does to large plutonium.

Facilities to be built over the next thirty years, is based on sufficient information to satisfy the Atomic Energy Act's requirement that "adequate physical security" be maintained.

I hope that the committee will examine this agreement in the proper context not just of US/Japan relations, but in the broader historical context of America's commitment to reducing the risk of nuclear proliferation and terrorism.

To summarize what I have said, I think there are ten fundamental problems with this agreement in its current form:

1. A 30-year generic approval of reprocessing and return of plutonium, as opposed to the case-by-case approvals Congress intended under the NNPA.

2. Long-term programmatic prior consents that will frustrate the congressional oversight mandated under the Atomic Energy Act.

3. Approval of reprocessing in a large projected Japanese reprocessing plant without assurance of effective safeguards, which have yet to be developed for such plants.

4. The large throughput of the proposed reprocessing plant, representing unaccounted-for plutonium sufficient for more than 100 nuclear weapons. A target for terrorists.

5. Inadequate analysis of the NNPA's "timely warning" criterion as applied to this agreement. Indeed, the "timely warning" criterion will not be met under the agreement's terms.

6. Failure of the administration to get Japan's commitment to require full-scope safeguards over its nuclear exports.

7. An unbalanced "reciprocal rights" provision allowing Japan to claim under certain conditions all plutonium produced in U.S. nuclear reactors containing components or equipment manufactured in Japan.

8. Suspension rights that require the U.S. to evaluate economic impact instead of solely U.S. nonproliferation and national security issues.

9. Lack of a sufficient information base to determine and evaluate physical threats at large fuel cycle facilities that may not be built for some years to come.

10. A provision for overflights of U.S. territory by aircraft containing hundreds of kilograms of plutonium, despite the non-existence of a large cask that can withstand worst-case air crashes.

For all these reasons, and some I have not cited, I am opposed to this agreement in its current form and recommend that your committee return the agreement to the President for renegotiation, or resubmission with a waiver, to reflect the committee's concerns. If the agreement remains in its current form, and if the administration refuses to provide Congress with the information it needs and has requested to evaluate the national security implications of the agreement, then I would urge the committee to consider a joint resolution of disapproval.

PERMISSION TO REPRINT STATEMENT

Mr. GLENN. Mr. President, on December 21, 1987, I delivered a statement to the Senate on the Leadership Award presented to my Ohio colleague and friend, Congressman LOUIS STOKES by the Senate Black Legislative Staff Caucus. Due to numerous omissions and errors which appeared in the text after it was printed by the Government Printing Office, I ask unanimous consent that it be reprinted in the RECORD.

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

CRIMSON WHALES AND CRIMSON FACES

Mr. SYMMS. Mr. President, our distinguished colleague from North Carolina, Senator HELMS, has given the Senate yeoman service as ranking Republican on the Committee on Foreign Relations during the hearings in that committee on the proposed treaty with the Soviet Union on intermediate-range nuclear forces.

I say that, Mr. President, because the entire Senate owes a debt to Senator HELMS for the detailed scrutiny and hard work that he has given to the vital issues of national security raised by the proposed treaty. He has uncovered numerous loopholes and flaws in the treaty which must be addressed satisfactorily before the Senate should give its consent to ratification.

It is essential that the role of the Senate in perfecting treaties submitted by the President be carefully carried out, especially when the treaty encompasses, as does this treaty, fundamental questions of war and peace.

The Constitution calls on the Senate to participate in the crafting and shaping of treaties and does not envisage a simple rubber-stamping of whatever is sent over by the executive branch.

I therefore commend and thank my friend from North Carolina and call on other Senators to recognize the value of his work to the deliberative functions of this institution.

Finally, Mr. President, I ask unanimous consent that two recent editorials from the Wall Street Journal, which also comment on the high quality of Senator HELM's service, be printed in the RECORD at the conclusion of these remarks.

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

[From the Wall Street Journal, Feb. 3, 1978]

CRIMSON WHALES, CONTD.

When Senator Jesse Helms raised questions at the INF treaty hearings last week, he was accused of offering a "crimson whale," a cousin of the "red herring." While it may be in the interest of treaty supporters to portray Mr. Helms as some Monster from the Deep, his whales nonetheless have kept beaching themselves top the treaty this week.

Consider the confusion over the SS-20, the major weapon the Soviets are supposed to remove if the treaty is ratified. The administration can't seem to figure out how many SS-20s the Soviets really have. Last July the CIA and State Department estimated the Soviets had 550, while the Defense Intelligence Agency, or DIA, figured 1,200. When INF was signed last November, the Soviets said 650. Just last month, however, the CIA and State Department reached new estimates of 700, while DIA stuck with 1,200. The "national intelligence estimate," as consensus view, is 950.

Grade-school arithmetic can tell you that if the Soviets chop up 650 missiles out of 950 they will have 300 left under the zero-option agreement. The administration argues that this is a tempest in a teapot, since the Soviet figure of 650 is "within the range of our uncertainties." We wonder how many Americans would be surprised to learn that the supposedly verifiable INF agreement depends on a "range of uncertainties," extending from zero to 300, not to mention 550 if the high DIA estimate happens to be right.

The much-advertised "on-site inspection" of Soviet bases might help us verify the number of SS-20s, of course, except that the inspection sites are specified by the treaty. If the Soviets ever want to cheat, all they have to do is put the missiles where the inspectors aren't allowed to go.

Another Helms whale was Article 14, the "non-circumvention" clause. This says the U.S. and Soviets "shall not assume any international obligations or undertakings" that would violate the treaty. That sounds simple enough, but several senators are wondering if it isn't an ambiguity big enough for the Soviets to drive a reinterpretation through.

"What is the purpose of this language?" Senator Dan Quayle asked in his opening statement last week. The plausible concern is that the clause could keep the U.S. from selling its allies technology that they need to defend themselves. Indeed, the Soviets already are saying INF prohibits the U.S. from modernizing the shorter-range nuclear weapons that will remain in Europe after INF is implemented.

The concern is heightened because the paragraph wasn't even in the treaty until late last November. "Who insisted on Article 14, by the way? They or us?" Senator Helms asked Defense Secretary Frank Carlucci on Monday. Replied Mr. Carlucci: "They wanted a real non-circumvention clause, and our negotiators negotiated them down to this kind of a provision." Mr. Carlucci dismissed the Soviet claims that INF prohibits NATO modernization as "pure nonsense" and "propaganda." The Reagan administration said similar things about the ambiguities in the 1972 ABM treaty, only to find Senator Sam Nunn arguing that the Soviet interpretation was more correct.

INF also removes U.S. ground-launched cruise missiles from Europe, but what about air-launched or sea-launched cruises? Since the guidance systems are similar in all three types, are we also banned from providing them to our allies? Cruises are essential, of course, because they can carry *conventional* warheads, and thus defend Europe without threatening a nuclear exchange. But the U.S. gave up *all* ground-launched cruises as part of the INF because we said it was impossible to distinguish between nuclear and conventional. And on Monday Senator Joe Biden already was arguing that the same logic should apply to air-launched or sea-launched cruises in the START talks.

Unlike presidential dropout Biden, of course, Senator Helms is supposed to be off-the-wall. His original "crimson whale" was the issue of whether the treaty calls for the destruction of any nuclear warheads. it doesn't, as Mr. Carlucci explained at length: "The warhead essentially consists of the physics package—high explosives, highly enriched uranium, plutonium. That package, consistent with other weapons systems that have been destroyed, could either be reused or, depending on the circumstances, recyled." Keeping warheads is a good part of the treaty, he explained, because the Soviets can produce new ones easier than we can.

So Senator Helm's whales are that the treaty doesn't eliminate any nuclear weapons, that we can't verify it well enough to say whether remaining Soviet SS-20s missiles will be zero or 550, and that it's ambiguous enough to be interpreted as cutting NATO allies off from technical assistance for the most modern conventional weapons. Senator Helms, it would appear to us, is the last one whose face should be crimson.

[From the Wall Street Journal, Jan. 29, 1988]

INF'S BLUE HORIZON

Senator Jesse Helms dominated this week's opening hearings on the INF treaty when he brought up the inconvenient fact that the agreement won't eliminate any nuclear warheads. "The part of nuclear weaponry that kills people and destroys property is excluded," he told the Foreign Relations Committee.

This caused several of the committee's senators, like the courtiers in "The Emperor's New Clothes," to resolutely insist that nothing is amiss with the magnificent new treaty. Republican Senator Dan Evans said the warhead charge was "more than a red herring; I'd call it a crimson whale." But Senator John Glenn, a Democratic arms-control specialist, was more cleareyed: "I found an appalling number of people . . . who were not aware that this treaty does not destroy one single nuclear explosive device."

The administration seems quite confused on the warhead issue. This week Secretary of State George Shultz said the INF agreement could open a new era in arms control because it actually "reduces nuclear weapons." At this month's Republican debate at Dartmouth College, Vice President Bush had to respond to Pat Robertson's charge that Mr. Bush had said the INF treaty will eliminate 1,600 Soviet warheads. To this, Mr. Bush asserted that the agreement will take out "their vehicles that can blow people up—their bombs." The vice president's mistaken comment escaped the front pages only because his media adviser dashed into the pressroom to make the inaccurate claim that the treaty provides for the "dismantling" of Soviet warheads.

In truth, what the INF treaty will mean is that the warheads will be taken off the missiles and saved. Why are Jesse Helms and Pat Robertson able to state clearly what is in the INF treaty, while the vice president and, judging from his rhetoric, the secretary of state cannot?

It is surely true that efforts must be made to limit the wanton destruction nuclear weapons would inflict. That is the stated goal of arms-treaty advocates, but it is also the *achievement* of recent history. Since World War II, Europe has lived both with nuclear weapons and without war. Moreover, while arms-control treaties have done nothing to reduce the number of nuclear weapons, the desire of strategists to achieve more real military effectiveness has led to improvements in technology that have reduced the destructive arsenals of both the U.S. and Soviet Union.

In 1967, the U.S. had a third more nuclear weapons than it does today. The total explosive power of U.S. nuclear weapons today is one-quarter of the peak reached in 1960. The average warhead yield of U.S. weapons is one-fifteenth its 1957 peak. The Soviets also have seen their total explosive power and average warhead yield decline since the mid-1970s. These gains are the result of technological improvements initiated outside the arms-control process. As the recent presidential commission headed by Fred Ikle and Albert Wohlstetter reports, these gains are likely to continue.

All of this raises the question of what arms-control talks with a dedicated adversary and closed society such as the Soviet Union are supposed to accomplish. Even if the INF treaty did provide for the elimination of nuclear warheads, it still would founder on some basic realities. For one, the best way to dispose of warheads would be to either bury them or burn them in nuclear-power plants. Either would create a verification nightmare.

Many Europeans recognize that the real threat facing their continent is the massive Soviet tank army, not the prospect of nuclear annihilation. The INF treaty obscures the issue of conventional-force modernization, which holds the key to keeping the peace in Europe in the face of a huge and intimidating Soviet-bloc army. This crucially relevant subject will not be seriously addressed or acted on so long as the West's leadership keeps the world in thrall to the arms-control process.

The INF treaty doesn't address the real threat facing Europe, doesn't reduce the number of missiles aimed at the U.S. and doesn't destroy a single nuclear warhead. So

what, exactly, is this treaty's relevance or point? What does it accomplish?

Its advocates seem to be reduced to saying that Congress must ratify the INF treaty as the price of admission to the more desirable START talks on strategic-force reductions. So in the end, INF's proponents ask everyone to believe what they've been asked to believe about so many past arms-control treaties—signing this one will move us one step closer to arriving at real arms reduction, which sits just beyond the horizon.

BICENTENNIAL MINUTE

FEBRUARY 7, 1933: THE SENATE REMOVES ITS SERGEANT AT ARMS

Mr. DOLE. Mr. President, on February 7, 1933, 55 years ago this weekend, the Senate voted 53 to 17 to fire its Sergeant at Arms, David S. Barry. Now, it was certainly rare for the Senate to dismiss one of its high-ranking, elected staff members. It was even rarer for them to call the individual to the Senate floor to answer charges. David Barry, at 72 years of age, had spent almost his entire life around the Senate, first as a page, as secretary to various Senators, as a newspaper correspondent, and finally, for 14 years as Sergeant at Arms. Why did the Senate fire him?

It appears that Mr. Barry was a victim of bad timing and bad editing. The Republicans had lost control of the Senate in the 1932 election, and Barry knew he would not be reelected Sergeant at Arms when the next Congress met in March 1933. As a former journalist, he expected to write occasional pieces for publication during his retirement. He had already submitted an article entitled "Over the Hill to Demagoguery" to the New Outlook magazine. It was scheduled for publication in March.

Unfortunately for David Barry, the editor moved the article's publication up to February, and edited out an exceptional first paragraph. When the magazine appeared at the newsstands, it began with these words:

> Contrary, perhaps, to the popular belief, there are not many crooks in Congress; that is out-and-out grafters, or those who are willing to be such. There are not many Senators or Representatives who sell their votes for money, and it is pretty well known who those few are; but there are many demagogues.

Although these were strong words, they probably would have received little attention if some reporter had written them. But for the Senate's Sergeant at Arms it was an entirely different matter. So the Senate voted him out of office, less than a month before his term would have ended.

CONGRESSIONAL CALL TO CONSCIENCE VIGIL

Mr. BOND. Mr. President, on behalf of myself and the distinguished Senator from Illinois, Senator DIXON, I submit the following statement for the RECORD. Mr. President, today we begin the 12th year of the Congressional Call to Conscience for Soviet Jews, and I am proud to join my friend Senator DIXON in cochairing the Call to Conscience for this year.

Since its inception in 1976, the Congressional Call to Conscience has been one of the best mechanisms for Members of Congress to speak out on behalf of Soviet Jews seeking freedom of religion and the right to emigrate. Sponsored by the Union of Councils for Soviet Jews, the purpose of the vigil is to demonstrate our continued, bipartisan concern for human rights in the Soviet Union and to express support for individuals and families wishing to emigrate to the free world through weekly statements on the Senate floor. This morning my good friend, the Senator from Illinois, and I circulated a Dear Colleague stating the purpose of the vigil and requesting the participation of each Senator for 1 week throughout 1988.

This is a particularly important time to renew our support of Soviets who are persecuted by their own Government. While the recent summit agreement has shown the Soviet Union willing to take positive steps to peace, they have not shown the same willingness to extend basic human freedoms to their own citizens. The freedom to emigrate is one such freedom which is consistently denied citizens of the Soviet Union.

We are told by the Union of Councils for Soviet Jews that 8,155 Soviet Jews were granted exit visas last year. While that number is significantly higher than 914 granted in 1986, much of that can be explained by glasnost. In 1987 we saw the continuation of glasnost, a period not unlike the détente of the 1970's when the Soviets also sought important arms reduction agreements and economic cooperation. Yet during détente of the 1970's, exit visas were granted to double and triple the number of Soviet Jews than were allowed last year.

In addition, the 8,155 figure pales in comparison to the number of Soviet Jews that have been continually denied the right to emigrate despite repeated application. Jews who apply for exit visas and are refused—the refusniks—are subject to being dismissed from jobs, having their children expelled from schools and universities, and being harassed by the police and KGB. It is estimated that between 20,000 and 60,000 long-term Refuseniks remain in the Soviet Union. Some have suffered for more than 15 years. Despite Soviet willingness to let some well-known Refuseniks emigrate last year, thousands of lesser known people remain. Some are denied visas on the pretext that they or members of their families possess national secrets. Families are often separated by a cruel practice whereby only some members are permitted to leave.

The Soviets claim that the "Jewish problem" has been solved, since so few are applying to leave. Yet a closer look at the facts shows that of the nearly 400,000 Jews that remain in the Soviet Union, approximately 90 percent are denied the right even to apply to leave. In late December, after the Washington summit, Soviet visa-processing offices throughout the U.S.S.R. posted signs announcing that effective January 1, 1988, the requirement of invitations from first degree relatives as a prerequisite to application would be strictly enforced. This means that in order for someone's application even to be considered, he or she must produce an invitation from a member of his or her immediate family who lives abroad. Most Soviet Jews have no such relatives.

While we should appreciate Soviet interest in and encourage their willingness to achieve meaningful arms reductions, we must not be fooled into thinking that glasnost means a thaw in the treatment of Soviet Jews and others who wish to emigrate. Emigration is an internationally recognized right. Soviet citizens should be permitted by law to apply for emigration, without special stipulations on the country of destination or the presence of family members outside the Soviet Union.

Clearly it is up to us to show a sustained commitment to Soviet Jews and other potential emigres, by repeatedly and publicly calling attention to their plight. Our bipartisan effort in defense of individual freedoms is essential. As cochairmen of the Congressional Call to Conscience for 1988, we call on you to join us through the year.

MORE CARS THAN CUSTOMERS; EXCESS CAPACITY IN THE U.S. AUTO INDUSTRY

Mr. RIEGLE. Mr. President, two recent developments in the automobile industry are cause for serious concern about the future. Everyone decries the trade deficit numbers every month—it is now one of the most important financial market indicators. But there is a human cost which cannot be ignored, and which came to light again last week when Chrysler Corp. announced plans to close its Kenosha, WI, assembly and stamping plants by next September. The second announcement concerns Japan's decision to extend the voluntary restraint agreement for another year at the current 2.3 million car level.

It isn't just Michigan anymore, Mr. President. Although we are obviously bearing the brunt of many closings—Detroit, Flint, Pontiac, Willow Springs, and Conner—in addition to

Kenosha, St. Louis will lose a truck and bus plant, Leeds, MO, Norwood, OH, Framingham, MA, Hamilton, OH, and Westmoreland, PA, will also suffer the dislocation of thousands of workers. Ramos Arizpe, Mexico will lose a plant, which indicates that in many instances it isn't wage rates that are to blame, but the fact that the North American economy cannot continue to absorb the number of cars being produced.

Kenosha is a casualty of the excess capacity that exists in the automobile industry, and which will continue to worsen with the new foreign-owned facilities which are now operating in the United States and Canada. By 1990, 11 percent of all North American capacity will be foreign-owned, compared with 5 percent in 1986. The overall U.S. market, according to industry analysts is shrinking, and with the increase in foreign participation here, the domestic companies are scaling down. Since 1986, 13 domestic assembly plants and stamping facilities have been closed, and it isn't over yet.

In North America in 1987, total capacity of the Big Three was 15.6 million units. But only 11.2 million units of this capacity was needed to meet consumer demand; 4.4 million units of capacity was not. That is expense that no company can carry for any length of time. It is anticipated that by 1992, already announced closings by the Big Three in North America will account for a reduction in North American capacity of 1.8 million units.

What is happening to the manufacturers who have established assembly plants in North America—the so-called foreign transplants? As of 1987, these companies were using 600,000 units of 1.2 million units of capacity. By 1992, that capacity will increase to 2.7 million. Depending on the disposition of the Volkswagen plant in Pennsylvania, an additional 300,000 units of capacity will either continue to exist or will disappear.

What do we do about it? The choices are pretty clear, and we need to do all of them. We must increase the domestic share of the auto market by substituting the imports of our trading partners—not only from Japan, but South Korea, Yugoslavia, West Germany, Sweden, Britain, France, and Italy, in part by making sure they are priced fairly; increasing demand domestically; and we must begin to do what the rest of the world does—concentrate on marketing our products overseas.

Ironically, it may be the Japanese that show us the way in that department, and it may be that protectionism in Europe will insure that North American content in these transplants is at least 70 percent. Honda plans to export 70,000 cars from the United States by 1991; 50,000 of them will go to Japan—compared with total U.S. exports by all sources of 4,256 cars in 1987. Europe strictly limits Japanese car imports, but not American imports, and the Honda may qualify as American under current rules with a 70 percent North American content.

Chrysler has announced plans to sell between 5,000 and 10,000 cars to Europe in 1988 in addition to over 50,000 Jeeps which are exported. Ford and General Motors are also stepping up efforts to export to Europe and Japan. Clearly, we need to continue to expand our exports or there will continue to be more Kenoshas, more Flints, and Detroits, more plant closings, and a further erosion of our industrial base.

In 1987, 4.4 million cars and trucks were imported into North America: 74 percent of those were from Japan. Of that, 46 percent is due to so-called captive imports, which are vehicles that U.S. auto companies import. Today 9 percent of the total are from other Asian countries, principally South Korea. That number is projected to increase substantially in the next few years.

Mr. President, mathematically, it is very simple. If the number of imported units remains constant, as the overall market shrinks, the larger the percentage of market share these imports will comprise. So Japan's announcement that it will continue the voluntary restraint agreement at the current level of 2.3 million cars does not take into account the fact that the total United States market is expected to decrease, nor does it reflect the enormous number of cars with high foreign content being assembled in the transplant facilities. The overall number of Japanese cars which have been assembled in Japan and North America has actually increased, and their overall market share will be 37 percent in a 9-million-car market. I urge my colleagues to think about this.

Historically, we have not aggressively pursued export markets for automobiles. We need to do that and one of the advantages of a weaker dollar is that we will be able to do it competitively. But much of it is Japan's fault, because through pricing, it is clear that it has been much easier for them to sell cars here than in Japan. The issue of pricing as it relates to currency changes is a complicated one, but there is compelling evidence that just as in other sectors, the Japanese have historically captured and maintained a large share of the United States market by selling certain products below cost. That is illegal under our trade laws, it is called dumping, and there are serious investigations underway to determine what to do about it.

As more and more countries are playing the automobile game, we need a national policy which takes into account the extreme importance of this industry, not only to our overall economy, but for future technological developments which are spawned from this manufacturing sector.

The auto industry is the single largest manufacturing sector in our economy. It accounts for 4.1 percent of the gross national product. In 1986, the total value of motor vehicle output was $171.5 billion. No other industry even comes close.

A healthy domestic auto industry is essential to our Nation's economy. It is a great customer for other essential American industries—computer chips from the Silicon Valley; steel from the Ohio Valley; textiles from the Southeast; and electronics systems from the Sunbelt. Suppliers to the U.S. auto industry are located in 46 States. There are manufacturing facilities in 36 States.

We need a renewed commitment to preserve this vital part of America's history and America's future. The tremendous enthusiasm of many local government officials in attracting new assembly plants in Michigan, Illinois, Ohio, Tennessee, and elsewhere was, I believe, based on two assumptions: First, that these cars and trucks would contain a substantial percentage of American parts. And second, that they would transplant imports from these companies, rather than supplant them—create jobs rather than destroy them.

We just missed a big opportunity to strengthen our hand in dealing with Japan, in my opinion, in negotiating the United States-Canada Free Trade Agreement. Canada accounts for about 9 percent of North American car purchases, but will be making 19 percent of all cars produced in North America by 1991.

We had a chance to make sure that these transplants would contain at least 60 percent North American content. The Canadians refused to agree to increase the rule of origin to 60 percent. Instead, these cars will be able to meet the test for duty-free trade between the United States and Canada with imported engines and drive trains. If the Canadians had agreed, it would have created more jobs in both of our countries.

But despite the lofty intentions of the Free Trade Agreement—to bring our two countries closer together, thereby improving our ability to compete with Japan and Korea and others—we missed a chance to help ourselves.

We need coordinated U.S. policy which will support this vital American industry, not weaken it further. We created the automobile industry. It led to the creation of the greatest consumer market in the world. So great, that it is also the backbone of other economies who depend on this market above their own.

The future of the automobile industry is more than the future of Michigan. It is the future of America as a first-rate world economic power. We have the technology, we have the resources, we have the intelligence. We need the leadership—the national will—to prepare ourselves for the 21st century.

SENATE AIR AND SPACE CAUCUS

Mr. SHELBY. Mr. President, an invitation has been sent to each Senator's office, urging each Member—Democrats and Republicans alike—to join in the formation of a Senate Air and Space Caucus. We hope this Air and Space Caucus will provide a forum for discussion of our space program and its goals—a timely subject in light of the slowdown of America's program during the past 2 years, the steady growth of the Soviet space program, and the rapid development of the Japanese and European space efforts. The caucus will also be concerned with aviation, which, like space, is important to our continued technological leadership and is faced with increasing international competition.

This organization cannot substitute for the Senate's formal committee process, nor is it meant to. Instead, it will facilitate the interaction of Senators and their staffs, aerospace contractors, and aviation and space-oriented public interest groups in an effort to become more informed and focused in regard to these very important issues.

Joining with me in signing the letter to our colleagues were Senators HEFLIN, GLENN, GARN, RIEGLE, BENTSEN, WILSON, PRESSLER, FORD, and KASSEBAUM.

I ask unanimous consent that the letter be placed in the RECORD.

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

U.S. SENATE,
Washington, DC, February 1, 1988.

DEAR COLLEAGUE: Aeronautics and astronautics are critical elements of our national security and are symbolic of our technological leadership and international competitiveness. The U.S. civil space program, in particular, appears to be at a crossroads. The difficulties plaguing our space effort must be quickly addressed in order that the United States maintain and improve upon its leadership position among the growing ranks of spacefaring nations.

We invite you to join us in forming a Senate Air and Space Caucus. This bipartisan caucus can complement the Senate committees charged with overseeing and funding space and aeronautics programs by providing an informal forum for discussion among Senators and their staffs, NASA, aerospace contractors, and others, including public interest groups.

For information, or to join the Air and Space Caucus, contact Steve Money (4-6504).

Sincerely,

Richard Shelby, Don Riegle, Pete Wilson, John Glenn, Wendell Ford, Jake Garn, Lloyd Bentsen, Howell Heflin, Larry Pressler, Nancy Landon Kassebaum.

SOUTHERN RESEARCH INSTITUTE OF BIRMINGHAM

Mr. SHELBY. Mr. President, it is my pleasure to rise today, to inform my colleagues of the performance of an outstanding institution in my home State of Alabama—Southern Research Institute of Birmingham. The Southern Research Institute was recently awarded the James S. Cogswell Industrial Security Award by the Department of Defense for protecting military secrets. I take this opportunity to publicly commend Southern Research Institute on Birmingham of this exceptional achievement.

The institute is a 43-year-old organization specializing primarily in industrial operations. Since the mid-sixties, the institute has won defense contracts to include materials testing for aerospace products and electronic guidance systems. Also, the institute obtains contracts in the health and environment fields, and is presently one of several companies responsible for ensuring the accuracy of AIDS tests given to Army personnel.

During my first year in the United States Senate, I have been outspoken on the issue of guarding military secrets. Earlier this year, I revealed to my colleagues that two major high-technology firms, the Toshiba Machine Corp. of Japan and Kongsberg Vaapenfabrikk of Norway, have exported classified propeller technology to the Soviets. With the intention of sending a strong message to these two companies that such violations would not be tolerated, I introduced two bills in the Senate. The first bill banned the import of products from both Toshiba and Kongsberg, and the second bill prohibited military supply stores from purchasing Toshiba-made goods.

I also revealed to my colleagues in the Senate that the United States Department of Commerce had eased certain export license controls which applied to Soviet-bloc entities. This easing of export license controls allowed significant computer systems and related equipment to routinely make its way into the hands of Warsaw Pact countries.

Further auctioning of our national security must be prevented. Strong enforcement measures should be enacted to review export licenses by both the Department of Commerce and DOD.

In light of this recent rash of Cocom violations which threaten and compromise our national security, an organization such as Southern Research Institute of Birmingham is to be applauded. I am proud this company faithfully follows the regulations stipulated by our Government in order to ensure our national security. What is classified must remain so.

As a recipient of the James S. Cogswell Industrial Security Award, Southern Research Institute of Birmingham takes its place as a leader in the defense contracting industry. The institute has set a fine example. Such high standards, in effect, ensure our national security. I know Southern Research Institute of Birmingham will remain a leader in the industry of defense contracting. Once again, I congratulate them on this important achievement.

PROHIBITION OF UNDETECTABLE FIREARMS ACT

Mr. DOLE. Mr. President, over many years, I have enjoyed the opportunity to work with my colleague, the distinguished Senator from Idaho Mr. MCCLURE, on efforts to protect the right of United States citizens to keep and bear arms.

Many times, it seems our vigil to guard against assaults on the second amendment has been never ending. Attempts to ban legally manufactured and owned firearms and ammunition are made in the Congress from every angle imaginable.

The latest assault attempts to ban small arms by renaming them as "plastic guns." In truth, there is no plastic gun being manufactured today. However, we should be mindful that as new technologies are discovered, detection technology keeps pace to ensure the safety of airlines and the security of targets of terrorists such as the U.S. Capitol and the White House.

Mr. President, I know that my colleague has been working with the National Rifle Association to fashion some compromise which, while not banning any currently manufactured firearms, would protect against the introduction of any new class of firearms that are not detectable by Today's x ray and magnetometer devices. I applaud the Senator for his tireless efforts and attention to this matter of concern to all Americans.

I will be consulting with a number of experts in the fields of firearm manufacturing, security, and firearm detection to review the specific provisions of the legislation, and may, at a future date, join Senator MCCLURE as a cosponsor.

However, I do want to indicate my appreciation for his efforts on behalf of America's gun owners, and look forward to our continued work together.

JAPANESE-UNITED STATES TRADING RELATIONS

Mr. DASCHLE. Mr. President, I take the floor today to commend our leader for his recent announcement that the conference agreement on the omnibus trade bill will be a top priority in the coming weeks. Many Senators share the sentiments expressed by Majority Leader BYRD that a comprehensive, but fair, trade bill is very important in our effort to reverse the very serious economic problems caused by the trade deficit.

Even though a comprehensive, but fair, trade bill is very important to the entire world's economy, the bill is especially significant for Japan, one of the United States' most important trading partners.

In 1986, more than $112 billion worth of trade flowed between our two countries. It has been estimated that the jobs of more than 750,000 American citizens are directly related to United States exports to Japan.

Unfortunately, however, this $112 billion trade account left the United States with a bilateral trade deficit of $58 billion. This single largest bilateral trade deficit has, in large part, provided the impetus for the comprehensive trade legislation pending in Congress today.

Even though the Japanese enjoy a very positive balance in general, bilateral trade, the United States enjoys a significant edge in agricultural trade. Agricultural trade with Japan plays a very important role in the United States agricultural economy. In recent years, Japan has purchased more than $5 billion in United States agricultural products. In 1985, more than 25 percent of United States exports to Japan were sent in the form of agricultural products.

Unfortunately, the trend in agricultural trade with Japan is very disturbing. Starting in 1985, 17 agricultural product categories have realized a decline in the United States share of the Japanese import market. The largest loss occurred in product categories very important to farmers in my State: corn, live animals and pork. Only eight agricultural product categories realized an increase in the United States share of the Japanese import market.

Is Japan totally to blame for the overall bilateral trade deficit, as some in this country have charged? Will total dismantling of Japanese trade barriers against United States products eradicate our bilateral trade deficit?

The answers to these questions are not simple. Certainly, the U.S. trade deficit cannot be dismissed with simplistic answers or solutions. Nor is the trade deficit caused solely by trade barriers, even though those barriers play a significant role.

The trade deficit can only be partly attributed to the U.S. budget deficit, although most experts agree that our need to finance the budget deficit has crowded the credit market to the point that we have been forced into greater reliance on foreign financing. This increasing dependence has resulted in the United States becoming the largest creditor nation in the world.

Nor can the excuse be given that the U.S. products are inferior to those of our trading partners. Not true, and again, a simplistic answer to a complex problem.

As we examine the causes and solutions to the trade deficit, the simple fact is that all of these factors do play a role. As we consider solutions and specifically work toward a conference agreement on the trade bill, it is very important that we reflect on one very crucial fact: Japan is far too important an ally to the United States for us to resort to excessive, or punitive, treatment.

The conference is facing many serious and contentious issues. And as we all know, our Japanese friends are closely watching our actions with more than passing interest. They, like many others, want the final trade bill product to be fair.

I am a cosponsor of the trade bill and actively support many of its provisions, especially the agricultural title. These provisions are an excellent compliment of proposals aimed both at increasing our agricultural exports and strengthening our ability to fight unfair agricultural trade barriers.

Specifically, the agricultural provisions direct the administration to implement a marketing loan on specific agricultural commodities if a GATT agreement on agricultural trade has not been finalized. It calls for increased funding for many of export promotion programs in the Department of Agriculture, such as the Targeted Export Assistance Program and the Export Enhancement Program.

The Senate bill also contains a provision I authored which would provide the Secretary of Agriculture with additional trade tools to fight unreasonable foreign meat inspection standards which serve as barriers to exports of U.S. meat shipments.

Second, I support the provisions which will create a stronger and more effective response to unfair trade practices. The Senate proposal, which I hope will be a part of the final agreement, outlines specific circumstances under which mandatory responses will be required to fight unfair trade practices. This provision, which strengthens section 301 of current law dealing with unfair trade, will provide this country with consistent and reasonable responses to future unfair trade practices.

It is my hope that the final version of the trade bill will include a quantification of trade barriers and give the President more direction on how those trade barriers must be eliminated. Because we have drifted far too long without a cohesive trade policy, I strongly support this change in the law.

These are but three of the provisions I consider most important in the trade bill negotiations. I will also be watching very closely developments in the areas of negotiating authority, the service industry, and the changes in section 201 pertaining to unfairly traded imports.

Finally, there is another provision in the trade bill with which I am greatly concerned. It is that which requires sanctions against the Toshiba Corp. I supported the amendment by the distinguished Senator from Utah [Mr. GARN] as an alternative to that offered by the Senator from Alabama [Mr. SHELBY] regarding sanctions against Toshiba when those amendments were considered last year. I remain committed to fair and reasonable sanctions in the final version of the trade bill. Toshiba Machine committed a grievous error by selling restricted, sophisticated technology to the Soviet Union and must understand the severity of this error.

Upon reflection since adoption of that amendment, it has become apparent to me that the sanctions intended for Toshiba Machine will have far-reaching implications. The current proposal would apply sanctions, not only to the offending subsidiary, Toshiba Machine, but to other subsidiaries as well, such as Toshiba America.

In search of a compromise, I have urged the conferees to delineate between the subsidiary directly responsible for the sale and those other subsidiaries which had no involvement in the decision to sell to the Soviet Union.

Toshiba has seven subsidiaries located in the United States. These independent subsidiaries provide employment for 4,100 Americans. Toshiba America has been a good partner in its business relationships with the United States. This partnership should be kept in mind as the conferees continue their work on this provision.

Mr. President, I commend the majority leader for his commitment that this important legislation will be on the floor in the next few weeks.

As we look at the world trading system, and our relationships with our allies, the trade bill takes on a special significance. Labels are easy to throw around. I am certain, however, that not one Senator in this body wants a trade bill which could be labelled as protectionist.

Nor do we want a trade bill which is clearly and artificially advantageous to one country over another.

Our trade bill must recognize the traditional alliances this country has developed throughout the world. Be-

cause of the level of trade and the historical partnership between our countries, our alliance with Japan must lead the list.

Clearly, the viability of the world's economy and the Japanese and United States economies will depend on a harmonious trading system and positive relations between not only the governments of our two countries, but the peoples of our two countries as well.

A comprehensive, but fair, trade bill can help achieve these objectives.

MESSAGES FROM THE HOUSE

At 2:04 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the bill (S. 1539) to amend the Federal Railroad Safety Act of 1970, and for other purposes, with an amendment; it insists upon its amendments, and asks a conference with the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. DINGELL, Mr. THOMAS A. LUKEN, Mr. SLATTERY, Mr. LENT, and Mr. WHITTAKER as managers of the conference on the part of the House.

The message also announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 403. Joint resolution to designate the week of February 7-13, 1988, as "National Child Passenger Safety Awareness Week."

The message further announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 242. Concurrent resolution providing for a conditional adjournment of the House from February 9 to February 16, 1988, and a conditional adjournment of the Senate from February 4 or 5, to February 15, 1988.

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

The message also announced that the Speaker has signed the following enrolled bills and joint resolutions:

H.R. 1983. An act authorizing the Secretary of the Interior to preserve certain wetlands and historic and prehistoric sites in the St. Johns River Valley, Florida, and for other purposes;

H.R. 2566. An act to amend the National Parks and Recreation Act of 1978, as amended, to extend the term of the Delta Region Preservation Commission, and for other purposes;

H.R. 3884. An act to rescind certain budget authority recommended in Public Law 100-202;

S.J. Res. 143. Joint resolution to designate April 1988, as "Fair Housing Month"; and

S.J. Res. 172. Joint resolution to designate the period commencing February 21, 1988, and ending February 27, 1988, as "National Visiting Nurse Associations Week."

The enrolled bills and joint resolutions were subsequently signed by the Vice President.

ENROLLED JOINT RESOLUTIONS PRESENTED

The Secretary of the Senate reported that today, February 4, 1988, he had presented to the President of the United States the following enrolled joint resolutions:

S.J. Res. 143. Joint resolution to designate April 1988, as "Fair Housing Month"; and

S.J. Res. 172. Joint resolution to designate the period commencing February 21, 1988, and ending February 27, 1988, as "National Visiting Nurse Associations Week."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with amendments:

S. 1889: A bill to amend the Geothermal Steam Act of 1970 to provide for lease extensions and for other purposes (Rept. No. 100-283).

By Mr. BYRD (for Mr. BIDEN), from the Committee on the Judiciary, without amendment:

S.J. Res. 210: Joint resolution to designate the period commencing February 8, 1988, and ending February 14, 1988, as "National Burn Awareness Week."

S.J. Res. 214: Joint resolution to designate the week of February 7-13, 1988, as "National Child Passenger Safety Awareness Week."

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. BIDEN, from the Committee on the Judiciary:

Wade Brorby, of Wyoming, to be U.S. circuit judge for the Tenth Circuit;

Suzanne B. Conlon, of Illinois, to be U.S. district judge for the northern district of Illinois;

Richard J. Arcara, of New York, to be U.S. district judge for the western district of New York;

Paul V. Niemeyer, of Maryland, to be U.S. district judge for the district of Maryland;

Edward F. Harrington, of Massachusetts, to be U.S. district judge for the district of Massachusetts;

Romolo J. Imundi, of New York, to be U.S. marshal for the southern district of New York for the term of 4 years;

Daniel F. Lopez Romo, of Puerto Rico, to be U.S. attorney for the district of Puerto Rico for the term of 4 years;

Tony Michael Graham, of Oklahoma, to be U.S. attorney for the northern district of Oklahoma for the term of 4 years;

James Eldon Wilson, of Alabama, to be U.S. attorney for the middle district of Alabama for the term of 4 years; and

Robert J. Kabel, of Virginia, to be a member of the Foreign Claims Settlement Commission of the United States for the term expiring September 30, 1989.

By Mr. NUNN, from the Committee on Armed Services:

Ronald F. Lehman II, of Virginia, to be an Assistant Secretary of Defense.

(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.)

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. THURMOND (for himself, Mr. DECONCINI, Mr. HECHT, Mr. GRASSLEY, Mr. PRESSLER, Mr. KARNES, Mr. D'AMATO, Mr. MCCONNELL, Mr. MCCAIN, Mrs. KASSEBAUM, Mr. HATCH, Mr. COCHRAN, Mr. HOLLINGS, Mr. BOREN, Mr. EXON, Mr. SHELBY, Mr. NICKLES, and Mr. GRAMM):

S. 2033. A bill to amend title 18, United States Code, with respect to child protection and obscenity enforcement, and for other purposes; to the Committee on the Judiciary.

By Mr. CHILES:

S. 2034. A bill to provide financial assistance for programs for prekindergarten students designed to prevent students from dropping out of school, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. HEFLIN (for himself, Mr. HELMS, Mr. COCHRAN, and Mr. PRYOR):

S. 2035. A bill to amend the Federal Insecticide, Fungicide, and Rodenticide Act, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. THURMOND (for himself, Mr. HATCH, Mr. GRASSLEY, and Mr. MCCLURE):

S. 2036. A bill to redefine "extortion" for purposes of the Hobbs Act; to the Committee on the Judiciary.

By Mr. GLENN (for himself, Mr. STEVENS, and Mr. CHILES):

S. 2037. A bill to amend the Presidential Transition Act of 1963 to provide for a more orderly transfer of executive power in connection with the expiration of the term of office of a President; to the Committee on Governmental Affairs.

By Mr. DIXON (for himself and Mr. SIMON):

S. 2038. A bill to prohibit the closing of certain operations of the U.S. Coast Guard at the Glenview Air Station, Chicago, IL; to the Committee on Commerce, Science, and Transportation.

By Mr. BENTSEN:

S. 2039. A bill for the relief of Xochiquetzalli Carreto; to the Committee on the Judiciary.

By Mr. BOREN (for himself and Mr. BENTSEN):

S. 2040. A bill to modify the wheat provisions of the Agricultural Act of 1949 by eliminating the Secretary of Agriculture's authority to restrict haying and grazing on idled wheat acreage; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. HEINZ (for himself, Mr. SIMON, Mr. PROXMIRE, and Mr. PELL):

S. 2041. A bill to amend title 23, United States Code, to reduce Federal highway funds to States that do not enforce the 65

mile per hour speed limit; to the Committee on Commerce, Science, and Transportation.

By Mr. DURENBERGER (for himself, Mr. CRANSTON, Ms. MIKULSKI, Mr. MURKOWSKI, Mr. DOLE, Mr. BYRD, Mr. BINGAMAN, Mr. BOSCHWITZ, Mr. BURDICK, Mr. CHAFEE, Mr. CHILES, Mr. COCHRAN, Mr. CONRAD, Mr. DASCHLE, Mr. DECONCINI, Mr. DIXON, Mr. FORD, Mr. GRASSLEY, Mr. GRAHAM, Mr. HATCH, Mr. HEFLIN, Mr. HUMPHREY, MRS. KASSEBAUM, Mr. KENNEDY, Mr. KERRY, Mr. LEVIN, Mr. LUGAR, Mr. MATSUNAGA, Mr. METZENBAUM, Mr. PELL, Mr. PRESSLER, Mr. QUAYLE, Mr. RIEGLE, Mr. ROCKEFELLER, Mr. ROTH, Mr. SANFORD, Mr. SHELBY, Mr. SIMON, Mr. SPECTER, Mr. STENNIS, Mr. WEICKER, and Mr. WIRTH):

S. 2042. A bill to authorize the Vietnam Women's Memorial Project, Inc., to construct a statue at the Vietnam Veterans Memorial in honor and recognition of the women of the United States who served in the Vietnam conflict; to the Committee on Energy and Natural Resources.

By Mr. KERRY (for himself, Mr. LEAHY, and Mr. KENNEDY):

S. 2043. A bill to authorize demonstration projects that provide certain participants in the special supplemental food program with coupons for use at farmers markets; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. KERRY:

S. 2044. A bill to require further review by the Federal Communications Commission to ensure thorough deliberation on proposed changes in the method of regulation of interstate basic service rates; to the Committee on Commerce, Science, and Transportation.

By Mr. DOLE (for himself and Mr. GRASSLEY):

S. 2045. A bill to amend the Food Security Act of 1985 to increase the number of acres placed in the conservation reserve program, to protect water quality and wildlife habitat, to otherwise improve the program, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. DURENBERGER (for himself, Mr. WEICKER, Mr. BIDEN, Mr. LUGAR, and Mr. CHILES):

S. 2046. A bill to amend title XIX of the Social Security Act to provide mandatory coverage for certain low-income pregnant women and infants; to the Committee on Finance.

By Mr. THURMOND (for himself, Mr. METZENBAUM, Mr. HARKIN, and Mr. EVANS):

S. 2047. A bill to require a health warning on the labels of all alcoholic beverage containers; to the Committee on Commerce, Science, and Transportation.

By Mr. KARNES:

S. 2048. A bill to amend the Railroad Retirement Act of 1974 and the Railroad Unemployment Insurance Act to provide for the removal of the trust funds established by those acts from the unified budget, and for other purposes; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one committee reports, the other committee has 30 days of continuous session to report or to be discharged.

By Mr. CRANSTON (for himself, Mr. MURKOWSKI, Mr. BENTSEN, and Mr. GRAMM):

S. 2049. A bill to establish an independent national commission on the Veterans' Administration home loan guaranty program; to amend title 38, United States Code, to authorize reductions in the interest rate on loans made by the Veterans' Administration to finance the sales of properties acquired by the Veterans' Administration as the result of foreclosures, and to establish creditworthiness requirements for assumptions of Veterans' Administration vendee loans; and for other purposes; to the Committee on Veterans' Affairs.

By Mr. SIMPSON:

S. 2050. A bill to amend the Immigration and Nationality Act to change the level, and preference system for admission, of immigrants to the United States; to the Committee on the Judiciary.

By Mr. McCLURE (for himself and Mr. HATCH):

S. 2051. A bill entitled the "Prohibition of Undetectable Firearms Act"; to the Committee on the Judiciary.

By Mr. GLENN:

S. 2052. A bill to continue the suspension of duties on m-xylenediamine and 1,3-bis (aminomethyl) cyclohexane; to the Committee on Finance.

S. 2053. A bill to temporarily suspend the duty on 8-hydroxy-quinoline; to the Committee on Finance.

By Mr. CRANSTON (for himself, Mr. PELL, Mr. DODD, Mr. INOUYE, Mr. DECONCINI, and Mr. ROCKEFELLER):

S. 2054. A bill to amend the Peace Corps Act to authorize appropriations for fiscal year 1989; to the Committee on Foreign Relations.

By Mr. HOLLINGS (for himself and Mr. DANFORTH):

S.J. Res. 251. Joint resolution designating March 4, 1988, as "Department of Commerce Day"; to the Committee on the Judiciary.

By Mr. PROXMIRE (for himself, Mr. GARN, Mr. HEINZ, Mr. ARMSTRONG, Mr. D'AMATO, Mr. HECHT, Mr. GRAMM, Mr. BOND, Mr. CHAFEE, Mr. KARNES, Mr. WILSON, Mr. DANFORTH, Mr. HATCH, Mr. DOLE, Mr. WARNER, Mr. LUGAR, Mr. DOMENICI, Mr. WEICKER, Mr. GRASSLEY, Mr. SYMMS, Mr. COCHRAN, Mr. NICKLES, Mr. McCAIN, Mr. QUAYLE, Mr. SPECTER, Mr. BOSCHWITZ, Mr. DURENBERGER, Mr. McCLURE, Mr. CRANSTON, Mr. RIEGLE, Mr. SARBANES, Mr. DODD, Mr. DIXON, Mr. SANFORD, Mr. SHELBY, Mr. GRAHAM, Mr. WIRTH, Mr. BURDICK, Mr. SIMON, Mr. REID, Mr. KENNEDY, Mr. LAUTENBERG, Mr. INOUYE, Mr. PELL, Mr. LEAHY, Ms. MIKULSKI, Mr. METZENBAUM, Mr. KERRY, Mr. MOYNIHAN, Mr. EXON, Mr. MATSUNAGA, Mr. LEVIN, Mr. JOHNSTON, Mr. MITCHELL, Mr. BAUCUS, Mr. CHILES, Mr. FORD, Mr. NUNN, Mr. BENTSEN, Mr. HOLLINGS, and Mr. BOREN):

S.J. Res. 252. Joint resolution designating June 5-11, 1988, as "National NHS Neighbor Works Week"; to the Committee on the Judiciary.

By Mr. CRANSTON (for himself, Mr. MURKOWSKI, Mr. MATSUNAGA, Mr. DECONCINI, Mr. ROCKEFELLER, Mr. STAFFORD, Mr. SPECTER, Mr. McCAIN, and Mr. DOLE):

S.J. Res. 253. Joint resolution designating April 9, 1988, and April 9, 1989, as "National Former Prisoner of War Recognition Day"; 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. LUGAR:

S. Res. 377. A resolution to express the sense of the Senate regarding negotiations on a new long-term agreement on agricultural trade with the Soviet Union; to the Committee on Agriculture, Nutrition, and Forestry.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. THURMOND (for himself, Mr. DECONCINI, Mr. HECHT, Mr. GRASSLEY, Mr. PRESSLER, Mr. KARNES, Mr. D'AMATO, Mr. McCONNELL, Mr. McCAIN, MRS. KASSEBAUM, Mr. HATCH, Mr. COCHRAN, Mr. HOLLINGS, Mr. BOREN, Mr. EXON, Mr. SHELBY, Mr. NICKLES, and Mr. GRAMM):

S. 2033. A bill to amend title 18, United States Code, with respect to child protection and obscenity enforcement, and for other purposes; to the Committee on the Judiciary.

CHILD PROTECTION AND OBSCENITY ENFORCEMENT ACT

Mr. THURMOND. Mr. President, I rise to introduce the Child Protection and Obscenity Enforcement Act of 1988. I am pleased that the distinguished Senator from Arizona, Senator DECONCINI, and the able Senator from Nevada, Mr. HECHT, and 14 other Senators have agreed to join me in offering this important legislation.

Joining me as other original cosponsors of this bill are: Senator GRASSLEY, Senator PRESSLER, Senator KARNES, Senator D'AMATO, Senator McCONNELL, Senator McCAIN, Senator KASSEBAUM, Senator HATCH, Senator COCHRAN, Senator HOLLINGS, Senator BOREN, Senator EXON, Senator SHELBY, and Senator NICKLES.

Pornography is a major problem in our Nation today. Increasingly, this material has crept into all areas of our society from the print media, to films, and even to the telephone. In a 1986 report, the California attorney general reported that the pornography industry reaps from $7 to $10 billion annually. It causes me grave concern that so many adults have chosen to make pornography a part of their lives. However, of even greater concern is the effect this material may have on children. Currently, there is a growing market for using children in the production of sexually explicit material. Often these children are runaways who are given drugs or alcohol in order to entice them into participating in the production of sexually explicit material. There have even been shocking instances in which parents have actually sold their children for use in

such material. With the growth of pornography, children are now able to gain access to obscene messages transmitted over the telephone by dial-a-porn services. Additionally, there is evidence that organized crime is involved in the trafficking of pornography. Regarding judicial rulings, the Supreme Court has ruled that obscenity and child pornography are forms of speech that are not protected by the first amendment. Therefore, we must take the steps necessary in order to ensure that the laws with regard to obscenity and child pornography are able to be strictly enforced.

In the past, Congress has taken steps to fight pornography. In 1984, we passed the Child Protection Act which updated the child pornography law to make it easier to prosecute persons involved in the distribution of sexually explicit material involving children. Shortly thereafter, the Attorney General's Commission on Pornography was formed to study the issue of pornography. After many months of work, the Commission issued a final report in 1986. In addition to the report, the Attorney General announced a seven point plan to attack pornography. This legislation, that I am introducing today, represents the final step in the implementation of this antipornography plan. This dedication by the Attorney General to wipe out obscenity is encouraging but the effort must continue. It is now our responsibility as legislators to fill in the gaps in current law as well as add new laws to aid in this struggle. The bill that I am introducing today will do just that.

Generally, this bill, which is based in part on the recommendations of the Pornography Commission, contains measures that will update current law taking into account the use of new technologies in the distribution of pornography as well as provisions to aid Federal prosecutors in convicting those who traffic in pornography. This bill contains two substantive titles. The first title contains provisions with regard to child pornography and the second title contains provisions with regard to obscenity.

Following is a brief overview of the provisions of this measure.

Title I amends the current law dealing with child pornography to:

First, prohibit the use of a computer to send notices advertising children for use in sexually explicit material or offering the sexually explicit material itself.

Second, prohibit the buying and selling of children for use in child pornography.

Third, require producers of sexually explicit material to document the ages of the persons that appear in depictions of sexually explicit conduct in order to deter the use of minors in such material.

Fourth, add the child pornography offenses as predicate offenses to the Racketeer Influenced and Corrupt Organizations statute.

Title II of this bill pertains to obscenity and contains the following provisions which:

First, amend the obscenity law to make it illegal to receive or possess with intent to distribute obscene material that has moved in interstate commerce.

Second, amend the current obscenity law in two respects in order to aid in the prosecution of those who are involved in the trafficking of pornography. One provision amends the current law to expand the jurisdictional nexus necessary to prosecute the transportation of pornography. This amendment would allow the prosecution of those who use facilities or means of interstate commerce in transporting pornography. For example, under this new section, a prosecution could be based on the movement of pornography on a Federal highway with the intent that the material be distributed in interstate commerce. Another provision would establish a rebuttable presumption for the obscenity offenses to provide that obscene material produced in one State and subsequently seized in another State is presumed to have been transported in interstate commerce. A similar presumption is included with regard to transportation of obscene material in foreign commerce. This provision addresses the often difficult problem that prosecutors have in proving that specific material moved in interstate or foreign commerce.

Third, add criminal and civil forfeiture provisions to the obscenity law that are similar to the provisions passed as part of the comprehensive drug bill at the end of last Congress. This section also changes the current forfeiture law in the child pornography law in order to conform it with this new provision. As well, this section amends the forfeiture laws of the Customs Service to ensure that such forfeiture proceedings are executed in a timely manner as required by current case law.

Fourth, amend the obscenity laws to make it illegal to broadcast obscenity on cable or subscription television. Currently, it is illegal to broadcast obscene material on radio or television. However, current obscenity law does not expressly cover cable television. In 1984, Congress passed the Cable Communications Policy Act which contains a provision that prohibits obscene programming on cable. However, this section read together with other sections raises doubts as to whether this section of the Cable Act is enforceable. Therefore, this bill would make it clear that obscene programming is illegal on cable or subscription services. This section also provides that the Federal and State government may regulate indecent programming on cable television.

Fifth, amend the communications law to prohibit the transmission of obscene messages over telephone services and to prohibit the transmission of indecent messages unless the service takes the necessary steps, as set forth by the Federal Communications Commission [FCC], to ensure that the messages are not readily accessible to persons under 18 years of age. Currently, these dial-a-porn services may transmit obscene and indecent messages if they comply with the pertinent FCC regulations. This section would simply prohibit obscene messages which are not forms of speech that are protected by the first amendment.

Sixth, prohibit the sale or possession with intent to sell of obscenity or child pornography on Federal lands which includes military bases and Indian reservations. This bill would also prohibit the possession of such material.

Seventh, amend the Federal wiretap statute to add obscenity offenses to the list of crimes for which the Government may obtain wiretaps.

Mr. President, the provisions contained in this measure will be helpful in stemming the flow of pornography in this country. I look forward to further consideration of this legislation by the Judiciary Committee. I strongly urge my colleagues to review this bill and cosponsor this worthwhile measure. I ask unanimous consent that the text of the bill be printed in the CONGRESSIONAL RECORD immediately following my remarks.

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

S. 2033

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 "Child Protection and Obscenity Enforcement Act of 1988".

TITLE I—CHILD PORNOGRAPHY

SEC. 101. AMENDMENTS TO EXISTING OFFENSES.

(a) SEXUAL EXPLOITATION OF CHILDREN.—Paragraph (2) of subsection 2251(c) of title 18, United States Code, is amended by inserting "by any means including by computer" after "interstate of foreign commerce" both places it appears.

(b) MATERIAL INVOLVING SEXUAL EXPLOITATION OF CHILDREN.—Subsection 2252(a) of title 18, United States Code, is amended by inserting "by any means including by computer" after "interstate or foreign commerce" each place it appears.

(c) DEFINITION.—Section 2256 of title 18, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (4);

(2) by striking out the period at the end of paragraph (5) and inserting in lieu thereof: "; and"; and

(3) by adding at the end the following:

"(6) 'computer' has the meaning given that term in section 1030 of this title.".

SEC. 102. SELLING OR BUYING OF CHILDREN.

(a) IN GENERAL.—Chapter 110 of title 18, United States Code, is amended by inserting after section 2251 the following:

"§ 2251A. Selling or buying of children

"(a) Any parent, legal guardian, or other person having custody or control of a minor who sells or otherwise transfers custody or control of such minor, or offers to sell or otherwise transfer custody of such minor either—

"(1) with knowledge that, as a consequence of the sale or transfer, the minor will be portrayed in a visual depiction engaging in, or assisting another person to engage in, sexually explicit conduct; or

"(2) with intent to promote either—

"(A) the engaging in of sexually explicit conduct by such minor for the purpose of producing any visual depiction of such conduct; or

"(B) the rendering of assistance by the minor to any other person to engage in sexually explicit conduct for the purpose of producing any visual depiction of such conduct;

shall be punished by imprisonment for not less than 20 years or for life and by a fine under this title, if any of the circumstances described in subsection (c) of this section exist.

"(b) Whoever purchase or otherwise obtains custody or control of a minor, or offers to purchase or otherwise obtain custody or control of a minor either—

"(1) with knowledge that, as a consequence of the purchase or obtaining of custody, the minor will be portrayed in a visual depiction engaging in, or assisting another person to engage, sexually explicit conduct; or

"(2) with intent to promote either—

"(A) the engaging in of sexually explicit conduct by such minor for the purpose of producing any visual depiction of such conduct; or

"(B) the rendering of assistance by the minor to any other person to engage in sexually explicit conduct for the purpose of producing any visual depiction of such conduct;

shall be punished by imprisonment for not less than 20 years or for life and by a fine under this title, if any of the circumstances described in subsection (c) of this section exist.

"(c) The circumstances referred to in subsections (a) and (b) are that—

"(1) in the course of the conduct described in such subsections the minor or the actor traveled in or was transported in interstate or foreign commerce;

"(2) any offer described in such subsections was communicated or transported in interstate or foreign commerce by any means including by computer or mail; or

"(3) the conduct described in such subsections took place in any territory or possession of the United States.".

(b) DEFINITION.—Section 2256 of title 18, United States Code, as amended by section 201 of this Act, is further amended—

(1) by striking out "and" at the end of paragraph (5);

(2) by striking out the period at the end of paragraph (6) and inserting "; and" in lieu thereof; and

(3) by adding at the end of the following:

"(7) 'custody or control' includes temporary supervision over or responsibility for a minor whether legally or illegally obtained.".

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 110 of title 18, United States Code, is amended by inserting after the line item relating to section 2251 the following:

"2251A. Selling or buying of children.".

SEC. 103. RECORD KEEPING REQUIREMENTS.

(a) IN GENERAL.—Chapter 110 of title 18, United States Code, is amended by adding at the end thereof the following:

"§ 2257. Record keeping requirements

"(a) Whoever produces any book, magazine, periodical, film, videotape, or other matter which—

"(1) contains one or more visual depictions (originally made within 25 years of the date of sale or distribution by the producer of the book, magazine, periodical, film, videotape, or other matter) of actual sexually explicit conduct; and

"(2) is produced in whole or in part with materials which have been shipped in interstate or foreign commerce, or is shipped or transported or is intended for shipment or transportation in interstate or foreign commerce;

shall create and maintain individually records pertaining to every performer portrayed in such a visual depiction.

"(b) Any person to whom subsection (a) applies shall, with respect to every performer portrayed in a visual depiction of actual sexually explicit conduct—

"(1) ascertain, by examination of an identification document containing such information, the performer's name and date of birth, and require the performer to provide such other indicia of his or her identity as may be prescribed by regulations;

"(2) ascertain any name, other than the performer's present and correct name, ever used by the performer including maiden name, alias, nickname, stage, or professional name; and

"(3) record in the records required by subsection (a) the information required by paragraphs (1) and (2) of this subsection and such other identifying information as may be prescribed by regulation.

"(c) Any person to whom subsection (a) applies shall maintain the records required by this section at his business premises, or at such other place as the Attorney General may by regulation prescribe and shall make such records available to the Attorney General for inspection at all reasonable times.

"(d)(1) No information or evidence obtained from records required to be created or maintained by this section shall, except as provided in paragraphs (2) and (3), be used, directly or indirectly, as evidence against any person with respect to any violation of law.

"(2) Paragraph (1) of this subsection shall not preclude the use of such information or evidence in a prosecution or other action for a violation of any applicable provision of law with respect to the furnishing of false information.

"(3) In a prosecution of any person to whom subsection (a) applies for an offense in violation of subsection 2251(a) of this title which has as an element the production of a visual depiction of a minor engaging in or assisting another person to engage in sexually explicit conduct and in which that element is sought to be established by showing that a performer within the meaning of this section is a minor—

"(A) proof that the person failed to comply with the provisions of subsection (a) or (b) of this section concerning the creation and maintenance of records, or a regulation issued pursuant thereto, shall raise a rebuttable presumption that such performer was a minor; and

"(B) proof that the person failed to comply with the provisions of subsection (e) of this section concerning the statement required by that subsection shall raise the rebuttable presumption that every performer in the matter was a minor.

"(e)(1) Any person to whom subsection (a) applies shall cause to be affixed to every copy of any matter described in paragraph (1) of subsection (a) of this section, in such manner and in such form as the Attorney General shall by regulations prescribe, a statement describing where the records required by this section with respect to all performers depicted in that copy of the matter may be located.

"(2) If the person to whom subsection (a) of this section applies is an organization the statement required by this subsection shall include the name, title, and business address of the individual employed by such organization responsible for maintaining the records required by this section.

"(3) In any prosecution of a person for an offense in violation of section 2252 of this title which has as an element the transporting, mailing, or distribution of a visual depiction involving the use of a minor engaging in sexually explicit conduct, and in which that element is sought to be established by a showing that a performer within the meaning of this section is a minor, proof that the matter in which the visual depiction is contained did not contain the statement required by this section shall raise a rebuttable presumption that such performer was a minor.

"(f) The Attorney General shall issue appropriate regulations to carry out this section.

"(g) As used in this section—

"(1) the term 'actual sexually explicit conduct' means actual but not simulated conduct as defined in subparagraphs (A) through (E) of paragraph (2) of section 2256 of this title;

"(2) 'identification document' has the meaning given that term in subsection 1028(d) of this title;

"(3) the term 'produces' means to produce, manufacture, or publish and includes the duplication, reproduction, or reissuing of any material; and

"(4) the term 'performer' includes any person portrayed in a visual depiction engaging in, or assisting another person to engage in, actual sexually explicit conduct.".

(b) CLERICAL AMENDMENT—The table of sections at the beginning of chapter 110 of title 18, United States Code, is amended by adding after the item relating to section 2256 the following:

"2257. Record keeping requirements.".

(c) EFFECTIVE DATE.—Section 2257 of title 18, United States Code, as added by this section shall take effect 180 days after the date of enactment of this Act except—

(1) the Attorney General shall prepare the initial set of regulations required or authorized by section 2257 within 90 days of the date of the enactment of this Act; and

(2) subsection (e) of section 2257 of this title and of any regulation issued pursuant thereto shall take effect 270 days after the date of the enactment of this Act.

SEC. 104. R.I.C.O. AMENDMENT.

Subsection 1961(1)(B) of title 18, United States Code, is amended by inserting after "section 1957 (relating to engaging in monetary transactions in property derived from specified unlawful activity)" the following:

"sections 2251 through 2252 (relating to sexual exploitation of children),".

TITLE II—OBSCENITY

SEC. 201. RECEIPT OR POSSESSION FOR SALE; PRESUMPTIONS FOR CHAPTER 71.

(a) RECEIPT OR POSSESSION FOR SALE.—Chapter 71 of title 18, United States Code, is amended by inserting after section 1465 the following:

"§ 1466. Receipt or possession of obscene matter for sale or distribution

"(a) Whoever knowingly receives or possesses with intent to distribute any obscene book, magazine, picture, paper, film, videotape, phonograph recording, electrical transcription, or any other matter, which has been shipped or transported in interstate or foreign commerce shall be punished by imprisonment for not more than two years or by a fine under this title, or both.

"(b) Whoever violates subsection (a) of this section and is engaged in the business of selling or transferring obscene matter shall be punished by imprisonment for not more than five years or by a fine under this title, or both. As used in this subsection, the term 'engaged in the business' means that the person who sells or transfers or offers to sell or transfer obscene matter devotes time, attention, or labor to such activities, as a regular course of trade or business, with the objective of earning a profit, although it is not necessary that the person make a profit or that the selling or transferring or offering to sell or transfer obscene matter be the person's sole or principal business or source of income. The offering for sale of or to transfer, at one time, two or more copies of any obscene publication, or two or more of any obscene article, or a combined total of five or more such publications and articles, shall create a rebuttable presumption that the person so offering them is engaged in the business of selling or transferring obscene articles.".

(b) *Clerical Amendment.*—The table of sections at the beginning of chapter 71 of title 18, United States Code, is amended by adding after the item relating to section 1465 the following:

"1466. Receipt or possession of obscene matter for sale or distribution.".

(c) USE OF FACILITY OF COMMERCE.—The first paragraph of section 1465 of title 18, United States Code, is amended by inserting after the word distribution: ", or knowingly uses a facility or means of commerce for the purpose of interstate or foreign sale or distribution of,".

(d) PRESUMPTIONS.—Chapter 71 of title 18, United States Code, as amended by subsection (a) of this section and by section 302, is further amended by adding at the end the following:

"§ 1469. Presumptions

"(a) In any prosecution under this chapter in which an element of the offense is that the matter in question was transported, shipped, or carried in interstate commerce, proof, by either circumstantial or direct evidence, that such matter was produced or manufactured in one State and is subsequently located in another State shall raise a rebuttable presumption that such matter was transported, shipped, or carried in interstate commerce.

"(b) In any prosecution under this chapter in which an element of the offense is that the matter is question was transported, shipped, or carried in foreign commerce, proof, by either circumstantial or direct evidence, that such matter was produced or manufactured outside of the United States and is subsequently located in the United States shall raise a rebuttable presumption that such matter was transported, shipped, or carried in foreign commerce.".

(e) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 71 of title 18, United States Code, is amended by adding after the item relating to section 1468 the following:

"1469. Presumptions.".

(f) TRAVEL ACT AMENDMENT.—Subsection 1952(b) of title 18, United States Code, is amended by striking out "or prostitution offenses" and inserting in lieu thereof: "or obscenity or prostitution offenses".

SEC. 202. FORFEITURE IN OBSCENITY CASES.

(a) IN GENERAL.—Chapter 71 of title 18, United States Code, is amended by adding at the end the following:

"§ 1467. Criminal forfeiture

"(a) PROPERTY SUBJECT TO CRIMINAL FORFEITURE.—A person who is convicted of an offense involving obscene material under this chapter shall forfeit to the United States such person's interest in—

"(1) any obscene material produced, transported, mailed, shipped or received in violation of this chapter;

"(2) any property, real or personal, constituting or traceable to gross profits or other proceeds obtained from such offense; and

"(3) any property, real or personal, used or intended to be used to commit or to promote the commission of such offense.

"(b) THIRD PARTY TRANSFERS.—All right, title, and interest in property described in subsection (a) of this section vests in the United States upon the commission of the act giving rise to forfeiture under this section. Any such property that is subsequently transferred to a person other than the defendant may be the subject of a special verdict of forfeiture and thereafter shall be ordered forfeited to the United States, unless the transferee establishes in a hearing pursuant to subsection (m) of this section that he is a bona fide purchaser for value of such property who at the time of purchase was reasonably without cause to believe that the property was subject to forfeiture under this section.

"(c) PROTECTIVE ORDERS.—(1) Upon application of the United States, the court may enter a restraining order or injunction, require the execution of a satisfactory performance bond, or take any other action to preserve the availability of property described in subsection (a) of this section for forfeiture under this section—

"(A) upon the filing of an indictment or information charging a violation of this chapter for which criminal forfeiture may be ordered under this section and alleging that the property with respect to which the order is sought would, in the event of conviction, be subject to forfeiture under this section; or

"(B) prior to the filing of such an indictment or information, if, after notice to persons appearing to have an interest in the property and opportunity for a hearing, the court determines that—

"(i) there is a substantial probability that the United States will prevail on the issue of forfeiture and that failure to enter the order will result in the property being destroyed, removed from the jurisdiction of the court, or otherwise made unavailable for forfeiture; and

"(ii) the need to preserve the availability of the property through the entry of the requested order outweighs the hardship on any party against whom the order is to be entered;

except that an order entered under subparagraph (B) shall be effective for not more than 90 days, unless extended by the court for good cause shown or unless an indictment or information described in subparagraph (A) has been filed.

"(2) A temporary restraining order under this subsection may be entered upon application of the United States without notice or opportunity for a hearing when an information or indictment has not yet been filed with respect to the property, if the United States demonstrates that there is probable cause to believe that the property with respect to which the order is sought would, in the event of conviction, be subject to forfeiture under this section and that provision of notice will jeopardize the availability of the property for forfeiture. Such a temporary order shall expire not more than 10 days after the date on which it is entered, unless extended for good cause shown or unless the party against whom it is entered consents to an extension for a longer period. A hearing requested concerning an order entered under this paragraph shall be held at the earliest possible time and prior to the expiration of the temporary order.

"(3) The court may receive and consider, at a hearing held pursuant to this subsection, evidence and information that would be inadmissible under the Federal Rules of Evidence.

"(d) WARRANT OF SEIZURE.—The Government may request the issuance of a warrant authorizing the seizure of property subject to forfeiture under this section in the same manner as provided for a search warrant. If the court determines that there is probable cause to believe that the property to be seized would, in the event of conviction, be subject to forfeiture and that an order under subsection (c) of this section may not be sufficient to assure the availability of the property for forfeiture, the court shall issue a warrant authorizing the seizure of such property.

"(e) ORDER OF FORFEITURE.—The court shall order forfeiture of property referred to in subsection (a) if the trier of fact determines, beyond a reasonable doubt, that such property is subject to forfeiture.

"(f) EXECUTIVE.—Upon entry of an order of forfeiture under this section, the court shall authorize the Attorney General to seize all property ordered forfeited upon such terms and conditions as the court shall deem proper. Following entry of an order delcaring the property forfeited, the court may, upon application of the United States, enter such appropriate restraining orders or injunctions, require the execution of satisfactory performance bonds, appoint receivers, conservators, appraisers, accountants, or trustees, or take any other action to protect the interest of the United States in the property ordered forfeited. Any income accruing to or derived from property ordered forfeited under this section may be used to offset ordinary and necessary expenses to the property which are required by law, or which are necessary to protect the interests of the United States or third parties.

"(g) DISPOSITION OF PROPERTY.—Following the seizure of property ordered forfeited under this section, the Attorney General shall destroy or retain for official use any property described in paragraph (1) of subsection (a) and shall direct the disposition of any property described in paragraph (2) or (3) of subsection (a) by sale or any other

commercially feasible means, making due provision for the rights of any innocent persons. Any property right or interest not exercisable by, or transferable for value to, the United States shall expire and shall not revert to the defendant, nor shall the defendant or any person acting in concert with him or on his behalf be eligible to purchase forfeited property at any sale held by the United States. Upon application of a person, other than the defendant or person acting in concert with him or on his behalf, the court may restrain or stay the sale or disposition of the property pending the conclusion of any appeal of the criminal case giving rise to the forfeiture, if the applicant demonstrates that proceeding with the sale or disposition of the property will result in irreparable injury, harm, or loss to him.

"(h) AUTHORITY OF ATTORNEY GENERAL.—With respect to property ordered forfeited under this section, the Attorney General is authorized to—

"(1) grant petitions for mitigation or remission of forfeiture, restore forfeited property to victims of a violation of this chapter, or take any other action to protect the rights of innocent persons which is in the interest of justice and which is not inconsistent with the provisions of this section;

"(2) comprise claims arising under this section;

"(3) award compensation to persons providing information resulting in a forfeiture under this section;

"(4) direct the disposition by the United States, in accordance with the provisions of section 1616, title 19, United States Code, of all property ordered forfeited under this section by public sale or any other commercially feasible means, making due provision for the rights of innocent persons; and

"(5) take appropriate measures necessary to safeguard and maintain property ordered forfeited under this section pending its disposition.

"(i) APPLICABILITY OF CIVIL FORFEITURE PROVISIONS.—Except to the extent that they are inconsistent with the provisions of this section, the provisions of section 1468(d) of this title (18 U.S.C. 1468(d)) shall apply to a criminal forfeiture under this section.

"(j) BAR ON INTERVENTION.—Except as provided in subsection (m) of this section, no party claiming an interest in property subject to forfeiture under this section may—

"(1) intervene in a trial or appeal of a criminal case involving the forfeiture of such property under this section; or

"(2) commence an action at law or equity against the United States concerning the validity of his alleged interest in the property subsequent to the filing of an indictment or information alleging that the property is subject to forfeiture under this section.

"(k) JURISDICTION TO ENTER ORDERS.—The district courts of the United States shall have jurisdiction to enter orders as provided in this section without regard to the location of any property which may be subject to forfeiture under this section or which has been ordered forfeited under this section.

"(l) DEPOSITIONS.—In order to facilitate the identification and location of property declared forfeited and to facilitate the disposition of petitons for remission or mitigation of forfeiture, after the entry of an order declaring property forfeited to the United States, the court may, upon application of the United States, order that the testimony of any witness relating to the property forfeited be taken by deposition and that any designated book, paper, document, record, recording, or other material not privileged be produced at the same time and place, in the same manner as provided for the taking of depositions under Rule 15 of the Federal Rules of Criminal Procedure.

"(m) THIRD PARTY INTERESTS.—(1) Following the entry of an order of forefeiture under this section, the United States shall publish notice of the order and of its intent to dispose of the property in such manner as the Attorney General may direct. The Government may also, to the extent practicable, provide direct written notice to any person known to have alleged an interest in the property that is the subject of the order of forfeiture as a substitute for published notice as to those persons so notified.

"(2) Any person, other than the defendant, asserting a legal interest in property which has been ordered forfeited to the United States pursuant to this section may, within 30 days of the final publication of notice or his receipt of notice under paragraph (1), whichever is earlier, petition the court for a hearing to adjudicate the validity of his alleged interest in the property. The hearing shall be held before the court alone, without a jury.

"(3) The petition shall be signed by the petitioner under penalty of perjury and shall set forth the nature and extent of the petitioner's right, title, or interest in the property, the time and circumstances of the petitioner's acquisition of the right, title, or interest in the property, and additional facts supporting the petitioner's claim, and the relief sought.

"(4) The hearing on the petition shall, to the extent practicable and consistent with the interests of justice, be held within 30 days of the filing of the petition. The court may consolidate the hearing on the petition with a hearing on any other petition filed by a person other than the defendant under this subsection.

"(5) At the hearing, the petitioner may testify and present evidence and witnesses on his own behalf, and cross-examine witnesses who appear at the hearing. The United States may present evidence and witnesses in rebuttal and in defense of its claim to the property and cross-examine witnesses who appear at the hearing. In addition to testimony and evidence presented at the hearing, the court shall consider the relevant portions of the record of the criminal case which resulted in the order of forfeiture.

"(6) If, after the hearing, the court determines that the petitioner has established by a preponderance of the evidence that—

"(A) the petitioner has a legal right, title, or interest in the property, and such right, title, or interest renders the order of forfeiture invalid in whole or in part because the right, title, or interest was vested in the petitioner rather than the defendant or was superior to any right, title, or interest of the defendant at the time of the commission of the acts which gave rise to the forfeiture of the property under this section; or

"(B) the petitioner is a bona fide purchaser for value of the right, title, or interest in the property and was at the time of purchase reasonably without cause to believe that the property was subject to forfeiture under this section:

the court shall amend the order of forfeiture in accordance with its determination.

"(7) Following the court's disposition of all petitions filed under this subsection, or if no such petitions are filed following the expiration of the period provided in paragraph (2) for the filing of such petitions, the United States shall have clear title to property that is the subject of the order of forfeiture and may warrant good title to any subsequent purchaser or transferee.

"(n) CONSTRUCTION.—The provisions of this section shall be liberally construed to effectuate its remedial purposes.

"(o) SUBSTITUTE ASSETS.—If any of the property described in subsection (a), as a result of any act or omission of the defendant—

"(1) cannot be located upon the exercise of due diligence;

"(2) has been transferred or sold to, or deposited with, a third party;

"(3) has been placed beyond the jurisdiction of the court;

"(4) has been substantially diminished in value; or

"(5) has been commingled with other property which cannot be divided without difficulty;

the court shall order the forfeiture of any other property of the defendant up to the value of any property described in paragraphs (1) through (5).

"§ 1468. Civil forfeiture

"(a) PROPERTY SUBJECT TO CIVIL FORFEITURE.—The following property shall be subject to forfeiture by the United States:

"(1) Any obscene material produced, transported, mailed, shipped, or received in violation of this chapter.

"(2) Any property, real or personal, used or intended to be used to commit or to promote the commission of an offense involving obscene material under this chapter, except that no property shall be forfeited under this paragraph, to the extent of the interest of an owner, by reason of any act or omission established by that owner to have been committed or omitted without the knowledge or consent of that owner.

"(3) Any property, real or personal, constituting or traceable to gross profits or other proceeds obtained from a violation of this chapter involving obscene material, except that no property shall be forfeited under this paragraph, to the extent of the interest of an owner, by reason of any act or omission established by that owner to have been committed or omitted without the knowledge or consent of that owner.

"(b) SEIZURE PURSUANT TO SUPPLEMENTAL RULES FOR CERTAIN ADMIRALTY AND MARITIME CLAIMS.—Any property subject to forfeiture to the United States under this section may be seized by the Attorney General upon process issued pursuant to the Supplemental Rules for Certain Admiralty and Maritime Claims by any district court of the United States having jurisdiction over the property, except that seizure without such process may be made when the seizure is pursuant to a search under a search warrant. The government may request the issuance of a warrant authorizing the seizure of property subject to forfeiture under this section in the same manner as provided for a search warrant under the Federal Rules of Criminal Procedure.

"(c) CUSTODY OF ATTORNEY GENERAL.—Property taken or detained under this section shall not be repleviable, but shall be deemed to be in the custody of the Attorney General, subject only to the orders and decrees of the court or the official having jurisdiction thereof. Whenever property is seized under any of the provisions of this subchapter, the Attorney General may—

"(1) place the property under seal;

"(2) remove the property to a place designated by him; or

"(3) require that the General Services Administration take custody of the property and remove it, if practicable, to an appropriate location for disposition in accordance with law.

"(d) OTHER LAWS AND PROCEEDINGS APPLICABLE.—All provisions of the customs laws relating to the seizure, summary and judicial forfeiture, and condemnation of property for violation of the customs laws, the disposition of such property or the proceeds from the sale thereof, the remission or mitigation of such forfeitures, and the compromise of claims, shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under this section, insofar as applicable and not inconsistent with the provisions of this section, except that such duties as are imposed upon the customs officer or any other person with respect to the seizure and forfeiture of property under the customs laws shall be performed with respect to seizures and forfeitures of property under this section by such officers, agents, or other persons as may be authorized or designated for that purpose by the Attorney General or the Postal Service, except to the extent that such duties arise from seizures and forfeitures effected by any customs officer.

"(e) APPLICABILITY OF CERTAIN SECTIONS.—Sections 1606, 1607, 1608, 1609, 1613, 1614, 1617, and 1618 of title 19 shall not apply with respect to obscene material subject to forfeiture under subsection (a)(1) of this section.

"(f) DISPOSITION OF FORFEITED PROPERTY.—Whenever property is forfeited under this section the Attorney General shall destroy or retain for official use any article described in paragraph (1) of subsection (a), and with respect to property described in paragraphs (2) and (3) of subsection (a) may—

"(1) retain the property for official use or transfer the custody or ownership of any forfeited property to Federal, State, or local agency pursuant to section 1616 of title 19;

"(2) sell any forfeited property which is not required to be destroyed by law and which is not harmful to the public; or

"(3) require that the General Services Administration take custody of the property and dispose of it in accordance with law.

The Attorney General shall ensure the equitable transfer pursuant to paragraph (1) of any forfeited property to the appropriate State or local law enforcement agency so as to reflect generally the contribution of any such agency participating directly in any of the acts which led to the seizure or forfeiture of such property. A decision by the Attorney General pursuant to paragraph (1) shall not be subject to judicial review. The Attorney General shall forward to the Treasurer of the United States for deposit in accordance with section 524(c) of title 28 the proceeds from any sale under paragraph (2) and any moneys forfeited under this subchapter.

"(g) TITLE TO PROPERTY.—All right, title, and interest in property described in subsection (a) of this section shall vest in the United States upon commission of the act giving rise to forfeiture under this section.

"(h) STAY OF PROCEEDINGS.—The filing of an indictment or information alleging a violation of this chapter which is also related to a civil forfeiture proceeding under this section shall, upon motion of the United States and for good cause shown, stay the civil forfeiture proceeding.

"(i) VENUE.—In addition to the venue provided for in section 1395 of title 28 or any other provision of law, in the case of property of a defendant charged with a violation that is the basis for forfeiture of the property under this section, a proceeding for forfeiture under this section may be brought in the judicial district in which the defendant owning such property is found or in the judicial district in which the criminal prosecution is brought.".

(b) CLERICAL AMENDMENTS.—The table of sections at the beginning of chapter 71 of title 18, United States Code, is amended by inserting after the item relating to section 1465 the following:

"1467. Criminal forfeiture.
"1468. Civil forfeiture."

(c) REPEAL.—The last paragraph of section 1465 of title 18, United States Code, is repealed.

(d) SEXUAL ABUSE OF CHILDREN.—Sections 2253 through 2254 of title 18, United States Code, are amended to read as follows:

"§ 2253. Criminal forfeiture.

"(a) PROPERTY SUBJECT TO CRIMINAL FORFEITURE.—A person who is convicted of an offense under this chapter involving a visual depiction described in sections 2251, 2251A, or 2252 of this chapter shall forfeit to the United States such person's interest in—

"(1) any visual depiction described in sections 2251, 2251A, or 2252 of this chapter, or any book, magazine, periodical, film, videotape, or other matter which contains any such visual depiction, which was produced, transported, mailed, shipped or received in violation of this chapter.

"(2) any property, real or personal, constituting or traceable to gross profits or other proceeds obtained from such offense; and

"(3) any property, real or personal, used or intended to be used to commit or to promote the commission of such offense.

"(b) THIRD PARTY TRANSFERS.—All right, title, and interest in property described in subsection (a) of this section vests in the United States upon the commission of the act giving rise to forfeiture under this section. Any such property that is subsequently transferred to a person other than the defendant may be the subject of a special verdict of forfeiture and thereafter shall be ordered forfeited to the United States, unless the transferee establishes in a hearing pursuant to subsection (m) of this section that he is a bona fide purchaser for value of such property who at the time of purchase was reasonably without cause to believe that the property was subject to forfeiture under this section.

"(c) PROTECTIVE ORDERS.—(1) Upon application of the United States, the court may enter a restraining order or injunction, require the execution of a satisfactory performance bond, or take any other action to preserve the availability of property described in subsection (a) of this section for forfeiture under this section—

"(A) upon the filing of an indictment or information charging a violation of this chapter for which criminal forfeiture may be ordered under this section and alleging that the property with respect to which the order is sought would, in the event of conviction, be subject to forfeiture under this section; or

"(B) prior to the filing of such an indictment or information, if, after notice to persons appearing to have an interest in the property and opportunity for a hearing, the court determines that—

(i) there is a substantial probability that the United States will prevail on the issue of forfeiture and that failure to enter the order will result in the property being destroyed, removed from the jurisdiction of the court, or otherwise made unavailable for forfeiture; and

(ii) the need to preserve the availability of the property through the entry of the requested order outweighs the hardship on any party against whom the order is to be entered;

except that an order entered pursuant to subparagraph (B) shall be effective for not more than 90 days, unless extended by the court for good cause shown or unless an indictment or information described in subparagraph (A) has been filed.

"(2) A temporary restraining order under this subsection may be entered upon application of the United States without notice or opportunity for a hearing when an information or indictment has not yet been filed with respect to the property, if the United States demonstrates that there is probable cause to believe that the property with respect to which the order is sought would, in the event of conviction, be subject to forfeiture under this section and that provision of notice will jeopardize the availability of the property for forfeiture. Such a temporary order shall expire not more than 10 days after the date on which it is entered, unless extended for good cause shown or unless the party against whom it is entered consents to an extension for a longer period. A hearing requested concerning an order entered under this paragraph shall be held at the earliest possible time and prior to the expiration of the temporary order.

"(3) The court may receive and consider, at a hearing held pursuant to this subsection, evidence and information that would be inadmissible under the Federal Rules of Evidence.

"(d) WARRANT OF SEIZURE.—The Government may request the issuance of a warrant authorizing the seizure of property subject to forfeiture under this section in the same manner as provided for a search warrant. If the court determines that there is probable cause to believe that the property to be seized would, in the event of conviction, be subject to forfeiture and that an order under section (c) of this section may not be sufficient to assure the availability of the property for forfeiture, the court shall issue a warrant authorizing the seizure of such property.

"(e) ORDER OF FORFEITURE.—The court shall order forfeiture of property referred to in subsection (a) if the trier of fact determines, beyond a reasonable doubt, that such property is subject to forfeiture.

"(f) EXECUTION.—Upon entry of an order of forfeiture under this section, the court shall authorize the Attorney General to seize all property ordered forfeited upon such terms and conditions as the court shall deem proper. Following entry of an order declaring the property forfeited, the court may, upon application of the United States, enter such appropriate restraining orders or injunctions, require the execution of satisfactory performance bonds, appoint receivers, conservators, appraisers, accountants, or trustees, or take any other action to protect the interest of the United States in the property ordered forfeited. Any income accruing to or derived from property ordered forfeited under this section may be used to offset ordinary and necessary expenses to the property which are required by law, or which are necessary to protect the interests of the United States or third parties.

"(g) DISPOSITION OF PROPERTY.—Following the seizure of property ordered forfeited under this section, the Attorney General shall destroy or retain for official use any article described in paragraph (1) of subsection (a), and shall retain for official use or direct the disposition of any property described in paragraph (2) or (3) of subsection (a) by sale or any other commercially feasible means, making due provision for the rights of any innocent persons. Any property right or interest not exercisable by, or transferable for value to, the United States shall expire and shall not revert to the defendant, nor shall the defendant or any person acting in concert with him or on his behalf be eligible to purchase forfeited property at any sale held by the United States. Upon application of a person, other than the defendant or person acting in concert with him or on his behalf, the court may restrain or stay the sale or disposition of the property pending the conclusion of any appeal of the criminal case giving rise to the forfeiture, if the applicant demonstrates that proceeding with the sale or disposition of the property will result in irreparable injury, harm, or loss to him.

"(h) AUTHORITY OF ATTORNEY GENERAL.—With respect to property ordered forfeited under this section, the Attorney General is authorized to—

"(1) grant petition, for mitigation or remission of forfeiture, restore forfeited property to victims of a violation of this chapter, or take any other action to protect the rights of innocent persons which is in the interest of justice and which is not inconsistent with the provisions of this section;

"(2) compromise claims arising under this section;

"(3) award compensation to persons providing information resulting in a forfeiture under this section;

"(4) direct the disposition by the United States, in accordance with the provisions of section 1616, title 19, United States Code, of all property ordered forfeited under this section by public sale or any other commercially feasible means, making due provision for the rights of innocent persons; and

"(5) take appropriate measures necessary to safeguard and maintain property ordered forfeited under this section pending its disposition.

"(i) APPLICABILITY OF CIVIL FORFEITURE PROVISIONS.—Except to the extent that they are inconsistent with the provisions of this section, the provisions of section 2254(d) of this title (18 U.S.C. 2254(d)) shall apply to a criminal forfeiture under this section.

"(j) BAR ON INTERVENTION.—Except as provided in subsection (m) of this section, no party claiming an interest in property subject to forfeiture under this section may—

"(1) intervene in a trial or appeal of a criminal case involving the forfeiture of such property under this section; or

"(2) commence an action at law or equity against the United States concerning the validity of his alleged interest in the property subsequent to the filing of an indictment or information alleging that the property is subject to forfeiture under this section.

"(k) JURISDICTION TO ENTER ORDERS.—The district courts of the United States shall have jurisdiction to enter orders as provided in this section without regard to the location of any property which may be subject to forfeiture under this section or which has been ordered forfeited under this section.

"(1) DEPOSITIONS.—In order to facilitate the identification and location of property declared forfeited and to facilitate the disposition of petitions for remission or mitigation of forfeiture, after the entry of an order declaring property forfeited to the United States, the court may, upon application of the United States, order that the testimony of any witness relating to the property forfeited be taken by deposition and that any designated book, paper, document, recording, or other material not privileged be produced at the same time and place, in the same manner as provided for the taking of depositions under rule 15 of the Federal **Rules of Criminal Procedure.**

"(m) THIRD PARTY INTERESTS.—(1) Following the entry of an order of forfeiture under this section, the United States shall publish notice of the order and of its intent to dispose of the property in such manner as the Attorney General may direct. The Government may also, to the extent practicable, provide direct written notice to any person known to have alleged an interest in the property that is the subject of the order of forfeiture as a substitute for published notice as to those person so notified.

"(2) Any person, other than the defendant, asserting a legal interest in property which has been ordered forfeited to the United States pursuant to this section may, within 30 days of the final publication of notice or his receipt of notice under paragraph (1), whichever is earlier, petition the court for a hearing to adjudicate the validity of his alleged interest in the property. The hearing shall be held before the court alone, without a jury.

"(3) The petition shall be signed by the petitioner under penalty of perjury and shall set forth the nature and extent of the petitioner's right, title, or interest in the property, the time and circumstances of the petitioner's acquisition of the right, title, or interest in the property, any additional facts supporting the petitioner's claim, and the relief sought.

"(4) The hearing on the petition shall, to the extent practicable and consistent with the interests of justice, be held within 30 days of the filing of the petition. The court may consolidate the hearing on the petition with a hearing on any other petition filed by a person other than the defendant under this subsection.

"(5) At the hearing, the petitioner may testify and present evidence and witnesses on his own behalf, and cross-examine witnesses who appear at the hearing. The United States may present evidence and witnesses in rebuttal and in defense of its claim to the property and cross-examine witnesses who appear at the hearing. In addition to testimony and evidence presented at the hearing, the court shall consider the relevant portions of the record of the criminal case which resulted in the order of forefeiture.

"(6) If, after the hearing, the court determines that the petitioner has established by a preponderance of the evidence that—

"(A) the petitioner has a legal right, title, or interest in the property, and such right, title, or interest renders the order of forfeiture invalid in whole or in part because the right, title, or interest was vested in the petitioner rather than the defendant or was superior to any right, title, or interest of the defendant at the time of the commission of the acts which gave rise to the forefeiture of the property under this section; or

"(B) the petitioner is a bona fide purchaser for value of the right, title, or interest in the property and was at the time of purchase reasonably without cause to believe that the property was subject to forfeiture under this section;

the court shall amend the order of forefeiture in accordance with its determination.

"(7) Following the court's disposition of all petitions filed under this subsection, or if no such petitions are filed following the expiration of the period provided in paragraph (2) for the filing of such petitions, the United States shall have clear title to property that is the subject of the order of forfeiture and may warrant good title to any subsequent purchaser or transferee.

"(n) CONSTRUCTION.—The provisions of this section shall be liberally construed to effectuate its remedial purposes.

"(o) SUBSTITUTE ASSETS.—If any of the property described in subsection (a), as a result of any act or omission of the defendant—

"(1) cannot be located upon the exercise of due diligence;

"(2) has been transferred or sold to, or deposited with, a third party;

"(3) has been placed beyond the jurisdiction of the court;

"(4) has been substantially diminished in value; or

"(5) has been commingled with other property which cannot be divided without difficulty;

the court shall order the forfeiture of any other property of the defendant up to the value of any property described in paragraphs (1) through (5).

"§ 2254. Civil forfeiture

"(a) PROPERTY SUBJECT TO CIVIL FORFEITURE.—The following property shall be subject to forfeiture by the United States:

"(1) Any visual depiction described in sections 2251, 2251A, or 2252 of this chapter, or any book, magazine, periodical, film, videotape or other matter which contains any such visual depiction, which was produced, transported, mailed, shipped, or received in violation of this chapter.

"(2) Any property, real or personal, used or intended to be used to commit or to promote the commission of an offense under this chapter involving a visual depiction described in sections 2251, 2251A, or 2252 of this chapter, except that no property shall be forfeited under this paragraph, to the extent of the interest of an owner, by reason of any act or omission established by that owner to have been committed or omitted without the knowledge or consent of that owner.

"(3) Any property, real or personal, constituting or traceable to gross profits or other proceeds obtained from a violation of this chapter involving a visual depiction described in sections 2251, 2251A, or 2252 of this chapter, except that no property shall be forfeited under this paragraph, to the extent of the interest of any owner, by reason of any act or omission established by that owner to have been committed or omitted without the knowledge or consent of that owner.

"(b) SEIZURE PURSUANT TO SUPPLEMENTAL RULES FOR CERTAIN ADMIRALTY AND MARITIME CLAIMS.—Any property subject to forfeiture to the United States under this section may be seized by the Attorney General upon process issued pursuant to the Supplemental Rules for Certain Admiralty and Maritime Claims by any district court of the United States having jurisdiction over the property, except that seizure without such process may be made when the seizure is pursuant to a search under a search warrant. The Government may request the is-

suance of a warrant authorizing the seizure of property subject to forfeiture under this section in the same manner as provided for a search warrant under the Federal Rules of Criminal Procedure.

"(c) CUSTODY OF ATTORNEY GENERAL.—Property taken or detained under this section shall not be repleviable, but shall be deemed to be in the custody of the Attorney General, subject only to the orders and decrees of the court or the official having jurisdiction thereof. Whenever property is seized under any of the provisions of this subchapter, the Attorney General may—

"(1) place the property under seal;

"(2) remove the property to a place designated by him; or

"(3) require that the General Services Administration take custody of the property and remove it, if practicable, to an appropriate location for disposition in accordance with law.

"(d) OTHER LAWS AND PROCEEDINGS APPLICABLE.—All provisions of the customs laws relating to the seizure, summary and judicial forfeiture, and condemnation of property for violation of the customs laws, the disposition of such property or the proceeds from the sale thereof, the remission or mitigation of such forfeitures, and the compromise of claims, shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under this section, insofar as applicable and not inconsistent with the provisions of this section, except that such duties as are imposed upon the customs officer or any other person with respect to the seizure and forfeiture of property under the customs laws shall be performed with respect to seizures and forfeitures of property under this section by such officers, agents, or other persons as may be authorized or designated for that purpose by the Attorney General or the Postal Service, except to the extent that such duties arise from seizures and forfeitures effected by any customs officer.

"(e) Sections 1606, 1607, 1608, 1609, 1613, 1614, 1617, and 1618 of title 19, United States Code, shall not apply with respect to any visual depiction or any matter containing a visual depiction subject to forfeiture under subsection (a)(1) of this section.

"(f) DISPOSITION OF FORFEITED PROPERTY.—Whenever property is forfeited under this section the Attorney General shall destroy or retain for official use any property described in paragraph (1) of subsection (a) and, with respect to property described in paragraph (2) or (3) of subsection (a), may—

"(1) retain the property for official use or transfer the custody or ownership of any forfeited property to a Federal, State, or local agency pursuant to section 1616 of title 19;

"(2) sell any forfeited property which is not required to be destroyed by law and which is not harmful to the public; or

"(3) require that the General Services Administration take custody of the property and dispose of it in accordance with law.

The Attorney General shall ensure the equitable transfer pursuant to paragraph (1) of any forfeited property to the appropriate State or local law enforcement agency so as to reflect generally the contribution of any such agency participating directly in any of the acts which led to the seizure or forfeiture of such property. A decision by the Attorney General pursuant to paragraph (1) shall not be subject to judicial review. The Attorney General shall forward to the Treasurer of the United States for deposit in accordance with section 524(c) of title 28 the proceeds from any sale under paragraph (2) and any moneys forfeited under this subchapter.

"(g) TITLE TO PROPERTY.—All right, title, and interest in property described in subsection (a) of this section shall vest in the United States upon commission of the act giving rise to forfeiture under this section.

"(h) STAY OF PROCEEDINGS.—The filing of an indictment or information alleging a violation of this chapter which is also related to a civil forfeiture proceeding under this section shall, upon motion of the United States and for good cause shown, stay the civil forfeiture proceeding.

"(i) VENUE.—In addition to the venue provided for in section 1395 of title 28 or any other provision of law, in the case of property of a defendant charged with a violation that is the basis for forfeiture of the property under this section, a proceeding for forfeiture under this section may be brought in the judicial district in which the defendant owning such property is found or in the judicial district in which the criminal prosecution is brought.".

(e) TARIFF ACT AMENDMENT.—Section 305 of the Tariff Act of 1930 (19 U.S.C. 1305), is amended by adding at the end the following:

"(b) COORDINATION OF FORFEITURE PROCEEDINGS WITH CRIMINAL PROCEEDINGS.—(1) Notwithstanding subsection (a), whenever the Customs Service is of the opinion that criminal prosecution would be appropriate or that further criminal investigation is warranted in connection with allegedly obscene material seized at the time of entry, the appropriate customs officer shall immediately transmit information concerning such seizure to the United States Attorney of the district of the addressee's residence. No notice to the addressee or consignee concerning the seizure is required at the time of such transmittal.

"(2) Upon receipt of such information, such United States attorney shall promptly determine whether in such attorney's opinion the referral of the matter for forfeiture under this section would materially affect the Government's ability to conduct a criminal investigation with respect to such seizure.

"(3) If the United States attorney is of the opinion that no prejudice to such investigation will result from such referral, such attorney shall immediately so notify the Customs Service in writing. The appropriate customs officer shall immediately notify in writing the addressee or consignee of the seizure and shall transmit information concerning such seizure to the United States attorney of the district in which is situated the office at which such seizure has taken place. The actions described in paragraphs (1) through (3) of this subsection shall take place within sufficient time to allow for the filing of a forfeiture complaint within 14 days of the seizure unless the United States attorney of the district of the addressee's residence certifies in writing and includes specific, articulable facts demonstrating that the determination required in paragraph (2) of this subsection could not be made in sufficient time to comply with this deadline. In such cases, the actions described in paragraphs (1) through (3) of this subsection shall take place within sufficient time to allow for the filing of a forfeiture complaint within 21 days of seizure.

"(4) If the United States attorney for the district of the addressee's residence concludes that material prejudice to such investigation will result from such referral, such United States attorney shall place on file, within 14 days of the date of seizure, a dated certification stating that it is the United States attorney's judgment that referral of the matter for forfeiture under this section would materially affect the Government's ability to conduct a criminal investigation with respect to the seizure. The certification shall set forth specific, articulable facts demonstrating that withholding referral for forfeiture is necessary.

"(5)(A) As soon as the circumstances change so that withholding of referral for forfeiture is no longer necessary for purposes of the criminal investigation, the United States attorney shall immediately so notify the Customs Service in writing and shall furnish a copy of the certification described in paragraph (4) above to the Customs Service.

"(B) In any matter referred to a United States attorney for possible criminal prosecution wherein subparagraph (54)(A) does not apply, the United States attorney shall immediately notify the Customs Service in writing concerning the disposition of the matter, whether by institution of a prosecution or a letter of declination, and shall also furnish a copy of the certification described in paragraph (4) of this subsection to the Customs Service.

"(C) Upon receipt of the notification described in subparagraph (A) or (B) of this paragraph, the appropriate customs officer shall immediately notify the addressee or consignee of the seizure and shall transmit information concerning the seizure, including a copy of the certification described in paragraph (4) above and a copy of the notification described in subparagraph (A) or (B) of this paragraph, to the United States attorney of the district in which is situated the office at which such seizure has taken place, who shall institute forfeiture proceedings in accordance with subsection (a) hereof within 14 days of the date of the notification described in subparagraph (A) or (B) above. A copy of the certification described in paragraph (4) above and a copy of the notification described in subparagraph (A) or (B) of this paragraph shall be affixed to the complaint for forfeiture.

"(c) STAY ON MOTION.—Upon motion of the United States, a court, for good cause shown, shall stay civil forfeiture proceedings commenced under this section pending the completion of any related criminal matter whether in the same or in a different district.".

SEC. 203. CABLE TELEVISION OBSCENITY.

(a) FINDINGS.—The Congress finds that—

(1) cable television programming is routinely transmitted from transmitting facilities in one State to locations in other States and in foreign countries;

(2) cable and subscription television programs are routinely relayed in interstate or foreign commerce via satellities;

(3) operators of cable and subscription television services routinely make available to their subscribers movies and other programs that have been produced in a manner that involves interstate or foreign commerce and have been shipped or transported in interstate or foreign commerce;

(4) the equipment necessary to provide cable and subscription television service to consumers and television sets capable of receiving cable transmissions and subscription television programming are all routinely shipped and transported in interstate commerce and foreign commerce;

(5) a national market exists for all types of programming available via cable and subscription television, and this market involves the use of the channels of interstate and foreign commerce;

(6) production and distribution of cable and subscription television programming that is entirely within a single State has an impact on the national market for such programming;

(7) the proliferation of cable and subscription television outlets requires more effective safeguards against obscene cable and subscription programming; and

(8) the harm caused by obscene television programming combined with the interstate nature of such programming requires that the Federal Government must assist the States in their efforts to combat it.

(b) NEW OFFENSE.—Chapter 71 of title 18, United States Code, is amended by inserting after section 1464, the following:

"§ 1464A. Distributing obscene material by cable or subscription television

"(a) Whoever knowingly utters any obscene language or distributes any obscene matter by means of cable television or subscription services on television, shall be punished by imprisonment for not more than 2 years or by a fine in accordance with this title, or both.

"(b) As used in this section, the term 'distribute' means to send, transmit, retransmit, telecast, broadcast, or cablecast, including by wire, microwave, or satellite, or to produce or provide material for such distribution.

"(c) Nothing in this chapter, or the Cable Communications Policy Act of 1984, or any other provision of Federal law, is intended to interfere with or preempt the power of the States, including the political subdivisions thereof, to regulate the uttering of obscene or indecent language or the distribution of obscene or indecent matter, of any sort, by means of cable television or subscription services on television, in a manner which is not inconsistent with the Constitution.".

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 71 of title 18, United States Code, is amended by adding after the item relating to section 1464 the following:

"1464A. Distributing obscene material by cable or subscription television.".

SEC. 204. COMMUNICATIONS ACT AMENDMENT.

Paragraphs (1) through (2) of subsection 223(b) of the Communications Act of 1934 (47 U.S.C. 223) are amended to read as follows:

"(1) Whoever, knowingly—

"(A) in the District of Columbia or in interstate or foreign communication, by means of telephone, makes (directly or by recording device) any obscene communication for commercial purposes, of makes any indecent communication for commercial purposes to any person under 18 years of age or to any other person without that person's consent, regardless of whether the maker of such communication placed such call; or

"(B) permits any telephone facility under such person's control to be used in an activity prohibited by subparagraph (A),

shall, in the case of an obscene communication be fined in accordance with the provisions of title 18 or imprisoned not more than 2 years, or both, and in the case of an indecent communication shall be fined not more than $50,000 or imprisoned not more than 6 months, or both.

"(2) It is a defense to a prosecution under this subsection for a violation involving an indecent communication to persons 18 years of age or older in accordance with procedures the Commission shall prescribe by regulation.".

SEC. 205. POSSESSION AND SALE OF OBSCENE MATTERS IN FEDERAL JURISDICTION OR ON FEDERAL PROPERTY.

(a) IN GENERAL.—Chapter 71 of title 18, United States Code, is amended by inserting before section 1461 the following:

"§ 1460. Possession and sale of obscene matter on Federal property

"(a) Whoever, either—

"(1) in the special maritime and territorial jurisdiction of the United States, or on any land or building owned by, leased to, or otherwise used by or under the control of the Government of the United States; or

"(2) in the Indian country as defined in section 1151 of this title,

knowingly sells or possesses with intent to sell an obscene visual depiction or a visual depiction of a minor engaging in or assisting another person to engage in sexually explicit conduct, shall be punished by a fine in accordance with the provisions of this title or imprisoned for not more than 2 years, or both.

"(b) Except as provided in subsection (c), whoever, in an area described in subparagraph (1) or (2) of subsection (a) knowingly possesses an obscene visual depiction or a visual depiction of a minor engaging in or assisting another person to engage in sexually explicit conduct shall be punished by imprisonment for not more than 6 months or a fine of not more than $5,000 for an individual or $10,000 for a person other than an individual, or both.

"(c) Subsection (b) shall not apply in the case of a person who possesses an obscene visual depiction in any place where such person lives or resides.

"(d) For the purposes of this section—

"(1) the term 'visual depiction' includes undeveloped film and videotape but does not include mere words; and

"(2) the terms 'minor' and 'sexually explicit conduct' have the meaning given those terms in chapter 110 of this title.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 71 of title 18, United States Code, is amended by adding before the item relating to section 1461 the following:

"1460. Possession and sale of obscene matter on Federal property.".

SEC. 206. ELECTRONIC SURVEILLANCE.

Subsection (1) of section 2516 of title 18, United States Code, is amended by redesignating paragraphs (i) and (j) as (j) and (k), respectively, and by adding a new paragraph (i) as follows:

"(i) any felony violation of chapter 71 (relating to obscenity) of this title;".

Mr. HECHT. Mr. President, I am pleased today to join my distinguished colleagues, Senators THURMOND and DECONCINI, in sponsoring the Child Protection and Obscenity Enforcement Act of 1988. This legislation encompasses an extremely thorough and complete package which is a direct result of the Reagan administration's deep commitment to address the problem of pornography in this country. I, too, share this deep commitment.

The significance of this bill is tremendous, Mr. President, and when passed by this body, it will continue the commitment of the U.S. Senate to work in a bipartisan manner to ensure that the children of the United States can be, and should be, provided with a safe, prosperous, and, most importantly, crime-free environment in which they can grow into successful and productive members of our society.

Mr. President, this bill is a comprehensive legislative package, implementing many of the recommendations of the Final Report of the Attorney General's Commission on Pornography. It strengthens many of the provisions of current law which deal with the most serious and devastating problems facing our Nation's young people. Child pornography is a plague upon this society, but it is a plague which can be destroyed.

This legislation deals with pornography in 11 basic areas under three categories: First, child pornography; second, obscenity; and third, child protection. In addition to strengthening the Federal laws pertaining to child pornography, this proposal would also increase the ability of the U.S. Department of Justice and the related Federal law-enforcement agencies to attack the interstate traffic of pornography and obscenity, while strengthening our ability to control the ever-increasing problems associated with "dial-a-porn" telephone services and "cable-porn" television services.

Mr. President, many of the letters which I have received reflect the concerns and frustrations of parents who so desperately want to be able to raise their their children in a safe and wholesome environment. I would like to share two letters which I have recently received which exemplify the nature of the feelings of my fellow Nevadans.

Chris and Jill Strawn, of Reno, NV, recently wrote to me regarding their concerns about the effects of society upon the lives of their children. As expectant parents, the Strawns feel that

> Rampant pornography is a detriment to the efforts of parents, teachers and others who are striving to raise children of character and moral substance.

Mr. and Mrs. Strawn voiced their view that child pornography

> Is a terrible threat to our safety as its victims are innocent and helpless.

Mrs. Debra Shultz, of Elko, NV, wrote to me to thank the Members of this body for unanimously passing the Dial-a-Porn Control Act of 1987, and to request unanimous support for the legislative package we are introducing today. Mrs. Shultz cites the destructive nature of those who prey on our children and asked for our support to help secure the rights of freedom and liberty of many innocent young children.

Mr. President, these are but two examples of the overwhelming outcry of support from Nevadans for enactment of this legislation. It is with sincere hope for a strong and wholesome future for the children of Nevada, and of the Nation that I request my fellow colleagues to join in support of this measure.

● Mrs. KASSEBAUM. Mr. President, I rise in support of legislation being introduced today that can help deal in an effective way with the problem of hardcore pornography in our country. The bill is entitled the "Child Protection and Obscenity Enforcement Act of 1988." This legislative package was developed by the Department of Justice and would implement many of the recommendations of the 1986 Attorney General's Commission on Pornography.

As a mother of four, I am particularly concerned about the alarming rate at which child pornography is growing. Pornography is now the third highest profit industry in organized crime after narcotics and gambling. Consequently, it has turned into a highly sophisticated network, exploiting adults and children by the score.

I have been appalled by the spread of pornography. There was a time when this material could only be obtained by consenting adults. Now it is accessible through mass media such as "dial-a-porn" and cable porn operations or unsolicited mail-order letters advertising hardcore video tapes, complete with obscene photographs and language. These materials are now so easily accessible that it has become virtually impossible for parents to keep their children from being exposed to them.

Furthermore, there is more to pornography than just its offensive nature. It also is detrimental to society in general. A number of studies suggest that hardcore pornography may play a part in provoking individuals into acting out lilicit sexual behaviors. While it is difficult to make a direct link between exposure to pornography and the acting out of such violent acts, I believe there is enough evidence to suggest a connection.

With legislation of this type there are often legitimate concerns regarding infringement upon an individual's rights to freedom of speech and freedom of information. These are clearly provided by the first amendment of the Constitution, and if I felt this bill denied those rights, I would oppose it. I do not support censorship. What I do support is the enforcement of already existing obscenity laws against the production and commercial trade of illegal material and against the exploitation of children. This legislation is limited to three major areas: Correcting weaknesses and loopholes in existing Federal statutes; updating the law to take into account technologies newly utilized by the pornography industry to distribute illegal obscenity and child pornography; and cracking down on the growth of organized crime in the industry.

In terms of tightening current Federal laws, this bill would prohibit a parent, legal guardian, or other person having custody or control of a minor from selling or otherwise transferring custody or control of that minor for the production of pornography. Second, it would protect minors from use in sexually explicit materials by requiring verifiable recordkeeping with respect to the age and identity of each performer appearing in depictions of "actual sexually explicit conduct." Third, it would make it a criminal offense to receive or possess obscene materials with intent to sell or distribute.

To put the lid on organized crime, child pornography would be made an offense under the racketeer influenced corrupt organization statute. Among other things, this would allow the seizure and forfeiture of profits derived from the offense. There is also included a "syndicate buster" provision which would expand current law to include a prohibition on the use of a "facility or means" of interstate commerce to transport material of this sort. This means a prosecutor would need only prove that a defendant used a facility or means of interstate commerce, such as a truck or car, and not that the defendant actually transported the material in question across State lines as current law prohibits.

To deal with new technologies for the distribution of obscene materials, the bill would prohibit the use of computers to advertise, distribute, or receive child pornography and related information. It would also make it a criminal offense to utter obscene language or distribute obscene matter by cable television or other subscription television services. Along those same lines, it would prohibit the making of obscene telephone calls for commercial purpose to any person, regardless of age, regardless of whether the maker of the communication placed the call, and regardless of whether the communication was made directly or by recorded device.

I think it is appropriate that the Federal Government take strong measures against illicit pornography and child exploitation. I hope my colleagues will join me in support of this bill to combat this problem and help eliminate a modern tragedy in our society.●

● Mr. DECONCINI. Mr. President, I am honored to join with my distinguished colleague and friend from South Carolina, Senator THURMOND, in introducing the Child Protection and Enforcement Act of 1988. I believe this is one of the most important pieces of legislation ever to be considered by this great body.

Pornography in America is a big business. A very big business. The Justice Department has estimated that pornography sales total nearly $4 billion annually—and that is said to be a conservative estimate. A major part of the pornography network is child pornography and its trappings. Child pornography has become a highly organized, multimillion-dollar industry preying on the youth of our country who are either unable to protect themselves or are induced into participating by those they trust.

The sexual exploitation of any human being, especially those who are young, impressionable and vulnerable, is reprehensible. It is an affront to every individual and to every community that strives to maintain a decent society and to protect its citizens and their fundamental rights. If we are to deal effectively with the problem of pornography, it is essential that we recognize that it victimizes all members of society, regardless of sex, age, race, religion, or social status.

Perhaps the most degrading and revolting aspect of the increased pornography trade that is engulfing decency is child pornography. It is beyond the comprehension of this Senator that men and women would sexually exploit young children. Many of the victims are runaways who have fallen into criminal hands. But studies indicated that a vast number of children under the age of 8 are provided to the pornographers by parents and guardians.

In the fight against pornography the courts have played an ambivalent role. The Supreme Court has consistently held that the first amendment which protects the right to free expression does not protect obscenity. Yet, the judicial system has struggled in its effort to provide a working definition of obscenity and, for practical purposes, pornography. While the debate over the classifying of materials as pornographic or not continues, our children remain victims.

The use of children in the production of pornographic materials is extremely harmful to the physiological, emotional and psychological health of a child. The scars of having to engage in such activity remain forever etched in the youthful victim's mind. Many times the trauma of having to perform in these exploits is never overcome, endlessly tormenting the helpless victim.

Participation in the production of obscene material is not the only form of harm which can come to a child. In today's world kids are bombarded daily by pornographic publications at the local drug store, or by transmittal of pornography over cable television networks, or by obscene materials dis-

tributed through the mails and found in the nearby movie theaters. The values of a moral society have taken a back seat to the money-hungry, illegal and immoral sex industry.

Mr. President, for years now I have worked to have this area of social concern addressed. I joined as cosponsor in the successful effort to pass the Child Protection Act of 1984. In addition, I played an instrumental role in the passage of two Missing Children Assistance Acts, and strongly supported reauthorization of the Runaway and Homeless Youth Act. For years I have found myself aligned with the distinguished South Carolina Senator, supporting legislation of this kind. In 1982 Senator THURMOND and I introduced S. 2136 to make illegal the transmission, either over broadcast television or cable television, of obscene, indecent or profane language or material. Today, it is once again heartening to see the distinguished Senator from South Carolina continue to take the lead in the fight for those unable to fend for themselves—our children.

Mr. President, in May 1984 President Reagan signed into law the Child Protection Act of 1984. That law called for the establishment of a national commission to study the scope and nature of pornography in the United States. In July 1986, following 14 months of review, the Commission released its final report suggesting changes in the Federal law. The bill introduced today has been drafted relying on the recommendations of the Commission. As provided by the President in his transmittal message, the purposes of the bill are twofold:

First, to update Federal law to take into account new technologies and ways of doing business employed by the pornography industry; and second, to remove loopholes and weaknesses in the law, which have given criminals in this area the upper hand for far too long.

The legislation introduced today addresses three key areas of concern: First, sexual exploitation of children through child pornography; second, obscenity provisions; and third, child protection amendments concerning dial-a-porn and cable porn.

In the area of exploitation, the bill as it is now crafted would prohibit the use of computers to advertise, distribute, or receive child pornography and related information. Additionally, this bill would prohibit a parent, legal guardian or one having custody or control of a minor from selling or transferring control of that minor when the person knows the minor would be used for production of pornographic materials. The bill would also require producers and certain distributors of these types of materials to create and maintain verifiable records with respect to age and identity of each performer appearing. If this recordkeeping requirement is not met, the burden of proving the perfomer was not a minor would be on the producer or distributor in any subsequent prosecution. Finally, in the area of exploitation, this bill would make a child pornography violation a predicate offense under the Racketeer Influenced Corrupt Organization [RICO] statute. This would allow, among other things, for the seizure and forfeiture of profits derived from the offense.

The obscenity provisions of this bill would establish the receipt or possession of obscene material, with the intent to sell or distribute, a criminal offense. Also the mere use of a facility or means of interstate commerce to transport obscene materials would be prohibited. This would reduce the burden of proof placed upon the prosecutor from proving the defendant actually transported across State lines to only having to prove the defendant used a facility or means of interstate commerce. Furthermore, this bill would permit criminal and civil asset forfeiture, similar to the asset forfeiture statutes which have been successful in the drug enforcement and racketeering areas.

And the bill would make it a criminal offense to possess or sell obscene visual depiction or child pornography on Federal property. Finally, under this section of the legislation, the Government would be authorized to seek court ordered wiretaps for felony obscenity offenses.

The remainining concerns addressed by this bill include the cable porn and dial-a-porn industries. As the bill is now drafted, the utterance of obscene language or the distribution of obscene material by cable television or other subscription television services would be a criminal offense. Second, the bill would prohibit the making of obscene telephone calls, for commercial purposes, to any person, regardless of age, regardless of whether the maker of the communication placed the call, and regardless of whether the communication was made directly or by recording the communication and replaying it over the phone.

Mr. President, the future of our society, as we know it, may be dependent on the actions taken by this Congress. In the recent history of our Nation the social problem of sexual exploitation has run rampant. The sordid element of society has capitalized on the perversions of the weak, and abused the rights of the moral. Most disturbing of all, the vermin that prey on those who cannot protect themselves have continually exploited the children of our society. The unknowing and unaware have become victims of the unscrupulous and demented.

In years past efforts have been made to combat the societal violations of these miscreants. Legislation has been passed, task forces organized, commissions appointed. Yet unless the battle is continually fought on all fronts, the ground gained in recent times could be lost. The legislation we are introducing today is a needed weapon in the prosecutor's arsenal against child pornography and obscenity.●

● Mr. EXON. Mr. President, I am pleased to rise to join with my good friends, the senior Senator from Arizona, DENNIS DECONCINI, and the senior Senator from South Carolina, STROM THURMOND, to introduce the Child Protection and Obscenity Enforcement Act.

Over the years, I have taken a special interest in protecting our children from the devastatingly evil child pornography trade. I have cosponsored several measures which have become law to crack down on this unseemly enterprise. I am proud that the U.S. Congress has made several major steps in its battle against child pornographers. The Child Protection and Obscenity Enforcement Act continues this effort.

This legislation, which was recently recommended by the President, embraces several proposals which other Members and I have supported for a number of years. These include provisions to prohibit the use of computers for the purposes of child sexual exploitation, to expand the criminal and civil forfeiture laws to cover assets of violators of Federal obscenity laws, and to crack down on so-called "dial-a-porn" operations.

I am hopeful that the Senate Judiciary Committee can complete its review of this legislation in an expeditious manner and that this important bill could be enacted before the end of the 100th Congress.●

Mr. KARNES. Mr. President, it has become unquestionably clear that throughout the country, including Nebraska, our children are being threatened by a social menace, the business of pornography.

In 1987 alone, the U.S. attorney's office in Omaha, NE brought six separate indictments for cases of child pornography. Of these four of the accused pleaded guilty, one committed suicide the night before his arraignment, and one case is still not resolved. These were six cases, in one year, in Omaha, where the U.S. attorney was able to gather enough evidence to prove the crime had been committed.

In addition, in the approximately 3-year period beginning March 1, 1985, the National Center for Missing and Exploited Children received 165 calls regarding sexual exploitation of children in Nebraska. Seventy-six of these calls led to actual cases where there were enough hard facts to investigate the matter further.

Child pornography is obviously a problem. Pornography, in a general sense, is obscene literature, art or photography, with little or no artistic

merit. The legal definition of pornography has been the subject of extensive litigation for years in the Federal courts, including the U.S. Supreme Court.

Pornography, as defined by the courts, is either obscene or indecent. To the degree that it is obscene, pornographic material is not protected by the U.S. Constitution. Even though there are many prohibitions on the dissemination of obscene materials under current Federal laws, because of technical loopholes, the statutes are not enforced in many areas, and the trafficking of pornography continues.

Mr. President, we need to update our laws and tighten the legal guidelines relating to the distribution of pornography. This should be done in a way that leaves the free speech guarantees of the U.S. Constitution undisturbed.

Last session, this Senate voted on and passed, by a vote of 98-0, a provision introduced by my distinguished colleague from North Carolina, Senator JESSE HELMS, to outlaw dial-a-porn communications to minors. I voted in favor of this measure because I recognize the need to protect our children from exposure to lewd and disturbing telephone messages. The need for this is increasingly clear.

For example, it is worth noting that in one 24-hour period in May, 1984, 800,000 calls were placed to a single dial-a-porn service. It is not known how many of those calls may have been placed by children. The plain truth about this disgraceful service is that it has grown from a single operation in 1983 into a widespread industry, with operations based all over the country that service every major city.

Today, Mr. President, we have an opportunity to address the laws relating to the regulation and distribution of illicit material on a broader scale. The Child Protection and Obscenity Enforcement Act provides a comprehensive solution to the problems posed by the trafficking of obscene materials and the extent to which this leads to the exploitation of our children. The legislation will give parents some reassurance that their children will not be exposed to obscene or indecent material which contains no educational or cultural merit whatsoever.

We must consider the psychological and moral impact that pornographic material has on our children. The Attorney General's Commission on Pornography has concluded, based on its study of substantial data, that child pornography is a catalyst for depraved behavior among children. In its final report, the Commission stated that "there is substantial evidence that photographs of children engaged in sexual activity are used as tools for further molestation of other children." It has been shown as well that, in a given year, almost every single reported case of child sexual exploitation also involves some degree of adult pornography. The seriousness of this link between pornography and criminal acts cannot be overlooked.

A group located in Lincoln, NE, known as "Citizens Against Pornography of Lincoln, Inc." [CAP], has dedicated a great deal of time and effort to increasing the public awareness of the evil influences of pornography. CAP members serve as coordinators of a statewide network, known as "Network for a Porn-Free Nebraska." Their aim is to protect the moral fabric of communities in Nebraska, through the bonds of the family and the purity of our children.

Mr. President, I would ask unanimous consent to submit for the record the letter I received from the president of CAP which endorses the bill that my distinguished colleagues from South Carolina and Arizona have introduced today, and enlightens us further about the great need for refining our laws in this area. I would ask that my colleagues pay particularly close attention to the sections entitled "Porn Socializes Taboo Ideas" and "Porn Erodes the Sexual Safety of Children."

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

CITIZENS AGAINST PORNOGRAPHY
OF LINCOLN, INC.,
Lincoln, NE, January 4, 1988.

DEAR NEBRASKA CONGRESSMAN: Some wonderfully encouraging things have been coming out of Washington over the past year to help in the battle against child porn and hard-core obscenity.

One of the most encouraging of these was the recent introduction of The Child Protection and Obscenity Enforcement Act of 1987.

This package of anti-obscenity legislation is powerful enough to significantly deter, it seems to me, both the illegal child porn and hard core obscenity industries in our country.

I am so impressed with its provisions to bring the law up to date with current technology, e.g. prohibition of the use of computers to advertise, distribute and receive child porn. It would prohibit obscenity on cable or any subscription T.V. It would deter organized crime by providing that assets derived from child porn or through violation of obscenity law can be forfeited.

The Law would protect young people by outlawing the buying or selling of children by parents or others to produce pornography. (How sad that it is even necessary to have such a law!) It also protects young people by requiring that verifiable records be maintained of the age and identity of every performer.

We would like to know what your views are of this proposed law, and to encourage you to support it.

I am including a Background Sheet on CAP of Lincoln. We are serving as coordinators of a state-wide network, the NPFN. If you have citizens writing to you, wondering what can be done, you may want to put them in touch with us.

Sincerely,

DIANA NYANGIRA,
President.

BACKGROUND SHEET—CITIZENS AGAINST PORNOGRAPHY OF LINCOLN

Citizens Against Pornography of Lincoln was formed in the Fall of 1984 to fight pornography in all of its forms. It serves as a mobilization tool through which local men and women of a wide range of backgrounds can respond to the harm such materials have on our women, men, young people, families and community. Since 1985, Coach Tom Osborne has been its Honorary Chairman. Five significant aspects of CAP's work are these:

Community Education. CAP provides speakers for civic groups and a broad spectrum of the city's churches. It also publishes a monthly newsletter.

Positive Consumer Pressure Campaign. CAP has identified ten categories of businesses that typically sell porn in Lincoln. It has visited all merchants concerned. Those which have neither print nor video porn can display, if they wish, our red, white and blue "Welcome Sticker". We widely distribute lists of these merchants and encourage the public to reward them with their business. At the same time, the concerned public is encouraged to no longer spend their consumer dollars at businesses which persist in marketing such materials till the materials have been completely removed.

Legislative Change. CAP's Law Committee studies the State's antiobscenity laws and works toward their improvement. For example, the support of legislation increasing child porn penalties, was mobilized by CAP.

Court Watch. Through its research CAP has found that one reason that Cinema X and the Embassy stay in business in Lincoln has not been because of inaction by the police or County Attorney, but because of the very low fines levied by our local judges. These fines, little more than a token wrist-slap, have lacked deterrent effect. For this reason CAP maintains a court watch and keeps people informed of the records of the judges in relevant cases.

Co-ordination of NPFN (Network for a Porn-Free Nebraska). CAP serves as coordinator of the Network for a Porn-Free Nebraska. The NPFN is a state-wide group involved in anti-porn work. CAP provides a bimonthly NPFN Newsletter, and a yearly training/sharing workshop.

Why Do We Care? Sometimes people take a laissez-faire position on this material because they do not actually know what the content of these materials is like and because they feel that, possibly, no one is seriously harmed by them. This after all, is not the kind of material decent citizens are normally acquainted with. This is what our study has found:

Porn Socializes Taboo Ideas. One of the socially taboo ideas to which porn attempts to lend respectability is *incest.* Even in neighborhood convenience stores one can find such material as: "I Screwed My Mother this Summer" in Family Touch. Incest cartoons have been found in popular soft-porn magazines.

Another sexual taboo, *bestiality,* is found in soft, as well as hard porn. Example: Santa Claus having intercourse with this reindeer (Playboy, Jan. 1979).

Porn glamorizes and promotes multiple, uncommitted sexual relationships even though *promiscuity* is high risk behavior for AIDS.

Porn Devalues Women. Women, above all people, are blatantly degraded by pornographic and obscene materials. They are characteristically portrayed and masochistic

and subservient, and of no greater value than their genitals. This kind of devaluation would not be given community tolerance if it were against Blacks, Jews, or other ethnic or religious groups. CAP believes that all members of our community, including women, should be valued as whole human beings—not just what they can be used for.

Porn Erodes the Sexual Safety of Children. Among the most troubling findings is that not only child-porn, but the most widely sold porn magazines, Playboy, Penthouse and Hustler, for many years showed children as suitable sexual objects. Judith Reisman did a study of adult-child sex in these three magazines. The study was funded by the Office of Juvenile Justice and Delinquency Prevention, in cooperation with the American University in Washington, D.C., where Reisman was a researcher. In analyzing the content of these magazines for the period 1953-1984, Reisman found more than 6,000 illustrations of children—most between the ages of 6 and 11.

989 child images were sexually associated with adults

1,225 child images were associated with genital activity

267 child images were associated with sex with animals or objects

592 were associated with specific kinds of force

2,096 juxtaposed the child image with adult sexual body parts or activity

Almost all inferred that the child was unharmed or benefited from sexual assaults; they also inferred that the activity was something that the child desired or sought out.

Both Pornographic and Obscene Materials Make Sexual Violence Against Women More Likely. The Attorney General's Commission on Pornography found that "substantial exposure, even to non-violent porn, will increase the acceptance of the proposition that women like to be forced into sexual practices and . . . that the women who says 'no' really means 'yes'."

This is the classic rape myth: That women like and deserve to be raped—and that even their protests should be disbelieved.

A 1984 study by two University of New Hampshire researchers found that states with the highest readership of pornographic magazines, such as Playboy and Hustler, had the highest rape rates. The study showed that Alaska had the highest rape rate (72 per 100,000 people) and the highest percentage of pornographic magazine readers (⅕ of the state adult population). Colorado, California and Arizona were among the 10 states with the highest correlation between pornographic readership and incidence of rape.

The chance of a woman being raped is increased by these materials and rape now is more than physical damage and emotional trauma. As the AIDS virus increasingly becomes part of the equation, the price of rape can be a death sentence—for the woman as well as for her attacker.

The Supreme Court States Categorically that Obscenity is Not Protected Speech. Some mistakenly believe that all speech is protected by the First Amendment. This is not true. Libel, for example, is not protected speech. Neither is inciting people to riot or the transmission of state secrets. Similarly, obscenity has never been considered protected speech. The legal definition of obscenity is stated in the 1973 Supreme Court case, *Miller* v. *California*. According to the Miller test, material is obscene if:

1. The average person, applying contemporary adult community standards, would find that the work, taken as a whole, appeals to the prurient (lustful, erotic, shameful or morbid) interest.

2. The average person, applying contemporary adult community standards, would find that the work depicts or describes, in a patently offensive way, ultimate sexual acts, normal or perverted, actual or simulated, and masturbation, excretory functions, lewd exhibition of the genitals and sado-masochistic sexual abuse.

3. The work, taken as a whole, lacks serious literary, artistic, political or scientific value.

A Comment on CAP's Strategy. In a letter to the Public Mind of the Lincoln Journal (July 28, 1986), Bill Morris, head of the Nebraska Civil Liberties Union, commended CAP's approach. This is what he said:

"In Lincoln, the major anti-pornography group is Citizens Against Pornography. CAP's activities include communicating its views about pornography and boycotting of stores that sell materials its members consider objectionable.

"Although we neither support nor oppose CAP's views about sexually explicit materials, we see no constitutional objections to its activities. *In fact, we applaud its commitment to working towards its goals within the First Amendment's framework.*

"Whatever one's beliefs about sexually explicit materials, the First Amendment protects the right to communicate and act upon these beliefs. It deserves our strong support."

Mr. KARNES. Mr. President, CAP is not alone in its concern about the frequency with which child images appear in pornography in association with adult sexuality. In a study of three widely circulated adult magazines, performed by a researcher from American University and funded by the Office of Juvenile Justice and Delinquency Prevention, the author reveals that, for the period between 1953 and 1984, these magazines contained more than 6,000 illustrations of children—most between the ages of 6 and 11. The analysis shows that 989 of these child images were sexually associated with adults and 1,225 were associated with genital activity.

According to CAP, "almost all of these child images inferred that the child was unharmed or benefited from sexual assaults * * *" and that "* * * the activity was something that the child desired or sought out." Mr. President, we can not let this continue.

The Child Protection and Obscenity Enforcement Act will protect children from being exposed to illicit literature and from being exploited by their parents or guardians against their will, or without even their knowledge, for the purposes of producing pornography that will be sold across State lines. This so-called child slavery should have been outlawed long ago.

Unfortunately, we must contend with more than just photographs of children. I learned recently in reviewing the Attorney General's report that it is possible for anyone to call up a pornographic message on a personal computer. All you need is a computer and a modem which connects to the telephone, and you can then have child pornography at your fingertips. The use of this new technology has heretofore evaded current obscenity laws and would be outlawed with the enactment of this bill.

The findings of the Attorney General's commission on pornography point out the great need for refining our laws in this area, particularly regarding obscenity trafficking. Despite the fact that all forms of obscenity have been outlawed, obscenity trafficking has become a multibillion-dollar market annually. The technology for maintaining this market is state of the art, or close to it—clearly the sign of an industry that is not limited in its resources.

By outlawing the trafficking of such material across State lines, particularly by means of Federally subsidized modes of transportation, this bill addresses a major enforcement problem. Current Federal laws which prohibit the interstate traffic of obscene and pornographic materials place an extremely difficult burden of proof on Federal prosecutors. A prosecutor must demonstrate that State lines have been crossed before being able to prosecute a violator under the current obscenity statutes. This means that prosecutors practically have to follow obscenity traffickers across the country in order to make a successful case. The ways in which these criminals escape detection are endless, and place a great burden on Federal law enforcement officials.

Under the legislation being introduced today, the prosecutor will finally have the law on his side. Any organization or individual that produces obscene material in one State but sells it in another would automatically create a rebuttable presumption that the law has been violated. This provision in the bill would apply to the use of Federal roads, interstate railroads, motor vehicles, boats, airplanes, or other methods for obscenity trafficking across State lines.

Taxpayers will benefit as well, because tax dollars are used to subsidize Federal transportation systems. I presume that I speak not only for Nebraskans, but all Americans, when I say that most taxpayers would be happy to know that their tax dollars are not being used to subsidize interstate transportation systems which are currently the means being used for obscenity trafficking.

Mr. President, there are other significant provisions in this legislation that, together, make it more comprehensive and far-reaching than current law in this area. This bill is a direct result of an exhaustive study commissioned by the President of the United States and conducted by the Attorney General. It provides a much needed response to the growing problem of por-

nography in our country and the enforcement of existing laws which relate to pornography.

I am cosponsoring this legislation because I believe we need to provide an equal footing for Federal prosecutors to be able to enforce the laws which punish the individuals making millions of dollars from this industry and, who, at the same time, exploit our children. I want to thank my colleagues—Senator THURMOND and Senator DECONCINI—for sponsoring this comprehensive legislation to protect our society, and especially our children. After all, the future of our country is our children.

By Mr. CHILES:

S. 2034. A bill to provide financial assistance for programs for prekindergarten students designed to prevent students from dropping out of school, and for other purposes; to the Committee on Labor and Human Resources.

PREKINDERGARTEN EARLY DROPOUT INTERVENTION ACT

● Mr. CHILES. Mr. President, I am pleased to introduce the Prekindergarten Early Dropout Intervention Act of 1988. This bill is designed to complement other legislation, introduced by myself and my colleagues, which is aimed at reducing our Nation's devastating school dropout rate.

I am proud that our Nation is a leader in many, many areas. But there is one category where our Nation leads the deeply troubles me: the rate of school dropouts. While the United States school dropout rate now exceeds 30 percent, the Japanese rate is approximately 10 percent. If the current trend continues, the U.S. school dropout rate will approach 40 percent by the year 2000.

At a time when our Nation's economy demands a better educated and more highly skilled work force, we are losing more and more of our students to the streets. They are lost to truancy, to lethargy, to crime, to teen pregnancy, to drug abuse, and worst of all, to hopelessness. These students, for whatever reasons, opt to drop out of school.

It is well-recognized that school dropouts shortchange themselves in terms of lost opportunities to earn a decent wage, attend college, or make broad choices about their futures. New jobs require high technology and sophisticated language skills; often, a high-school diploma alone is not sufficient today. Imagine the limited choices available to school dropouts. In fact, many end up unemployed or underemployed, on welfare, in prison, or otherwise dependent upon the larger society.

America urgently needs to examine the causes of our dropout problem. Moreover, we need to look at potential solutions—how can we, as a nation, most effectively prevent students from dropping out?

While focusing on teenagers directly is vitally important, more effective dropout prevention could result if we identify at-risk children early during the child's formative years and implement effective intervention during the crucial preschool period. Research demonstrates that acquisition and mastery of certain cognitive and language development skills learned between ages 3 and 5 provide the basis for successful education; many children who lack these skills upon entering school have a greater chance of falling behind their peers and are therefore at greater risk of later dropping out. High quality prekindergarten early intervention programs for dropout prevention which are designed to enhance cognitive and language development increase a child's opportunity to acquire and master skills which will enable him to succeed in school.

Early intervention, including parental education and involvement, can make the difference by transforming potential statistics into productive citizens. As the director of Chicago's Bureau of Early Childhood Programs says, "It's better to intervene early than to remediate later."

At this point, I would like to have printed in the RECORD an excerpt from the acclaimed report, "Changed Lives: The Effects of the Perry Preschool Program on Youths Through Age 19":

Early education can lead to increased school success. In the Perry Preschool study, persons who had attended preschool had better grades, fewer failing marks, and fewer absences in elementary school; they required fewer special education services, were more likely to graduate from high school, and were more likely to continue their education or get vocational training after school than their no-preschool counterparts. The picture of detailed and consistent improvement in school performance and placement is also reflected in increased commitment: Those youths who attended preschool had a more favorable attitude toward high school. The economic analysis of these findings indicates that early education can substantially increase the efficiency of later schooling and that the effect of preschool education on school system costs alone is sufficient to cover the cost of early education.

Thus, preschool programs can substantially increase the efficiency of elementary and secondary education, not only by reducing costs but also by increasing effectiveness. In addition to reducing costs, preschool will boost the school performance of children who have a relatively poor prognosis for school success. These children put more into education (school commitment) and they get more out (school achievement, educational attainment). On a large scale, improving the educational process for disadvantaged children seems likely to benefit all students by raising the average level of commitment and achievement in the environment in which education takes place.

Preschool offers the educational system and the society that funds it a way to allocate educational funds that is economically efficient as well as equitable. Even without counting the inherent benefits to the children and their families from increased school success, we may judge preschool to be a sound social policy investment on the basis of its effects on educational costs alone.

My bill, the Prekindergarten Early Dropout Intervention Act of 1988, proposes to reduce the number of children who later drop out of school through the provision of high quality, effective early intervention programs for 3- and 4-year-olds. These programs are designed to enhance the cognitive and language development skills of at-risk children, thus increasing the opportunity for them to acquire and master those tasks which will enable them to succeed in school.

Under my measure, local education agencies, community based organizations, and nonprofit private organizations meeting specified criteria will be eligible for grants to establish:

First, model programs for early identification of prekindergarten children between the ages of 3 and 5 who are at high risk of dropping out of school, and

Second, effective model prekindergarten early dropout prevention programs.

In order to be eligible to receive a grant, the applicant must demonstrate that the program contains certain components. This is to assure that the program receiving Federal funds will be of high quality. Program components include: evidence that the applicant has the authority and capacity to conduct the program; a parental involvement segment, including outreach activities; educationally based activities which focus on the development of cognitive and language development skills; qualified instructional personnel; staff development activities; coordination of the program with other prekindergarten programs in the community; and data collection and meaningful evaluation of the program's effectiveness.

Grant proposals are to be submitted to the Secretary of Education, who will determine if criteria have been met.

Authorized appropriations include $25 million for fiscal year 1988 and such sums as may be necessary for fiscal year 1989 and fiscal year 1990. No grant shall be awarded in excess of $300,000.

A limitation is placed on the amount of Federal dollars funding this program. The Federal share of a grant under this title shall not exceed 90 percent of the total program cost in the first year, 70 percent in the second year, and 50 percent in the third year. The non-Federal share may be in cash or in-kind, fairly evaluated, including plant, equipment, or services. These funding restrictions are intended to

limit the Federal role to guidance, rather than full, financial responsibility.

Mr. President, stemming the tide of school dropouts is clearly to everyone's advantage. We can avoid paying many times over in terms of welfare payments, teen pregnancies, prison beds, lost revenues, and underutilized minds if we invest a relatively small amount now. This is the big selling point of early intervention: we are not only helping at-risk children, but saving our country much grief and trouble in the long run. I ask my colleagues to examine this legislation and join me in making America more competitive for the future by helping to reduce the number of school dropouts.●

By Mr. HEFLIN (for himself, Mr. HELMS, Mr. COCHRAN, and Mr. PRYOR):

S. 2035. A bill to amend the Federal Insecticide, Fungicide, and Rodenticide Act, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT AMENDMENTS

Mr. President, I am very pleased to introduce, along with Senators HELMS, COCHRAN, and PRYOR, the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1988.

This bill proposes nothing that has not been considered by the Congress in the very recent past. These amendments to the Federal pesticide law are the same ones that were reviewed by three separate Senate committees last year. They have passed the Senate once, and passed the House twice. They have gone through House-Senate conference, have passed the House once again, and were presented to the Senate in the final hours of the last Congress. These amendments are identical to those currently being considered by the House, and include provisions that the House leadership plans to add regarding patent restoration, farmer liability, and food tolerances.

As many of my colleagues are already aware, the legislative initiatives of last year were the product of an historic agreement between a coalition of environmental, labor, and consumer organizations, the agricultural chemical industry, and agricultural producers. Final legislation failed to become law only because time ran out at the end of the 1986 session on efforts to resolve a few remaining issues. Unfortunately, because these same problems still plague the legislative process, the prospects of the adoption of constructive changes to FIFRA remain uncertain.

I believe that this opportunity to make changes in the Federal pesticide law should not be lost. We cannot afford to allow the difficult compromises forged last year to escape us. Accordingly, the bill we now introduce comes the closest to meeting the needs of all parties and most closely resembles the legislation which had progressed the farthest in the legislative process during the last Congress.

The bill is far from perfect. However, the technical, legal and economic issues in pesticide regulation are complex and any opportunity to achieve a compromise should not be lost. I am concerned that further efforts to accomplish additional changes in the law would destroy the delicate balance of concessions achieved last year and would endanger the success of this important legislation.

This bill contains a number of sweeping changes to FIFRA. It includes, for example, provisions to speed up the reregistration of older pesticides that could otherwise be postponed until sometime in the next century. It includes important measures to deal with pesticides in ground water and food. It provides faster procedures to remove pesticides from the market that present an unreasonable risk to the health of individuals and to the environment. In short, the bill carefully balances the interests of agricultural growers and ranchers, consumers, and environmental interests.

Mr. President, this bill offers a moderate and balanced approach to amending FIFRA. It recognizes the importance of pesticide in agriculture and in providing Americans and the world with an abundant supply of food. I look forward to working with my colleagues in successfully amending FIFRA in this Congress.

Mr. HELMS. Mr. President, Senator HEFLIN and I introduce today legislation to amend the Federal Insecticide, Fungicide, and Rodenticide Act. This is legislation, with minor changes, that the Senate considered last year—a historic measure that culminated 2 years of often heated negotiations and compromise of many interests.

Last year's bill was endorsed by the National Chemicals Association, a coalition of 41 environmental and labor groups, and the American Farm Bureau. I am confident that when Senators have had time to examine this package, we will have even greater support.

Mr. President, I ask unanimous consent that a letter from the North Carolina Farm Bureau be included in the RECORD at this point.

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

NORTH CAROLINA
FARM BUREAU FEDERATION,
Raleigh, NC, July 27, 1987.

Hon. JESSE HELMS,
U.S. Senate, Dirksen Office Building, Washington, DC
Attn: Mark Fleming.

DEAR SENATOR HELMS: Senators Leahy and Lugar have introduced S. 1516, legislation to amend the Federal Insecticide, Fungicide and Rodenticide Act. Though we have not yet seen a copy of the bill, the summary information we have received causes us concern.

The major provisions which Farm Bureau sought in FIFRA legislation during the 99th Congress are not contained in S. 1516. We feel very strongly that such provisions are reasonable, responsible and in the public interest to be included in any amendments to the Act. Those provisions are as follows:

1. Farmer protection from liability must be provided under federal law if pesticides have been lawfully applied. Specifically, we want to make sure that farmers will not be held liable under federal law for such things as having to provide drinking water supplies if farmers have used the pesticide in accordance with EPA approved label instructions.

2. National uniform tolerances for pesticide and herbicide residues must be established. States should not be permitted to establish pesticide residue tolerances different from those established by the EPA.

3. Groundwater protection provisions should strike a balance that provides protection for groundwater resources while ensuring that farmers will be able to responsibly use the necessary agricultural chemicals needed to protect crops.

4. The indemnification provision of current law which provides that a farmer be reimbursed for the value of any unused pesticides in his possession on which EPA suspends or cancels registration must be continued. S. 1516 makes indemnification subject to a special appropriations process by the Congress which will be difficult to achieve on a situation-by-situation basis. The current indemnification provision affords the farmer some financial protection against an arbitrary suspension or cancellation by EPA.

Senator, we believe the four points outlined above to be reasonable and fair to farmers and the public. We, therefore, ask your help in getting these provisions included in S. 1516 during markup by the Senate Committee on Agriculture, Nutrition and Forestry.

Sincerely,

W. B. JENKINS,
President.

Mr. President, the House FIFRA bill, H.R. 2463 is identical to this bill, but it is missing three important provisions—several are mentioned in the North Carolina Farm Bureau letter.

First, strong farmer liability language—the language we use is endorsed by the American Farm Bureau Federation and is similar to that language worked out last year in the so-called October 16 compromise.

Second, national uniformity language—we use the language from the October 16 compromise. The national uniform tolerance language was attached to the Senate FIFRA bill last year and approved by the Senate Agriculture Committee.

A third issue not in the House bill but included in our bill is patent term restoration. This is the same as the Senate version this year and the October 16 compromise language last year.

The end product we are introducing is in the best interest of farmers. I am confident that the full Agriculture

Committee will support the bill when we begin markup.

For Senators who really want a FIFRA bill from this Congress, this compromise legislation has the best chance of passing. It is the same bill, with minor changes, that was passed by the House last year—and introduced on the House side this year. I believe we can pass this bill in the Senate and there will be few, if any differences to be worked out in conference.

By Mr. THURMOND (for himself, Mr. HATCH, Mr. GRASSLEY, and Mr. MCCLURE):

S. 2036. A bill to redefine "extortion" for purposes of the Hobbs Act; to the Committee on the Judiciary.

HOBBS ACT AMENDMENTS

Mr. THURMOND. Mr. President, this legislation is intended to amend the Hobbs Anti-Racketeering Act, to reverse the Supreme Court's decision in United States versus Enmons, and address a long-term, festering problem under our Nation's labor laws. The United States regulates labor relations—union organizing and collective bargaining—on a national basis. Our labor management policies are national policies. They are enforced by laws such as the National Labor Relations Act that Congress designed to preempt comparable State laws.

When it comes to the problem of labor union violence, however, the National Labor Relations Board appears extremely reluctant to deal with it. Although labor violence is a widespread problem in labor management relations today, our Government is unwilling to deal with it. The most glaring example of this governmental reluctance is what the U.S. Supreme Court did when it rendered its decision in United States versus Enmons in 1973. It is this decision which this bill is intended to rectify.

The Enmons decision involved the Hobbs Anti-Racketeering Act. The Hobbs Act is intended to prohibit extortion by labor unions. It provides that:

> Whoever in any way * * * obstructs, delays, or affects commerce in the movement of any article or commodity in commerce, by robbery or extortion or attempts or conspires to do so or commits or threatens physical violence to any purpose or property * * *

commits a criminal act. This language is very clear. It outlaws extortion by labor unions. It outlaws violence by labor unions.

The problem, however, is that the Supreme Court in Enmons created an exemption which says that as long as a labor union commits extortion and violence in furtherance of legitimate collective-bargaining objectives, no violation of the act will be found. In other words, if the end is correct, the means to that end, no matter how reprehensible, will not result in a violation of the act.

The Enmons decision is wrong. This bill will make clear that the Hobbs Act is intended to punish the actual or threatened use of force or violence to obtain property irrespective of the legitimacy of the extortionist's claim to such property and irrespective of the existence of a labor-management dispute.

Let me describe the Enmons case.

In that case, the defendants were indicted for firing high-powered rifles at three utility company transformers, draining the oil from a company transformer, and blowing up a transformer substation owned by the company—all done for the purpose of obtaining higher wages and other employee benefits from the company for the striking employees. The indictment was, however, dismissed by the district court on the theory that the Hobbs Act, 18 U.S.C. 1951, did not prohibit the use of violence in obtaining "legitimate" union objectives. On appeal, the Supreme Court affirmed.

The Supreme Court held in Enmons that the Hobbs Act does not proscribe violence committed during a lawful strike for the purpose of achieving legitimate collective bargaining objectives, like higher wages for genuine services that the employer seeks. By its focus on the motives and objectives of the property claimant who uses force or violence to achieve his goals, the Enmons decision has had several unfortunate results which make legislation overturning it necessary. It has deprived the Federal Government of the ability to punish significant acts of extortionate violence when they occur in a labor-management context. Although other Federal statutes proscribe the use of specific devices or the use of the channels of commerce in accomplishing the underlying act of extortionate violence, only the Hobbs Act proscribes a localized act of extortionate violence whose economic effect is to disrupt the channels of commerce. Other Federal statutes are not adequate vehicles of avoiding the full effect of the Enmons decision.

Although we should support the efforts of State and local law enforcement authorities in their attempt to punish labor-management violence by the means which are available to them, the Federal Government has a responsibility to assist State and local authorities in those instances of serious, extortionate violence which disrupt the collective bargaining process, just as the Federal Government is able to provide assistance in other situations where the underlying acts of violence are also violations of State law. [*See United States* v. *Culbert*, 435 U.S. 371 (1987) (application of Hobbs Act to bank extortion).]

The rationale of the Enmons decision is not consistent with Federal labor law. Although Enmons states that the "wrongful" use of force, violence, or fear under the Hobbs Act is judged by the standard of "wrongful" goals, the use of force or violence itself, quite apart from the user's ultimate objectives, is "wrongful" under Federal labor law.

By focusing on the legality of the goal, rather than the activity itself, the Enmons decision can lead to inconsistent results. Federal labor law affords disparate treatment to different industries and economic interest which may often have no relationship to whether disputes in those industries may be accompanied by violent injury to persons and property. For example, the National Labor Relations Act, as amended, generally outlaws the making of economic demands of neutral employers who are not parties to the primary labor dispute, but exempts the garment and construction industries from those restrictions in certain cases. Thus, an individual who might be prosecuted under the Hobbs Act for threatening to kill someone in furtherance of an illegal secondary boycott in the automobile industry, could not be prosecuted for the same conduct in the garment or construction industry where the boycott would not be illegal.

Perhaps the most objectionable thing about the Enmons decision is that it affords to parties to labor-management disputes an exemption from the statute's broad proscription against violence which is not available to any other group in society. This bill would make clear that the Hobbs Act punishes the actual or threatened use of force and violence which is calculated to obtain property without regard to whether or not the extortionist has a colorable claim to such property and without regard to his status as a labor representative, businessman, or private citizen.

Attempts to rectify the injustice of the Enmons decision have been before the Senate on several occasions. Shortly after the decision was handed down, a bill was introduced which was clearly drafted with the intent of repudiating the decision, and over the next several years attempts were made to come up with language which was acceptable to organized labor and at the same time restore the original intent of the Hobbs Act.

On May 2, 1977, Senators MCCLELLAN and KENNEDY introduced S. 1437, the Criminal Code Reform Act of 1977. This bill represented a proposed compromise on several controversial and important points, the lack of agreement on which had kept prior bills from moving through the legislative process. The extortion offense, however, was again simply defined, as obtaining property of another "(1) by threatening or placing another person

in fear that any person will be subject to bodily injury or kidnapping or that any property will be damaged; or (2) under color of official right."

The committee report on S. 1437 contains an excellent summary of the then existing law with respect to extortion under the Hobbs Act and indicates approval of the judicial decisions holding that "fear" under the statute applies not only to fear of physical violence but also fear of economic harm to the victim's property or business. Moreover, the report is unequivocal in its repudiation of the Enmons "legitimate objectives" rationale. Noting that such an exception had not been recognized with respect to extortion by other persons, the committee felt that labor union officials were not entitled to such a privileged treatment:

The thrust of an extortion statue should be to punish violent extortionate means to obtain the property of another regardless of the legality of the ends sought, and this principle should apply in the collective bargaining context as well as elsewhere. Thus, an employer who blows up a union office or causes a union official to be assaulted in order to instill fear and thereby obtain property of the union ought to be guilty under the Act irrespective of whether the property could have been obtained lawfully through collective bargaining. And the same should be true in the reverse situation. Accordingly, the Committee has proposed in effect to overturn the Enmons result by treating the parties engaged in a labor dispute no differently from other persons in terms of the applicable prohibition under this section, which is limited to extortionate means involving actual or threatened violence.

The committee report, however, also responded to the concerns expressed by the Enmons Court that minor acts of picket line violence might, but for a narrow reading of the statute, be elevated into a federal felony. The report noted that:

In the Committee's view such acts do not fall within the purview of the Hobbs Act (Nor should they be Federally punishable) since there is no intent thereby to obtain the employer's property through the use of force and the acts do not in fact cause the employer to part with his property; in short, such isolated acts of violence do not partake of the nature of extortion.

Later in that Congess, Senator KENNEDY and I introduced an amendment to S. 1437 which is similar to the bill being introduced today. At that time I noted that:

This amendment would add a "proof" subsection designed to prevent a trial judge from holding that, in a case described in the new subsection, mere proof that personal injury or property damage occurred during a labor dispute constitutes a sufficient showing of the causal relationship between the obtaining of property and the threat of fear based on that injury or damage to justify submission of that issue to the jury. It prevents such a holding directly, by providing that proof of the coincidence of the labor dispute and the injury of damage in such a case is not "prima facie evidence" of the causal relationship. It is true, of course, that such a causal relationship sometimes does exist where injury or damage occurs during a labor dispute. This proposed subsection however, is based on the belief that where there is a cause and effect relationship, or the intent to obtain property by means of a threat or fear resulting from injury or damage, it should be possible to prove, in addition to that coincidence, some other circumstances adding to the strength of the inference of causation.

The proposed subsection does not address the question of which particular additional circumstance or circumstances, when proven along with that coincidence, will suffice to justify the submission of the issue to the jury. One which clearly would be sufficient in many cases to avoid a directed verdict is the circumstance that the defendent was, or conspired with, a person negotiating on behalf of the union involved in the labor dispute. The same result might obtain where the repetitive or systematic nature of property damage, or its exact timing, contributed to an inference, based also on the fact that a labor dispute was pending at the time the damage was done, that the damage was purposeful rather than mindlessly vindictive.

The amendment was adopted, and S. 1437 passed the Senate on January 30, 1978; however, the bill was allowed to die in the House. The Senate should again restate its opposition to violence in labor disputes.

Mr. President, violence has no place in our society, regardless of the setting. Our national labor policy has always been directed toward the peaceful resolution of labor disputes. It is ironic that the Hobbs Act, which was enacted in large part to accomplish this goal, has been virtually emasculated. The time has come to change that. I think that my colleagues on both sides of the aisle share a common concern that violence in labor disputes, whatever the source, should be eliminated.

By Mr. GLENN (for himself, Mr. STEVENS, and Mr. CHILES):

S. 2037. A bill to amend the Presidential Transition Act of 1963 to provide for a more orderly transfer of executive power in connection with the expiration of the term of office of a President; to the Committee on Governmental Affairs.

PRESIDENTIAL TRANSITIONS EFFECTIVENESS ACT

Mr. GLENN. Mr. President, I rise to introduce the Presidential Transition Effectiveness Act of 1988. This bill reflects an effort by the Governmental Affairs Committee to ensure that future transitions, including the coming 1988 transition, are properly funded and supported.

It has been 12 years since Congress last adjusted the funding levels in the 1963 Presidential Transition Act. That act was passed to provide for the smooth transfer of power between administrations, originally providing $450,000 to the incoming Presidential administration to cover the costs of preparing for the assumption of office—for example, staff, office space, and travel. The General Services Administration was made responsible for making sure all of the expenses were legitimate.

Prior to 1963, transitions were private affairs. The President-elect either had to raise the money for the transition by himself or rely on the national party committees. Congress took note of the problem in passing the Presidential Transition Act, expressing its view that transitions were public in nature, and that the legitimate costs of a transition ought to be covered in large part by Government funds. The funding allotment under the act was raised to $2,000,000 in 1976, where it remains today.

Obviously, we will have a Presidential transition in 1988. The question for us is whether the incoming administration will have the resources to prepare itself for office, whether we can make several changes today that will help not just the next President-elect, but Presidents-elect far into the future.

Funding is a key concern. Accounting for the effects of inflation, the $2,000,000 provided to President-elect Carter in 1976 is worth roughly $1.2 million today. Unlike the Federal election fund, which has grown automatically from $20 million in 1976 to $44 million today, Presidential transition funds are not indexed to rise with inflation. As a result, the next President-elect will almost certainly have to raise private money to cover some of the costs of the transition.

Even if Congress were to increase the public contribution to cover the inflation-adjusted costs of transitions, some private money is likely to be raised in the absence of any prohibition on such. Should such funds be subject to some regulation? Under current Federal election regulations, for example, Presidential candidates are required to submit detailed reports on all private cash contributions to the Federal Election Commission.

In contrast, during both the pre- and post-election period, there are absolutely no restrictions whatsoever on private money for Presidential transitions. The question is whether the lack of any disclosure undermines the public controls which exist under the Federal Election Campaign Act. It does not appear to make sense to control the flow of private cash during the election campaigns only to open the door for undisclosed contributions either for transition planning during the pre-election period or for the transition itself after the election is over.

The committee examined these and other issues in hearings last September and October. As a result of those hearings, and close consultation with past transition officials in both parties, I have concluded that Congress should amend the 1963 Presidential

Transition Act to address serious shortcomings in the way we fund and manage the transfer of power between administrations. That is why I am introducing the Presidential Transition Effectiveness Act today.

The act deals with two basic concerns raised in the hearings.

The first issue is whether we are providing enough support to cover the legitimate public costs of Presidential transitions. The answer is clearly no. At a minimum, it is time to adjust the public contribution to cover the impact of inflation. Under my bill, we would increase the public allotment to $3,500,000 while adding an automatic inflator to cover future cost increases in Presidential transition expenses.

As a result, it should be easier for Presidents-elect to conduct an effective postelection transition. The President-elect should not have to hire a fundraiser as his first act after the election.

I should note that $3,500,000 does not completely cover the effects of inflation since the 1963 Presidential Transition Act was last adjusted upward. According to the General Accounting Office, the true inflation-adjusted figure would be about $4,000,000. However, the budgetary realities are clear. Future Presidents-elect must share in the sacrifice needed to get our financial house in order, too.

In addressing the funding issue, we must also take note of the near-unanimous agreement among Carter and Reagan transition officials that a President-elect must undertake at least some advance planning during the general election campaign. A President-elect cannot wait until the morning after the election to start planning for the transition. In order for the President-elect to "hit-the-ground-running," the candidate must lay the administrative groundwork before the campaign is over.

It is important to note that such preelection planning is by nature ministerial, not political. Decisions must be made about how to structure a personnel process for selecting the 3,000 or so people who will be appointed to the new administration. Initial contact must be made with the General Services Administration about office space and design. Choices must be made about the transition's operational and decisionmaking structure. These choices may seem mundane, but they need to be made nonetheless.

I believe that such pre-election transition planning is a legitimate cost of a presidential transition, and, therefore, that it ought to be covered at least in part by public funds. Under current Federal election regulations, however, a candidate may not use public campaign funds for transition planning. Jimmy Carter and Ronald Reagan were forced to raise private funds for their preelection transition efforts. However, as with postelection private contributions, such preelection transition planning money is not currently subject to any disclosure regulation.

A relatively small amount of preelection public funding can do the job, thereby relieving the candidates from having to raise private cash for transition planning. Under my bill, the major national party committees, or their designees, would be entitled to reimbursement of up to $200,000 in qualified transition planning expenses occuring in a period between the respective nominating convention and the general election.

Under the bill, only those national parties whose presidential candidate received 25 percent of the popular vote in the previous presidential election would qualify for transition planning reimbursement. For 1988, that means the Democratic and Republican national committees or their designees. It is my intent that such reimbursement only be given to those parties whose candidates have a reasonable chance of benefiting from the planning activity. The General Services Administration would be responsible for approving the reimbursements.

The national parties are the logical place for this kind of ministerial transition planning activity. I believe that transition planning by the national party committees would both strengthen the governance process and create a longer-term institutional memory on transition operations and management. It would also help close the gap between Presidential candidates and their parties a bit.

It is important to note that this legislation does not create a cash grant to the parties or their designees. Rather, it provides only for reimbursement, subject to the approval of the Administrator of General Services. Such a reimbursement mechanism will guard against the use of any preelection transition funds for electioneering. The General Services Administration has been in the postelection transition business for 30 years, and appears quite capable of telling the difference between transition planning and campaigning.

The second question this legislation addresses is whether there is a need to regulate private money contributions for preelection and postelection transition activities, and whether there is a need for public disclosure of basic information on the President-elect's transition team. The answer is yes on all counts.

There is little doubt that private money has grown inceasingly important to Presidential transitions. Presidents Nixon, Carter, and Reagan all raised private funds for their transitions. In 1968, Nixon raised $1 million in private funds to supplement the $450,000 already available under the 1963 Presidential Transition Act. In 1976, Carter raised $150,000 for his pre-election transition planning, but stayed well within the $2 million public allotment available under a 1976 amendment to the Presidential Transition Act. In 1980, Reagan raised approximately $1.25 million for both his pre-election and post-election transition activities.

Currently, there are no regulations covering private funding for Presidential transitions, whether during the pre-election period or following the general election. Whereas the Federal Election Campaign Act regulations require a close accounting of every penny of private contributions for electioneering, there is no regulation requiring even the slightest disclosure on private money for transitioning. Whereas every penny of private contributions for Presidential campaigning are disclosed, inspected, audited, reviewed, analyzed, and digested, none of the private money given for transitions is subject to even the slightest review. Such review is impossible given the fact that private transition money is not even disclosed. I believe this loophole in our campaign financing regulation must be closed.

The potential problems with the current scheme are clear. The lack of disclosure in the pre-election period undermines the efficacy of the Federal election rules, providing a loophole for money that might otherwise have to be disclosed in the campaign. The absence of disclosure in the post-election period creates the appearance, if not the substance, of conflicts of interest during what is clearly a very sensitive period in the policymaking and personnel process.

At a minimum, I believe that we should require disclosure of the sources, amounts, and expenditures associated with all private money contributions for both pre-election transition planning and the post-election transition itself. Under my legislation, in return for the reimbursement provided for pre-election transition planning, the national party committees or their designees would be required to make such a disclosure within 90 days after the election.

Similarly, in return for the $3,500,000 in public transition support, the President-elect would be required to make such a disclosure within 90 days after the inauguration. In general, these records are already kept—albeit in an undisclosed fashion—and should be relatively easy to assemble for meeting this reporting requirement. Thus, I do not believe the disclosure constitutes an unacceptable burden on either the national party committees or the President-elect. Given the potential for hidden conflicts of interest under our current ar-

rangement, I believe the benefits clearly outweigh the costs.

This need for public disclosure also applied to those individuals who join the President-elect's transition teams. As the number of people who participate in the transition has increased, so has the confusion within Federal agencies. In 1980-81, for example, there were almost 1,000 people involved on the Reagan transition teams. Without some disclosure of just who was and was not a member of each team, and without an indication of where each member came from and who was paying the way, agency officials were confused about potential conflicts of interest and were thereby unable to provide the kind of quick response so necessary for preparing the President-elect for office.

Such confusion is easy to remedy without imposing an undue burden on the President-elect. Under my bill, the President-elect, again in return for the public transition allotment, will be required to provide a roster of all the people designated as members of Federal agency transition teams. Such a roster will include each member's name, most recent employment, and source of funding supporting his or her transition activities. This roster is to be made public before each transition team makes contact with an agency, and will be updated as necessary. As such, the roster is primarily for the purpose of clarifying just who is and is not a member of the transition team, not for providing detailed financial and conflict of interest disclosure.

My legislation also contains several other changes in the Presidential Transition Act which deserve brief mention. The bill allows the outgoing administration somewhat greater leeway in obligating some of the $1,000,000 currently available in advance of the end of the term. Currently, the outgoing General Services Adminsitration may not obligate funds until the inauguration of the new President. The bill also allows the incoming administration 30 days past the inauguration to wind down the transition. Currently, the phones go dead the moment the President-elect is sworn in.

The legislation also acts on a recommendation of the General Accounting Office and amends the 1868 Vacancy Act. That act provides that a President can only fill a Federal agency vacancy caused by death or resignation temporarily for 30 days, a deadline which is routinely ignored. Under my bill, the Vacancy Act would be amended to allow the President 120 days to fill vacancies temporarily unless a nomination to fill the vacancy has been submitted to the Senate. Such a change would revitalize this act, expressing Congress' intent that vacancies be filled promptly, while giving the President ample time to find qualified individuals to serve in advise-and-consent positions.

As a whole, this legislation will help ensure the smooth transfer of power originally intended by the 1963 Presidential Transition Act. By providing adequate resources for the post-election transition and by defining preelection transition planning as a legitimate activity, we will make it easier for the incoming administration to succeed. And by placing limited disclosure requirements on private cash, we can remove whatever lingering doubts may exist regarding the efficacy of our campaign financing disclosure. I urge favorable consideration of the measure.

Mr. STEVENS. Mr. President, today, I am pleased to join with my good friend and colleague, the chairman of the Committee on Government Affairs, Senator GLENN, in cosponsoring the Presidential Transitions Effectiveness Act. This proposal will bring several important changes to the Presidential Transition Act of 1963. In joining with Senator GLENN today, I wish to call to the attention of the Senate, the tireless effort which Senator GLENN has expended upon this measure. From the earliest hearings which the committee held during the first session of this Congress, Senator GLENN has consistently taken the approach that a bipartisan effort was necessary if the 1963 statute was to be brought up to date. I commend him for that approach and believe that the product of his efforts represents the best legislative solution to the problems which have been pointed out to the committee over the last year.

This bill is based upon the collective experience of the many experts who were directly involved in the Carter and Reagan transition teams during the elections of 1976 and 1980. Many of these people have testified before our committee and have expressed varying levels of frustration with the 1963 act. But, Mr. President, it was not just the former transition staff which suggested changes to the statute. In fact both the General Services Administration, which implements the act, and the General Accounting Office, which monitors expenditures under the act, have testified before the Committee on Governmental Affairs as to the urgent need for modifications to the statute—modifications which need to be in place prior to the beginning of the 1988 transition effort.

This proposal represents the consensus which has been reached by all of the many interested parties in this issue. As such, it is a compromise and as with all compromises, not every provision is completely satisfactory to every individual or group which has an interest in Presidential transitions. However, it is a fundamentally sound product which I can endorse to my colleagues.

The major provisions of the bill will increase the authorization for appropriations from the current level of $2 million to a suggested figure of $3.5 million. All parties who testified on the act before our committee were agreed that the $2 million authorization was woefully inadequate to offset the expenses of a transition in the late 1980's. Similarly, committee testimony showed that there was a need for a small amount of so-called preelection transition planning money. Under this bill, such preelection money will be made available to the national political party organization, via reimbursement from the Administrator of GSA. It will be strictly controlled and will be subject to strict accounting procedures. The chairmen of the Republican and Democratic National Parties have endorsed this approach.

In addition, this bill will require the strict public disclosure of all private moneys which might be raised by a transition committee and such disclosure will be required within 90 days of the general election. Similarly, a full public disclosure will be required of the President-elect and the Vice-President-elect for those representatives of the transition committees who are posted to the various Federal departments and agencies. Under this bill, the public will know the name, most recent employment, and source of funding for all such transition committee representatives.

In closing, Mr. President, let me again commend my good friend Senator GLENN for all of the hard work which he and his staff, especially Paul Light, have expended on this matter. I congratulate them for their interest, fortitude, and for the bipartisan way in which this proposal has been developed over the last several months. I trust that the Committee on Governmental Affairs will move rapidly to report the bill and that the Senate will have an early opportunity for its consideration.

By Mr. DIXON (for himself and Mr. SIMON):

S. 2038. A bill to prohibit the closing of certain operations of the U.S. Coast Guard at the Glenview Air Station, Chicago, IL; to the Committee on Commerce, Science, and Transportation.

GLENVIEW AIR STATION, CHICAGO

● Mr. DIXON. Mr. President, the Chicago area has been once again in jeopardy of losing the Glenview Air Rescue Station.

The safety of Chicago's boating community greatly depends on the Coast Guard's helicopters. On the average, they save over 20 people each year from drowning in Lake Michigan. In the last 6 years, more than 150 lives

have been saved by Glenview Station personnel.

In spite of this clear evidence of Chicago's reliance on Glenview's services, the Coast Guard continually attempts to close it down. This year, they claimed budgetary constraints were going to force them to shut down Glenview.

If the Glenview Station was closed down, the nearest air station would be in Traverse City, WI. It takes a helicopter close to 1 hour and 40 minutes to fly from Traverse City to the southern part of Lake Michigan. This amount of response time is unacceptable. People will drown while the helicopters are still in the air.

Fortunately, the Coast Guard apparently saw the light and recently decided against closing down the Glenview Station in the next year. I congratulate Admiral Yost and Secretary Burnley on the wisdom of their decision.

However, a temporary stay is not good enough. Chicago will always need the good and fast services of the Coast Guard's Glenview-based helicopters. I want to know that the Coast Guard will recognize this need and make a long-term commitment to the people of Chicago. I am certainly willing to make the commitment to the Coast Guard and to the people of Chicago to work to find ways to come up with the necessary funds to keep Glenview open.

To demonstrate the seriousness of my conviction, I am introducing a bill today permanently prohibiting the Coast Guard from closing down the Glenview Station. Hopefully, this will send the message loud and clear to the Coast Guard that Chicago and this Senator cannot and will not tolerate the closing of the Glenview Air Rescue Station.●

By Mr. BOREN (for himself and Mr. BENTSEN):

S. 2040. A bill to modify the wheat provisions of the Agricultural Act of 1949 by eliminating the Secretary of Agriculture's authority to restrict haying and grazing on idled wheat acreage; to the Committee on Agriculture, Nutrition, and Forestry.

ELIMINATION OF CERTAIN WHEAT PROVISIONS

● Mr. BOREN. Mr. President, today, on behalf of Senator BENTSEN and myself, I am introducing legislation which would correct a technical error which was made in the Budget Reconciliation Act.

Specifically, the legislation will remove a clause inadvertently added to the haying and grazing provisions of the wheat program. The clause strengthens the Secretary of Agriculture's discretion over allowing haying and grazing, the exact opposite of what the agreement in reconciliation was intended to accomplish.

During consideration of the 1985 farm bill, a compromise was worked out on grazing. Under the 1985 farm bill, each year farmers are permitted to graze acreage idled as part of the wheat program for that year. However, haying was not resolved at that time and each year the Secretary was required to decide whether to allow haying of idled acreage. Because of the Secretary's discretion with respect to haying, farmers could not properly plan their crops because the decision was usually made late in the year. We all recognized that this resulted in an unnecessary hardship on our agricultural producers and developed a compromise which would remove the necessity for a Secretarial decision each year.

This compromise was incorporated into the Senate's version of the Omnibus Reconciliation Bill this past fall. Under the Senate's provision, haying and grazing would be permitted during a specified period, provided the producer was haying or grazing the crop for which the producer had a program base. This compromise eliminated Secretarial discretion with regard to haying and eliminated the uncertainty of program provisions due to such discretion.

The conference committee also agreed to inclusion of the Senate's version on haying and grazing in the conference report on reconciliation. Regretfully, however, the specific statutory language included in the reconciliation bill does not reflect in any way the compromise that was agreed to and actually takes a step backward from where we were last year. Under the provisions of reconciliation, the Secretary now has the authority to prohibit grazing as well as haying each year.

Consequently, once again, wheat producers in my home State of Oklahoma will not know whether they will be permitted to graze or hay acreage idled under future wheat programs until long after they must make their planting decisions.

The legislation we are introducing today will remove the Secretary's discretion with respect to haying and grazing of acreage idled under the wheat program. I urge my colleagues to work with us to ensure prompt consideration of this legislation.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

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

S. 2040

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, section 107D(f)(4)(C) of the Agricultural Act of 1949 is amended by—

(1) in clause (i), striking out "clauses (ii) and (iii)" and inserting in lieu thereof "clause (ii)"; and

(2) striking out clause (iii).●

By Mr HEINZ (for himself, Mr. PROXMIRE, and Mr. PELL):

S. 2041. A bill to amend title 23, United States Code, to reduce Federal highway funds to States that do not enforce the 65-mile-per-hour speed limit; to the Committee on Commerce, Science, and Transporation.

SPEED LIMIT COMPLIANCE

● Mr. HEINZ. Mr. President, today I am introducing legislation on behalf of myself and Senators SIMON and PROXMIRE to close a gaping loophole in Federal highway safety policy that results from last year's highway legislation (Public Law 100-17). At issue is a provision in the act which authorized States to raise the speed limit on rural interstates from 55 to 65 miles per hour but did not subject these roads to speed limit monitoring required by law for other interstate and limited access highways.

Since 1974, enforcement of the 55-mile-per-hour limit has been controlled by a monitoring mechanism in which each State must certify that at least 50 percent of its motorists are complying with the 55-mile-per-hour speed limit on highways where this limit applies. In the event that a State is unable to achieve the 50-percent compliance level, the Federal Highway Administration withholds 10 percent of that State's Federal highway moneys.

This provision has helped ensure that at least a majority of motorists drive within the limit without resulting in permanent withdrawal of Federal highway moneys from noncomplying States. In fact, since the law was enacted in 1974, only seven States have ever been penalized for noncompliance under the provision, and all of these States have achieved compliance in time to recover withheld funds before they permanently lapsed into the highway trust fund.

However, last year's highway legislation did not extend the compliance provision to roads on which the speed limit has been raised to 65 miles per hour. As a result, there is no incentive for enforcement of the speed limit to achieve compliance on these segments of the interstate system.

The safety problems associated with this exemption are underscored by the facts that 38 States have already agreed to raise the speed limit on eligible interstates; that preliminary data indicate that fatalities have increased significantly on those interstates where the speed limit has been raised to 65-miles-per-hour; and that the fiscal 1988 continuing resolution extends to 20 States the privilege of raising the speed limit to 65 on certain noninterstate roads in addition to those rural interstates whose speed limit hike was authorized in the highway act.

The result of this policy is not only dangerous, it is nothing short of ironic. Monitoring does not occur on precisely those roads where the need for it is greatest. And those States which have chosen not to raise the speed limit for safety reasons are at a relative disadvantage to other States because they must achieve 50 percent compliance on all of their interstates to avoid sanction of Federal highway funds while States with 65-mile-per-hour roads need only achieve compliance on segments of their highways on which 55 miles per hour remains the limit.

Finally, from a philosophical standpoint, the present law violates a basic principle of justice that all laws should apply equally.

My own State of Pennsylvania risks losing over $16 million per year if it does not achieve compliance. While this does not represent a change in policy for Pennsylvania, it is unfair to force Pennsylvania to monitor all of its limited access highways, which are posted at 55 miles per hour, when the law permits those States who have raised the speed limit just to monitor their remaining 55-mile-per-hour roads.

My legislation will correct these serious problems in a simple and straightforward fashion—by extending the compliance and penalty provisions to all interstates.

Mr. President, I am aware that the administration and effectiveness of the speed limit compliance provision is a subject that is currently under review by the authorizing committees in both Houses, and that a General Accounting Office evaluation of these matters is due out shortly. This legislation is not intended as a comprehensive solution to the speed limit compliance problem, which I will continue to work on as more information on this subject becomes available. I do think it's important, however, to craft Federal highway policy in a way that achieves the two objectives of maximum safety on our Nation's Federal highways and equitable treatment for all States.

My legislation attempts to address these two objectives, and I urge my colleagues to support this bill.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2041

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 154, of title 23, United States Code, is amended—

(1) by striking out "exceeding fifty-five miles per hour" in subsection (e) and inserting in lieu thereof "exceeding the speed limit",

(2) by striking out "at fifty-five" in subsection (e) and inserting in lieu thereof "at 55 or more",

(3) by striking out "exceeding 55 miles per hour" in subsection (f) and inserting in lieu thereof "exceeding the speed limit",

(4) by inserting "or more" after "at 55" in subsection (f), and

(5) by striking out "exceeding fifty-five miles per hour" in subsection (h) and inserting in lieu thereof "exceeding the speed limit on public highways with speed limits posted at 55 or more miles per hour".●

By Mr. DURENBERGER (for himself, Mr. CRANSTON, Ms. MIKULSKI, Mr. MURKOWSKI, Mr. DOLE, Mr. BYRD, Mr. BINGAMAN, Mr. BOSCHWITZ, Mr. BURDICK, Mr. CHAFEE, Mr. CHILES, Mr. COCHRAN, Mr. CONRAD, Mr. DASCHLE, Mr. DECONCINI, Mr. DIXON, Mr. FORD, Mr. GRASSLEY, Mr. GRAHAM, Mr. HATCH, Mr. HEFLIN, Mr. HUMPHREY, Mrs. KASSEBAUM, Mr. KENNEDY, Mr. KERRY, Mr. LEVIN, Mr. LUGAR, Mr. MATSUNAGA, Mr. METZENBAUM, Mr. PELL, Mr. PRESSLER, Mr. QUAYLE, Mr. RIEGLE, Mr. ROCKEFELLER, Mr. ROTH, Mr. SANFORD, Mr. SHELBY, Mr. SIMON, Mr. SPECTER, Mr. STENNIS, Mr. WEICKER, and Mr. WIRTH):

S. 2042. A bill to authorize the Vietnam Women's Memorial Project, Inc., to construct a statue at the Vietnam Veterans Memorial in honor and recognition of the women of the United States who served in the Vietnam conflict; to the Committee on Energy and Natural Resources.

VIETNAM WOMEN'S MEMORIAL

Mr. DURENBERGER. Mr. President, I rise today to introduce legislation authorizing the establishment of a memorial to women who served in the Vietnam war.

I have long supported the efforts of the Vietnam Women's Memorial Project to complete our Nation's Vietnam Memorial with a statue of a female Vietnam veteran. The contribution of American women in that conflict is all too often overlooked. Few Americans are aware that 10,000 women served in the Armed Forces in the Vietnam war. They performed with heroism, they bled, and they died during the war. They came back to a country that did not understand their contributions and they still carry the pain of their experience.

The Vietnam Women's Memorial Project [VWMP] was founded to educate Americans about the role of women in the Vietnam war. One of their major goals is to complete the Vietnam Memorial with a statue of a women Vietnam veteran. The original authorization for the memorial—Public Law 96-297—specifically stated that the memorial was to honor the men and women who served in the war.

Last year efforts to complete the Vietnam Memorial received the strong endorsement of Secretary of the Interior Donald Hodel. And the project had already been endorsed by all major veteran's groups and many other organizations. In spite of this support, the Commission of Fine Arts voted down the proposed statue on October 22, 1987.

Because I believed in this project, and because I believed the Commission was wrong in its rejection, I introduced legislation in November that specifically authorized the construction of a memorial to women who served. My legislation—Senate Joint Resolution 215—directed the Secretary of the Interior to consult with the Commission of Fine Arts [CFA] but did not allow the Commission veto power over the project. Senate Joint Resolution 215 currently has 37 cosponsors.

My distinguished colleague from California, Senator CRANSTON, chairman of the Veterans' Affairs Committee and long-time supporter of the VWMP, also introduced legislation authorizing the construction of a memorial to women who served. Though both bills have the same goal, Senator CRANSTON's S. 1896 did not remove the Commission of Fine Arts ability to veto the project.

Because we shared the goals of the VWMP, we explored the possibility of offering an amendment to the continuing resolution last December. We agreed on language that allowed the CFA to veto the project but included strong sense of the Congress statements that express our belief that the statue should go forward. We also included a firm deadline of 90 days for all approving entities to act.

We decided not to offer the amendment after members of the Energy and Natural Resources Committee expressed their view that hearings should be held on the legislation before the Senate acted. I engaged in a colloquy with Senator BUMPERS, chairman of the Subcommittee on Public Lands, National Parks, and Forests with jurisdiction over memorials, in which he pledged to do all he could to hold hearings early this year.

As the date for hearings approaches, Senator CRANSTON and I are introducing legislation which incorporates the language from our amendment. We introduce this bill with 40 original cosponsors. I am pleased that Senator CRANSTON and myself—and all the supporters of the Vietnam Women's Memorial Project—are working together to achieve the goal we share: honoring the contributions and sacrifices of the women who served in the Vietnam war.

Mr. President, I ask unanimous consent that the text of the bill be printed at this point in the RECORD.

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

S. 2042

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

SECTION 1. AUTHORITY FOR CONSTRUCTION OF STATUTE HONORING WOMEN WHO SERVED IN THE VIETNAM CONFLICT.—(a) Subject to subsections (b) and (c), the Vietnam Women's Memorial Project, Inc., a nonprofit corporation authorized to operate in the District of Columbia, is authorized to construct a statute of a woman Vietnam veteran on public grounds within the 2.2-acre Vietnam Veterans Memorial site in the District of Columbia in honor and recognition of the women of the United States who served in the Vietnam conflict.

(b)(1) The Secretary of the Interior, in consultation with the Vietnam Women's Memorial Project, Inc., and the Vietnam Veterans' Memorial Fund, Inc., is authorized and directed to select, with the approval of the Commission of Fine Arts and the National Capital Planning Commission, a suitable site for the statute within the 2.2 acre Vietnam Veterans Memorial site in the District of Columbia.

(2) The design and plans for the statute shall be subject to the approval of the Secretary of the Interior, the Commission of Fine Arts, and the National Capital Planning Commission. Not later than 30 days after the date of the enactment of this section, the Secretary of the Interior shall decide whether or not to approve the design and plans and, if the Secretary approves them or takes no action to approve or disapprove them (in which case his approval shall be deemed to have been given), shall submit the design and plans to each of the Commissions forthwith. If either Commission fails to report its approval of or specific objection to such design and plans within 90 days after the submission of the plans, the approval of the Commission in question shall be deemed to be given.

(3) Neither the United States nor the District of Columbia shall be put to any expense in the construction of the statue.

(c) The authority conferred pursuant to this section shall lapse unless (1) the construction of the statue is commenced within 5 years from the date of the enactment of this section, and (2) prior to groundbreaking for actual construction on the site, funds are certified available in an amount sufficient in the judgment of the Secretary of the Interior, based upon the approved design and plans for the statute, to ensure completion of the construction of the statue.

(d) The maintenance and care of the statue constructed under the provisions of this section shall be the responsibility of the Secretary of the Interior.

SEC. 2. It is the sense of the Congress that—

(1) it is most fitting and appropriate that this statue in honor and recognition of the women of the United States who served in the Vietnam conflict be constructed at the site of the Vietnam Veterans Memorial to help complete the process of recognition and healing, for the men and women of the Armed Forces of the United States who served in the Vietnam conflict, that was undertaken with the establishment of the Memorial;

(2) the addition of the statute is well within the scope, purpose, and intent of the law, Public Law 96-297, authorizing the Vietnam Veterans Memorial Fund, Inc., to establish the Memorial and could and should be undertaken pursuant to that law without the need for the enactment of this Act;

(3) the Secretary and each of the Commissions should, in evaluating the plan and design for the statute, give weighty consideration to the sense of the Congress expressed in this section that a statue of a woman Vietnam veteran should be constructed at the Vietnam Veterans Memorial site; and

(4) after the addition of a statue of a woman Vietnam veteran, the Vietnam Veterans Memorial will be complete, and no further additions to the site should be authorized or undertaken.

Mr. CRANSTON. Mr. President, as chairman of the Committee on Veterans' Affairs, I am pleased to join with my distinguished colleague from Minnesota, Senator DURENBERGER, in introducing S. 2042, a bill to authorize the Vietnam Women's Memorial Project [VWMP] to erect a statue of a woman veteran at the Vietnam Veterans Memorial [VVM] site in Washington, DC. I am delighted to have my good friend, the ranking minority member of the Veterans' Affairs Committee, Mr. MURKOWSKI, and the Senator from Maryland, Ms. MIKULSKI, as the principal cosponsors of this legislation and that we are joined by a broad bipartisan coalition of 38 of our other colleagues in cosponsorship of this legislation.

Mr. President, as a strong supporter of the VWMP since it began in 1984 and as a charter member of its congressional advisory panel, I believe this legislation signifies an important step forward in achieving our goal. This bill represents a compromise between two measures Senator DURENBERGER and I introduced at the end of last year—Senate Joint Resolution 215 and S. 1896, respectively—and is an end result of our united, bipartisan support for the VWMP.

Mr. President, before I discuss the specific provisions of this measure, I would like to recapitulate briefly the recent events that led to today's introduction of S. 2042. Earlier this year, Secretary of the Interior Donald P. Hodel endorsed the VWMP's proposal for a statue of a woman veteran and concluded that it did not need special legislative authorization because the public law which authorized construction of the Vietnam Veterans Memorial, Public Law 96-297, was sufficient because the statue would be an addition to the Vietnam Veterans Memorial and not a separate memorial. Indeed, section 1 of that law specifically dictates the memorialization is in "honor and recognition of the men and women * * * who served in the Vietnam war."

With Secretary Hodel's support, and the support of every major veterans organization and several Members of Congress, the VWMP's proposal was presented to the Commission of Fine Arts [CFA] for consideration. However, despite the strong support for the project, on October 22, 1987, the CFA turned down the proposal.

Mr. President, I was deeply disappointed that the CFA decided to reject the VWMP proposal. In so doing, it unfairly slighted the courageous and invaluable efforts of the women of this Nation who served in Vietnam.

In an effort to reverse that decision, Senator DURENBERGER and I each introduced legislation. The Durenberger legislation, Senate Joint Resolution 215 would provide express authorization for the VWMP to establish the proposed memorial but would not require the Secretary of the Interior to obtain the approval of the CFA in the "selection of a site for the statue or in the selection of the design and plans for the statue."

Mr. President, I introduced S. 1896 because, in my view, circumventing the approval process for memorials established by Public Law 99-652—which set standards for the placement of commemorative works on certain Federal lands in the District of Columbia—to create a special exemption for the statue of a woman veteran would send the wrong message about the worth and merit of the statue. Rather, our legislation should serve as a vehicle to rally public and political support to overturn the CFA's decision.

Mr. President, although Senator DURENBERGER and I differed on that one point, we both believe strongly in the VWMP proposal. Thus, in order to unite our efforts, in December we developed a compromise between the provisions of Senate Joint Resolution 215 and S. 1896. The agreed-upon language follows the approval process for the VWMP proposal outlined in S. 1896, as well as in Public Law 96-297 and Public Law 99-652. This process requires that the proposal must be approved by the Secretary of the Interior, the CFA, and the National Capital Planning Commission.

Mr. President, in reaching agreement on the text of the legislation in December, Senator DURENBERGER and I also agreed to offer the compromise language as an amendment to House Joint Resolution 395, the fiscal year 1988 continuing resolution, but do so only if our proposal had the support of the Committee on Energy and Natural Resources—the committee with jurisdiction over this matter. Hence, on December 8, we sent a joint letter seeking the support of the chairman and ranking minority member of the Energy and Natural Resources Committee, Senators JOHNSTON and MCCLURE, and the chairman and ranking minority member of the Subcommittee on Public Lands, National Parks, and Forests, Senators BUMPERS and WALLOP. On December 9, Senator BUMPERS responded, on behalf of him-

self and Senators JOHNSTON, MCCLURE and WALLOP, indicating that he believed hearings were necessary on the VWMP proposal in order to give opponents and proponents an opportunity to have their views heard and that thus the committee did not support our proposed amendment to the continuing resolution. In accordance with our agreement, neither Senator DURENBERGER nor I proceeded with an amendment to the continuing resolution. Senator BUMPERS has since advised me that hearings will likely be held at the end of this month.

I ask unanimous consent, Mr. President, that copies of our letters to Senators JOHNSTON and BUMPERS and of Senator BUMPER'S reply be printed in the RECORD at the conclusion of my remarks.

Mr. President, the legislation we are introducing today is essentially the compromise we worked out in December. It would express the unified support of Congress for the project and would provide a timetable for the approval process. Under this measure, the Secretary of the Interior would be required to decide whether or not to approve the design and plans for the project within 30 days after the date of the enactment of this act. If the Secretary failed either to approve or reject the plans within that 30 days, his approval would be considered, by operation of law, to have been given, and he would be required to forward the VWMP proposal to the Fine Arts and National Capital Planning Commissions. Then, under the bill, if either Commission failed to report to the Secretary their approval or rejection of the proposal within 90 days after the plan is submitted to them, the approval of the Commission in question would be deemed, by operation of law, to be given.

Our bill also includes language expressing the sense of the Congress that establishment of the VWMP is a fitting and appropriate way to help complete the process of recognition and healing for the men and women who served in the Vietnam conflict. In addition, the bill expresses the sense of the Congress that establishment of the statue is well within the scope of Public Law 96-297 and that the Secretary of the Interior and the Commissions should give weighty consideration to the sense of the Congress that a statue of a woman Vietnam veteran should be constructed at the Vietnam Veterans Memorial site.

Finally, the bill expresses the sense of the Congress that with the addition of the VWMP statue the Vietnam Veterans Memorial would be complete and that no further additions to the site should be authorized or undertaken. This provision should help alleivate concerns expressed by J. Carter Brown, Chairman of the CFA, that the VWMP's statue would become the first in a long string of additions to the Vietnam Veterans Memorial. With the addition of the servicewoman, the Vietnam Veterans Memorial would fulfill the original intent of the legislation enacted to authorize its establishment in honor of the dedication and sacrifices of the women as well as the men who served on behalf of this Nation during the Vietnam conflict. The Energy and Natural Resources Committee may wish to make this sense-of-the-Congress language into a statutory direction as to the completeness of the Vietnam Veterans Memorial with the addition of the VWMP statue. Senator DURENBERGER and I would support such a statutory direction.

Mr. President, the Vietnam Veterans Memorial, during its 5-year history, has served as an emotional focal point for the healing of Vietnam veterans and the Nation as a whole. This splendid memorial also serves as a historical reference point, educating those too young to remember the Vietnam war about the sacrifices made by those who served. Women who served in and with our Armed Forces have done so with honor, strength, and commitment; yet they are often overlooked when our Nation recognizes its veterans. A statutory representation of the 10,000 women who served would provide a vivid and appropriate reminder of the sacrifices and contributions they made during the Vietnam conflict.

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

U.S. SENATE,
Washington, DC, December 8, 1987.

Hon. J. BENNETT JOHNSTON,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR BENNETT: We are writing to ask your support and the support of your Committee for an amendment we would like to propose during consideration of H.J. Res. 395, the FY 1988 Continuing Resolution.

As you know, we have both introduced legislation to authorize the Vietnam Women's Memorial Project, Inc., (VWMP) to erect a statue of a woman Vietnam veteran at the Vietnam Veterans Memorial (VVM) in Washington, D.C. After Interior Secretary Hodel endorsed this project earlier this year, the Commission of Fine Arts (CFA) turned it down in October.

Because we were deeply disappointed with the CFA's decision to reject a proposal endorsed by all major veterans' organizations, the VVM Fund, and many members of Congress, we introduced legislation specifically authorizing the VWMP to proceed. Both legislative proposals—S.J. Res. 215 with 27 cosponsors and S. 1896 with 10 cosponsors—are designed to ensure that the VVM is completed with a statue of a woman veteran.

There are differences between the two pieces of legislation—chiefly in the role granted to the CFA in the approval process—but we have now reached an agreement on a single piece of legislation in order to allow Congress to act on this matter as rapidly as possible before we adjourn this year. A text of the amendment we are proposing is enclosed. We urgently solicit your support for this important endeavor.

The amendment would include the CFA in the formal approval process, establish a firm timetable for action, and express the strong sense of Congress that the VVM should be completed with a statue of a woman Vietnam veteran. The amendment is fully consistent with all provisions of Public Laws 96-297, which authorized establishment of the VVM, and P.L. 99-652, an Act to provide standards for placement of commemorative works on certain Federal lands in the District of Columbia and its environs. It is our sincere hope that passage of this legislation this year will obviate the need for further Congressional action next year.

We thank you for your consideration in this matter and hope that we can count on your support. We look forward to hearing from you at your earliest convenience. If you have any questions or would like to cosponsor our amendment, please contact us or have your staff contract Randy Schuenemann with Senator Durenberger (4-3244) or Liz Giffin with Senator Cranston (4-9126).

With warm regards,

Cordially,

ALAN CRANSTON.
DAVE DURENBERGER.

U.S. SENATE,
Washington, DC, December 8, 1987.

Hon. DALE BUMPERS,
Chairman, Subcommittee on Public Lands, National Parks, and Forests, U.S. Senate, Washington, DC.

DEAR DALE: We are writing to ask your support and the support of your Committee for an amendment we would like to propose during consideration of H.J. Res. 395, the FY 1988 Continuing Resolution.

As you may know, we have both introduced legislation to authorize the Vietnam Women's Memorial Project, Inc., (VWMP) to erect a statue of a woman Vietnam veteran at the Vietnam Veterans Memorial (VVM) in Washington, DC. After Interior Secretary Hodel endorsed this project earlier this year, the Commission of Fine Arts (CFA) turned it down in October.

Because we were deeply disappointed with the CFA's decision to reject a proposal endorsed by all major veterans' organizations, the VVM Fund, and many members of Congress, we introduced legislation specifically authorizing the VWMP to proceed. Both legislative proposals—S.J. Res. 215 with 27 cosponsors and S. 1896 with 10 cosponsors—are designed to ensure that the VVM is completed with a statue of a woman veteran.

There are differences between the two pieces of legislation—chiefly in the role granted to the CFA in the approval process—but we have now reached an agreement on a single piece of legislation in order to allow Congress to act on this matter as rapidly as possible before we adjourn this year. A text of the amendment we are proposing is enclosed. We urgently solicit your support for this important endeavor.

The amendment would include the CFA in the formal approval process, establish a firm timetable for action, and express the strong sense of Congress that the VVM should be completed with a statue of a woman Vietnam veteran. The amendment is fully consistent with all provisions of Public Laws 96-297, which authorized establishment of the VVM, and P.L. 99-652, an Act to provide standards for placement of commemorative works on certain Federal lands in the District of Columbia and its environs.

It is our sincere hope that passage of this legislation this year will obviate the need for further Congressional action next year.

We thank you for your consideration in this matter and hope that we can count on your support. We look forward to hearing from you at your earliest convenience. If you have any questions or would like to cosponsor our amendment, please contact us or have your staff contact Randy Schuenemann with Senator Durenberger (4-3244) or Liz Giffin with Senator Cranston (4-9126).

With warm regards,

Cordially,

ALAN CRANSTON,
DAVE DURENBERGER.

U.S. SENATE, COMMITTEE ON ENERGY AND NATURAL RESOURCES,
Washington, DC, December 9, 1987.

Hon. ALAN CRANSTON,
U.S. Senate, Washington, DC.

DEAR ALAN: Thank you for your recent letter regarding your proposal to erect a statute of a woman Vietnam veteran at the Vietnam Memorial in Washington, DC.

While I can certainly appreciate your sincere interest in resolving this matter as expeditiously as possible, it is my view that a hearing on this matter before the Subcommittee on Public Lands, National Parks and Forests, is both desirable and necessary. Senators Johnston, McClure, and Wallop share my view that a hearing should be conducted prior to any Senate action.

While it is not possible at this time to set a specific date for such a hearing, I assure you that I will make every effort to schedule a hearing on this proposal early in the second session of the 100th Congress, and look forward to working with you on this and other matters of interest to the Subcommittee. As always, I appreciate your cooperation and understanding.

Sincerely,

DALE BUMPERS,
Chairman, Subcommittee on Public Lands, National Parks and Forests.

● Mr. MURKOWSKI. Mr. President, I rise today to cosponsor legislation that would authorize the Vietnam Women's Memorial Project, Inc., to construct a statute in honor and recognition of the women of the United States who served in the Vietnam conflict. I am pleased to join with my two distinguished colleagues, Mr. CRANSTON from California and Mr. DURENBERGER from Minnesota, as an orignal cosponor on this important legislation.

As many of my colleagues are aware, there has been a great deal of controversy surrounding the approval process for the Vietnam Women's Memorial. As a result, bills by both Senator CRANSTON and DURENBURGER were introduced. This legislation is a product of hard work and compromise. I commend both my friends and their staffs on their willingness to work together and reach an agreement on this important matter.

This statute, in honor and recognition of the 10,000 American women who served in the Vietnam conflict, is long overdue. These brave women clearly deserve to be recognized for their great contributions and sacrifices. A statue in their honor would be a fitting and appropriate tribute.

The Vietnam Women's Memorial project is supported by Secretary of the Interior Donald P. Hodel and every major national veterans organization. Further, the Vietnam Veterans' Memorial Fund, the American Nurses Association and the Association of Operating Room Nurses have all shown their support for this worthwhile memorial.

A statute at the site of the Vietnam Veterans memorial is a way in which we can fully recognize the service and sacrifices that these women gave so unselfishly to their country. I believe that the addition of this statute will successfully complete the memorial by honoring both the men and women who served their Nation during the Vietnam conflict.

Mr. President, it is my hope that with the support of the Congress we can convince all those involved in the authorization process of the memorial that this proposal is a just one. I urge all my colleagues to join me today in cosponsoring this worthwhile legislation.●

By Mr. KERRY (for himself, Mr. LEAHY, and Mr. KENNEDY):

S. 2043. A bill to authorize demonstration projects that provide certain participants in the special supplemental food program with coupons for use at farmers markets; referred to the Committee on Agriculture, Nutrition, and Forestry.

THE FARMER TO FAMILY NUTRITION ENHANCEMENT ACT

Mr. KERRY. Mr. President, I rise to introduce an innovative proposal designed to help out our small farmers while at the same time offering nutritionally at risk mothers, children, and elderly citizens the opportunity to buy inexpensive fresh fruits and vegetables. I am pleased that my colleague from Vermont, Senator LEAHY, the chairman of the Agriculture Committee is sponsoring this legislation with me.

The legislation, which we are introducing today establishes a 3-year demonstration program which will permit participants in the Women Infants and Children Program [WIC] and the Commodity Supplemental Food Program to use special food coupons that are redeemable only at farmers' markets. This idea originated in the States. Massachusetts, Vermont, Connecticut, and Iowa all have similar pilot programs which have proven and successful track records. Mr. President, I cannot think of any better way to enhance our farm economies than by providing low-income citizens with fresh nutritional produce.

My bill is closely modeled after the Massachusetts Farmers Market Coupon Program which has been in operation for two seasons. The returns to farmers in my home State have been impressive. Last year 140 Massachusetts farmers participated, and roughly 20,000 low-income households benefited by redeeming $10 food coupons at one of the Commonwealth's 15 participating farmers' markets. Evidence shows not only that sales at farmers' markets are up, but that the program has cultivated a whole new group of consumers at such markets. It is estimated that last year alone sales increased at farmers' markets participating in the Massachusetts program by roughly 30 percent. Furthermore, not only did WIC and elderly participants redeem their coupons at an extremely high rate, but an average 60 percent had never been to a farmers' market before becoming involved with the program. In addition, individuals participating in the program returned time and time again after they had finished using their coupons and spent their own money on good fresh nutritionally beneficial produce.

The educational importance of the program is truly significant. In Massachusetts for example, through the Expanded Food and Nutritional Education Program, coupon recipients receive counseling and advice on the nutritional value of the fruits and vegetables at farmers' markets. The legislation that we are introducing today also offers States the option to use EFNEP in operating their demonstration project.

Mr. President, my legislation helps the small farmer and assists low-income individuals. Over the past several years small farmers in America have had a tough time staying alive. Bank foreclosures, and farm auctions have plagued the very families who generation after generation tilled this Nation's soil to ensure that food was and is on our tables. The legislation that we are proposing today, will not turn the farm economy around but it offers a little help to a group who could certainly use it.

On another front Mr. President, all across this country we are witnessing an alarming increase of infant mortality and low birth-weight in babies. According to a recent study by the Children's Defense Fund, in 1985 more than 40,000 American babies died before reaching their first birthday while prenatal care for pregnant women decreased significantly. The incidence of infectious childhood diseases is on the rise and the number of children being immunized against diseases has reached a record low for this decade. We do have solutions to address this pervasive problem and Mr. President, the WIC Program is one of them. It has proven its worth in combating the war that threatens the health of our pregnant mothers, infants, and children. This investment is an undeniable sound one, in fact for every dollar spent on WIC $3 are

saved down the road in reduced health costs. But despite its success, the program is grossly under funded. Nationally, only 40 percent of the WIC eligible population is currently being served. Meanwhile, President Reagan has recommended severe cuts in the nutrition programs in every single budget he has ever submitted to Congress. Obviously, as the Reagan policies continue to spawn the largest increase in childhood poverty in over a decade, programs like WIC and the Commodity Supplemental Food Program are needed now more than ever.

Although small, our demonstration program will give to those citizens whose nutrition and health are most at risk, a modest supplement to their current nutrition benefit. The program offers WIC and CSFP participants a $10 to $20 food coupon redeemable at farmers' markets which is in addition to their current food benefits.

Mr. President, in a nut shell, the legislation will require the Secretary of Agriculture to make demonstration grants to seven interested States. The purpose of the program is to expand the public's awareness and use of farmers' markets and to increase the sale of fresh produce at the markets. In addition, the program is designed to provide nutritionally at risk families with inexpensive fresh produce. Grants will go to a State's Governor who will then choose either the State's agriculture or health agency to administer the program. Grantees will provide WIC and CSFP participants with food coupons that can be redeemed at farmers' markets. The Federal cost of the project is $2 million with the States providing a 35 percent match. No Federal grant to a State will exceed $400,000 and there is a small State minimum of $75,000. All money used in the program is in addition to any current Federal nutrition dollars, and cannot be counted as income when determining income eligibility for any other Federal program. No more than 10 percent of the Federal funds can be used to administer the program, and no State or local taxes will be permitted to be collected from the coupons. Coupons will also be redeemed at face value when presented at the farmers' markets. To be eligible, States must serve at least 25 percent of their WIC and CSFP recipients, and after 90 days give a report to the Secretary of Agriculture which outlines the results of the program. The Secretary will in turn report to Congress on the viability of setting up such a program on a national basis.

In short, Mr. President, this legislation represents an innovative approach to tackling an ever pervasive problem facing some truly needy citizens. It is a responsible and effective way to supplement their nutritional needs while providing a small amount of relief to our Nation's farmers. I encourage my colleagues to join with me and Senator LEAHY in supporting this effort.

Mr. President I ask unanimous consent that the text of the bill be printed in the RECORD.

S. 2043

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 "Farmer to Family Nutrition Enhancement Act".

SEC. 2. FARMERS MARKET DEMONSTRATION PROJECT.

(a) IN GENERAL.—The Secretary may pay the Federal share of establishing demonstration projects in seven States that would involve the issuance of farmers market coupons. Such projects shall be designed to—

(1) expand the public's awareness and use of farmers markets to increase the sales of fresh products at such markets; and

(2) provide nutritionally at risk families with inexpensive fresh produce from such markets.

(b) FEDERAL SHARE.—For purposes of subsection (a), the Federal share shall be 65 percent.

(c) ADDITIONAL PROJECTS.—The Secretary shall use funds appropriated to carry out this Act in a fiscal year that are not expended, to pay the Federal share of establishing additional demonstration projects in accordance with this Act in States other than those in which the original seven projects were established.

(d) STATE PLAN.—A State that desires to participate in such a project shall develop a plan for submission to the Secretary. Such a plan shall include a certification by the State that it shall—

(1) issue coupons worth a minimum of $10 and a maximum of $20 per eligible person each year to such a project;

(2) redeem at face value such coupons when presented;

(3) serve at least 25 percent of the recipients under the—

(A) special supplemental food program authorized under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786); and

(B) commodity supplemental food program authorized under sections 3 and 4 of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note);

(4) target the issuance of coupons to areas with the highest concentrations of eligible persons;

(5) target the issuance of coupons to areas with the greatest access to farmers markets; and

(6) consider the coupon a supplement to any other benefits received by an eligible person under the—

(A) special supplemental food program authorized under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786); and

(B) commodity supplemental food program authorized under sections 3 and 4 of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note).

(e) CONSIDERATION OF EXISTING PROGRAMS.—In selecting States to conduct programs under this Act, the Secretary shall ensure that at least three of the States selected have existing programs similar to those authorized under this Act.

(f) USE OF COUPONS.—Coupons issued under this Act may be used at farmers markets to purchase commodities or the products thereof, and shall be redeemed by the State for the value stated on such coupons.

(g) AFFECT ON OTHER PROGRAMS.—The amount of a coupon provided under this Act shall not be considered to be income or resources of an individual for purposes of determining eligibility to participate in, or benefits available under, any other Federal law.

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this Act, $2,000,000 in each of the fiscal years 1989 through 1991.

(i) ALLOCATION FORMULA.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, in the case of each State that is eligible to participate in the program established under this Act during a fiscal year, the Secretary shall allocate funds made available to the State to carry out this Act during the fiscal year on the basis of a formula established by the Secretary that takes into consideration an allocation percentage for the State obtained by dividing—

(A) the number of individuals who the State projects will be served during the fiscal year under the State plan submitted under this Act; by

(B) the number of individuals who the State projects will be served during the fiscal year under the special supplemental food program authorized under this Act.

(2) MINIMUM ALLOCATION.—The minimum amount of funds made available under this Act during a fiscal year shall be $75,000 if—

(A) the State has a population of less than 3,000,000 residents; and

(B) the State plans to make coupons available to a majority of the recipients currently participating in the special supplemental food program and the Commodity Supplemental Food program authorized under this Act.

(3) MAXIMUM ALLOCATION.—The maximum amount of funds made available under this Act during a fiscal year to a State shall be $400,000.

(j) DISTRIBUTION OF FUNDS.—The Secretary shall make the State allotment available to the Governor of such State who shall distribute such funds to either the State department responsible for agriculture or that responsible for public health.

(k) ADMINISTRATION.—

(1) IN GENERAL.—A State shall not use more than 10 percent of the funds allotted to such State under this Act for administrative expenses.

(2) STATE OPTION.—A State that receives funds under this Act may—

(A) be administered in conjunction with the expanded food, nutrition, and education program carried out by the cooperative extension service of the State under sections 1584 through 1588 of the Food Security Act of 1985 (7 U.S.C. 3175a); and

(B) require individuals eligible to receive coupons to participate in such expanded food, nutrition, and education program as a condition of receiving such coupons.

(3) TAXATION.—A State receiving funds under this Act shall ensure that no State or local taxes are collected within the State on the purchase of food with coupons distributed under the State project.

SEC. 3. REPORTS.

(a) STATE REPORT.—Not later than 90 days after the end of each fiscal year in which the State has received a grant under this Act, the State shall prepare and submit to the Secretary a report that—

(1) describes the operation of the project within the State in such fiscal year, including the manner in which coupons were distributed to eligible individuals and redeemed by the State;

(2) specifies the geographical area of the State in which farmers' markets were designated to participate in the project in such fiscal year;

(3) identifies the number and eligibility characteristics of individuals to whom coupons were provided under the project in such fiscal year;

(4) specifies the number of farmers who participate in the project in such fiscal year; and

(5) evaluates the efficiency and effectiveness of the administration of the project by the State in such fiscal year.

(b) REPORT BY SECRETARY.—Not later than 180 days after the end of each fiscal year for which funds are appropriated under this Act, the Secretary shall prepare and submit, to the Committee on Agriculture and the Committee on Education and Labor of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report that—

(1) summarizes and evaluates the information contained in the reports submitted under subsection (a); and

(2) describes the success of the projects in achieving the purposes described in section 1(a).

SEC. 4. DEFINITIONS.

As used in this Act:

(1) ELIGIBLE PERSON.—The term "eligible person" means a person eligible to participate in the—

(A) special supplemental food program authorized under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1876); and

(B) commodity supplemental food program authorized under sections 3 and 4 of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note).

(2) FARMERS' MARKET.—The term "farmers market" means a market place where an eligible person can directly purchase unprocessed food from a farmer or at a stand or area set up for such farmers.

(3) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

By Mr. KERRY:

S. 2044. A bill to require further review by the Federal Communications Commission to ensure thorough deliberation on proposed changes in the method of regulation of interstate basic service rates; referred to the Committee on Commerce, Science, and Transportation.

THE FCC'S PRICE CAP PROPOSAL

● Mr. KERRY. Mr. President, today I am introducing legislation which would impose a moratorium on further action by the Federal Communications Commission relative to Docket No. 87-313, its proposal to eliminate cost-of-service, rate of return regulation for dominant carriers, and replace it with a price cap system of regulation. This same legislation is being introduced today in the House of Representatives by Congressman BRYANT of Texas.

Mr. President, the issue here is one that is extremely complex and will have a direct impact on virtually every consumer and every business in the United States. The changes contemplated by the FCC represent a revolutionary change in the way dominant carriers are regulated, and how they determine interstate basic service rates.

We are all aware, Mr. President, of the enormous changes that have taken place during the past decade in the area of telecommunications. Yet few if any of us are completely sure of the impact of these changes on consumers, and on our economy at large. There have been benefits, of course, but there have also been unexpected costs. It is my opinion that as we move forward and make further changes, we must be extremely cautious, and we must be certain Congress is a full partner in the process.

Unfortunately, in its pending proceeding on the price cap proposal, the FCC is proposing that it undertake an extremely significant change—indeed, a change that some argue is in conflict with its congressional mandate to set rates on a "just and reasonable basis"—without prior notice of exactly what it is proposing, what alternatives have or will be considered, and what weight it plans to accord the various costs and benefits of any new approach.

Under the current rate-of-return, cost-of-service regulatory scheme—which has been in place for decades—dominant carriers like AT&T must submit cost data to the FCC, which then sets prices in a way that allows the company to earn a preestablished rate of return. It's not a perfect system, but at least it provides a visible means of ensuring that telephone companies are allowed to make a fair profit, while ensuring that consumers aren't forced to pay monopoly rents.

If the FCC thinks it has a better idea for regulating dominant carriers they should certainly pursue it; but they should do so in a fashion that is appropriate to the magnitude of the change. A notice of Inquiry should be opened so that relevant data and points of view can be made a part of the public record. Only when the Commission is ready to make a specific proposal—and to present hard evidence that this proposal will yield positive benefits to consumers—should it initiate a rulemaking.

The pending procedure represents an attempt by the FCC to rush headlong into the price caps proposal. They have not considered other alternatives to rate-of-return regulation, nor have they even decided on the scope of the plan they will propose, or on any safeguards that may be included.

Thus, the bill we are introducing today requires the FCC to vacate its current proceedings, and to start anew. I believe this approach demonstrates that while the Congress is ready to consider alternatives to rate-of-return regulation, we are serious about our insistence that consumer interests be safeguarded, and that the burden of proof rests with those who are advocating a change.

Mr. President, it is my hope that the Senate Commerce Committee will hold a hearing on this issue in the near future. At such a hearing we may find that, indeed, there are other ways of ensuring that our substantive and procedural concerns are met. Until then, however, I am convinced that this legislation represents a prudent safeguard.●

By Mr. DOLE (for himself and Mr. GRASSLEY):

S. 2045. A bill to amend the Food Security Act of 1985 to increase the number of acres placed in the conservation reserve program, to protect water quality and wildlife habitat, to otherwise improve the program, and for other purposes; referred to the Committee on Agriculture, Nutrition, and Forestry.

ENVIRONMENT AND CONSERVATION PROGRAM

Mr. DOLE. Mr. President, today Senator GRASSLEY and I are introducing legislation designed to address rural America's concerns with water quality and environmental contamination. The Environmental Conservation Acreage Reserve Program [ECARP] would establish a new and separate long-term reserve, similar to the Conservation Reserve Program [CRP], of up to 20 million acres to target land with potential ground water, surface water, and other environmental and erosion problems.

FARM GROUP SUPPORT

Mr. President, I'm pleased to mention that we have shared the bill with several of the farm commodity groups. The National Corn Growers, the National Pork Producers, the National Association of Wheat Growers and the Fertilizer Institute have all endorsed the concept and direction of the legislation. Further refinements may be necessary, but I believe this is a good starting point and I invite other farm organizations as well as environmental groups to support this initiative.

WATER QUALITY AND THE ENVIRONMENT

Mr. President, the contamination of our Nation's water—whether surface water or ground water—is receiving more and more attention.

Ground water reservoirs, or aquifers, contain nearly 50 times the volume of the Nation's surface waters, constitute 96 percent of all the fresh water in the United States and are the primary drinking water source for one-half of the population, or about 117 million people and supply one-half of the Nation's irrigation water.

Although it is not yet possible to assess the extent of ground water and surface water contamination on a national level, it is a reasonable conclu-

sion that prevention is the best cure. This new reserve will allow the Secretary to meet local and State water quality, soil damage, soil salinity, selenium, siltation and other environmental and natural resource management problems. It would also give us more time to assess and determine the best Federal response to these growing concerns.

PROVISIONS OF ECARP

As acres are enrolled into these long-term reserves [CRP and ECARP], farmers would be able to reduce their obligations under annual set-aside and whole-base bid programs. Acreage reduction efforts would therefore be shifted to a longer term, more cost effective basis. Farmers would give up program payments in return for special bonus payments and annual rental payments. The agribusiness sector would not be faced with the prospect of unlimited increases in idled acres since the total acreage allowable in the long-term reserves would represent 80 percent of all land idled under all Federal commodity and conservation programs.

This bill gives the Secretary of Agriculture authority to address local and regional environmental and erosion problems and it gives farmers greater flexibility in dealing with potentially cumbersome and varying regulations by States and the EPA.

CCC FUNDING

To ensure farmers receive annual rental payments on schedule, the bill provides funding through the Commodity Credit Corporation [CCC]. Some farmers are now hesitant to join multiyear programs given the unpredictability of the appropriations process. If rental payments are late, farmers face burdensome tax consequences from having rental payments bunched with other farm income during the same year.

CONCLUSION

Mr. President, this legislation balances the concerns of farmers, environmentalists, agribusiness men and women and the Federal Government, which is being drawn into an elevated role in protecting our Nation's soil and water resources. By retiring land on a long-term basis we can address erosion and water quality problems and provide for the betterment of wildlife and recreational needs of future generations. I ask unanimous consent that a summary of the bill be included in the RECORD at the conclusion of my remarks.

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

SUMMARY—ENVIRONMENTAL CONSERVATION ACREAGE RESERVE PROGRAM [ECARP]

ECARP—Establishes a new reserve, similar to the Conservation Reserve Program [CRP], to idle 5-20 million acres identified as potentially threatening to the environment. Within one year, Secretary shall begin targeting additional land for long-term retirement based on environmental concerns; water quality, soil damage, soil salinity, siltation, restrictions on pesticide use and problems resulting from cultural practices. Expands the upper limit of the Conservation Reserve Program by an additional 5 million acres.

Incentives—Provides advance payments, and annual rental payments to producers who enroll acreage. Provides bonus payments for producers willing to retire permanently their crop bases and permits enrolled acreage to count against annual set-aside, acreage limitation and whole-base bid programs. Provides funding for reserves through the CCC.

Idled acres—Caps total acreage idled under all Federal commodity and conservation programs by requiring the maximum acres allowable in both long-term reserves to represent at least 80 percent of total U.S. acreage idled.

County impact—Limits decline in the economic activity due to long-term reserves in a country to 25 percent of the level of economic activity prior to initiation of the reserves unless greater economic activity is stimulated.

Local experts—Requires Secretary to consult with local conservation experts and farmers in specifying the timing and nature of practices and types of grasses used for establishing a cover crop.

Resource management—Allows a broader variety of management practices on enrolled land and fosters wildlife management and outdoor recreational uses. Encourages greater tree planting. Encourages that ECARP be used to stimulate rural development.

Bid-back option—Secretary can allow producers to "bid-back" their acreage to crop production if sufficient demand exists. Producers would be able to regain their bases. Provides for a separate $50,000 payment limit for participants enrolled in the ECARP.

Annual reports—Requires the Secretary to report by June 1, 1989 and each subsequent year on status and progress of ECARP. Requires the Secretary to report by June 1, 1989 on status of compliance and implementation of conservation plans as required by the 1985 Farm bill

---

By Mr. DURENBERGER (for himself, Mr. WEICKER, Mr. BIDEN, Mr. LUGAR, and Mr. CHILES):

S. 2046. A bill to amend title XIX of the Social Security Act to provide mandatory coverage for certain low-income pregnant women and infants; to the Committee on Finance.

MEDICAID UNIVERSAL ACCESS TO PRENATAL, MATERNITY, AND INFANT CARE

● Mr. DURENBERGER. Mr. President, I rise today to introduce with Senators WEICKER, BIDEN, LUGAR, and CHILES the Medicaid Universal Access to Prenatal, Maternity, and Infant Care Amendment of 1988. This bill amends title XIX of the Social Security Act to require States to extend Medicaid coverage to all pregnant women and infants up to 1 year of age whose family income falls below the Federal poverty level. This is one case, Mr. President, where the dictates of compassion and fiscal responsibility are in full agreement.

Last year, my distinguished colleague Senator BRADLEY and I introduced a bill that would allow States to enroll pregnant women and children in Medicaid up to 185 percent of the Federal poverty level. That legislation was passed by Congress. The provision becomes effective July 1, 1988, and will greatly increase the opportunities for decreasing infant mortality and improving health for many pregnant women and children.

Under current law, in addition to Medicaid coverage for aid to families with dependent children [AFDC], the Deficit Reduction Act [DEFRA] of 1984 and the Consolidated Omnibus Budget Reconciliation Act [COBRA] of 1985 requires States to provide Medicaid coverage to certain categories of pregnant women and children who meet AFDC income and resource standards. DEFRA required States to provide Medicaid coverage for women who would qualify for AFDC and Medicaid when their children are born and pregnant women in two-parent families where the primary wage earner is unemployed. COBRA, by requiring States to provide Medicaid coverage to pregnant women in two-parent families even when the primary wage earner is employed, further expanded eligibility for women who meet AFDC income and resource standards.

This bill would go the next step and require that all States, at a minimum, provide Medicaid coverage for prenatal care, delivery, postpartum care, and infant care during the first year of life to low income women and infants up to the Federal poverty level.

The time has come for a more comprehensive necessary next phase in this continuing evolution of legislation to decrease infant mortality and expand coverage to poor, uninsured pregnant women and infants.

The responsibility for ensuring the provision of health care for pregnant women and children is fundamental to our basic character as a nation. Of the 3.7 million women that deliver babies each year, 40 percent are unemployed or work only part time and 25 percent are poor. Four out of every 10 mothers have a major health problem during pregnancy, and one in seven had health problems prior to the pregnancy. Every year, about 10 percent of babies are born with major health problems, and 40,000 infants die during the first year of life.

Studies conducted by the Institute of Medicine, U.S. General Accounting Office, the Alan Guttmacher Institute, and many others have substantiated that prenatal care reduces both infant death rates and low birth weight infants. The infant mortality rate is 9.7 per 1,000 live births among infants whose mothers begin prenatal care during the first trimester of pregnancy, and 48.7 per 1,000 live births

for those infants where the mother had no prenatal care. Women who do not have sufficient prenatal care are about twice as likely to have a low birth weight infant. Thirty-four percent of pregnant women get insufficient prenatal care and 47 percent of women who do not receive adequate prenatal care are poor. This is unacceptable for a great nation.

Prenatal care for pregnant women requires different types of services and medical expertise based on pregnancy complications and social need. For example, an unmarried pregnant teenager; in addition, to medical care, may require social services, education in parenting and well child care, nutrition counseling, food supplements, housing, and transportation. Other women may require perinatology consultation, genetic counseling, and delivery in a level three perinatal center. Prenatal care services must be comprehensive, available and tailored to the needs of the individual. An excellent program in Minnesota has demonstrated over a number of years that pregnancy outcomes in a program targeted for high risk women are comparable to all other Minneapolis residents, even though program participants were at very high risk for problems.

Success requires cooperation of health care providers, maternal and child health agencies, social service agencies, regionalization of perinatal services and ready access of these services to all pregnant women. Sixty percent of women on Medicaid, 39 percent of poor women, and 40 percent of teenagers, receive their prenatal care at special publicly funded clinics. Therefore, expansion of Medicaid to all women and children below the Federal poverty level is an expedient way to assure prenatal care, maternity services, and infant care to all low income families.

It has been accepted in this year of great budget pressures that any new program must be cost effective. This program represents a wise investment of public funds.

A newborn infant is already a biologically complete human being with all organ systems functioning and nearly all of the brain cells that he or she will have for the rest of his or her life. Damage or injury to an infant during prenatal life or birth process means a lifetime of mental retardation, epilepsy, cerebral palsy or worse, and a lifetime of expense. Cigarettes, alcohol, drugs, infectious diseases, and maternal illness during pregnancy all have devastating effects on the developing fetus, with lifetime consequences. No child should begin life with problems that are preventable with prenatal care and education.

Of the 51 million women of reproductive age, 41 million have some form of private insurance coverage; however, 5 million have policies that do not cover maternity care and 14.6 million women have no insurance. Pregnant women with no insurance, and no financial support are left with distressing choices. They can quit their job, stop their education, go on welfare, or seek abortion.

Mr. President, this is more than a simple injustice against pregnant women and children. Our future as a nation is at stake. We absolutely must provide better alternatives for the pregnant women of this country, and a real chance for a healthy start in life for all newborns.

Mr. President, I ask unanimous consent that the text of the bill be printed in RECORD.

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

S. 2046

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

SECTION 1. MANDATORY COVERAGE OF MEDICAL ASSISTANCE FOR CERTAIN LOW-INCOME PREGNANT WOMEN AND INFANTS.

(a) IN GENERAL.—Section 1902(a)(10) of the Social Security Act (42 U.S.C. 1396a(a)(10)) is amended—

(1) by striking "and" at the end of subparagraph (D);

(2) by inserting "and" at the end of subparagraph (E); and

(3) by inserting after subparagraph (E) the following new subparagraph:

"(F) for making medical assistance available, including at least the care and services listed in paragraphs (1) through (5) and (17) of section 1905(a), to individuals described in subsection (l)(1);".

(b) ESTABLISHMENT OF INCOME LEVEL.—Section 1902(l)(2) of such Act (42 U.S.C. 1396a(l)(2)) is amended—

(1) in subparagraph (A), by striking "(not more than 100 percent)" and inserting "(not less than 100 percent nor more than 185 percent)"; and

(2) in subparagraph (B), by striking "percent, or, if less, the percentage established under subparagraph (A)" and inserting "percent".

(c) CONFORMING AMENDMENTS.—(1) Section 1902(a)(10) of such Act (42 U.S.C. 1396a(a)(10)) is amended—

(A) in subparagraph (A)(ii), by inserting "or" at the end of subclause (VIII), by striking subclause (IX), and by redesignating subclause (X) as subclause (IX);

(B) in subparagraph (C), by striking "(A) or (E)" in the matter preceding clause (i) and inserting "(A), (E), or (F)"; and

(C) in subdivision (VII) of the matter immediately following subparagraph (F) (as added by subsection (a)), by striking "(A)(ii)(IX)" and inserting "(F)".

(2) Section 1902(e) of such Act (42 U.S.C. 1396a(e)) is amended—

(A) by striking paragraph (6) and inserting the following:

"(6) The State plan may provide that any woman described in subsection (l)(1)(A) (who is eligible for medical assistance only because of subsection (a)(10)(F)) shall be treated as an individual eligible for medical assistance under subsection (a)(10)(F) without regard to any change in income of the family of which she is a member until the end of the 60-day period beginning on the last day of her pregnancy."; and

(B) in paragraph (7)—

(i) in the matter preceding subparagraph (A), by striking "If" and all that follows through "subsection" the second place it appears and inserting "In the case of medical assistance provided under the State plan to a child described in subparagraph (B) or (C) of subsection", and

(ii) in the matter following subparagraph (B), by striking "subsection (a)(10)(A)(ii)(IX) and".

(3) Section 1902(l) of such Act (42 U.S.C. 1396a(l)) is amended—

(A) in paragraph (1)(C), by striking "children" and inserting "at the option of the State, children";

(B) in paragraph (2)(B), by striking ", under subsection (a)(10)(A)(ii)(IX),";

(C) in the matter preceding subparagraph (A) of paragraph (3), by striking "(a)(10)(A)(ii)(IX)" and inserting "(a)(10)(F)"; and

(D) by striking paragraph (4) and inserting the following:

"(4)(A) A State plan may not elect the option of furnishing medical assistance to individuals described in paragraph (1)(C) unless the State has in effect, under its plan established under part A of title IV, payment levels that are not less than the payment levels in effect under its plan on July 1, 1987.

"(B) A State plan may not provide, in furnishing medical assistance to individuals described in paragraph (1), that such individuals must apply for benefits under part A of title IV as a condition of applying for, or receiving, medical assistance under this title.".

(4) Section 1902(m) of such Act (42 U.S.C. 1396a(m)) is amended—

(A) by striking paragraph (3) and inserting:

"(3) A State plan may not provide coverage for individuals under subsection (a)(10)(A)(ii)(IX) or coverage under subsection (a)(10)(E), unless the plan provides coverage for the individuals described in subsection (l)(1)(C).'; and

(B) in the matter preceding subparagraph (A) of paragraph (4), by striking "(a)(10)(A)(ii)(X)" and inserting "(a)(10)(A)(ii)(IX)".

(5) Section 1903(f)(4) of such Act (42 U.S.C. 1396b(f)(4)) is amended in the matter preceding subparagraph (A) by striking "1902(a)(10)(A)(ii)(IX)" and inserting "1902(a)(10)(F)".

(6) Section 1916 of such Act (42 U.S.C. 1396o) is amended—

(A) in the matter preceding paragraph (1) of subsections (a) and (b), by striking "(A) or (E)" each place it appears and inserting "(A), (E), or (F)"; and

(B) in subsection (c)(1), by striking "1902(a)(10)(A)(ii)(IX)" and inserting "1902(a)(10)(F)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to medical assistance furnished on or after July 1, 1988.●

By Mr. THURMOND (for himself, Mr. METZENBAUM, Mr. HARKIN, and Mr. EVANS:

S. 2047. A bill to require a health warning on the labels of all alcoholic beverage containers; to the Committee on Commerce, Science, and Transportation.

ALCOHOL WARNING LABELS

Mr. THURMOND. I rise today to offer legislation to require rotating health warning labels for alcoholic beverage containers. I am pleased to have my distinguished colleagues, Senator METZENBAUM, Senator HARKIN, and Senator EVANS, join me as original cosponsors of this measure.

Last year, I took the opportunity to inform my colleagues of the continuing lack of responsibility on the part of the alcohol beverage industry regarding their advertising practices. Such irresponsibility demands congressional action to counter the adverse effect these practices are having on the Nation.

Mr. President, the Public Health Service recently completed a study on the potential educational effects of health warning labels and concluded that labels can be effective in increasing consumer knowledge and can have an impact on consumer behavior, particularly in combination with other educational initiatives.

Mr. President, health warning labels are an important step to educate the consumer on the potential hazards of alcohol consumption.

The warnings in this measure, which would be placed conspicuously on the beverage containers, would read as follows:

WARNING: The Surgeon General has determined that the consumption of this product, which contains alcohol, during pregnancy can cause mental retardation and other birth defects.

WARNING: Drinking this product, which contains alcohol, impairs your ability to drive a car or operate machinery.

WARNING: This product contains alcohol and is particularly hazardous in combination with some drugs.

WARNING: The consumption of this product, which contains alcohol, can increase the risk of developing hypertension, liver disease and cancer.

WARNING: Alcohol is a drug and may be addictive.

Mr. President, alcoholism and alcohol abuse are recognized as one of our Nation's most serious problems.

To illustrate the extent of alcohol abuse, here are a few relevant examples:

First. The National Institute on Alcohol Abuse and Alcoholism [NIAAA] says that alcohol costs the American economy nearly $120 billion per year in increased medical expenses and decreased productivity.

Second. The NIAAA estimated that 18.3 million Americans are heavy drinkers which is defined as consuming more than 14 drinks per week.

Third. In 1985, over 12 million American adults had one or more symptoms of alcoholism. This represents an increase of 8.2 percent from 1980.

Fourth. Since 1981, the Surgeon General has officially advised women to abstain from drinking during pregnancy. Despite this warning, fetal alcohol syndrome is the third leading cause of birth defects with accompanying mental retardation. It is the only preventable birth defect among the top three. However, a 1985 Government survey revealed that only 57 percent of Americans had even heard of fetal alcohol syndrome.

Fifth. A 1987 HHS report to Congress entitled "Alcohol and Health" cites that nearly one-half of all accidental deaths, suicides and homicides are alcohol related. Nearly half of the convicted jail inmates were under the influence of alcohol when they committed the crime.

Sixth. Alcohol related traffic accidents claim over 18,000 lives each year in the United States.

Seventh. Among teenagers, alcohol abuse has reached epidemic proportions. According to the 1987 HHS report, an estimated 30 percent or 4.6 million adolescents experience negative consequences of alcohol use—such as poor school performance, trouble with parents, or trouble with the law.

Eighth. According to recent statistics, alcohol remains the most widely used drug among American youth.

For many years I have firmly believed in the need for warning labels on alcoholic beverages, and I have introduced this type of legislation before. In fact, I cannot imagine any argument against this legislation which I have not previously heard. More importantly, what I said in support of such legislation in 1979 and in 1981 is just as true today:

If such a warning label deters a potential abuser of alcohol from taking a drink, or prevents a casual drinker from climbing behind the wheel of a car when he has had "one too many", or prevents a pregnant woman from potentially causing harm to her unborn child, then this legislation will be effective and worthwhile.

Mr. President, I'll never forget the letter I received from Mr. Ben Robinson of Alexandria, VA, regarding alcohol labeling legislation. I want to read you a portion of that letter because it briefly, and very persuasively, explains the importance of this bill.

* * * Such a law is very much needed! It probably would not deter veteran drinkers, but for the young still unaddicted it would cause them to think twice before drinking. I speak from sad experience. Just a little over a year ago, August 12, 1984, our family was shocked with the news that our 22-year-old son was dead. From information that we received later in bits and pieces we learned that while camping with two other boys near a fishing pond in West Virginia, they all drank heavily of hard alcohol. Bruce, our son, passed out and never awakened.

The Certificate of Death reads for the cause "acute ethyl alcohol intoxication, and extensive aspiration of stomach contents into tracheobronchial tree." Bruce was a novice to whiskey drinking. He did drink beer in moderation, but I had never known him to drink whiskey—and he and I were close.

I cannot help but think that warning labels carefully written as to consequences would prevent alcohol abuse and deaths among young people.

Within a few weeks after Bruce's death, Paul Harvey in his newscast said alcoholic deaths among the young are not uncommon. He mentioned a young girl who had drunk to excess and gone into a coma. He said that youth are very susceptible to alcohol poisoning and this is especially true when body temperature is low * * *. I wish you success and if there is something I can do to help, let me know.

Mr. President, this legislation will serve to provide individuals with the knowledge necessary to make an informed decision on whether or not to consume alcoholic beverages. Similar to cigarette warning labels, these labels do not create any legal restriction or penalty to those who do not heed the warnings. They merely provide cautionary notice that consumption of the product may entail serious consequences in certain situations.

Mr. President, I have received several letters from organizations endorsing health warning labels on alcoholic beverages. These organizations include the American Medical Association, the American Academy of Pediatrics, the National Council of Alcoholism, the Center for Science in the Public Interest, the General Association of General Baptists, Mothers Against Drunk Driving, the American Council on Alcohol Problems, the National Rainbow Coalition, the National PTA, the Christian Life Commission, the Association for Retarded Citizens, and the National Women's Christian Temperance Union. I ask unanimous consent that a copy of these letters be included in the RECORD, as well as the bill, immediately following these remarks.

I urge my colleagues to support the passage of this vitally important legislation.

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

S. 2047

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) Congress finds that—

(1) the most abused drug in America is alcohol;

(2) alcohol use costs the American economy nearly $120,000,000,000 per year, including increased medical expenses and decreased productivity;

(3) alcohol related traffic accidents claim over 18,000 lives each year in the United States;

(4) over 12,000,000 American adults have one or more symptoms of alcoholism, representing an 8.2 percent increase in problem drinking since 1980;

(5) since 1981, the Surgeon General has officially advised women to abstain from drinking during pregnancy, and despite this warning, fetal alcohol syndrome is the third leading cause of birth defects with accompanying mental retardation;

(6) fetal alcohol syndrome is the only preventable birth defect among the top three types of birth defects in the United States, nevertheless, recent surveys reveal that only

57 percent of Americans have heard of fetal alcohol syndrome;

(7) nearly one-half of all accidental deaths, suicides, and homicides are alcohol related, and nearly half of the convicted jail inmates were under the influence of alcohol when they committed the crime;

(8) among teenagers, alcohol abuse has reached epidemic proportions and an estimated 30 percent or 4,600,000 adolescents experience the negative consequences of alcohol use (such as poor school performance, trouble with parents, or trouble with the law);

(9) in 1986, alcohol remained the most widely used drug among American youth;

(10) the Public Health Service has recently completed a study on the potential educational effects of health warning labels on alcoholic beverages and concluded that such labels can be effective in increasing consumer knowledge and can have an impact on consumer behavior, particularly in combination with other educational initiatives;

(11) the statistics cited in the preceding paragraphs indicate that many Americans are not aware of the adverse effects that the consumption of alcoholic beverages may have on health;

(12) it is necessary to undertake a serious national effort to educate the American people concerning the serious consequences of the consumption of alcoholic beverages; and

(13) warning labels on the containers of alcoholic beverages concerning the effects on the health of individuals resulting from the consumption of such beverages would assist in providing such education.

(b) Title V of the Public Health Service Act is amended by adding at the end thereof the following new part:

"PART D—PUBLIC AWARENESS CONCERNING THE HEALTH EFFECTS OF ALCOHOLIC BEVERAGE CONSUMPTION

"SEC. 550. PUBLIC AWARENESS.

"(a) DEFINITIONS.—For purposes of this section—

"(1) ALCOHOLIC BEVERAGE.—The term 'alcoholic beverage' includes distilled spirits, wine, any drink in liquid form containing wine to which is added concentrated juice or flavoring material and intended for human consumption, and malt beverages.

"(2) COMMERCE.—The term 'commerce' has the same meaning as in section 3(2) of the Federal Cigarette Labeling and Advertising Act.

"(3) CONTAINER.—The term 'container' means any container, irrespective of the material from which made, used in the sale of any alcoholic beverage.

"(4) DISTILLED SPIRITS.—The term 'distilled spirits' means any ethyl alcohol, hydrated oxide of ethyl, spirits of wine, whiskey, rum, brandy, gin, and other distilled spirits, including all dilutions and mixtures thereof, for nonindustrial use.

"(5) MALT BEVERAGE.—The term 'malt beverage' means a beverage made by the alcoholic fermentation of an infusion or decoction, or combination of both, in potable brewing water, of malted barley with hops, or their parts, or their products, and with or without other malted cereals, and with or without the addition of unmalted or prepared cereals, other carbohydrates or products prepared therefrom, and with or without the addition of carbon dioxide, and with or without other wholesome products suitable for human food consumption.

"(6) PERSON.—The term 'person' has the same meaning as in section 3(5) of such Act.

"(7) SALE AND DISTRIBUTION.—The terms 'sale' and 'distribution' include sampling or any other distribution not for sale.

"(8) UNITED STATES.—The term 'United States' has the same meaning as in section 3(3) of such Act.

"(9) WINE.—The term 'wine' has the same meaning as in section 17(a)(6) of the Federal Alcohol Administration Act (27 U.S.C. 211(a)(6)).

"(b) GENERAL RULE.—It shall be unlawful for any person to manufacture, import, distribute, sell, ship, package or deliver for sale, distribution, or shipment, or otherwise introduce in commerce, in the United States, any alcoholic beverage during a calendar year unless the container of such beverage has a label bearing one of the following statements:

"(1) 'WARNING: THE SURGEON GENERAL HAS DETERMINED THAT THE CONSUMPTION OF THIS PRODUCT, WHICH CONTAINS ALCOHOL, DURING PREGNANCY CAN CAUSE MENTAL RETARDATION AND OTHER BIRTH DEFECTS.

"(2) 'WARNING: DRINKING THIS PRODUCT, WHICH CONTAINS ALCOHOL, IMPAIRS YOUR ABILITY TO DRIVE A CAR OR OPERATE MACHINERY.

"(3) 'WARNING: THIS PRODUCT CONTAINS ALCOHOL AND IS PARTICULARLY HAZARDOUS IN COMBINATION WITH SOME DRUGS.

"(4) 'WARNING: THE CONSUMPTION OF THIS PRODUCT, WHICH CONTAINS ALCOHOL, CAN INCREASE THE RISK OF DEVELOPING HYPERTENSION, LIVER DISEASE, AND CANCER.

"(5) 'WARNING: ALCOHOL IS A DRUG AND MAY BE ADDICTIVE.'.

"(c) LOCATION OF LABEL.—The label required by subsection (a) shall be located in a conspicuous and prominent place on the container of a beverage to which such subsection applies. The statement required by such subsection shall appear in conspicuous and legible type in contrast by typography, layout, or color with other printed matter on such container.

"(d) REQUIREMENTS.—Each statement required by subsection (a) shall—

"(1) be randomly displayed by a manufacturer, packager, or importer of an alcoholic beverage in each calendar year in as equal a number of times as is possible on each brand of the beverage; and

"(2) be randomly distributed in all parts of the United States in which such brand is marketed.

"(e) BUREAU OF ALCOHOL TOBACCO AND FIREARMS.—The Bureau of Alcohol Tobacco and Firearms shall—

"(1) have the power to—

"(A) ensure the enforcement of the provisions of this section; and

"(B) issue regulations to carry out this section; and

"(2) consult and coordinate the health awareness efforts of the labeling requirements of this section with the Secretary of Health and Human Services.

"(f) VIOLATIONS.—Any person who violates the provisions of this section shall be guilty of a misdemeanor and shall on conviction thereof be subject to a fine of not more than $10,000.

"(g) JURISDICTION.—The several district courts of the United States are invested with jurisdiction, for cause shown, to prevent and restrain violations of this section upon the application of the Attorney General of the United States acting through the several United States attorneys in their several districts.

"(h) EXEMPTIONS.—Alcoholic beverages manufactured, imported, distributed, sold, shipped, packaged, or delivered for export from the United States, or for delivery to a vessel or aircraft, as supplies, for consumption beyond the jurisdiction of the internal revenue laws of the United States shall be exempt from the requirements of this section, but such exemptions shall not apply to alcoholic beverages manufactured, imported, distributed, sold, shipped, or packaged or delivered for sale, distribution, or shipment to members or units of the Armed Forces of the United States located outside of the United States.

"(i) LIABILITY.—Nothing in this section shall be construed to relieve any person from any liability under Federal or State law to any other person.".

(c) The amendment made by this Act shall become effective 6 months after the date of its enactment.

AMERICAN MEDICAL ASSOCIATION,
Chicago, IL, July 18, 1986.

Re Alcohol, Drug Abuse, and Mental Health Amendments (S. 2595).

Hon. STROM THURMOND,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR THURMOND: The American Medical Association wishes to express its support for the alcohol labeling provisions of the recently introduced "Alcohol, Drug Abuse, and Mental Health Amendments" (S. 2595) that you are sponsoring.

Long-standing AMA policy supports the labeling of alcoholic beverage containers to warn of the various health risks associated with alcohol consumption. Such warning labels will play a necessary role in effectively carrying out the bill's overall intent of increasing the public's knowledge of alcohol-related problems.

We commend you for sponsoring legislation that will address this serious national health problem and look forward to its successful passage in Congress.

Sincerely,

JAMES H. SAMMONS, M.D.,
Executive Vice President.

AMERICAN ACADEMY OF PEDIATRICS,
Elk Grove, IL, April 21, 1986.

Re: Fetal alcohol.

To: Committee on Fetus and Newborn Task Force on Substance Abuse Committee on Genetics.

From: Jean D. Lockhart, MD.

At their April meeting, the Executive Board approved the attached resolution to the AMA, advocating a warning on all alcoholic beverages about use during pregnancy.

This is now Academy policy.

LABELING ALCOHOLIC BEVERAGES WITH STATEMENT ABOUT DANGERS TO THE FETUS

Whereas, the risk to the fetus of excessive alcohol consumption by the pregnant woman is now well established; and

Whereas, drinking alcohol beverages during pregnancy can cause birth defects; and

Whereas, alcohol consumption during pregnancy is casually related to low birth weight babies, small for gestational age babies, and with a variety of adverse fetus outcomes; and

Whereas, the Fetal Alcohol Syndrome is one of the leading known causes of mental retardation; and

Whereas, the general public needs to become more familiar with the risks of drinking alcohol during pregnancy; and

Whereas, this resolution was unanimously passed by the Chapter Chairmen's Forum of the American Academy of Pediatrics; and

Whereas, pregnant women need to be aware of the risks of alcohol consumption very early in the first trimester; therefore be it

Resolved, That pregnant women should be advised to avoid alcohol consumption during pregnancy; and be it further

Resolved, That the American Medical Association support the position of the American Academy of Pediatrics that there be a warning label on all alcoholic beverages, stating that: "Alcohol consumption during pregnancy can be harmful to the unborn baby."

NATIONAL COUNCIL ON ALCOHOLISM INC.,
New York, NY, January 27, 1988.

Hon. STROM THURMOND,
Senate Russell Office Building, U.S. Senate, Washington, DC.

DEAR SENATOR THURMOND: On behalf of the National Council on Alcoholism, I would like to express my strong endorsement of your proposed legislation mandating health and safety warning labels on all alcoholic beverages.

If enacted, this legislation will provide alcohol consumers with concrete information about the association of alcohol consumption with health and safety risks ranging from alcohol-related birth defects and alcohol's contribution to liver disease, hypertension and cancer; to the impairment of driving ability and the danger of combining alcohol with other drugs. The label which identifies alcohol as a drug with addictive potential will help to mitigate against the alarming equation of alcohol with soft drinks and juices so frequently featured in alcohol advertising in both broadcast and print media.

Education has frequently been cited as a key ingredient in any comprehensive strategy to address alcoholism and alcohol-related problems in the nation. Clear and simple labels placed on every container of beverage alcohol every day of the year will keep educational messages about alcohol's effects constantly before the public eye. Public service announcements on radio and television and educational campaigns to combat alcoholism and related problems are of necessity, time-limited. The labeling of alcoholic beverage containers will institutionalize important public health information and cannot help but greatly enhance the public's knowledge regarding health and safety risks attendant on alcohol use.

In a democratic society, consumers have a right to know about the risks associated with the consumption of any given legal product. This information is critical if individuals are to make informed decisions about their use or non-use of alcohol. Alcoholic beverages have long been held harmless from a number of consumer information strategies. In fact, alcohol advertising which glamorizes drinking continues to be the major and most powerful source of information Americans receive about alcohol. Your proposed legislation makes a major contribution to alcohol education for American consumers.

NCA has been on record in support of health and safety warning labels on alcoholic beverages since 1982. In our view, the utilization of this simple, cost-effective and well precedented educational vehicle is long overdue. We have appreciated your leadership on this important alcohol policy measure throughout the last decade. We pledge our unqualified support for all your efforts to make health and safety warning labels on all alcoholic beverages federal public policy during the second session of the 100th Congress.

Please don't hesitate to call on the National Council on Alcoholism and its 200 local and state affiliates throughout the nation for our assistance in helping you to realize this goal.

Sincerely,

THOMAS V. SEESSEL,
President.

CENTER FOR SCIENCE IN THE PUBLIC INTEREST,
Washington, DC, January 22, 1988.

Hon. STROM THURMOND,
U.S. Senate, Washington, DC.

DEAR SENATOR THURMOND: We understand that you will be introducing legislation to require the alcoholic beverage industry to inform consumers about the health risks associated with the consumption of alcoholic beverages.

Our society must adopt a comprehensive approach to reducing alcohol problems. We can reduce alcohol problems. As a starter, we should alert people who choose to drink about the risks. All alcoholic beverages should carry health warning labels, just as bubble bath, cigarettes, and over-the-counter drugs do.

The Center for Science in the Public Interest strongly endorses the rotating health warning label legislation you are proposing. We also appreciate the strong leadership role you have played in bringing this important matter to the attention of the Congress and the American public.

Sincerely,

PATRICIA TAYLOR,
Director, Alcohol Policies Project.

THE GENERAL ASSOCIATION OF GENERAL BAPTISTS,
Poplar Bluff, MO, January 29, 1988.

Senator STROM THURMOND,
Senate Office Building, Washington, DC.

Attention: Kerk Spong.

DEAR SENATOR THURMOND: It is my understanding that you are soon introducing a bill in Congress to require warning labels on alcoholic beverages.

Be assured that such bill would have the support of our fellowship. The General Association of General Baptists continues to view the consumption of alcoholic drinks as the source of many problems of our society. Warning labels on such drinks could be an assist in deterring the use of alcohol as a beverage.

We do encourage you in your efforts to serve in the best interests of our society.

Sincerely,

GLEN O. SPENCE,
Denominations Executive Director.

MOTHERS AGAINST DRUNK DRIVING,
Hurst, TX, February 1, 1988.

Hon. STROM THURMOND,
Russell Senate Office Building, Washington, DC.

DEAR SENATOR THURMOND: The national organization of Mothers Against Drunk Driving continues to strongly support the concept of warning labels on alcohol beverage containers. Specifically, our more than 600,000 members and supporters urge that a warning label be included to alert the public that use of such a product will impair their ability to drive a car or operate machinery. This particular label will make a significant contribution toward educating the public about the risk involved with drinking and driving, as well as dispel any doubt that impairment begins with even the first sip of alcohol.

Each year almost 24,000 persons are killed as a result of alcohol-related driving incidents. An additional 560,000 people are injured, with 43,000 of those seriously or permanently hurt. On average, one person dies every twenty-two minutes—66 people each and everyday—as a result of alcohol-related traffic crashes. In view of these tragic results, MADD is committed to utilizing every means possible to prevent needless added pain and suffering.

It is imperative that individuals be made aware of the imminent danger they face should they choose to drive when consuming alcohol. Alcohol beverage container warning labels would provide an effective reminder of this fact.

Your continued support of legislation to require such labels is to be commended and we respectfully request that your colleagues join with you in this important life-saving effort.

Sincerely,

NORMA PHILLIPS,
National President, Mothers Against Drunk Driving.

AMERICAN COUNCIL ON ALCOHOL PROBLEMS,
Bridgeton, MO, January 29, 1988

Hon. STROM THURMOND,
Senate Office Building, Washington, DC.

DEAR SENATOR THURMOND: I understand that you intend to introduce legislation on February 3 that will mandate five different, rotating warning labels on alcoholic beverage containers.

Let me assure you of the enthusiastic, whole-hearted support of the American Council on Alcohol Problems and its constituency in the 31 states that make up its membership.

The absence of warning labels on alcoholic beverage containers is one of the major concerns of this organization. We will cooperate with you in every way to assure the passage of the legislation you are about to introduce.

Respectfully,

CURT C. SCARBORUGH, Ph.D.,
Executive Director.

NATIONAL RAINBOW COALITION, INC.,
Washington, DC., July 9, 1986.

Senator STROM THURMOND, Sr.,
Russell Building, Washington, DC.

DEAR SENATOR THURMOND: I wanted to write you to congratulate you on your stand—and to lend my support—for the position and the legislation requiring warning labels on alcoholic beverages.

In fact, you argued the case so well in the paper that your article ought to constitute the warning label. The information you gave was both informative and startling—exactly what a warning label should do.

If there is anything further that I or the National Rainbow Coalition can do to support your efforts to get warning labels on alcoholic beverages please do not hesitate to call upon us.

Sincerely,

REV. JESSE L. JACKSON,
President.

P.S.—Enclosed is the eulogy that I preached at Don Rogers funeral in Sacramento last Thursday, July 3. It's on the related subject of drug abuse.

THE NATIONAL PTA,
Chicago, IL, February 1, 1988.

Senator STROM THURMOND,
Russell Building, Washington, DC.

DEAR SENATOR THURMOND: The National PTA would like to extend our support to your efforts in enacting legislation that would require warning labels on alcoholic beverages.

As you know, alcohol is the most widely used and abused drug in our society. Yet, a 1983 National Weekly Reader Survey on Drugs and Alcohol noted that only 42 percent of fourth graders realized that alcohol was a drug compared to 81 percent who considered marijuana a drug, and the percentage of students recognizing alcohol as a drug decreased with age, to 28 percent, in the upper grades.

The public is not sufficiently aware of the danger of alcohol abuse or the short and long term effects of alcohol on their physical and mental health. Alcohol contributes to several fatal diseases, including cardiac myopathy, hypertension and stroke, pneumonia, several types of cancer and liver disease. As a poison, alcohol is second only to carbon monoxide as the substance directly responsible for the most unintentional poisoning deaths in the U.S. In addition, alcohol-related highway deaths are the number one killer of 15-24 year olds. In 1985, 52 percent of the 43,800 highway fatalities were alcohol related.

Health warning labels will serve important informational and educational functions. Labeling of all alcoholic beverages will highlight specific information about alcohol use and health effects. The glamorization and normalization of drinking promoted yearly, in a $1.3 billion advertising campaign, will be countered through warning labels on all alcoholic beverages. And finally, warning labels will reinforce school-based alcohol prevention and education programs.

We applaud your tireless effort to help educate the public to alcohol related problems. We hope that this year the health and safety of our nation's citizens takes priority over special interest concerns, and that legislation mandating health warning labels on alcoholic beverage containers be enacted.

Sincerely,

MILLIE WATERMAN,
Vice-President for Legislative Activity.

THE CHRISTIAN LIFE COMMISSION OF THE SOUTHERN BAPTIST CONVENTION,
Nashville, TN, February 2, 1988.

Hon. STROM THURMOND,
Russell Senate Office Building, Washington, DC.

DEAR SENATOR THURMOND: I am writing to support proposed federal legislation to require a system of warning labels for beverage alcohol containers. As the Executive Director of the Christian Life Commission, the ethics and public policy agency of the Southern Baptist Convention's 15.5 million members and 37,000 churches, I applaud your effort to bring to pass this long-overdue requirement of "truth disclosure." It is shocking, in an era when so much attention has been directed to truth in advertising, product liability, and consumer affairs, that minimal standards of disclosure of the contents and effects of beverage alcohol are still nonexistent.

Beverage alcohol is America's most consumed drug. Not all of the social ills related to beverage alcohol can be remedied by legislative means. But a variety of legislative measures could help greatly in dealing with some of those social ills. Fetal alcohol syndrome and drunk driving are but two of those ills. Labeling legislation, which would require the industry to do what it should have long-since done voluntarily, would be an important step in heightening public awareness of the dangers of the use of beverage alcohol.

It is not too much to ask those in the beverage alcohol business to warn their customers that alcohol consumption constitutes a danger for drivers, since approximately 18,000 people die in alcohol-related events each year.

It is not too much to ask those in the beverge alcohol business to warn their customers that alcohol consumption during pregnancy creates a serious threat of birth defect and mental retardation in the infant. Fetal alcohol syndrome is one of the leading causes of birth defects and the only one which is preventable.

It is not too much to ask those in the beverage alcohol business to warn their consumers that beverage alcohol consumption can be a major health problem, since alcohol costs our economy over $100 billion annually in medical expenses and decreased productivity.

It is not too much to ask those in the beverage alcohol business to warn their consumers that beverage alcohol consumption contributes to approximately one-half of the accidental deaths, suicides and homicides.

I am enclosing a copy of a resolution adopted at the 1987 annual meeting of the Southern Baptist Convention. This resolution identifies labeling legislation as a major priority in dealing with the social problems related to beverage alcohol consumption.

As hearings on this legislation are scheduled, I would request the assistance of your office in notifying us. We would request the opportunity of presenting testimony in support of labeling legislation.

Sincerely,

N. LARRY BAKER,
Executive Director.

ASSOCIATION FOR RETARDED CITIZENS OF THE UNITED STATES,
Arlington, TX, February 3, 1988.

Hon. STROM THURMOND,
U.S. Senate, Senate Russell Office Building, Washington, DC.

DEAR SENATOR THURMOND: On behalf of the 160,000 members of the Association for Retarded Citizens of the United States, I wish to commend you and the other Senate cosponsors for your introduction of legislation to mandate health and safety warning labels on all alcoholic beverages. Our members, the majority of whom are parents of persons with mental retardation, have been seeking such legislation for some time. As you are keenly aware, fetal alcohol syndrome is a leading and preventable cause of mental retardation.

We are particularly pleased that your proposed bill will require one of the warning labels to be affixed to beer, wine and distilled spirits containers to state that consumption of alcohol during pregnancy can cause mental retardation. Such a label, providing high exposure of this problem to the general public, is expected to be extremely helpful in preventing mental retardation caused by fetal alcohol syndrome.

The ARC strongly endorses this legislation and urges its prompt enactment.

Sincerely yours,

V.K. "WARREN" TASHJIAN,
President.

NATIONAL WOMAN'S CHRISTIAN TEMPERANCE UNION,
Evanston, IL, January 30, 1988.

Senator STROM THURMOND,
Senate Office Building, Washington, DC.

DEAR SENATOR THURMOND: The members of the National Woman's Christian Temperance Union are in favor of your bill being introduced in the Senate requiring labels on all containers of alcoholic beverages.

For over 100 years our organization has endeavored by various means to educate our citizens, especially our children, on the harmful effects of beverage alcohol, other narcotic drugs and tobacco, not only on the human body but also on society as well.

I am writing to encourage you to introduce this legislation mentioned above and to let you know that we support you in it.

Sincerely,

MRS. KERMIT S. EDGAR,
National President.

By Mr. KARNES:

S. 2048. A bill to amend the Railroad Retirement Act of 1974 and the Railroad Unemployment Insurance Act to provide for the removal of the trust funds established by those acts from the unified budget, and for other purposes; pursuant to the order of August 7, 1977, referred jointly to the Committee on the Budget and the Committee on Governmental Affairs.

LEGISLATION TO REMOVE THE RAILROAD RETIREMENT SYSTEM FROM THE UNIFIED FEDERAL BUDGET

● Mr. KARNES. Mr. President, we have seen it before—the Federal Government attempting to pull the rug out from under our railroad retirees.

Recently, during the Congress' annual budget reconciliation discussions, attacks were once again leveled against the federally managed Railroad Retirement Program. The proposal? To withhold cost-of-living adjustments—more commonly referred to as COLA's—as a means of cutting the fiscal year 1988 budget deficit. I believe this concept is simply unacceptable.

The railroad retirement system is merely managed, and not funded, by the Federal Government. Therefore, not only is it illogical to believe withholding railroad retirement COLAs will actually save Federal dollars; but it is also factually incorrect.

Now, it is true that we supporters of the railroad retirement system were ultimately successful in thwarting this most recent attack on railroad retirees. However, we cannot afford to let the issue go at that. Because this ridiculous maneuver has been attempted again and again in recent years, our railroad retirees have faced an undue fiscal threat and, in one or two instances, financial losses. Therefore,

today I am introducing legislation that will contribute significantly to our efforts to prevent such congressional meddling in the future.

Specifically, my legislation will remove the railroad retirement trust fund from the unified budget. By doing so, the account will become more autonomous, thus making it less susceptible to the type of abuse that has become all too familiar. No longer will railroad retirees see their fund and their COLAs whipsawed by the bizarre budget process in Congress.

My legislation is a companion to H.R. 2229, introduced earlier in this Congress by Representative HARLEY STAGGERS. We cannot stress enough the importance of acting on this legislation during the remainder of this Congress. Railroad retirees need, want and deserve this legislation and we are committed to building the momentum that will be necessary to ensure its passage.

Mr. President, in recent years, railroad retirees have been asked to endure so much. Isn't it time we helped them out in their hour of need? I urge each of our colleagues to support this important and appropriate measure.●

By Mr. CRANSTON (for himself, Mr. MURKOWSKI, Mr. BENTSEN, and Mr. GRAMM):

S. 2049. A bill to establish an independent national Commission on the Veterans' Administration Home Loan Guaranty Program; to amend title 38, United States Code, to authorize reductions in the interest rate on loans made by the Veterans' Administration to finance the sales of properties acquired by the Veterans' Administration as the result of foreclosures, and to establish creditworthiness requirements for assumptions of Veterans' Administration vendee loans; and for other purposes; referred to the Committee on Veterans' Affairs.

VETERANS' HOME LOAN PROGRAM IMPROVEMENTS ACT

Mr. CRANSTON. Mr. President, as chairman of the Committee on Veterans' Affairs, I am pleased to introduce, along with the ranking minority member of the committee, Senator MURKOWSKI, and Senators BENTSEN and GRAMM, S. 2049, the proposed "Veterans Home Loan Program Improvements Act of 1988".

Before commenting on the provisions of the bill, I would like to express my appreciation to Senator MURKOWSKI for his many contributions to this legislation and the fine cooperation he has shown in working on this measure on an expedited basis at the beginning of the session. I am delighted that this bill is a result of our continued united, bipartisan effort to improve the VA Home Loan Guaranty Program, as was S. 2022, which we introduced and the Senate passed on February 1 to make certain technical corrections in the Veterans' Home Loan Program Improvements and Property Rehabilitation Act of 1987, enacted on December 21, 1987 (Public Law 100-198).

BACKGROUND

The VA Home Loan Guaranty Program, established by the Servicemen's Readjustment Act of 1944, Public Law 346, 78th Congress, was originally designed to assist veterans returning home from World War II who, due to their military service, had been unable to establish the credit history necessary to obtain a home mortgage. Since 1944, the program has guaranteed loans totaling more than $300 billion, helping more than 12.7 million veterans to purchase homes. In fiscal year 1987, the VA guaranteed 479,491 home loans totaling a record $34.9 billion.

Traditionally, for the vast majority of VA-guaranteed loans the cost to the Government of providing the guaranty has been quite small and the benefit to veterans and to society quite significant. Through fiscal year 1986, 7.5 million guaranteed loans, totaling $102.7 billion, have been paid in full. From its inception in 1944 until 1961, the Home Loan Guaranty Program was funded through appropriations which totaled only $730 million to the VA's readjustment benefits account. That's an average of $42.9 million per year for the 5.6 million loans made during those 17 years.

However, as a result of the downturn in certain areas of the economy in recent years, high default and foreclosure rates on properties guaranteed by VA loans, coupled with a large VA inventory of foreclosed homes acquired at liquidation sales, have threatened the viability of the program by substantially increasing program costs. Indeed, a total of $706.6 million in appropriations had to be made to the Home Loan Program in the past 5 fiscal years alone.

Mr. President, these program costs parallel the increasing debt which veterans have incurred through the foreclosure of homes purchased with VA-guaranteed loans. For the sake of both the veterans using or wishing to use their home loan benefits, as well as the program itself, I concluded early last year that action was needed to try to determine the reason for the great increase in program costs and to take steps to minimize them.

Accordingly, in 1987, I, along with Senator MURKOWSKI, developed S. 1801, which became the most comprehensive VA Home Loan Program legislation which our committee ever reported. Major provisions of the bill—as enacted in the Senate-House compromise agreement on H.R. 2672 on December 21, 1917—provide direction for significant steps to improve the financial solvency of the VA Home Loan Program and reduce its dependency on taxpayer's funds while also improving the program benefits available to veterans and maintaining the basic purposes of the program.

Nevertheless, last year's effort, historic and significant though it was, has not completed our work in this area. For fiscal year 1987, the program needed supplemental appropriations of $100 million, and I understand that the supplemental amount needed for fiscal year 1988 is likely to be far greater than the $389.8 million we appropriated to the loan guaranty revolving fund in the continuing resolution for fiscal year 1988, Public Law 100-203 on December 22, 1987. Economic factors beyond the direct control of the VA Program are responsible for much of the increase in foreclosures and program costs. But we must find further ways to reduce the impact that such factors are having on the program and on our Nation's veterans. We also need, to the greatest extent possible, to build in increased program protections to help minimize the impact of economic depression, such as has occurred in States where oil production plays an important role in the economy and which could strike any area of the country.

Mr. President, on Monday, I, along with Senators MURKOWSKI, BENTSEN, and GRAMM, introduced S. 2022, the proposed "Veterans Home Loan Program Emergency Amendments of 1988," which was passed by the Senate that day and for which we are seeking comparable expedited action on the House side. That bill would make changes to certain home loan provisions recently enacted in Public Law 100-198—relating to the 5-percent downpayment on vendee loans and the calculation of remaining guaranty entitlement, as well as certain technical amendments—to ensure that the improvements made by that law do not have the unintended effect of hindering VA property disposition efforts in certain areas and reducing the amount of guaranty entitlements which should be available to certain veterans. The provisions of that bill are described in my statement on it beginning on page S 364 of the RECORD for February 1.

S. 2022 was introduced separately because of the urgent nature of the changes it would make. However, I hope that the bill we are introducing today also will proceed swiftly toward enactment. To that end, I intend to include it at the Committee on Veterans' Affairs February 25 hearing on the VA budget and at its March 3 markup.

INDEPENDENT COMMISSION ON VA HOME LOAN PROGRAM

Mr. President, after reflecting on the current state of the VA Home Loan Program, following staff field inspections carried out last month, Senator MURKOWSKI and I have concluded that a new approach and perspective

are needed to try to come to grips with some of the difficulties affecting the program.

Section 2 of our bill proposes this new direction by providing for the creation of an independent Commission on the Veterans' Administration Home Loan Guaranty Program. This Commission would be charged with carefully assessing the status of the program, analyzing the problems—particularly the recent program-cost and foreclosure-rate increases—the program currently is facing, evaluating possible solutions to those problems, and recommending changes to improve the financial stability and solvency of the program and the benefits and service offered to veterans. The Commission would be modeled after the Commission on Veterans' Education Policy, established by section 320 of the Veterans' Benefits Improvement and Health-Care Authorization Act of 1986, Public Law 99-576, which was created and is currently carrying out its statutory mandate to assess VA educational assistance programs.

Under the bill, the Administrator of Veterans' Affairs, in consultation with the chairmen and ranking minority members of the Senate and House Veterans' Affairs Committees—each of whom, as well as the Administrator, or their designees, would participate in the Commission's study and deliberations as nonvoting, ex officio members—would select the nine voting members of the Commission. These nine members, none of whom could be Federal Government employees at the time of their appointments, would be chosen on the basis of their knowledge of the Home Loan Program and general experience and knowledge relating to the mission of the Commission. Four members would be chosen specifically because of their expertise in the housing, home loan, real estate and related fields relevant to the program. Five of the members would be representative of, first, the general public and would be selected from academic and commercial enterprises based on their knowledge and experience in areas pertinent to the work of the Commission and, second, the veterans' service organizations.

The combined expertise of representatives from the various industries to which I just referred, each of which plays a vital role in the Home Loan Program, as well as of representatives of the veterans who use the program, and the perspective of the public members will allow for a comprehensive, indepth examination of the program. Two employees who work in the loan guaranty division of a VA regional office also would be selected to be ex officio members of the Commission, to ensure that it has the viewpoint of those who are best able to see what is happening in the field.

Additionally, in order to evaluate the desirability and feasibility of coordinating certain VA policies—both statutory and adminstrative—and practices—especially in the areas of the acquisition, management, and disposition of foreclosed properties—with those of other Federal Government and Government-sponsored entities, such as the Federal Housing Administration and the Federal National Mortgage Corporation, representatives of such entities would—and similar entities could, at the Administrator's discretion—be represented on the Commission in an ex officio capacity.

The Commission would have 1 year to submit to the Administrator of Veterans' Affairs and the committees a report on its findings and recommendations. The Administrator would then be required to evaluate that report and, after consultation with the Commission, submit his views on its recommendations to the committees. To ensure that the Commission's recommendations are given serious consideration by the Administrator and, where appropriate, implemented, the Administrator would be required to submit to the Congress a followup report 6 months after the Commission's report, on the actions taken with respect to the recommendations of the Commission and any further recommendations which the Administrator considers appropriate.

Mr. President, I believe that the present state of the Home Loan Program requires the intensive, focused, objective scrutiny—removed from the day-to-day pressures of politics and program administration—that an independent national Commission of experts can provide. Their expertise, insights, and advice can aid us in our efforts to ensure that economic downturns at either the national or local level do not reduce the opportunities for veterans to use the home loan program benefits they have earned in service to our country.

INTEREST RATE ON VENDEE LOANS

Mr. President, section 3 of our bill would require the VA to offer an interest rate for vendee loans which is lower than the prevailing mortgage market interest rate where and to the extent the Administrator determines, in light of prevailing conditions in the real estate market involved, that the lower interest rate is necessary in order to market the property competitively and is in the interest of the long-term stability and solvency of the loan guaranty revolving fund.

As I noted in my floor statement on S. 2022 on February 1, in certain areas of the country, competition among sellers of foreclosed properties has led many of them to offer sales inducements in the form of advantageous financing terms. In Houston, for example, many sellers are offering below-market interest rate loans. Sellers who are not themselves lenders will often buy down the interest rate on the loan—that is, provide a subsidy of the monthly mortgage payment sufficient to correspond to a substantial reduction in the interest rate. In such a market, the VA must have effective sales tools available if it is to reduce an inventory of properties which had grown from 8,977 in fiscal year 1980 to 22,584 by the end of fiscal year 1987.

Of course, while lower-interest-rate loans may be necessary to sell properties in some areas, they also reduce the VA's income over the term of the loan. Additionally, the lower yield provided by such loans reduces their attractiveness to buyers in the secondary market. Therefore, our bill calls for below-market interest rates to be offered only when that would be in the interest of the solvency of the fund—that is, when the costs associated with lowering the interest rate would be less than the cost of either reducing the purchase price of the property or of continuing to hold and maintain the property.

ASSUMPTIONS OF VENDEE LOANS

Mr. President, section 4 of our bill would extend the creditworthiness requirements applicable to VA-guaranteed loans—recently enacted in Public Law 100-198—to vendee loans.

Last session, along with Senator MURKOWSKI, I introduced in S. 1801, a provision—which, as modified, became part of the compromise agreement enacted in Public Law 100-198—to require generally that, before a VA-guaranteed loan could be assumed by the buyer of a veteran's home, the creditworthiness of the assumptor be established. Sale of the property without approval of the assumption based on the creditworthiness of the buyer would cause the loan to become due and payable in full. For a more detailed description of this provision, I would refer my colleagues to my statement during the debate on Senate passage of the compromise agreement on H.R. 2672, beginning on page S 17388 of the RECORD for December 4.

Previously, there had been no restrictions on the assumption of VA-guaranteed loans, as is still the case with respect to vendee loans. In contrast to conventional loans, which generally cannot be assumed, the purchaser of the veteran's home had been able to assume the veteran's loan without undergoing a credit check or meeting any underwriting criteria. Although the free assumability of a loan may make it easier for a homeowner to resell, it also can enable persons to buy a home even though their creditworthiness would not otherwise allow them to achieve homeownership. Such persons obviously generally are more likely to default on the loans, resulting in the VA acquiring more foreclosed properties and incurring addi-

tional expense. Easy assumability also has fostered abuses such as equity skimming.

The potential abuses resulting from the free assumability of loans are as applicable to vendee loans as they have been to VA-guaranteed loans. Accordingly, in order to reduce foreclosures on vendee loans, our bill would extend to persons assuming vendee loans the restrictions on assumability just made applicable to persons who buy homes and assume VA-guaranteed loans from veterans. I believe that this extension would be equitable as well as in the interest of the solvency of the Home Loan Program. The .5-percent fee which that law imposed on buyers who assume VA-guaranteed loans also would be imposed on buyers who assume vendee loans.

After the enactment of these new creditworthiness and fee requirements for assumptions of VA vendee loans, those loans should still provide attractive means of financing—and thus incentives for buying—VA foreclosed properties as compared to conventional financing, since the VA interest rate generally will be lower and the VA credit-underwriting requirements, more flexible. As I have previously noted, section 3 of our bill would also enable the VA to make vendee loans even more attractive, where necessary for competitive purposes, by offering the additional incentive of a below-market interest rate. Section 2 of S. 2022 additionally would allow for the Administrator, when and to the extent necessary to competitively market foreclosed properties, to offer vendee loans with no downpayment or a downpayment at less than 5 percent.

CONCLUSION

Mr. President, I believe it is not realistic to expect that a benefits program such as the Home Loan Guaranty Program will incur no costs. Certainly, however, when the cost of such a program increases significantly, it is essential that a close, objective examination be carried out to determine the reasons for the increase and find ways to minimize program costs. At the same time, I do not support changing the fundamental nature of the Loan Guaranty Benefits Program by either drastically curtailing it or insisting that it must be paid for in full by those seeking to use it.

As I indicated, I plan to seek rapid action on this legislation by the Veterans' Affairs Committee and the Senate. Thereafter, I intend to work closely with the leadership on the House Veterans' Affairs Committee to reach agreement on this bill as quickly as possible. I believe that we must ensure that the dream of American home ownership which the Home Loan Program provides remains available to our veterans.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD at this point.

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

S. 2049

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 "Veterans' Home Loan Program Improvements Act of 1988".

SEC. 2. INDEPENDENT COMMISSION TO ASSESS THE VETERANS' ADMINISTRATION HOME LOAN GUARANTY PROGRAM.

(a) ESTABLISHMENT AND MEMBERS.—(1) There is established an independent Commission on the Veterans' Administration Home Loan Guaranty Program (hereafter in this section referred to as the "Commission") to assess the Veterans' Administration home loan guaranty program under chapter 37 of title 38, United States Code.

(2)(A) The Commission shall consist of 9 voting members, none of whom may at the time of appointment be employees of the Federal Government and who shall be appointed, not later than April 30, 1988, by the Administrator of Veterans' Affairs in consultation with the chairman and ranking minority members of the Committees on Veterans' Affairs of the Senate and of the House of Representatives (hereafter in this section referred to as "the Committees").

(B)(i) Four members of the Commission—

(I) shall be broadly representative of the housing, home loan, and real estate and related industries, including real estate agents, mortgage bankers and other lending institutions which make Veterans' Administration-guaranteed loans, home builders, appraisers, and holders and servicers of Veterans' Administration-guaranteed loans; and

(II) shall be selected on the basis of their knowledge of and experience in the housing, home loan, and real estate and related industries and the Veterans' Administration home loan guaranty program.

(ii) Five members shall be representative of (I) the general public (and not be affiliated in any way with the interests described in subdivision (i)) and shall be selected from academic and commercial enterprises based on their knowledge and experience in areas pertinent to the work of the Commission and (II) veterans' service organizations. Not less than three of such five members shall be selected as representatives of the general public pursuant to clause (I).

(3)(A) The Administrator of Veterans' Affairs, the chairmen and ranking minority members of the Committees, the Commissioner of the Federal Housing Administration and the Chairman of the Federal National Mortgage Association (or, in the case of any such individual, a designee of such individual) shall be ex officio, nonvoting members of the Commission.

(B) The Administration shall designate two employees of the Veterans' Administration serving in loan guaranty divisions in Veterans' Administration regional offices as ex officio nonvoting members of the Commission and may designate additional ex officio nonvoting members from other Federal government agencies or government-sponsored entities.

(4) (A) The Administrator shall designate to chair the Commission a member from among the voting members of the Commission who is appointed pursuant to paragraph (2)(B)(ii).

(B) The chairman of the Commission, with the concurrence of the Commission, shall appoint an executive director, who may not at the time of appointment be an employee of the Veterans' Administration and who shall be the chief executive officer of the Commission and shall perform such duties as are prescribed by the Commission.

(C) The Administrator shall furnish the Commission with such professional, technical, and clerical staff and services and administrative support as the Commission determines necessary for it to carry out the provisions of this section effectively.

(b) FIRST REPORT.—(1) Not later than 12 months after the date on which at least five members of the Commission have been appointed, the Commission shall submit to the Administrator and the Committees a report on the Commission's findings and recommendations on the matters described in paragraph (2).

(2) The report required by paragraph (1) shall include the Commission's findings, views, and recommendations on the following matters:

(A) Ways to reduce default and foreclosure rates on Veterans' Administration home loans made or guaranteed under chapter 37 of title 38, United States Code.

(B) Ways to minimize Veterans' Administration property acquisition, management, and disposition costs resulting from foreclosures on such loans.

(C) The management and disposition of loans made by the Veterans' Administration to finance the sale of properties acquired by the Veterans' Administration as the result of such foreclosures.

(D) The causes of increases in the 10 years preceding the enactment of this Act in Veterans' Administration home loan guaranty program costs and ways to reduce such costs.

(E) Ways to improve the solvency of the Veterans' Administration's Loan Guaranty Revolving Fund.

(F) The need for improvement of program benefits and assistance to veterans participating or desiring to participate in the home loan guaranty program.

(G) The desirability and feasibility of coordinating Veterans' Administration policies (both statutory and administrative) and practices, particularly in the areas of property acquisition, management, and disposition, with the policies and practices of other Federal government agencies and government-sponsored entities.

(H) Such other matters relating to the administration of chapter 37 of title 38, United States Code, by the Veterans' Administration as (i) the Commission considers appropriate, or (ii) are suggested by the Administrator or, concurrently, by the chairmen and ranking minority members of the Committees.

(c) ADMINISTRATOR'S INTERIM AND FINAL REPORTS.—(1) Not later than 2 months after the date on which the Commission's report is submitted under subsection (b), the Administrator, after consultation with the Commission, shall submit an interim report to the Committees. The interim report shall contain—

(A) the Administrator's views on the desirability, feasibility, and cost of implementing each of the Commission's recommendations, and the actions taken or planned with respect to the implementation of each such recommendation;

(B)(i) the Administrator's views on any legislation or regulations proposed by the Commission, (ii) the Administrator's views on the need for any alternative or additional legislation or regulations to implement the Commission's recommendations, (iii) the Administrator's recommendations for any such alternative or additional legislation, (iv) the proposed text of any regulations referred to in subclause (i) or (ii) which the Administrator considers necessary and the proposed text of any legislation referred to in such subclause which is recommended by the Administrator, and (v) a cost estimate for the implementation of any regulations and legislation referred to in such subclause; and

(C) any other proposals that the Administrator considers appropriate in light of the Commission's report.

(2) Not later than 6 months after the date on which the Commission's report is submitted under subsection (b), the Administrator shall submit a final report to the Committees. The final report shall include the actions taken with respect to the recommendations of the Commission and any further recommendations the Administrator considers appropriate.

(d) TERMINATION.—The Commission shall terminate 90 days after the date on which the Administrator submits the final report required by subsection (c)(2).

SEC. 3. INTEREST RATE REQUIREMENTS FOR VENDEE LOANS.

Section 1816(d) of title 38, United States Code, is amended by adding at the end the following new paragraph:

"(7) The Administrator shall make a loan to finance the sale of real property described in paragraph (1) of this subsection at an interest rate that is lower than the prevailing mortgage market interest rate in areas where, and to the extent, the Administrator determines, in light of prevailing conditions in the real estate market involved, that such lower interest rate is necessary in order to market the property competitively and is in the interest of the long-term stability and solvency of the Veterans' Administration Loan Guaranty Revolving Fund established by section 1824(a) of this title.".

SEC. 4. CREDITWORTHINESS DETERMINATION WITH RESPECT TO ASSUMPTION OF VENDEE LOAN.

Section 1817A of title 38, United States Code, is amended—

(1) in subsection (a)(1), in the matter preceding clause (A), by striking out "guaranteed, insured, or direct housing loan obtained by a veteran" and inserting in lieu thereof "loan guaranteed, insured, or made"; and

(2) by amending subsection (f) to read as follows:

"(f) This section shall apply—

"(1) in the case of loans other than loans to finance the purchase of real property described in section 1816(d)(1) of this title, only to loans for which commitments are made on or after March 1, 1988; and

"(2) in the case of loans to finance the purchase of such property, only to loans which are closed on or after April 15, 1988.".

● Mr. MURKOWSKI. Mr. President, I am pleased to join today with the chairman of the Committee on Veterans' Affairs, Senator CRANSTON, in introducing bipartisan legislation which would:

First, establish an independent commission to recommend reforms in the Veterans' Administration Home Loan Guaranty Program;

Second, require the VA to use below-market rate financing when financing the sale of VA-owned homes if such a rate is necessary to competitively market the properties and is in the long-term financial interest of the program; and

Third, require evaluation of the creditworthiness of the buyer when a VA vendee loan is assumed. Vendee loans are VA financing of the sale of homes acquired by the VA as the result of foreclosure on the original VA guaranteed loan.

Mr. President, I am introducing this legislation because the VA Home Loan Guaranty Program is a vital facet of the benefits the Congress provides to those who have served in our Armed Forces. It is important not only to home-buying veterans, but also to all segments of the housing industry which serves them.

A quick estimate of the impact of the program on our society and our economy can be inferred from the fact that the VA has guaranteed over 12 million home loans. Unfortunately, another measure of the impact of the program can be derived from the billions of dollars the Congress has had to appropriate over the past decade to sustain the solvency of this once self-supporting program.

I am terribly concerned that the VA has a record high and still increasing inventory of foreclosed homes. This ever increasing inventory of homes which the VA must sell has a very damaging impact on the VA Home Loan Program and the economy. It leads to enormous losses. It leads to auctions in which the VA disposes of homes at rock-bottom prices.

In at least one area it has led to blocks of boarded up VA-owned homes. These homes are unoccupied, unmaintained, and are steadily losing value due to physical deterioration; even if they are not vandalized and stripped, as they often are.

The Congress, which sometimes engages in micromanagement of the VA and sometimes limits the VA's ability to manage its resources, shares some of the blame. However, there is both a requirement for, and the authority for, bold aggressive action on the part of the VA. The statues given the VA a great deal of flexibility in managing the program. For example, if the VA determines that homes are not saleable in a specific market, there is no requirement for the VA to acquire a foreclosed property in that market. The law clearly directs the Administrator to determine the net value of the property.

The VA has the authority to take the initative and determine that the net value of a foreclosed home located in a market where there are fewer buyers than homes is too low to make VA acquisition of the home viable.

In the final analysis, the Administrator is the judge of fair market value. For example, in my home State of Alaska, the VA is acquiring only 12 percent of foreclosed properties. A far more realistic figure for a devastated real estate market than the approximately 75 percent being acquired in Houston.

There are other things the VA can and should do that are not bold; merely good business sense. For example, the VA has the authority to ensure that the homes it is trying to sell are attractive to buyers and have a for sale sign in the front yard. How does the VA expect to be able to compete in the marketplace with other Federal and private entities if their homes are allowed to sit in state of disrepair, neglect, and with no visible indication that they are for sale.

Changes in our society and in our economy, to which the VA has been unable—or unwilling—to react, have left this vital program in financial shambles.

As a result, the Congress has been forced to accede to regular requests for appropriations or face the unacceptable alternatives of increasing veteran user fees or allowing the program to grind to a halt. However, I believe there are options beyond those of conducting business as usual.

In December 1987, the Congress passed, and the President signed, H.R. 2672, which became Public Law 100-198. This legislation, the latest in a series of program improvements originating in the Senate Committee on Veterans' Affairs, mandates far reaching reforms in the VA Home Loan Guaranty Program. And yet, these reforms may not be enough.

Our economy is in an expansion of recordbreaking duration, and yet the VA's inventory of foreclosed properties is at a record high level. The VA suffers from an ever higher average loss per property when the properties are sold. Clearly these are not the characteristics of a healthy program.

If the Congress is required to appropriate billions of dollars when times are good, what will be our fate if the business cycle turns down as history suggests it one day must? And let there be no mistake about it, at a time of enormous constraints in Federal spending, the dollars to support this program must be at the expense of other much needed veterans' benefits and services. Veterans are not well served by the current state of this program.

The critical importance and enormous cost of this program make it imperative that the Congress have the benefit of the best and broadest based advice. That is why this legislation establishes an independent and objective

advisory commission with a broad based membership.

A commission which will draw upon the experience of individuals from the public with knowledge of contemporary issues and practices in business and public administration, as well as representatives of the industries involved in the Home Loan Program. Of course, the commission would also represent the veterans who are the intended beneficiaries of the program.

For example, this commission would examine the VA's marketing strategy and techniques. When the VA attempts to market the properties it has acquired, it must adapt to, and use, the environment and techniques created by the real estate industry which has turned the sale of houses into a science. In other words, the VA must make it easy and attractive for the private sector to want VA business. VA attempts to have the industry conform to VA policies and procedures will not achieve the level of home sales necessary to reduce the VA's inventory. Houston is a prime example of this fact.

The commission will be in a position to compare the VA efforts with those of successful real estate professionals and recommend ways for the VA to adopt successful techniques.

I believe the Home Loan Guaranty Program will benefit from a fresh evaluation and analysis of its policies and procedures. Such an evaluation should give the Congress new insights and recommendations upon which we can base further reforms.

The bill will also require the VA to offer below-market rate financing when such financing is necessary to compete in areas, such as, Houston. In some areas and some circumstances, properties which are not quickly sold lose their value and become unsaleable. In such an environment, the health of the Loan Guaranty Program makes it necessary to be very aggressive in marketing properties.

The alternative is a steady downward spiral of value accompanied by the constant drain of day-to-day holding costs. We see today the impact of that spiral in areas such as Houston. We see the impact of that spiral in the steady drumbeat of requests and additional appropriations for the Loan Guaranty Revolving Fund. This spiral must be broken.

The bill also includes a provision which corrects an error in Public Law 100-198, enacted in December 1987. In that act, the Congress required that—in most cases—in most cases—a VA guaranteed loan be assumable only if the assumptor is creditworthy. Most loans made by the VA to finance the sale of VA acquired properties—so-called vendee loans—are sold on the open market with full recourse. This means the taxpayer stands behind the loan and remains at risk until the loan is repaid.

Section 4 of this bill requires that the assumptor of a VA-made vendee loan must be creditworthy. This provision will protect the taxpayers who bear the risk of that transaction by correcting the inadvertent commission of vendee loans from the Public Law 100-198 provision requiring credit underwriting when VA loans are assumed.

Mr. President, the VA Home Loan Program is in a state of prolonged crisis. I urge my colleagues to join with Senator CRANSTON and myself in supporting this partial response to that crisis. Much more needs to be done and I intend to vigorously pursue additional remedies and reforms this year. The current situation cannot be tolerated.

Relying on a hoped for increase in oil prices to restore prosperity in energy-producing states is not a solution. We owe it to our veterans and those who support this program with their hard-earned tax dollars to take the necessary steps to reduce losses and return solvency to the program without resorting to increased veteran user fees or appropriations. Let's use those appropriated dollars to expand and improve health-care services to our Nation's veterans and the challenge of an aging veteran population.

Mr. President, I urge my colleagues to join me in working to turn this program around. America's veterans and America's housing industry deserve no less.●

By Mr. SIMPSON:

S. 2050. A bill to amend the Immigration and Nationality Act to change the level, and preference system for admission, of immigrants to the United States; to the Committee on the Judiciary.

LEGAL IMMIGRATION REFORM ACT

Mr. SIMPSON. Mr. President, today I am introducing the Legal Immigration Reform Act of 1988. This bill is the second of a series of steps which I believe are vitally necessary for the development of a sound immigration and refugee policy for this country in the years ahead.

Seven years ago, the Select Commission on Immigration and Refugee Policy concluded 2 years of hearings, reports, and research studies, and delivered to the Congress its final report and recommendations for the development of "a sound, coherent, responsible policy which serves the interests of the United States and is true to the deepest and best values and traditions of its citizens."

The select commission, while reaffirming the benefits of immigration, reported that the first priority of immigration reform was to bring illegal immigration under control, while setting up a rational system for legal immigration. We took the first step in the 99th Congress when we passed the Immigration Reform and Control Act of 1986. That legislation, designed to bring illegal immigration under control, appears to be having the desired effect. Illegal border crossings are down by nearly 30 percent, most American employers are complying with the new prohibitions against the employment of unauthorized workers, there are very few reports of employment discrimination, and well over a million illegal aliens have applied for legalization under this bill.

The legislation I am introducing today, Mr. President, represents the second step: The establishment of a rational system of legal immigration. Again, the measure follows closely the recommendations of the select commission which are to provide "a modest increase in legal immigration * * * and to introduce a new system which * * * will be more equitable and more clearly reflect our interests as a nation." The select commission reaffirmed the importance to the United States of additional "new seed" or "classic" immigrants who come to work, save and invest, and recommended the creation of an immigration channel for persons who are not able to enter the United States on the basis of family connection. This bill, Mr. President, is designed to address those recommendations.

A similar bill is being introduced today in the House of Representatives by my fine friend Congressman CHUCK SCHUMER of New York. Congressman SCHUMER and I have worked closely in the drafting of this legislation and he is a vital participating member of the House Immigration Subcommittee, chaired by my friend and original sidekick in the cause of illegal immigration reform, RON MAZZOLI. Both were active participants in the processing of the immigration reform bill enacted in the last Congress.

The very astute and able chairman of the Senate Immigration Subcommittee, my friend TED KENNEDY, has introduced an immigration reform bill which also addresses the system by which we select immigrants. I pledge to work closely with our chairman in a sincere bipartisan effort for passage of a legal immigration reform measure which is truly in the national interest.

Mr. President, as our remarkable mentor and counselor Father Ted Hesburgh, the chairman of the select commission, pointed out in his introduction to the commission's final report, "if it is a truism to say that the United States is a nation of immigrants, it is also a truism that it is one no longer, nor can it become a land of unlimited immigration. As important as immigration has been and remains to our country, it is no longer possible to say as George Washington did that we

welcome all of the oppressed of the world, or as the poet, Emma Lazarus, that we should take all the huddled masses yearning to be free." It is imperative that Americans perceive that this great country is no longer one of vast, undeveloped space and resources, with a relatively small population. In an earlier time, the nation could welcome millions of newcomers. Some brought skills. Many others brought few skills, but were willing to work. A smaller America with a simpler labor-intensive economy and a labor shortage, that was often quite enough—that, plus their great drive to become Americans.

Immigrants can still greatly benefit America, but only if they are limited to an appropriate number and selected within that number on the basis of qualities which would truly benefit America.

I believe that a necessary feature of any immigration policy which is in the national interest is the establishment of a national level of immigration. With the exception of unexpected refugee emergencies, I believe that this Nation should accept immigrants within a national level based on the economic and social impacts of immigration. I also believe that number should be reviewed and revised carefully on a regular basis consistent with U.S. national interests.

Current law does not provide for an overall level of immigration, and our overall flow of immigrants, excluding refugees, has been growing at the rate of about 15,000 persons per year. This bill will establish a national level of immigration, it will require annual reports on the effects of immigration, and it will require the Attorney General to make recommendations to the Congress on an appropriate level of immigration every 3 years.

I do not in any way wish to reduce legal immigration. In fact, increased immigration may well be in the national interest. However, I am also aware that opinion polls indicate that most Americans believe that current legal immigration should be reduced or kept at the same level. I therefore feel that, while we have reduced illegal immigration through employer sanctions, the Congress should be cautious in setting a higher level of legal immigration until we have more information regarding the social and economic impacts of immigration. Major research studies are currently under way on this issue which, together with the annual reports required by this bill, will provide useful information to Congress when we review the level of immigration in 3 years.

The bill establishes a national level of immigration at the current legal flow of 510,000, plus an additional 80,000 to be used to reduce the backlogs in categories which are eliminated under the legislation, and to provide for a new group of "classic immigrants"—those who so originally stirred our senses and our patriotism—who will be selected under a point system.

The national level of immigration set by this legislation exceeds the estimated level of legal immigration during fiscal year 1987 by 80,000. However, at the end of 1986, Congress enacted the Immigration and Control Act, and preliminary evidence shows that overall illegal immigration has since been reduced. The most reliable study to date, which compared border apprehensions to the number of man hours devoted to enforcement by the border patrol, found a 27-percent reduction in illegal entries. Given this funding, illegal immigration might be down by 81,000 to 135,000 persons per year—assuming net illegal immigration of 300,000 to 500,000 persons per year. Therefore, the overall effects of the new immigration law and the proposed legal immigration reform bill should not result in increased immigration to the United States.

Once we establish a national level of immigration, it is so important that we develop a system that chooses immigrants within that level who best serve the national interest.

Today, approximately 90 percent of all immigrants come to the United States only because they have a family connection here. Only 10 percent are admitted because they possess skills that are specifically needed by U.S. employers or skills that the Government has determined would well serve our society. These 10 percent are the only immigrants for whom we search our labor market to determine whether their presence would have an adverse effect on U.S. workers. I believe that legal immigration in this manner does not serve the national interest as well as it could, and that it is seriously in need of revision.

Family-connected immigration would remain an essential component of this legislation. Indeed, the lion's share of visas—69 percent—would still be distributed to immigrants who wish to join their immediate family members. However, I believe that we must recognize that immediate family members should encompass only the following relations: the parents, children, and spouses of U.S. citizens, and the spouses and children of permanent resident aliens.

Today, nearly 2 million persons wait—sometimes for many years—to immigrate legally to the United States; 1.7 million of these "backlogged" immigrants are the brothers, sisters, brothers-in-law, sisters-in-law, nieces, and nephews of U.S. citizens. Over 70,000 of the 216,000 numerically limited family visas that our current system allocates each year go to these more distant relatives. To again quote father Hesburgh's remarks introducing the select commission's final report:

> There is something wrong with a law that keeps out—for as long as 8 years—the small child of a mother or father who has settled in the United States while a nonrelative or less close relative from another country can come in immediately.

I propose that we continue to grant nearly 70 percent of all legal immigrant visas to the immediate family groups that I have described above, but that the more distant relatives not receive further treatment with automatic immigration rights to the United States.

In addition, I believe that a much greater number and proportion of immigrants should be admitted because they bring skills, qualities, traits, and attributes which are in the national interest. Instead of only 10 percent of all immigrants—or 54,000 per year—being admitted because of their skills, I believe that 30 percent—or 180,000 per year—should be admitted on these grounds. My legislation would create a separate category of independent immigrants and guarantee them 180,000 visas per year. Not only will this new independent category serve our Nation's interest more faithfully, but as Father Hesburgh noted, "* * * this category will provide immigration opportunities for those persons who come from countries where immigration to the United States has not been recent or from countries that have no immigration base here."

The new independent category would provide visas to aliens who have been requested by U.S. employers and which the Department of Labor has certified would not displace or adversely affect U.S. workers. The independent category would also provide 80,000 visas per year to aliens who would be chosen based on the qualities that historically have ensured that the alien will prosper in our country and benefit the nation as a whole: age, education, language and citizenship skills, and labor market skills.

I believe the preservation of immigration for the closest family members while providing for new independent immigration will only improve on the already significant contributions that immigrants have made to our country.

I look forward to working with Senator KENNEDY and with Congressman SCHUMER in processing this bill. I also would note that many of the provisions in both this bill and Senator KENNEDY's bill come from legislation that Congressman RON MAZZOLI and I introduced in 1982—the first immigration reform bill. I greatly look forward to working with RON MAZZOLI again and with the other fine members of his subcommittee: PAT SWINDALL, the very articulate and able new ranking Republican of the subcommittee, BILL MCCOLLUM, BARNEY FRANK, HOWARD

BERMAN, JOHN BRYANT, and some of the new members of the subcommittee. I also feel confident that the members of the House Judiciary Committee will fully examine what we are sincerely proposing here and give their full thought and consideration to our project. Congressman PETER RODINO, the revered "Mr. Chairman" to all of us, and the senior seasoned ranking member HAMILTON FISH have spent many years mastering the difficult topic of immigration, and I am confident that they will be active and important players as the legislation proceeds. Finally, there are so many thoughtful members of the Senate who have historically played such a vital part in the immigration debate—STROM THURMOND, CHUCK GRASSLEY, HOWARD METZENBAUM, PAUL SIMON, DALE BUMPERS, and so many others—and I do very much look forward to working with them all.

By Mr. McCLURE (for himself and Mr. HATCH):

S. 2051. A bill entitled the "Prohibition of Undetectable Firearms Act"; to the Committee on the Judiciary.

PROHIBITION OF UNDETECTABLE FIREARMS ACT

Mr. DOLE. Mr. President, over many years, I have enjoyed the opportunity to work with my colleague, the distinguished Senator from Idaho, Mr. McCLURE, on efforts to protect the right of U.S. citizens to keep and bear arms.

Many times, it seems to our vigil to guard against assaults on the second amendment has been never ending. Attempts to ban legally manufactured and owned firearms and ammunition are made in the Congress from every angle imaginable.

The latest assault attempts to ban small arms by renaming them as "plastic guns." In truth, there is no plastic gun being manufactured today. However, we should be mindful that as new technologies are discovered, detection technology keeps pace to ensure the safety of airlines and the security of targets of terrorists such as the U.S. Capitol and the White House.

Mr. President, I know that my colleague has been working with the National Rifle Association to fashion some compromise which, while not banning any currently manufactured firearms, would protect against the introduction of any new class of firearms that are not detectable by today's x-ray and magnetometer devices. I applaud the Senator for his tireless efforts and attention to this matter of concern to all Americans.

I will be consulting with a number of experts in the fields of firearm manufacturing, security, and firearm detection to review the specific provisions of the legislation, and may, at a future date, join Senator McCLURE as a cosponsor.

However, I do want to indicate my appreciation for his efforts on behalf of America's gun owners, and look forward to our continued work together.

By Mr. GLENN:

S. 2052. A bill to continue the suspension of duties on m-xylenediamine and 1,3-bis(aminomethyl)cyclohexane; to the Committee on Finance.

S. 2053. A bill to temporarily suspend the duty on 8-hydroxy-quinoline; to the Committee on Finance.

SUSPENSION OF DUTIES ON CERTAIN CHEMICALS

● Mr. GLENN. Mr. President, I am introducing legislation today to temporarily suspend the duties on several chemicals that American manufacturers are forced to import because they are not manufactured in the United States. These bills should prove to be noncontroversial duty suspensions and I, therefore, urge their prompt passage by Congress.

MXDA (meta-xylene-diamine)

1,3-BAC (1,3-bis(aminomethyl)-cyclohexane)

The first bill will extend the expiration date of the temporary duty suspension on two chemicals from December 31, 1987 to December 31, 1990.

The synthetic organic chemical MXDA (meta-xylene-diamine), and its hydrogenated form, 1,3-BAC (1,3-bis(aminomethyl)-cyclohexane), are used, respectively, as an epoxy resin hardener in the production of epoxy surface coatings and as a component of specialty adhesives for aircraft and aerospace applications. Neither chemical is currently being manufactured in the United States, nor has either been manufactured in this country for at least 8 years.

The duties for MXDA and 1,3-BAC were suspended in the Trade and Tariff Act of 1984 through December 31, 1987, in order to enable Sherwin-Williams Chemical Co. to test the U.S. market for the two chemicals before investing in domestic production facilities. Unfortunately, Sherwin-Williams did not pursue the business very far before a change of ownership halted the effort. Recently another U.S. firm, Sherex Chemical Co. of Dublin, OH, has negotiated a contract with the world's only manufacturer to distribute the chemicals in the United States. If market acceptance is established, Sherex will study the feasibility of starting production in the United States. Unless the suspension of the duty rates is continued, however, test marketing of MXDA and 1,3-BAC will be difficult, and the U.S. plastics and aerospace industries may lose the opportunity for eventual domestic sourcing of these useful chemicals.

KELEX 100 (8-HYDROXY-QUINOLINE)

The second bill will temporarily suspend the duty on the chemical 8-hydroxy-quinoline, known as Kelex 100, through December 31, 1990.

Kelex 100 is a unique chemical derivative of quinoline, with unusual reagent properties that are highly valuable in the recovery and purification of strategic metals. Kelex 100 was invented and developed in the laboratories of Sherex Chemical Co. of Dublin, OH, but domestic consumption is so small—less than 100 tons annually—that establishing U.S. production facilities has been uneconomical. Therefore, Sherex has arranged for Kelex 100 to be manufactured according to Sherex's patented processes by a firm in Europe, where there is a somewhat larger demand for the chemical because of its use there in the recovery of gallium, a rare metal of strategic importance to the semiconductor industry. At least two American firms are now considering the feasibility of establishing facilities in the United States for the recovery of gallium and for the recovery of germanium, another strategic metal used principally in the production of infrared and fiber optics. The availability and cost of Kelex 100 during this technical stage of development will shape the decisions whether to establish these facilities, which in turn would bolster the American semiconductor, optics, and derivative high-technology industries.

Congress has enacted temporary duty suspension measures because it is our policy that U.S. manufacturers should be able to obtain, free of duty, foreign-made components that are domestically unavailable. I urge my colleagues to support this legislation, which will enable the U.S. chemical industry to continue to compete in the world market.

Mr. President, I ask unanimous consent that the text of the bills be printed in the RECORD.

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

S. 2052

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

SECTION 1. m-XYLENEDIAMINE AND 1,3-BIS (AMINOMETHYL) CYCLOHEXANE.

Items 907.03 and 907.04 of the Appendix to the Tariff Schedules of the United States are each amended by striking out "12/21/87" and inserting in lieu thereof "12/31/90".

SEC. 2. EFFECTIVE DATE.

(a) IN GENERAL.—The amendments made by this Act shall apply with respect to articles entered, or withdrawn from warehouse, for consumption after the date that is 15 days after the date of enactment of this Act.

(b) RELIQUIDATION.—Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, upon a request filed with the appropriate customs officer before the date that is 90 days after the date of enactment of this Act, any entry of an article described in item 907.03 or 907.04 of the Appendix to the Tariff Schedules of the United States (as amended by this Act) that was made—

(1) after December 31, 1987, and

(2) on or before the date that is 15 days after the date of enactment of this Act,

shall be liquidated or reliquidated as though such entry occurred on the day after the date that is 15 days after the date of enactment of this Act.

S. 2053

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

SECTION 1. 8-HYDROXY-QUINOLINE.

Subpart B of part 1 of the Appendix to the Tariff Schedules of the United States is amended by inserting in numerical sequence the following new item:

"908.26	8-Hydroxy-quinoline (provided for in item 406.42 part 1b, schedule 4)	Free	No change	On or before 12/31/90".

SEC. 2. EFFECTIVE DATE.

The amendment made by this Act shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after the date that is 15 days after the date of enactment of this Act.●

By Mr. CRANSTON (for himself, Mr. PELL, Mr. DODD, Mr. INOUYE, Mr. DECONCINI, and Mr. ROCKEFELLER):

S. 2054. A bill to amend the Peace Corps Act to authorize appropriations for fiscal year 1989; to the Committee on Foreign Relations.

PEACE CORPS AUTHORIZATION ACT

Mr. CRANSTON. Mr. President, I am today introducing S. 2054, legislation to extend the authorization of appropriations for the Peace Corps through fiscal year 1989 at a level—$157 million—that would enable the Peace Corps to continue making progress toward achieving the congressionally established goal of a Peace Corps volunteer strength of 10,000, as enacted in section 1102 of the International Security and Development Cooperation Act of 1985, Public Law 99-83. Joining me in introducing this measure are the chairmen of the Foreign Relations Committee, Senator PELL, and of the committee's Subcommittee on Western Hemisphere and Peace Corps Affairs, Senator DODD, and the Senators from Hawaii [Mr. INOUYE], Arizona [Mr. DECONCINI], and West Virginia [Mr. ROCKEFELLER].

For more than 26 years, Peace Corps volunteers have promoted international peace and friendship by helping persons in many nations overcome the often harsh circumstances—including malnutrition, lack of clean water, disease, and illiteracy—of their lives. Since the Peace Corps' establishment in 1961, over 125,000 American men and women have served as volunteers in 95 nations around the world.

As the Senate author of the provision establishing the goal of a 10,000-volunteer Peace Corps, I believe that the Congress should take the steps necessary to provide the Peace Corps with the resources to make steady progress toward realizing that goal.

Despite the continued national support for the Peace Corps among the American people and its symbolic significance to our aspirations for world peace and understanding, the numbers of Peace Corps volunteers declined from more than 15,000 volunteers in 1966 to 9,000 in 1970, to just over 5,000 in 1984. During that same period and continuing to the present, the populations in the developing nations of the world have increased dramatically.

As a result of our efforts over the past 3 years, the decline in the number of volunteers has become an upswing. Currently, there are about 6,600 men and women serving in the Peace Corps, a 25-percent increase over last year, and the prospects for continuing growth are good—if Congress provides the necessary resources. For example, at present the Peace Corps has hundreds more requests for volunteers from host countries, and nearly 1,400 more qualified applicants, than the agency's current budget enables it to use.

Mr. President, following establishment of the 10,000-volunteer goal, I and a number of other Members of the House and Senate, including Senators PELL and DODD and the chairman of the House Foreign Affairs Committee, Representative DANTE FASCELL, requested that Loret Ruppe, Director of the Peace Corps, develop a phased, realistic, and programmatically appropriate plan to meet that goal. Director Ruppe's plan, submitted to Congress on March 5, 1986, provided a realistic blueprint for moderate Peace Corps growth through the end of this decade and into the beginning of the next. So far, through the efforts of a number of us strongly committed to this agency's work on behalf of world peace, development, and mutual understanding—including notably my good friend, Senator DECONCINI, a member of the Appropriations Committee and the distinguished chairman of the Appropriations Subcommittee on Foreign Operations, Senator INOUYE—the Congress provided the funding needed to keep pace with that plan—$137.2 million for fiscal year 1987 and $146.2 million for fiscal year 1988. As I have previously indicated, the funding level called for in that plan over the next fiscal year—$157 million for fiscal year 1989—is the amount that would be authorized to be appropriated by this legislation.

Mr. President, in view of the increased opportunities for promoting world peace that would be provided with this modest increase, I truly believe it would be a small price to pay and that we should take all necessary steps to stay on the path we have forged toward achievement of the 10,000-volunteer goal. Of all the international efforts we make to achieve world peace and understanding, there is no greater contribution than that which the American people make through the Peace Corps. In this unique program, we share with the developing nations of the world the best of America—our people, our spirit, our ingenuity, and our compassion. Upon their return to this country, Peace Corps volunteers are a source of knowledge about another way of life that can be tapped to promote a broader understanding among Americans about peoples of other nations.

Mr. President, our Nation and all of the other nations in which Peace Corps volunteers serve are immeasurably enriched by the contributions made by Peace Corps volunteers. These are dollars extremely well invested, and I urge all of my Senate colleagues to support this measure.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD at this point followed by the text of Director Ruppe's March 5, 1986, blueprint for achieving the 10,000-volunteer goal.

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

S. 2054

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3(b) of the Peace Corps Act (22 U.S.C. 2502(b)) is amended by amending the first sentence to read as follows: "There are authorized to be appropriated to carry out the purposes of this Act $130,000,000 for fiscal year 1986, $137,200,000 for fiscal year 1987, $146,200,000 for fiscal year 1988, and $157,000,000 for fiscal year 1989.".

PEACE CORPS,
March 5, 1986.

Hon. ALAN CRANSTON,
Member, Senate Committee on Foreign Relations, U.S. Senate, Washington, DC.

DEAR SENATOR CRANSTON: In response to your request of February 3, we are providing a detailed plan for attaining a volunteer level of 10,000 over the next six years.

We share with you the concern for the needs of the developing world and a conviction that long-term development needs are best met through grassroots-level assistance. As we enter our second quarter-century, Peace Corps is reaffirming its role in providing such assistance, a role unique in the foreign assistance community.

As I participate in the 25th Anniversary symposia around the nation, I am pleased and very proud of the continued support of the American people for the basic goals of the Peace Corps. The strong response made by Americans throughout the nation to our appeals for increased numbers of volunteers to support our Africa Food Systems Initiatives has been repeated in the enthusiastic response to our anniversary activities. The so-called "me generation" is in fact very responsive to the needs of people on the other side of the world, and willing to contribute their time and skills to meeting those needs. And an older generation of Americans has renewed its interest in international volunteerism; their extensive experience ensures

that they have the skills so much needed overseas.

Due to time constraints, the attached plan has been developed by Headquarters staff, with limited participation by our overseas staff, who are occupied in making the program reductions required under Gramm-Rudman. Despite this constraint, we feel that the outlined volunteer levels are feasible and supportable. We considered possibilities for expanding existing programs, for initiating new projects in countries where we now serve, and for establishing new programs in countries where we do not now operate. We also weighed the likelihood that host countries would agree to, and support, potential expansions. And we carefully evaluated "saturation levels" for each country (the levels at which the sheer numbers of volunteers in a particular country would preclude further increases).

While increased levels of volunteers are feasible, it is important to note the limitations inherent in development of this plan:

The need to reduce the Federal deficit continues to be an urgent priority of this Administration. As I noted in my earlier letter, we need to balance the economic needs of the developing world with the economic needs of our own Nation.

Potential increases noted in the plan must be viewed as somewhat tentative, as they depend heavily on the concurrence of the host country government. As you know, the bulk of our volunteer activity is in direct response to a specific request from a host country. Since host country governments did not participate in the development of this plan, we cannot guarantee their response. We feel that the overall numbers are attainable, however, in light of the numerous requests we have received for new or expanded efforts, although this will also depend on the availability of scarce skills among our applicants.

Increases are also subject to change based on changing political and economic environments in the countries served. We have not identified individual countries in this plan for that reason. The overall numbers would not be expected to fluctuate much, though, as one country's increase may well offset another country's decrease.

Increased levels cannot be attained without the establishment of programs in countries where we do not now operate. As with expansions, such new country entries depend on the concurrence of the host country. We have received a number of contacts concerning possible new country entries, but would have to go through the formal negotiation process before establishing programs.

Any increase in volunteer levels would require a commitment of resources in both dollar and personnel terms, and may be difficult to achieve in the current budget environment. Peace Corps cannot, and will not, place volunteers overseas without adequate support to ensure their continued health and safety.

Despite the tentative nature of any specific numbers, especially on a country-by-country basis, Peace Corps does feel that the need for development assistance is there, and that we can play a valuable role in helping the developing world meet its long-term needs. As you well know, Peace Corps is a most cost-effective (and, in our eyes, our most effective) development assistance program.

I hope the enclosed plan responds to your request. If you have any questions or need additional information, I and my staff are available to assist you in any way possible.

Thank you for your continuing interest in, and support for, Peace Corps' programs.

Sincerely,

LORET MILLER RUPPE,
Director.

SUMMARY

Summary of resources required to reach a volunteer force of 10,000 by 1992:

	Fiscal years [2]						
	1986	1987	1988	1989	1990	1991	1992
Trainee input	2,615	3,171	3,714	4,233	4,572	4,890	5,317
Volunteer years	5,103	4,961	4,999	5,737	6,571	7,256	7,830
Volunteers on board end of year	6,012	6,108	6,630	7,686	8,581	9,307	10,054
Budget requirements (dollars in millions)	[1] 124.4	137.2	146.2	157.0	172.8	185.3	196.2
Staffing requirements (FTE)	1,039	1,097	1,168	1,211	1,269	1,309	1,318

[1] Excludes $5.59 million sequestered (from a total appropriation of $130 million) as a result of Gramm-Rudman-Hollings constraints.
[2] Projected resource requirements are in constant dollars.

Establishing and maintaining a volunteer force of 10,000 would require more than doubling our annual trainee input over the next four to six years.

From 1,199 to 3,053 in Africa (up 1854).

From 707 to 986 in Inter-America (up 279).

From 684 to 1,253 in North Africa, Near East, Asia and Pacific (up 569).

Most of the volunteers would serve in agriculture and education programs, with lesser increases in health, water/sanitation, forestry and small enterprise development.

Over a dozen new country entries would be planned (up to 63 at present).

Funding would need to increase by $72 million over current levels.

Staffing would need to increase by close to 300 FTE over current levels.

Fiscal year 1987

Trainee input	3,171
Volunteer years	4,961
Volunteers on board end of year	6,108
Staff (FTE)	1,097
Dollars in millions:	
Program support	45.2
RCDE	12.8
Volunteer operations	79.2
Total	137.2
Increased trainee input over fiscal year 1986 by 556:	
Africa	282
Inter-America	224
North Africa, Near East, Asia and Pacific (NANEAP)	50

Major increases are in agriculture/rural development, education, small enterprise development and health.

Assumes entry into four (4) new countries (1 in Africa, 3 in Inter-America).

Increases in staff provide for overseas staff, recruitment, and support services.

Increases in Volunteer Operations for	$4.6
Basic training for new volunteers (trainees)	3.3
Program planning to support the expansion	.4
Medical support	.5
Program materials for volunteers	.2
Recruitment, other (1 FTE)	.2
Increases in RCDE provide for	2.5
Recruitment (8 FTE)	2.2
Support to the UN Volunteer program (+5 volunteers)	.3
Increases in Program Support provide for	$5.7
Overseas staff (28 FTE)	1.4
Headquarters staff (21 FTE)	.8
One-time costs—new posts	.8
Conversion to State systems for personnel/payroll	.5
One-time upgrade of overseas computer systems	.8
Overseas support costs (vehicles, FAAS)	.6
One-time computer expansion	.5
Support services	.3

Fiscal year 1988

Trainee input	3,714
Volunteer years	4,999
Volunteers on board end of year	6,630
Staff (FTE)	1,168
Dollars in millions:	
Program support	49.6
RCDE	13.0
Volunteer operations	83.6
Total	146.2
Increases trainee input over fiscal year 1987 by 543:	
Africa	360
Inter-America	108
NANEAP	75

Major increases continue in agriculture/rural development, education, and small enterprise development.

Assumes entry into 3 new countries (1 in NANEAP, 2 in Africa).

Increases in staff provide for overseas staff, recruitment and support services.

Increases in Volunteer Operations provide for	$4.4
Basic training for new volunteers (trainees)	3.2
Overseas support to new volunteers (allowances, travel, in-service training, supplies, etc.)	.4
Medical support	.5
Recruitment, other (1 FTE)	.3
Increases in RCDE provide for	.2
Recruitment (8 FTE)	.3
Support to UNV program (grant in alternating years)	−.1
Increases in Program Support provide for	4.4
Overseas staff (43 FTE)	2.1
Headquarters staff (19 FTE)	.7
Overseas support costs (vehicles, FAAS)	.4
One-time upgrade of overseas computer systems	1.2
One-time costs for new posts	−.2
Other	.2

Fiscal year 1989

Trainee input	4,233
Volunteer years	5,737
Volunteers on board end of year	7,686
Staff (FTE)	1,211
Dollars in millions:	
Program support	48.4
RCDE	13.7
Volunteer operations	94.9
Total	157.0
Increases trainee input over 1988 by 519:	
In Africa	300

In Inter-America	144
In NANEAP	75

Major increases are in agriculture/rural development.

Assumes no new country entries.

Increases in staff provide for overseas staff, recruitment, and support services.

Increases in Volunteer Operations provide for	$11.3
Basic training for new volunteers (trainees)	3.10[S04FE8:864]{S675}
Overseas support to new volunteers (allowances, travel, in-service training, supplies, etc.)	7.5
Medical support	.6
Other (1 FTE)	.1
Increases in RCDE provide for	.7
Recruitment (6 FTE)	.4
Support to UNV program (grant in alternating years)	.2
WATS equipment (one time)	.1
Changes in Program Support provide for	−1.2
Increases in:	
Overseas staff (31 FTE)	+1.5
Headquarters staff (5 FTE)	+.2
Overseas support costs (vehicles, FAAS)	+.4
Offset by decreases in:	
One-time computer purchases	−.5
One-time upgrade to overseas computer systems	−2.0
One-time costs for new posts	−.8

Fiscal year 1990

Trainee input	4,572
Volunteer years	6,571
Volunteers on board end of year	8,581
Staff (FTE)	−1,269
Dollars in millions:	
Program support	51.1
RCDE	14.4
Volunteer operations	107.3
Total	172.8
Increase trainee input over fiscal year 1989 by 339:	
In Africa	373
In Inter-America	−134
In NANEAP	100

The Inter-America decrease reflects a slight slowing after the peak years of IFCA (Initiative for Central America).

Assumes two new country entries (in Africa).

Major increases in small enterprise development, water/sanitation, and agriculture/rural development.

Increases in staff for overseas staff, recruitment and support services.

Increases in Volunteer Operations provide for	$12.4
Basic training for new volunteers (trainees)	2.0
Overseas support to new volunteers (allowances, travel, in-service training, supplies, etc.)	8.4
Medical support	1.7
Other (3 FTE)	.3
Increases in RCDE provide for	.7
Recruitment (9 FTE)	.7
Suppport to UNV program grant in alternating years	−.1
New recruitment film	.1
New area office (3 FTE)	.1
WATS equipment (one time)	−.1
Increases in Program Support provide for	2.7
Overseas staff (32 FTE)	1.6
Headquarters staff (11 FTE)	.4
Overseas support costs (vehicles, FAAS)	.3
One-time costs—new posts	.4

Fiscal year 1991

Trainee input	4,890
Volunteer years	7,256
Volunteers on board end of year	9,307
Staff (FTE)	1,309
Dollars in millions:	
Program support	53.6
RCDE	14.6
Volunteer operations	117.1
Total	185.3
Increase trainee input over 1990 by 318:	
In Africa	254
In Inter-America	−36
In NANEAP	100

Inter America continues slowing.

Assumes 3 new country entries (1 in NANEAP, 2 in Africa).

Major increases in education and agriculture/rural development.

Increases in staff for overseas staff, recruitment and support services

Increases in Volunteer Operations provide for	$9.8
Basic training for new volunteer (trainees)	1.9
Overseas support to new volunteers (allowances, travel, in-service training, supplies, etc.)	6.9
Medical support	.9
Other (2 FTE)	.1
Increases in RCDE provide for	.2
Recruitment film (one-time)	−.1
Recruitment (7 FTE)	.2
Support to UNV program (grant in alternating years)	.1
Increases in Program Support provide for	2.5
Overseas staff (28 FTE)	1.2
Headquarters staff (3 FTE)	.1
Overseas support costs (vehicles, FAAS)	.2
Replace overseas computer systems	.8
One-time costs—new posts	.2

Fiscal year 1992

Trainee input	5,317
Volunteer years	7,830
Volunteer's on board end of year	10,054
Staff (FTE)	1,318
Dollars in millions:	
Program support	54.9
RCDE	14.7
Volunteer operations	126.6
Total	196.2
Increase trainee input over 1991 by 427:	
In Africa	285
In Inter-America	−27
In NANEAP	169

Inter America continues slowing.

Assumes 2 new country entries (in Africa).

Major increases are in education and agriculture/rural development.

Increases in staff for overseas staff, recruitment and support services.

Increases in Volunteer Operations provide for	$9.5
Basic training for new volunteer (trainees)	2.5
Overseas support to new volunteers (allowances, travel, in-service training, supplies, etc.)	5.8
Medical support	1.1
Other (1 FTE)	.1
Increases in RCDE provide for	.1
Recruitment (8 FTE)	.2
Support to UNV program (grant in alternating years)	−.1
Increases in Program Support provide for	1.3
Overseas support to volunteers (vehicles, FAAS)	.4
Reduced staff travel	−.1
Replace overseas computer systems	1.2
One-time costs—new posts	−.2

By Mr. HOLLINGS (for himself and Mr. DANFORTH):

S.J. Res. 251. Joint resolution designating March 4, 1988, as "Department of Commerce Day"; to the Committee on the Judiciary.

DEPARTMENT OF COMMERCE DAY

Mr. HOLLINGS. Mr. President, as chairman of the Committee on Commerce, Science, and Transportation, I join today with the committee's ranking Republican, Senator DANFORTH, in introducing a joint resolution to designate March 4, 1988 as "Department of Commerce Day."

This resolution is designed to commemorate the 75th anniversary of congressional action which established a separate Department of Commerce from what had previously been known as the Department of Commerce and Labor. At that time, Congress directed this newly created department to "foster, promote, and develop the foreign and domestic commerce" of the United States.

Then, as now, the economic vitality of the United States of America was dependent on our free enterprise system. This great Nation has grown and prospered because of the entrepreneurial spirit and rugged individualism of our people. And, over the years, the Department of Commerce has been right there to nurture and enhance our development into the world's greatest and most powerful economy.

We look back, and we look ahead. The coming decades will bring great challenges to American businesses and industries as we rise to meet the new global economic competition. The important responsibilities of the Department of Commerce in the areas of trade policy, industrial research and development, science and technology, and economic development become ever more crucial to America's fight to

remain No. 1 in the world. In addition, more than half of the Department's employees are involved in ocean and atmospheric research, and as we look to secure future economic growth, so too much we ensure the safeguarding of our fragile atmosphere and coastal areas. The Department of Commerce's contributions toward this aim will be crucial in the years ahead.

I salute the officers and employees of the Department of Commerce for a job well done and hope they will join with this Congress in facing the challenges of the future. Finally, I urge my colleagues to join with me and Senator DANFORTH in approving this resolution.

By Mr. PROXMIRE (for himself, Mr. GARN, Mr. HEINZ, Mr. ARMSTRONG, Mr. D'AMATO, Mr. HECHT, Mr. GRAMM, Mr. BOND, Mr. CHAFEE, Mr. KARNES, Mr. WILSON, Mr. DANFORTH, Mr. HATCH, Mr. DOLE, Mr. WARNER, Mr. LUGAR, Mr. DOMENICI, Mr. WEICKER, Mr. GRASSLEY, Mr. SYMMS, Mr. COCHRAN, Mr. NICKLES, Mr. MCCAIN, Mr. QUAYLE, Mr. SPECTER, Mr. BOSCHWITZ, Mr. DURENBERGER, Mr. MCCLURE, Mr. CRANSTON, Mr. RIEGLE, Mr. SARBANES, Mr. DODD, Mr. DIXON, Mr. SANFORD, Mr. SHELBY, Mr. GRAHAM, Mr. WIRTH, Mr. BURDICK, Mr. SIMON, Mr. REID, Mr. KENNEDY, Mr. LAUTENBERG, Mr. INOUYE, Mr. PELL, Mr. LEAHY, Ms. MIKULSKI, Mr. METZENBAUM, Mr. KERRY, Mr. MOYNIHAN, Mr. EXON, Mr. MATSUNAGA, Mr. LEVIN, Mr. JOHNSTON, Mr. MITCHELL, Mr. BAUCUS, Mr. CHILES, Mr. FORD, Mr. NUNN, Mr. BENTSEN, Mr. HOLLINGS, and Mr. BOREN):

S.J. Res. 252. A joint resolution designating June 5-11, 1988, as "National NHS NeighborWorks Week"; to the Committee on the Judiciary.

NATIONAL NHS NEIGHBORWORKS WEEK

Mr. PROXMIRE. Mr. President, I am introducing today, with Senator GARN, a joint resolution calling for a Presidential proclamation of "National NHS/NeighborWorks Week" beginning June 5, 1988.

This resolution seeks to increase public awareness of Neighborhood Housing Services [NHS], and its partners, the Mutual Housing Associations and Apartment Improvement Programs. These NeighborWorks partnerships are the largest network of volunteers-based, nonprofit corporations working to revitalize older neighborhoods in the United States.

The resolution honors the thousands of citizen volunteers who have contributed their time and energy to NeighborWorks; and recognizes the active cooperation of thousands of businessmen and hundreds of local government officials in NeighborWorks activities.

NeighborWorks partnerships are initiated and funded locally. They have been organized in 137 cities and 297 neighborhoods across the country. Over 3,000 businesses and local governments contribute some $16 million yearly to NeighborWorks activities. It is estimated that over $4 billion has already been invested in rehabilitating and developing NeighborWorks' neighborhoods. Rehabilitation objectives have been successfully completed in more than 60 neighborhoods.

Mr. President, preserving the Nation's housing is a national priority. Reinvesting in older neighborhoods is good budget and social policy. Over a decade ago, I introduced legislation establishing a Neighborhood Reinvestment Corp., to promote neighborhood renewal through local action. The local-action neighborhood reinvestment program begun in 1977 has become, in little more than a decade, NHS/NeighborWorks in 137 cities and 297 neighborhoods.

That's a success story that needs to be recognized—and fostered. I urge my colleagues to join me and Senator GARN in designating the week of June 5, 1988, as "National NHS/NeighborWorks Week."

Mr. GARN. Mr. President, today Senator PROXMIRE and I are introducing a joint resolution calling for a Presidential proclamation of National Neighborhood Housing Services NeighborWorks Week during the week of June 5-11, 1988.

The purpose of the resolution is to heighten public awareness and increase private sector support for Neighborhood Housing Services [NHS] and its affiliated partnership organizations, Apartment Improvement Programs and Mutual Housing Associations, which are rebuilding America's lower income neighborhoods through public/private participation. The resolution will also honor those volunteer partners who have contributed countless hours of work and financial resources to their local NHS.

The NeighborWorks network is the largest neighborhood-based network of public/private partnerships at work revitalizing neighborhoods in our country today. NeighborWorks partnerships are working in 237 neighborhoods in 137 cities, which along with 60 self-reliant neighborhoods, house nearly 3 million people. The track record of the NeighborWorks network has been impressive. Over 14 years, the NHS partnerships have generated more than $4 billion in reinvestment for the rehabilitation and development of America's low-income housing stock.

Each NeighborWorks partnership is a locally controlled, nonprofit corporation managed by a volunteer board of directors, composed of residents, business representatives, and local government officials. Each partnership is locally funded by private sector institutions and the local government. More than 3,000 businesses and local governments are contributing to the operations of their local NeighborWorks partnerships at an annual level of $16 million.

In 1978 Senator PROXMIRE and I coauthored the legislation creating the Neighborhood Reinvestment Corp. which helps local communities develop Neighborhood Housing Services Programs and provides technical assistance. It has been very rewarding to see the expansion and success of these programs.

As a former mayor and a member of the Housing Subcommittee, I have had the opportunity to witness their work first hand. In Salt Lake City for instance, one of the critical features of the Neighborhood Housing Services revitalization strategy has been community involvement. In response to youth unemployment and the problems that result when young people aren't involved in meaningful activities, the local NHS established the West Side youth project which has developed trade and employment skills in over 100 young people. It has presented a positive image of the youth on the West Side and helped reduce neighborhood tensions and negative stereotypes. The youth have been involved in short-term, meaningful work projects and have had direct contact with local residents through the performance of jobs and services. I understand this project is going to be nominated for several national awards and will serve as a pilot in other areas of the country.

Keeping NeighborWorks partnership organizations strong and enabling them to serve additional neighborhoods requires a steady renewal of this local government and private sector support. "National Neighborhood Housing Services/NeighborWorks Week" will strengthen this local public/private partnership and I invite my colleagues to join with us in support of this resolution.

By Mr. CRANSTON (for himself, Mr. MURKOWSKI, Mr. MATSUNAGA, Mr. DECONCINI, Mr. ROCKEFELLER, Mr. STAFFORD, Mr. SPECTER, Mr. MCCAIN, and Mr. DOLE):

S.J. Res. 253. A joint resolution designating April 9, 1988, and April 9, 1989, as "National Former Prisoner of War Recognition Day"; referred to the Committee on the Judiciary.

NATIONAL FORMER PRISONERS OF WAR RECOGNITION DAY

Mr. CRANSTON. Mr. President, as the chairman of the Veterans' Affairs Committee, I am very pleased to intro-

duce Senate Joint Resolution 253, a joint resolution to designate April 9, 1988, and April 9, 1989, as "National Former Prisoners of War Recognition Day." Joining me as original cosponsors in this effort are the committee's distinguished ranking minority member, the Senator from Alaska [Mr. MURKOWSKI], and five of our fellow committee members, the Senators from Hawaii [Mr. MATSUNAGA], Arizona [Mr. DECONCINI], West Virginia [Mr. ROCKEFELLER], Vermont [Mr. STAFFORD], and Pennsylvania [Mr. SPECTER], as well as the Senators from Arizona [Mr. MCCAIN] and Kansas [Mr. DOLE].

Mr. President, over the 17 years I have served on the Veterans' Affairs Committee, both as the committee's chairman from 1977 to 1981 and now again, and as its ranking minority member from 1981 to 1987, I have come to appreciate very clearly the deep concerns that many have—and which I fully share—for those of our Nation's veterans who made enormous sacrifices and endured extreme hardships as former prisoners of war. Their strength, courage, and commitment to our national security and democratic ideals and institutions helped to preserve our country, and we truly owe them a debt that can never be fully repaid.

In a Veterans' Administration study undertaken as a result of legislation I authorized in Public Law 95-479, the VA found that, although the particular type and source of hardship differed significantly according to place and time of internment, American prisoners of war from each of the three most recent wars—World War II, Korea, and Vietnam—were subjected to widespread hardships that often included extreme malnutrition, great psychological stress and abuse, inadequate medical care, brutal living conditions, and, very frequently, physical and psychological torture or other abuse.

The study also found that the conditions to which POW's were subjected can have long-term effects that may not be identifiable for extended periods of time and that, because of the lack of definitive medical knowledge regarding the effects of internment, might never be diagnosed as having their origins in the POW experience. Accordingly, Senator GRAHAM and I introduced legislation last session—which was passed by the Senate on December 4 as section 111 of S. 9, the "Omnibus Veterans' Benefits and Services Act of 1987"—to establish presumptions of service connection for certain diseases of former prisoners of war. The basic purpose of these provisions—like that of provisions which I have authored in previous years and which have been enacted to provide presumptions of service connection for former POW's for certain other diseases—is to provide a measure of relief for former POW's from the burden to submit evidence that certain disabilities are service connected in order to receive VA disability compensation for them. I expect this legislation to be enacted in the next month or so.

Mr. President, as my colleagues know, April 9, 1942, is the day that marks the fall of Bataan, the isle where thousands of American soldiers were taken prisoner by enemy troops in the Philippines and forced to march long distances under extremely brutal conditions to prisoner-of-war camps, where they suffered further hardships and deprivations. Many of those troops did not survive that harrowing ordeal, and those that did were often permanently disabled. Thus, April 9 is, sadly, a most appropriate day to honor our Nation's POW's.

Mr. President, in 1985, Congress directed the Department of Defense to issue medals to former POW's in recognition of the great sacrifices they have made in service to our Nation. I believe, and am recommending to the VA Administrator, that the first distribution of these medals should be marked by ceremonies on April 9—the proposed day of national recognition—to appropriately commemorate our former POW's.

As I stated earlier, we can never fully repay our former POW's for the profound and often extended suffering many of them have endured as a result of their service to this country. However, it is my hope that this resolution will help in our efforts to express, as a nation, our continuing gratitude to them.

I urge my colleagues to give their full support to the bipartisan resolution we are introducing today.

Mr. President, I ask unanimous consent that the text of this resolution be printed in the RECORD at this point.

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

S.J. RES. 253

Whereas the United States has fought in many wars;

Whereas thousands of members of the Armed Forces of the United States who served in such wars were captured by the enemy and held as prisoners of war;

Whereas many such prisoners of war were subjected to brutal and inhumane treatment by their captors in violation of international codes and customs for the treatment of prisoners of war and died, or were disabled, as a result of such treatment;

Whereas in 1985, the United States Congress (in Public Law 99-145) directed the Department of Defense to issue a medal to former prisoners-of-war in recognition and commemoration of their great sacrifices in service to our Nation; and

Whereas these great sacrifices of former prisoners of war and their families deserve national recognition: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That April 9, 1988, and April 9, 1989, are designated as "National Former Prisoner of War Recognition Day" in honor of the members of the Armed Forces of the United States who have been held as prisoners of war, and the President is authorized and requested to issue a proclamation calling upon the people of the United States to commemorate such days with appropriate ceremonies and activities.

● Mr. MURKOWSKI. Mr. President, today I rise to speak in support of a resolution to designate April 9, 1988, as "National Former Prisoner of War Recognition Day." I am pleased to join with my colleague, the distinguished Senator from California, Mr. CRANSTON, as an original cosponsor on this important legislation. I urge all my colleagues to join me today in honoring the many members of the Armed Forces who were held as prisoners of war.

April 9, 1988, recognizes the 46th anniversary of the fall of Bataan and the beginning of the infamous Bataan Death March. It also recognizes the long-term health effects of the arduous conditions under which many of these former prisoners of war were held. But, more importantly, it recognizes the great sacrifices that these American veterans endured for their country. These sacrifices are what helped to preserve our Nation.

It is for these reasons that we set aside this special day to honor and pay tribute to those veterans who gave to their country so unselfishly. We are once again reminded that the freedom we enjoy today would not have been possible without the courage, bravery, and valor of these unique men. It is my belief that the fearlessness and spirit of these former POW's shall never be forgotten. The people of the United States will not forget these men who did not forget their country. We as Americans owe these men, who served our Nation so well, a great deal. The designation of this day and the soon to be released military medals honoring those who were held prisoners of war is one way in which we can begin to repay this debt.

Mr. President, I know of no better way to pay tribute to these prisoners of war and their families other than to give them the national recognition they deserve. I urge my colleagues to join me in cosponsoring this worthwhile legislation.●

ADDITIONAL COSPONSORS

S. 761

At the request of Mr. HARKIN, the name of the Senator from Utah [Mr. GARN] was added as a cosponsor of S. 761, a bill to provide for the establishment of a Western Historic Trails Center in the State of Iowa, and for other purposes.

S. 950

At the request of Mr. HEFLIN, the name of the Senator from Nevada [Mr. HECHT] was added as a cosponsor of S. 950, a bill to establish a specialized corps of judges necessary for certain Federal proceedings required to be conducted, and for other purposes.

S. 951

At the request of Mr. HEFLIN, the name of the Senator from South Carolina [Mr. THURMOND] was added as a cosponsor of S. 951, a bill entitled the "Federal Courts Study Act".

S. 1429

At the request of Mr. D'AMATO, his name was added as a cosponsor of S. 1429, a bill to improve the Environmental Protection Agency data collection and dissemination regarding reduction of toxic chemical emissions across all media, to assist States in providing information and technical assistance about waste reduction, and for other purposes.

S. 1630

At the request of Mr. HEFLIN, the name of the Senator from Arkansas [Mr. BUMPERS] was added as a cosponsor of S. 1630, a bill to provide for retirement and survivors' annuities for bankruptcy judges and magistrates, and for other purposes.

S. 1808

At the request of Mr. BUMPERS, the name of the Senator from Indiana [Mr. LUGAR] was added as a cosponsor of S. 1808, a bill to require the Secretary of Health and Human Services to determine the appropriate regulatory classification of the transitional devices of the medical device amendments, and for other purposes.

S. 1817

At the request of Mr. KENNEDY, the name of the Senator from North Carolina [Mr. SANFORD] was added as a cosponsor of S. 1817, a bill to amend the Internal Revenue Code of 1986 to provide that gross income of an individual shall not include income from U.S. savings bonds which are transferred to an educational institution as payment for tuition and fees.

S. 1830

At the request of Mr. SANFORD, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of S. 1830, a bill to amend title II of the Social Security Act to provide for a more gradual period of transition (and a new alternative formula with respect to such transition) to the changes in benefit computation rules enacted in the Social Security Amendments of 1977 as they apply to workers born in years after 1916 and before 1930 (and related beneficiaries) and to provide for increases on their benefits accordingly, and for other purposes.

S. 1892

At the request of Mr. DIXON, the names of the Senator from Alabama [Mr. SHELBY], and the Senator from South Carolina [Mr. HOLLINGS] were added as cosponsors of S. 1892, a bill to amend title 10, United States Code, and other provisions of law to maintain and improve the defense industries base of the United States by specifying the management responsibilities of the Under Secretary of Defense for Acquisition, encouraging investment in emerging technologies and modernized production facilities, fostering the dedicated participation of private domestic sources, and discouraging unfair practices by foreign sources.

S. 1929

At the request of Mr. BUMPERS, the names of the Senator from Oklahoma [Mr. BOREN], the Senator from Arizona [Mr. DECONCINI], and the Senator from New Hampshire [Mr. RUDMAN] were added as cosponsors of S. 1929, a bill to amend the Small Business Investment Act to establish a corporation for small business investment, and for other purposes.

S. 1993

At the request of Mr. BUMPERS, the names of the Senator from Oklahoma [Mr. BOREN], the Senator from Nebraska [Mr. KARNES], and the Senator from Arizona [Mr. DECONCINI] were added as cosponsors of S. 1993, a bill to amend the Small Business Act to improve the growth and development of small business concerns owned and controlled by socially and economically disadvantaged individuals, especially through participation in the Federal procurement process, and for other purposes.

S. 2003

At the request of Mr. GRAMM, the names of the Senator from Missouri [Mr. BOND] and the Senator from Wyoming [Mr. WALLOP] were added as cosponsors of S. 2003, a bill to amend the Internal Revenue Code of 1986 to exempt from tax diesel fuel used for farming purposes.

S. 2010

At the request of Mr. LEVIN, the name of the Senator from Arkansas [Mr. BUMPERS] was added as cosponsor of S. 2010, a bill to establish a National Voluntary Reunion Registry Demonstration Program.

S. 2015

At the request of Mr. KENNEDY, the name of the Senator from Rhode Island [Mr. CHAFEE] was added as cosponsor of S. 2015, a bill to amend the Immigration and Nationality Act to extend for 1 year the application period under the legalization program.

S. 2024

At the request of Mr. KARNES, his name was added as a cosponsor of S. 2024, a bill to amend the Asbestos Hazard Emergency Response Act of 1986, Public Law 99-519, to extend certain deadlines.

S. 2026

At the request of Mr. CRANSTON, the name of the Senator from Alaska [Mr. MURKOWSKI] was withdrawn as a cosponsor of S. 2026, a bill entitled the "Atomic Energy Law Enforcement Act of 1988."

SENATE JOINT RESOLUTION 141

At the request of Mr. NICKLES, the name of the Senator from Colorado [Mr. WIRTH] was added as a cosponsor of Senate Joint Resolution 141, a joint resolution designating August 29, 1988, as "National China-Burma-India Veterans Appreciation Day."

SENATE JOINT RESOLUTION 210

At the request of Mr. WILSON, the name of the Senator from Illinois [Mr. DIXON] was added as a cosponsor of Senate Joint Resolution 210, a joint resolution to designate the period commencing February 8, 1988, and ending February 14, 1988, as "National Burn Awareness Week."

SENATE JOINT RESOLUTION 222

At the request of Mr. DECONCINI, the name of the Senator from Wyoming [Mr. SIMPSON] was added as a cosponsor of Senate Joint Resolution 222, a joint resolution to designate the period commencing May 1, 1988, and ending May 7, 1988, as "National Older Americans Abuse Prevention Week."

SENATE JOINT RESOLUTION 226

At the request of Mr. DECONCINI, the names of the Senator from Michigan [Mr. LEVIN], the Senator from North Dakota [Mr. CONRAD], the Senator from New Mexico [Mr. DOMENICI], the Senator from Pennsylvania [Mr. HEINZ], the Senator from Kansas [Mr. DOLE], the Senator from Nevada [Mr. REID], the Senator from Nebraska [Mr. EXON], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Minnesota [Mr. BOSCHWITZ], the Senator from Virginia [Mr. WARNER], the Senator from Vermont [Mr. STAFFORD], the Senator from Arkansas [Mr. PRYOR], the Senator from Connecticut [Mr. DODD], the Senator from Iowa [Mr. GRASSLEY], the Senator from North Dakota [Mr. BURDICK], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Missouri [Mr. BOND], the Senator from Maryland [Ms. MIKULSKI], the Senator from New York [Mr. D'AMATO], and the Senator from New York [Mr. MOYNIHAN] were added as cosponsors of Senate Joint Resolution 226, a joint resolution to designate the week of May 8, 1988, through May 14, 1988, as "National Soccer Week."

SENATE JOINT RESOLUTION 235

At the request of Mr. DECONCINI, the names of the Senator from Wisconsin [Mr. PROXMIRE], and the Senator from Virginia [Mr. WARNER] were added as cosponsors of Senate Joint Resolution 235, a joint resolution deploring the Soviet Government's

active persecution of religious believers in Ukraine.

SENATE JOINT RESOLUTION 237

At the request of Mr. DOLE, the names of the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Arkansas [Mr. BUMPERS], the Senator from Connecticut [Mr. DODD], the Senator from Illinois [Mr. SIMON], the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Minnesota [Mr. BOSCHWITZ], the Senator from Georgia [Mr. FOWLER], the Senator from Tennessee [Mr. GORE], and the Senator from Missouri [Mr. DANFORTH] were added as cosponsors of Senate Joint Resolution 237, a joint resolution to designate May 1988, as "Neurofibromatosis Awareness Month."

SENATE JOINT RESOLUTION 244

At the request of Mr. EXON, the names of the Senator from Texas [Mr. BENTSEN], the Senator from Ohio [Mr. GLENN], the Senator from Utah [Mr. HATCH], the Senator from Wyoming [Mr. SIMPSON], the Senator from Wisconsin [Mr. PROXMIRE], and the Senator from Delaware [Mr. BIDEN] were added as cosponsors of Senate Joint Resolution 244, a joint resolution to designate the month of April 1988, as "National Know Your Cholesterol Month."

SENATE JOINT RESOLUTION 245

At the request of Mr. CRANSTON, the name of the Senator from Wyoming [Mr. SIMPSON] was added as a cosponsor of Senate Joint Resolution 245, a joint resolution to designate April 21, 1988, as "John Muir Day."

SENATE JOINT RESOLUTION 246

At the request of Mr. DECONCINI, the names of the Senator from Iowa [Mr. GRASSLEY], the Senator from Alaska [Mr. STEVENS], and the Senator from Wisconsin [Mr. KASTEN] were added as cosponsors of Senate Joint Resolution 246, a joint resolution to designate the month of April 1988, as "National Child Abuse Prevention Month."

SENATE RESOLUTION 260

At the request of Mrs. KASSEBAUM, the name of the Senator from South Dakota [Mr. DASCHLE] was added as a cosponsor of Senate Resolution 260, a resolution to amend the rules of the Senate to improve legislative efficiency, and for other purposes.

SENATE RESOLUTION 377—RELATIVE TO NEGOTIATIONS ON A NEW LONG-TERM AGRICULTURAL AGREEMENT WITH THE SOVIET UNION

Mr. LUGAR submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 377

Whereas United States grain surpluses remain at near record levels;

Whereas the cost of U.S. farm programs continues to be excessive as a result of low farm prices;

Whereas this Nation's farmers are dependent on export sales for one-fourth of their income;

Whereas every billion dollars in U.S. farm exports creates 35,000 jobs and generates another $1.4 billion of economic activity;

Whereas the export of value-added products generates significant opportunities for new employment and economic growth in the food processing industry;

Whereas the Soviet Union has already exceeded the minimum purchase requirements for the 1987-88 agreement year for wheat and has bought substantial quantities of corn and soybeans under the current long-term grain agreement;

Whereas agricultural exports benefit the United States transportation sector, including railroads, trucking, inland waterway users, ocean shipping and support industries; and

Whereas the Congress and the President are committed to the growth of our agricultural economy, the reputation of the United States as a reliable supplier, and the recapture of our fair share of world markets for farm products: Now, therefore, be it

Resolved, That it is the sense of the Senate that the President should—

(1) as soon as practical after the date of the adoption of this resolution, report to the Congress his intention to initiate negotiations on a new long-term agreement on agricultural trade with the Government of the Soviet Union;

(2) seek to include in the terms of the new long-term agreement (A) higher minimum and maximum supply guarantees than in the agreement in effect on the date of adoption of this resolution, and (B) provision for the export of value-added products;

(2)(B) take appropriate actions to ensure that the Soviets will actually purchase in a timely manner the minimum quantities specified for each commodity;

(3) no later than May 30, 1988 report to the Congress on the potential impact of a new and expanded long-term agreement on economic growth and employment in United States agriculture and in related food processing and transportation industries; and

(4) take all other appropriate measures to assure the free movement of increased quantities of United States agricultural products to the Soviet Union.

SEC. 2. The Secretary of the Senate shall transmit a copy of the resolution to the President, the Secretary of State, the Secretary of Agriculture, the Secretary of the Treasury, the Secretary of Commerce, and the United States Trade Representative.

● Mr. LUGAR. Mr. President, the current long-term grain agreement between the United States and the Soviet Union will expire on September 30 of this year. The administration is now in the process of preparing for negotiations toward a new agreement.

The Soviet Union is an important export market for American commodities and purchases under the long-term grain agreement are a significant part of the success American agricultural exports are now enjoying.

In fiscal 1987, our agricultural exports increased to $27.9 billion and 129 million metric tons. For fiscal 1988, the U.S. Department of Agriculture now predicts those figures will rise to $32 billion and 141 million tons. With imports projected at the last fiscal year's level of $20.5 billion, this means our agricultural trade surplus will increase more than 50 percent to $11.5 billion.

Clearly, Mr. President, we need to encourage that kind of growth, not only for the benefits it brings to American agriculture but also for the benefit of the general economy where about 20 percent of the workforce is employed in some part of our food and farm system. It is estimated that for each $1 billion of U.S. farm exports, approximately 35,000 jobs are created and another $1.4 billion in economic activity is generated in the United States.

The key issue in the long-term grain agreement is the minimum amounts of commodities the Soviet Union pledges to purchase. The current agreement calls for purchases of at least 9 million metric tons of United States grain annually, including a minimum of 4 million tons each of wheat and corn. The Soviets also have the option of buying the remaining 1 million tons as wheat, corn or soybeans, with every ton of beans or meal counting as 2 tons of grain—up to a maximum of 1 million tons of grain equivalent.

In past years, the Soviets have not purchased the minimum amounts which the American side believed were required by the agreements. Lately Soviet purchases are quite substantial and wheat purchases are likely to be nearly 11 million tons, far in excess of the minimum in that category for the current October to September agreement year. Likewise, the Soviet Union is expected to purchsae substantial quantities of corn and soybeans.

Secretary Lyng has publicly stated the administration's objective of achieving a new agreement in which the minimum purchase requirements are clearly understood by both sides. Obviously, we would like to see the highest possible purchases of wheat, corn, and soybeans within the overall limits the two sides agree on.

My colleague, the distinguished Senator from Nebraska, Senator KARNES, has also made the important point that concluding such agreements goes a long way toward providing stability in what, historically, has been a volatile market. That kind of stability was the reason for the original agreement which took effect in 1976 after fluctuating and unpredictable purchases of our grain.

Mr. President, today I am submitting a resolution which simply encourages the administration in its efforts to negotiate a new long-term grain agreement. Because we are in conference on the Omnibus Trade bill which will have an effect on most of our bilateral trade relationships including that with the Soviet Union, the resolu-

tion calls for the President to report on the long-term grain agreement negotiations as soon as possible.

The resolution further asks the administration to seek higher minimum and maximum purchase levels than in the current agreement and to include value-added products in the new agreement.

Mr. President, I believe the objectives of this resolution will be of considerable value to both the agricultural and nonagricultural sectors of our economy. These objectives are something we can all support, regardless of party affiliation. I would appreciate the consideration of my Senate colleagues for this resolution and respectfully invite all Senators to cosponsor it.●

AMENDMENTS SUBMITTED

SENATE CONFIRMATION OF THE APPOINTMENT OF THE COMMISSIONER OF FOOD AND DRUGS

GORE AMENDMENT NO. 1401

Mr. GORE proposed an amendment to the bill (H.R. 1226) to amend the Federal Food, Drug, and Cosmetic Act to require the appointment of the Commissioner of Food and Drugs to be subject to Senate confirmation; as follows:

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 "Food and Drug Administration Act of 1987".

SEC. 2. FINDINGS.

Congress finds that—

(1) the public health has been effectively protected by the presence of the Food and Drug Administration during the last eighty years;

(2) the presence and importance of the Food and Drug Administration must be guaranteed; and

(3) the independence and integrity of the Food and Drug Administration need to be enhanced in order to ensure the continuing protection of the public health.

SEC. 3. ESTABLISHMENT OF ADMINISTRATION BY LAW.

(a) ESTABLISHMENT.—Chapter IX of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 391 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 903. FOOD AND DRUG ADMINISTRATION.

"(a) IN GENERAL.—There is established in the Department of Health and Human Services the Food and Drug Administration (hereinafter in this section referred to as the "Administration").

"(b) COMMISSIONER.—

"(1) APPOINTMENT.—There shall be in the Administration a Commissioner of Food and Drugs (hereinafter in this section referred to as the "Commissioner") who shall be appointed by the President by and with the advice and consent of the Senate.

"(2) GENERAL POWERS.—The Secretary, through the Commissioner, shall be responsible for—

"(A) providing overall direction to the Food and Drug Administration and establishing and implementing general policies respecting the management and operation of programs and activities of the Food and Drug Administration;

"(B) faithfully executing this Act

"(C) faithfully executing any other federal laws for which responsibility for administration has been delegated to the Commissioner from the Secretary;

"(D) coordinating and overseeing the operation of all administrative entities within the Administration;

"(E) research relating to foods, drugs, cosmetics, and devices in carrying out this Act;

"(F) engaging in educational and public information programs relating to the responsibilities of the Food and Drug Administration; and

"(G) performing such other functions as the Secretary may prescribe.

"(c) TECHNICAL AND SCIENTIFIC REVIEW GROUPS.—The Secretary through the Commissioner of Food and Drugs may, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, establish such technical and scientific review groups as are needed to carry out the functions of the Administration, including functions under the Federal Food, Drug, and Cosmetic Act, and appoint and pay the members of such groups, except that officers and employees of the United States shall not receive additional compensation for service as members of such groups.".

(b) CONFORMING AMENDMENTS.—Title 5, United States Code, is amended—

(1) in section 5316, by striking out the item relating to the Commissioner of Food and Drugs, Department of Health and Human Services; and

(2) in section 5315, by adding at the end thereof the following new item:

"Commissioner of Food and Drugs, Department of Health and Human Services".

(c) EFFECTIVE DATE.—The amendments made by this Act shall take effect on the date of enactment of this Act except as provided in paragraph (2).

2. Section 903(b)(1) of the Federal Food, Drug, and Cosmetic Act (as added by subsection (a) of this section) shall apply to the appointments of Commissioners of Food and Drugs made after the date of enactment of this Act.

NATIONAL AND REGIONAL CENTERS FOR PEDIATRIC EMERGENCY MEDICAL SERVICES

KENNEDY AMENDMENT NO. 1402

Mr. BYRD (for Mr. KENNEDY) proposed an amendment to the bill (S. 1968) to amend the Public Health Service Act to provide for National and Regional Centers for Pediatric Emergency Medical Services, and for other purposes; as follows:

On page 1, line 5, strike out "1987" and insert in lieu thereof "1988".

Beginning on page 2, strike out line 1 and all that follows through page 6, line 25.

On page 7, line 1, strike out "3" and insert in lieu thereof "2".

NOTICES OF HEARING

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BUMPERS. Mr. President, I would like to announce for the public that three hearings have been scheduled before the Subcommittee on Public Lands, National Parks and Forests.

The hearings will be held at 2 p.m. in room SD-366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of the hearings is to receive testimony on the following measures:

FEBRUARY 23, 1988

Senate Joint Resolution 215, a bill to authorize the Vietnam Women's Memorial Project, Inc., to establish a memorial to women of the Armed Forces of the United States who served in the Vietnam war;

S. 1896, a bill to authorize the Vietnam Women's Memorial Project, Inc., to construct a statue in honor and recognition of the women of the United States who served in the Vietnam conflict.

I understand that in the near future a bill will be introduced that encompasses aspects of both of these measures. Should such a bill be introduced, that measure will be the subject of the February 23 hearing.

MARCH 3, 1988

S. 1544, a bill to amend the National Trails System Act to provide for cooperation with State and local governments for the improved management of certain Federal lands, and for other purposes; and

H.R. 2652, a bill to revise the boundaries of Salem Maritime National Historic Site in the Commonwealth of Massachusetts, and for other purposes.

MARCH 17, 1988

S. 1508, a bill to withdraw and reserve for the Department of the Air Force certain Federal lands within Lincoln County, NV, and for other purposes;

S. 1570, a bill to withdraw and reserve for the Department of the Navy certain Federal lands within Inyo, Kern, San Bernardino, and Imperial Counties, California, and for other purposes; and

H.R. 1548, a bill to withdraw certain Federal lands in the State of California for military purposes, and for other purposes.

Those wishing information about submitting written statements should write to the Subcommittee on Public Lands, National Parks and Forests, U.S. Senate, room SD-364, Dirksen Senate Office Building, Washington, DC 20510. For further information, please contact Beth Norcross at 224-7933.

COMMITTEE ON SMALL BUSINESS

Mr. BUMPERS. Mr. President, the Committee on Small Business has scheduled the second and third days of hearings on legislation to improve the Small Business Administration's Minority Small Business and Capital Ownership Development [MSB/COD] Program, more frequently referred to as the SBA section 8(a) Program. The second day of hearings is scheduled for Thursday, February 18, 1988, commencing at 10 a.m. The third day of hearings is scheduled for Thursday, February 25, commencing at 2 p.m. Each hearing will be held in the committee's hearing room in SR-428A.

The committee will continue to receive testimony on S. 1993, the Minority Business Development Program Reform Act of 1987, a bill which I introduced along with Senator WEICKER and Senator KERRY on December 21, 1987. Testimony will also be received on H.R. 1807, the Capital Ownership Development Reform Act of 1987, a similar bill which passed the House on December 1, 1987.

During the second day of hearings, testimony will be received from Senator CARL LEVIN, the General Accounting Office, and representatives of associations representing a majority of the types of firms participating in the 8(a) Program, including high technology professional service providers, construction contractors, and manufacturers. Senator LEVIN, a senior member of the Small Business Committee, will offer testimony on the pending bills from the vantage point of the findings of a series of oversight hearings concerning the Wedtech Corp. conducted by the Subcommittee on Oversight of Government Management, Committee on Governmental Affairs, which he chairs. The GOA will be releasing the preliminary findings of a recently completed 8-month review of the 8(a) Program, requested by Representative JACK BROOKS, chairman of the House Government Operations Committee, which will update the findings of GAO's April 1981 report, the SBA 8(a) Procurement Program—A Promise Unfulfilled.

During the third day of hearings, testimony will be received from individual program participants and recent graduates. Representative JOHN J. LAFALCE, chairman of the House Small Business Committee, is seeking to arrange his schedule to permit his appearance as the lead witness.

Further information concerning the committee's hearings on this important effort may be obtained from the committee's procurement policy counsel, William B. Montalto. Bill may be reached at 224-5175.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. BYRD. Mr. President, I ask unanimous consent that the full Committee on Environment and Public Works be authorized to meet during the session of the Senate on Thursday, February 4, to hear Charles L. Grizzle, nominated by the President to be Assistant Administrator for Administration and Resources Management, Environmental Protection Agency.

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

COMMITTEE ON THE JUDICIARY

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to hold a business meeting during the session of the Senate on February 4, 1988.

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

ADDITIONAL STATEMENTS

NATIONAL WOMEN IN SPORTS DAY

● Mr. BRADLEY. Mr. President, on October 8, 1987, I rose to join the Senator from Oregon [Mr. PACKWOOD] in introducing a joint resolution to designate February 4, 1988, as "National Women in Sports Day." That day has arrived. It is much overdue.

Although the history of women in sports is rich and long, there has been little national recognition of the significance of women's athletic achievements. Over the last 15 years, several women athletes in our country have emerged as international figures. Their talent, determination, and dedication serve as an example for all Americans. "National Women in Sports Day" recognizes the importance of these athletic achievements to our country.

Today, over 10,000 women attend college on athletic scholarships. Women represent 30 percent of all college athletes, yet the athletic opportunities available to male students at collegiate and high school levels remain significantly greater than those for female students. This day provides us the opportunity to acknowledge the existence of such injustices, while emphasizing the progress women have made in their athletic community.

Over the last decade, there has been a decline in the number of women in athletic leadership positions of coaches, officials, and administrators. Women need to be restored to these positions in order to ensure equitable representation of women's abilities and to provide role models for young female athletes.

Mr. President, athletic fitness contributes to emotional as well as physical health. Women's athletics is one of the most effective avenues available through which women of America may develop self-discipline, initiative, and confidence, as well as acquire leadership, communication, and cooperation skills. The bonds built between women through athletics help to break down social barriers of racism and prejudice. The positive effects of participation in athletics are bound to carry over to the athlete's contribution at home, at work, and to society.

"National Women in Sports Day" is an affirmation of these positive effects.●

NOMINATION OF ANTHONY M. KENNEDY TO BE AN ASSOCIATE JUSTICE OF THE SUPREME COURT OF THE UNITED STATES

● Mr. DECONCINI. Mr. President, yesterday the Senate and this Nation came to the end of a long and arduous process by confirming the nomination of Anthony M. Kennedy to be an Associate Justice of the Supreme Court of the United States. I had previously announced my decision to vote in favor of the nomination.

I believe that the constutional responsibility to advise and consent on the President's nominees to the Supreme Court is one of the most important responsibilities granted to a U.S. Senator. The process of selection of an individual to fill the seat of retiring Justice Lewis Powell has been divisive and bitter. While I have been critical of President Reagan earlier in this process, I believe that in the appointment of Judge Kennedy he has found a way to resolve the matter responsibly and without further rancor.

Judge Kennedy is a conservative jurist, but is open-minded and willing to listen to all sides of an argument. He believes in restraint and caution and follows the course. He has strong opinions, but has no agenda to pursue on the Court. From my study of the record and from numerous discussions with members of the ninth circuit bar, I have concluded that Judge Kennedy will serve honorably and well on the Supreme Court for years to come.

As I mentioned in my opening statement before the Judiciary Committee hearings on Judge Kennedy's nomination, one of my greatest areas of concern is the area of privacy. I was encouraged to hear Judge Kennedy respond to questions from myself and other Senators, assuring us that he believed that the right of privacy is found in the Constitution. Unlike Judge Bork, who repeatedly conveyed that the right to privacy, if it existed, could not be found in the Constitution, Judge Kennedy unequivically said the right to privacy can be found in the Constitution. Although Judge

Kennedy preferred to include the right to privacy under the protection of the liberty language of the 5th and 14th amendments, he nevertheless was clear in his belief that the right is there and should be protected by the judiciary.

Furthermore, Judge Kennedy has stated, under oath, that he believes that the right to privacy is a fundamental right. If I might just read from the record of the hearings for a moment:

Senator DECONCINI. [I]t appears from reading your speech, that you have concluded, without question, that there is a fundamental right to privacy. And I think the chairman had you state that, and that is your position, correct?

Judge KENNEDY. Well, I have indicated that that is essentially correct. I prefer to think of the value of privacy as being protected by the clause, liberty, and maybe that is a semantic quibble, maybe it is not.

Senator DECONCINI. But it is there, is that——

Judge KENNEDY. Yes, sir.

Senator DECONCINI. No question about it being in existence?

Judge KENNEDY. Yes, sir.

And further, in response to a question from the chairman asking if Judge Kennedy had any doubt that there is a right to privacy: "it seems to me that most Americans, most lawyers, most judges, believe that liberty includes protection of a value we call privacy."

It becomes abundantly clear after reviewing the transcript of the hearings that Judge Kennedy and Judge Bork do not share the same judicial philosophy as it pertains to the fundamental right of privacy. Judge Bork could not, no matter how hard he looked, find the right of privacy in the words of the Constitution. Judge Kennedy, as seen by the excerpts above, has reached an opposite conclusion.

As Judge Kennedy as stated:

It is central to our American tradition. It is central to the idea of the rule of law. That there is a zone of liberty, a zone of protection, a line that is drawn where the individual can tell the Government: beyond this line you may not go.

It is hard to argue with such a simple but pure articulation of the relationship between the people of our country and our Government. Judge Kennedy, unlike the picture painted by some of his detractors, is indeed a very eloquent individual.

I am reassured by my discussion with Judge Kennedy about the fundamental right of privacy. Although we both believe it exists, we also believe it is limited. The right to privacy does not give an individual the right to commit criminal acts in private. Nor, in my view, does it sanction the killing of unborn children. A believe in the right to privacy does not equate to a belief in the right to abortion. While neither I nor others have asked Judge Kennedy his views on abortion, I do not believe that his belief in the right to privacy signals any acceptance of Roe versus Wade.

In addition to the right of privacy being found in the Constitution, Judge Kennedy was asked whether or not he believed there to be any practical significance for the ninth amendment; whether or not there was any real value to be found in the ninth amendment; and whether or not there was any purpose for the ninth amendment? Just as he found himself of a different school of thought than Judge Bork on the right of privacy, Judge Kennedy's assertions regarding the ninth amendment were much different from those espoused by Judge Bork. In summarizing the past interpretations of the Supreme Court and the ninth amendment, the nominee said that it appeared to him that the Court was treating it as something of a reserve clause, to be used in the event that the phrase "liberty" and the other broad phrases in the Constitution appear to be inadequate for the Court's decision.

Now this distinction may not appear of a great magnitude at first glance. However, as Judge Kennedy pointed out, there may come a time in the future where rights not specifically mentioned in the Constitution achieve a level of importance requiring constitutional protection. In this event, the ninth amendment would serve to provide a constitutional basis on which such a right could be protected.

During the Bork hearings it became apparent that Judge Bork had changed his mind about how far the first amendment extended. Prior to the hearings, there was evidence in Judge Bork's writings that only political speech would fall under the blanket of first amendment coverage as Judge Bork interpreted the first amendment. During the hearing Judge Bork indicated that the first amendment did indeed cover more than purely political speech, yet Judge Bork was unclear as to what speech was covered.

Judge Kennedy had no problem explaining the application of the first amendment to speech. As he stated during the recent hearings:

It (the first amendment) applies not just to political speech, although that is clearly one of its purposes, and in that respect it ensures the dialogue that is necessary for the continuance of the democratic process. But it applies, really, to all ways in which we express ourselves as persons. It applies to dance and to art and to music, and these features of our freedom are to many people as important or more important than political discussions or searching for philosophical truth, and the first amendment covers all of these forms.

It is apparent from the above quoted excerpt that Judge Kennedy's view of the first amendment is far more expansive than Judge Bork's.

During the Bork nomination hearings, Judge Bork communicated a belief that if one individual were to gain any rights, society or another individual would equally and inversely lose a right. Judge Kennedy, however, conveyed a different idea when discussing the right of an individual in society. Judge Kennedy said that he did not think there has to be a choice between order and liberty. But rather—

[W]ithout ordered liberty, there is no liberty at all. And one of the highest priorities of society is to protect itself against the corruption and the corrosiveness and the violence of crime, and in—his—view judges must not shrink from enforcing the laws strictly and fairly in the criminal areas.

It would seem that in Judge Kennedy's view, individuals join together to protect their rights, and that unlike Judge Bork's view of our society as a "zero-sum" system, more than one interest can advance their liberties without taking liberty from other interests.

Judge Bork was clearly treading new ground when he formulated his "reasonableness" theory in the area of equal protection while speaking to the committee last summer. Prior to appearing before the committee, he had given no indication, either in his writings or in speeches, that he would apply this type of test to the various classifications of plaintiffs seeking equal protection under the 14th amendment. Once again, on this issue Judge Kennedy disagreed with the position taken by Judge Bork. Judge Kennedy informed the committee that he would follow current standards established by years of Supreme Court decisions and apply the three tiered system of review; strict scrutiny, heightened scrutiny, or rational basis, depending on what class of plaintiff is seeking redress.

Additionally, there was some question left in the minds of the committee members as to whether or not Judge Bork would apply equal protection to women. Judge Kennedy left no such doubt.

Senator DECONCINI. Would you agree, first of all, that the equal protection clause applies to all persons?

Judge KENNEDY. Yes, the amendment by its terms, of course, includes persons, and I think was very deliberately drafted in that respect.

Furthermore, while Judge Bork was uncertain whether the equal protection clause applied to women or not, Judge Kennedy was unsure that the current classification for women insured equal protection under the three tiered system. As Judge Kennedy said:

And so the law there really seems to be in a state of evolution at this point, and it is going to take more cases for us to ascertain whether or not the heightened scrutiny standard is sufficient to protect the rights of women, or whether or not the strict scrutiny standard should be adopted.

But you need not take my only word as to Judge Kennedy's position and the equal protection clause. The following discussion between the distinguished Senator from Pennsylvania, Senator SPECTER, and Judge Kennedy should provide the necessary confirmation.

Senator SPECTER. Is there any question in your mind about the equal protection clause applying beyond blacks to women, to aliens, to indigents, to mentally retarded?

Judge KENNEDY. No. In fact, once again, the framers could have drafted the amendment so that it applied to blacks only, but they did not. They used the word "person".

I am satisfied by Judge Kennedy's explanation of his membership in, and resignation from, clubs that either by rule or by practice discriminate against women and minorities. I believe that he became concerned about these practices at about the same time as did the public at large. Of course, it would have been better if he had been a leader in this regard, but he did make efforts to change things after he realized that problems existed. When he was not able to make the changes that he thought were necessary and appropriate, he resigned from the clubs. I found that his conduct in these matters was acceptable and did not evidence any prejudice or bias. If he were guilty of anything, it was a lack of heightened sensitivity. I am afraid, however, that during the time period in question, most of us suffered from the same failing.

The one concern that I do have about Judge Kennedy is in the area of the narrowness of his rulings in civil rights cases. I was impressed by the testimony of the two witnesses representing the Hispanic Bar Association and the Mexican American Legal Defense and Education Fund. These two witnesses expressed the concerns of the Hispanic community that Judge Kennedy was not sensitive enough to the problems faced by minority citizens, Hispanics in particular. Ms. Antonia Hernandez expressed these concerns in the following manner:

The foregoing judicial opinions rendered by Judge Kennedy and in particular the way in which he reached his results, have quite naturally caused me to conclude that Judge Kennedy—if he becomes Associate Justice on the Supreme Court—may not be fair in adjudicating the rights of Hispanics and of other minorities. Alas, this possible unfairness could become particularly prevalent in cases not subject to compelling judicial precedent.

The decisions that Ms. Hernandez cited as being the basis for her concerns were discussed in great detail with Judge Kennedy. He explained his reasoning and the constraints that he felt required him to issue the decisions that he did. While the discrimination against Hispanic citizens in Aranda versus Van Sickle does seem to be egregious based on the facts presented to the committee, Judge Kennedy's decision seems consistent with a restrained and cautious approach to issues. His decision shows an understanding of the problems faced by Hispanics in the community and sympathetic to their attempts to remedy them. His decision certainly did not satisfy the plaintiffs in the case, but does not seem to evidence a bias against any group.

The months since Justice Powell announced his retirement from the Court have been difficult for all of us. While I wish that Judge Kennedy had been the first nominee sent to us, I do believe that the process that has been followed and the decisions that have been made throughout these long months have been correct. In my opinion the process has worked properly once again. It is a temptation for the losers in a political contest to blame the system. We have heard a lot of that criticism concerning the Powell vacancy, but this criticism is misdirected. It was not the system that failed when this body rejected the nomination of Judge Robert Bork, it was the nominee. Although I do not believe that Judge Bork is a bad man or even a bad judge, I did conclude, as did the majority of my colleagues, that he should not be elevated to the Supreme Court.

I congratulate President Reagan for sending to the Senate a nominee so well qualified by intellect, temperament, and integrity.●

ILLINOIS-AMERICAN WATER CO., PEORIA DISTRICT

● Mr. DIXON. Mr. President, I would like to call the Senate's attention to the Peoria District of the Illinois-American Water Co. February 1988 marks a significant milestone for this company and is employees, as they near the 2 million mark of man-hours worked without a single day of lost time as a result of on-the-job accidents.

The water utility industry exposes workers to a large number of hazards, with an average disabling frequency rate of 34 accidents per million man-hours. The Peoria Water Co. should, indeed, be commended for this outstanding accomplishment.

The employees of the Peoria District of the Illinois-American Water Co. have worked diligently for 8 consecutive years, maintaining a superior level of dedication to safety standards. I am proud to recognize this fine group of people in my State of Illinois. They play a significant role in the progress of Illinois' industry, and I extend to them my sincerest congratulations and praise.●

SENATOR INOUYE AND JEWISH REFUGEE SCHOOLS

● Mr. DECONCINI. Mr. President, this week the honorable senior Senator from Hawaii, Chairman INOUYE, announced his intention to rescind $8 million earmarked in the continuing resolution for the construction of schools in France for Jewish refugees from North Africa. After introducing this rescission, Chairman INOUYE has said that "he embarrassed his colleagues" and erred in judgment by originally including the provision in the continuing resolution. He went on to say that his initial action puts the Senate at risk and he would never put his pride in front of his duty to colleagues, constituents, and the American people. Chairman INOUYE always puts the institution and its constitutional process before any personal concerns.

Mr. President, the chairman of the Foreign Operations Subcommittee has once again exhibited why he is held in such high esteem by this body. Senator INOUYE epitomizes the definition of leadership with his personal integrity and sound judgment. Rather than worry about a personal fight of vindication he has placed his colleagues, the institution of the Senate, and the American people above self-interest. He is indeed a man of courage and grace to admit he may have made a mistake and thus avoids any inference of possible inappropriate action.

Senator INOUYE has defended his country by serving in the military, has represented the Senate in his role on the Watergate Committee, and recently served both his country and Congress in his leadership position on the Iran-Contra Committee. A decade ago a poll was taken by academics to determine who the most highly respected Members of Congress were over the past 200 years. The results enumerated such distinguished names as Calhoun, Webster, Clay, LaFollette, and Taft. Mr. President, if that poll was taken in this body, Senator INOUYE would surely rank at the top of each Member's list. He has elevated the American peoples' respect for this Chamber and accomplished this with dignity.

I would like to associate my comments about Senator INOUYE with the articulate remarks many of my colleagues have also stated. Although the proposal on the schools followed the normal appropriations process and was before the Senate for the required time, I support the chairman's decision to rescind the $8 million earmarked in the continuing resolution. Moreover, I respect the grace under pressure he has shown throughout the discussion of this issue.●

CHIANG CHING-KUO

● Mr. KASTEN. Mr. President, William Godwin wrote in 1793 that the twin objects of government are suppression of domestic injustice and defense against foreign aggression. But he cautioned that the statesman concerned with these tasks must be prepared "calmly to let years pass before he urges the carrying into effect of his teaching."

The passing of Chiang Ching-Kuo brings to an end one of our century's most exceptional careers of patient statesmanship. Chiang's concern was always for the welfare of his people—and Taiwan today bears indelibly the marks of his diligence.

Chiang knew that Godwin was right, that timing is the essential element of durable reform. He shared the far-sightedness and patience of the Chinese diplomat who was asked a couple of years ago whether he thought the French Revolution had been a success. The diplomat responded that—two centuries after the fact—it was still too early to tell.

Making Taiwan a 20th century democracy was not a task to be performed overnight. But Chiang knew in his heart that it was a task that must be performed.

Chiang promoted political democratization through economic growth. By encouraging universal participation in Taiwan's economic miracle, Chiang was laying the groundwork for full participatory democracy. Last year, at his insistence, the state of martial law was lifted for the first time since Chiang Kai-Shek arrived in Taiwan. In his will, Chiang implored his successors to keep steadily on the road to a democratic future.

Mr. President, I rise today to express my personal gratitude for the dedication and accomplishments of our late ally, Chiang Ching-Kuo. He understood the needs of his nation, and the policies he would have to pursue to meet those needs.

I offer condolences to the people of Taiwan for the loss of their great leader, as well as high hopes that his vision will be implemented in an ever freer Taiwan. All nations would do well to follow the example of his democratic spirit.

Mr. President, I ask unanimous consent that the eulogy of Chiang by Dr. Walter Judd, as well as an editorial from the New York Times of January 18, be entered in the RECORD.

The material follows:

BUILDING ON A LEGACY IN TAIWAN

A dynasty ended in Taiwan when President Chiang Ching-kuo died last week, but change had already begun. While faithful to the myths of Chiang Kai-shek's rule, the generalissimo's son was a realist who had recently set course toward liberalization and democracy. The challenge to Taiwan's new president is to keep that course, tackle economic problems and yet not upset the delicate balance that maintains calm in the Formosa Strait.

President Chiang never repudiated his father's dream of a China reunited under Nationalist rule. But he turned his actions toward strengthening Taiwan. And in the end he concluded that this required not only a dynamic economy but a government with greater popular legitimacy.

For Taiwan, politics has long meant the authoritarian rule of old men chosen in the 1940's. But in a portent of change, an ad hoc opposition party formed weeks before the 1986 legislative elections took 23 percent of the vote. In July President Chiang ended 38 years of martial law. That decision could have been a mere formality, but early signs suggested more: restrictions on the press and on political activities have been slowly loosening.

The late President also began breaking the hold of the old mainlanders, bringing the Taiwanese majority into government. The new President, Lee Teng-hui, is one of these. And without formally rejecting "the three no's"—no contact, negotiations or compromise with the mainland—President Chiang turned away from them, particularly by lifting the ban on travel to the mainland.

While the two Chinas remain nominally at war, de facto peace stems partly from a joint fidelity to the idea of one China. The Nationalists speak of one China under their rule, the Communists of two systems under their flag. In a worrisome move, Taipei has sentenced two advocates of independence to long prison terms. Yet the common goal of one China soothes tensions—and smoothes Washington's rocky path of two-China relations.

Can the new President, a bright and amiable man lacking his predecessor's power base, quash challenges to this delicate status quo? He must do so at a time when the very success of Taiwan's economic miracle poses new problems. Its trade surplus drives its growth but creates tensions with trading partners. The surplus will have to be reduced, which in turn will bring enormous internal political strains.

President Lee pledges to continue the liberalizing policies of his predecessor. Strengthening Taiwan's internal legitimacy will help prepare for the economic and foreign policy difficulties ahead.

EULOGY

Friends of China and friends of all Chinese: Nearly two-thousand-five-hundred years ago, the great philosopher and teacher, Confucius said, "He who exercises government by means of virtue may be compared to the north polar star, which keeps its place and all the stars turn towards it."

Today, those words are as fresh as the day they were first spoken; And how aptly they describe the man whose memory we are here to honor, President Chiang Ching-kuo of the Republic of China.

What a privilege it is to have known this man through the years, supported him in his work for freedom for the Chinese people, and admired him as a person and as a great leader.

He was the eldest son of one of the century's great and historical figures, Chiang Kai-shek, The son—"CCK", as he was so widely and affectionately called—was destined for truly outstanding leadership himself. He had been guided by his far-seeing father into two main strands of government service. These had prepared him well for the task of leading his people—through most difficult times—to security for the island of Taiwan, for economic progress and prosperity, for its people, and for successful development of wider democracy for those people.

Those strands of his early experience were in government administration, skillful handling of world-wide relationships, and achieving economic growth and progress on Taiwan. The skills were used with remarkable wisdom and success when CCK moved up in 1972 to the premiership of the Republic of China.

By that time the cornerstones for Taiwan prosperity were in place. First, orderly agricultural reform from oppressive landlordism to ownership of farms by the farmers themselves. In response, agricultural production had increased from shortages to surpluses.

CCK pressed ahead on the ten major construction projects. Created on the island of Taiwan, under his leadership, were new and greatly improved seaports, airports, high-speed rail lines, highways and bridges to move the traffic of commerce rapidly and efficiently.

The second cornerstone was the commitment to industrialization. CCK actively promoted development of advanced technology. There followed under this leadership extraordinary expansion of production of commodities and export to scores of countries around the world as well as for domestic consumption. Dramatic increases followed in per capita income, education, health services, improved standards of living.

Then when this economic expansion, which had come to be called the "economic miracle" of Taiwan, was flourishing, Chiang Ching-kuo led his people on from "economic prosperity" to something equally precious; political reform and expanded democracy.

He knew his own people, and he had the wisdom to move forward politically to a multi-party system. Freedom for the press and discussion of political issues were broadened, plus a lifting of the Emergency Decrees that had quite properly been put in place when the national capital was being removed to Taiwan in 1949 because of the real danger of Communist infiltration, and even attempted military conquest, from the Communist-controlled mainland.

Today, the "infiltration" of ideas is in the other direction—from Taiwan to the mainland. Under CCK's leadership, the ROC's citizens may now visit their relatives on the Mainland. The first-hand report the visitors bring is contagious. The mainlanders learn how very much better off than themselves are their brethren on Taiwan—in freedom, prosperity, and over-all living standards. The mainlanders want the same benefits for themselves. They know they can't get it under the communist system. They are bound to try to get the Three Principles of the People adopted on the mainland too.

Wisdom. Courage. Justice. VIRTUE. All of these are ideals that the Chinese people had from Confucius these many centuries. They are in fact the basic ideals of all humankind. They have found renewed expression and fresh demonstration on Taiwan through this unique leader, Chiang Ching-kuo.

As a person, Chiang Ching-kuo was not given to pomp and circumstance. He was a quite man of modest demeanor. Many was the day he could be found spending the early morning in the countryside, learning at first hand the concerns and views of the farmers and villagers.

A listener. A consensus-builder, an achiever by leading, not just ordering. That was CCK.

It can be said he was born to leadership, for his father had been for so many years at the very center of nation-building. Leadership is also learned from teachers, and Chiang Kai-shek's great teacher was Dr. Sun Yat-sen, the founder of the Republic of China. Tirelessly, CCK worked, as his father had, toward the goal of putting into practice Dr. Sun's Three Principles of the People—San Min Chu I. First, the principle of Nationalism—welding a nation out of a people; Second, the Principle of Democracy—people governing themselves by democratic practices; Third, the Principle of People's Livelihood—achieving better living conditions for all.

It had been adversity that brought the government of the Republic of China to the island province of Taiwan—the exhaustion from eight long years of cruel invasion and occupation by an external enemy, and twenty years of struggle with an internal enemy, the communists. It was Chiang Ching-kuo's constructive leadership built on the reforms instituted under his father's leadership, that has brought the Chinese people to increasing achievement of the Three Principles of the People. There is an increasing sense of nationhood under the flag of the Republic of China. There is a growing democratization that Chiang Ching-kuo had the maturity to know his prosperous people were ready for; and there is the Taiwan "Economic Miracle"—a dream come true.

Chiang Ching-kuo's ultimate goal, reunification of all the people of China, remains in the future. In a salute to him the other day, one of our largest national newspapers wrote, "(He) understood that for China there is no fast and simple solution. More important, he insisted that however long China must wait, reunification will come only when it brings with it not compromise for Taiwan, but freedom for the mainland."

Today, it is the Republic of China that is the political and economic model for what can be on the mainland, and one day will be.

For that, his people and the world, pay Chiang Ching-kuo honor today—the man whose legacy for his people is freedom, nationhood, democracy, prosperity.

As other stars in the sky turn toward the North Star, so we turn today toward Chiang Ching-kuo and what he achieved as a model for the future.

He has, and he will keep, his place in history. His work lives.

What a privilege it is for us to have known this man through the years, to have supported him in his work for freedom for the Chinese people, and to have admired him as a true patriot and great leader.

Wholeheartedly, we salute him today!●

ED HASENOUR

● Mr. McCONNELL. Mr. President, I rise today to pay tribute to a good friend of mine and respected businessman from Louisville, KY, Mr. Ed Hasenour. From modest beginnings, Mr. Hasenour established some of the most popular restaurants in Louisville and became one of the most respected restaurateurs in the State.

He left school at the age of 14 to work with his father. After 10 years in that job, he started a restaurant of his own. Its success led him to expand his operations.

Eventually, Mr. Hasenour had run several of the most acclaimed establishments in the city and became a widely recognized community leader. He founded the Kentucky Restaurant Association, sponsored amateur baseball teams, and was active in Kentucky Derby week festivities.

I would like to enter into the RECORD the following article that more thoroughly details his contributions to his profession and his community. I would like to join my fellow Kentuckians in mourning the loss of this exceptionally dedicated individual. His loss will be felt by great many friends and admirers.

The article follows:

WELL-KNOWN RESTAURATEUR ED HASENOUR DIES AT 77

(By Everett J. Mitchell II)

Ed Hasenour, operator of one of the best known restaurants in Louisville, died last night at Baptist Hospital East. He was 77.

Hasenour finished the eighth grade at St. Francis of Assisi Catholic school and went to work at the age of 14 at Ballard Mill, a flour mill on Broadway, where his father was a supervisor. He worked there for 10 years but was forced to quit because he was bothered by asthma.

He started in the restaurant business in September 1934, when he and a partner opened a cafeteria at Floyd and Breckinridge streets behind Male High School. By the following February, Hasenour had bought out his partner.

In 1952, Hasenour decided to expand. He opened a restaurant in a building that had been the home of Joe Lurding's bar at Barret and Oak. The new place was called, simply, Hasenour's Restaurant. Hasenhour and his son, Lee, sold the cafeteria in the early 1970s. They operated three Lums sandwich shops for about 10 years, starting in the late 1960s, but sold them in 1978.

A year later they established the Atrium, Lee Hasenour's glass and greenery addition to the restaurant.

Hasenour said in 1984 that the three secrets of his success were quality food, quality service and cleanliness, but added that there were elements of good fortune and several good friends to help along the way.

A little bit of promotion helped too.

Hasenour sponsored a baseball team that won the National Amateur Baseball Federation junior title in 1945. The Hasenour Open was a yearly event at Seneca Golf Course in the 1950s, and the Hasenour trophy was awarded each year to the top scorer in Jefferson County high school football.

The ideas for the Derby Festival Balloon Race and the Run for the Rose came from Hasenour and his family. And they have been active in the Taste of Louisville, raising funds for the culinary-arts program at Jefferson Community College.

In 1974, Hasenour was named "restaurateur of the year" by the Kentucky Restaurant Association, an organization he founded.

He was former president of the board of directors of the Lincoln Heritage Trail Foundation, a director of the Greater Louisville Convention and Visitors Bureau and a director emeritus of the Kentucky Restaurant Association.

His survivors include his wife, the former Marcy L. Hukenback; his son; two daughters, Teri Gordon of Columbia, Tenn., and Marcia Larken; a sister, Mary Richter; and five grandchildren.

The funeral will be at 10 a.m. Saturday at St. Agnes Catholic Church, 1920 Newburg Road.

Visitation will be at Pearson's, 149 Breckinridge Lane, from 7 to 9 p.m. today and from 2 to 5 and 7 to 9 p.m. tomorrow.

The family requests that expressions of sympathy take the form of contributions to Kosar Charities, Mass of the Air or Boys Haven.●

VICE PRESIDENTS: IN THE SHADOW OF POWER

● Mr. DURENBERGER. Mr. President, a recent opinion article written by Norman Sherman, former press secretary to Vice President Hubert Humphrey, laid out very well the difficulties facing that great Minnesotan in running for President in 1968, in the shadow of his President, whom he served with great loyalty.

The article appeared in both the Minneapolis Star Tribune and the St. Paul Pioneer Press on Sunday, January 24. Mr. Sherman eloquently discusses the pain of both serving in this supporting role and of running from that position for the highest office in our land.

Since this body has produced most of our Vice Presidents since World War II, I thought it would be of interest to my colleagues. Thus, I ask that this article be printed in the CONGRESSIONAL RECORD.

VICE PRESIDENTS: IN THE SHADOW OF POWER

(By Norman Sherman)

WASHINGTON.—When George Bush moves his lips these days, I hear the words of Vice President Hubert Humphrey running for president in 1968, and it pains me to recollect those difficult days.

Ten years ago this month, after a long and illustrious public career, Humphrey died a deservedly revered and honored man. He had spent more than 30 years in elected office as mayor of Minneapolis, senator from Minnesota and vice president of the United States, making our system work to the benefit of millions.

During many of those years he talked of running for president, and in 1968 he finally got the Democratic nomination. Unfortunately, he ran as the incumbent vice president, struggling to perform an impossible act of staying close to President Lyndon Johnson and far away at the same time. He lost to Richard Nixon, who had himself lost to John Kennedy in 1960, leaping toward temporary oblivion after eight years as Dwight Eisenhower's vice president.

As the 10th anniversary of Humphrey's death approached, because I worked for or near him for a long time and edited his autobiography, reporters looking back on his career have called me, wanting to discuss his significant contributions to American society and law. When I have finished my litany of what he thought important, each reporter has remarked that all the landmark achievements I listed took place while Humphrey was in the Senate: civil-rights legislation, the Peace Corps, Food for Peace, federal aid to education, Medicare, the 1963 Nuclear Test Ban Treaty.

Each reporter has then asked: "Wasn't there something as important accomplished while he was vice president?" I have paused to appear thoughtful, but I really don't need the time. The answer is simply, "No, there was nothing that came close during those four vice presidential years. The job just didn't permit it, no matter how hard Humphrey tried."

It pains me to say so, but a Spiro Agnew is likely to do about as well as a Hubert Humphrey or a Walter Mondale or a George Bush, and Nelson Rockefeller no better. The job of vice president prepares you to be president only in the sense that you are there in case the president dies. The rest is robotics.

It is a job of no consequence, of few real and many quite forgettable accomplishments and, more's the pity, of self-delusion that you are an irreplaceable player in important acts of state.

It begins with the Secret Service protection. Agents make you look like a president, all those men and women ready to die to protect you, all the cars and code names and walkie-talkies and guns and bullet-proof vests. Air Force Two and helicopters and agents awake outside your door while you are asleep feed the ego in wondrous ways.

And then there are the headlines and the game of "Pick Up Chips." You may be nothing in Washington, but when you attend a political fund-raiser in Topeka or Tupelo or Tucson, you warrant eight-column headlines, front-page pictures and the undying gratitude of local political activists. You want to shout, "I am somebody."

The delusion continues with the national security briefings. You pretend they are just like the president's when they are really the same edited briefing material that a couple of dozen other anonymous folks at the State Department get.

"Almost the same (as the president's)" is how a Bush aide recently described Bush's briefings, a euphemism for "quite different, sanitized and incomplete." I once played the same charade.

Voodoo vice presidency often reaches its zenith with the awesome statement that "I have talked to heads of state." I stood close by when Humphrey said it and thought it meant something. I heard Walter Mondale say it, and now George Bush proclaims it. It is an expression that drips with empty meaning.

Vice presidents frequently are sent to funerals of head of state to represent our country. Their visits with living heads of state are only marginally more productive. Yet, vice presidents all brag about what those visits mean. "I can deal with a head of state; therefore, I myself can be a head of state." It is a kind of Cartesian proof of both existence and importance, but it is nonsense.

The fact is that no vice president does more than operate within the constraints set down by the president or, more probably, by the secretary of state. You may arrange, but you do not really negotiate. You may explain, you may request, but you do not innovate, deviate or spontaneously combust.

So set inside the "head of state" canard.

The other echo of times past comes when the vice president is asked to describe those occasions when he differed from the president on a variety of embarrassing policies. Bush on Iran-contra questions or Humphrey on Vietnam, the ultimate defense is the same: "I have offered my points of view privately; I am loyal and I have aired my differences only to the president. I am not going to change that now that I am running for the presidency."

It is the perfect defense. No incumbent president is likely to list points of disagreement. If the president was right, in hindsight, it can only embarrass the vice president. If the vice president was right, it can only embarrass the president. Further, the wonderful quality of the statement is that it implies differences that may never have existed.

The job of vice president means you are not homeless and you do draw a regular paycheck. Beyond that, you are what the president allows you to be, but you have no real authority, no real responsibility and no independent clout. And almost everyone inside knows that.

A vice president goes as a messenger wherever he goes, trappings of derivative power substituting for the real thing. The secretaries of state and defense have more authority on foreign affairs and defense policy. And, on domestic issues, each Cabinet officer, no matter how lowly or mediocre, has more authority in his or her field than the vice president.

So what shall we make of George Bush's claims? Not much. He is in the time-honored tradition of those who have preceded him. Service as vice president probably should not disqualify him, or anyone, from running for president or serving if elected. But Eisenhower wanted a week to think of something Nixon had done; I've had 10 years to think of what Humphrey, whom I idolized, did as vice president. It all adds up to zero.

Eugene McCarthy once derisively described Walter Mondale as having the "soul of a vice president." I think that is unfair. It is only a temporary condition that lasts from election to defeat or some other rehabilitation. Mondale has recovered. Humphrey did too. Since only one person in the country can suffer from the condition at one time, we know that George Bush, with luck, will also soon be well. Just pity the next person.●

FRAUD OF THE DAY—PART 26

● Mr. HEINZ. Mr. President, in line with my comments on January 27 about reprising some of my all-time favorite frauds, I am pleased to present today the classic case that was really a key factor in the development of the amendment that subsequently found its way into the Senate trade bill—the photo album case. Since that case continues to be a problem despite more aggressive Customs Service and Commerce Department efforts, it is worth repeating at this time to make absolutely clear to Senators what this country is up against in trying to enforce our laws. This fraud originally appeared October 7, 1987.

When I spoke yesterday about Customs Fraud, I also addressed the issue of the Customs Service budget. I argued that it was unrealistic to expect a significant increase in funds allocated to the Customs Service. Today, I want to discuss the very real limitations on Customs enforcement efforts even if the budget were adequate. The reality is that many perpetrators of fraud would continue to escape without any real punishment.

Today's fraud illustrates these limitations. It does not focus on a particular case or a specific company. Instead, it involves the entire photo album industry, and makes clear the way in which a private right of action could have a decisive role in helping the Customs Service fight fraud.

In 1985, Korea exported 1.859 million dozen photo albums to the United States. After an anti-dumping investigation, during which none of the information provided by Korean manufacturers could be verified, the Department of Commerce found a dumping margin of 64.8 per cent. In 1986, after the implementation of and anti-dumping duty order, imports of photo albums from Korea dropped 98% to 35,391 dozen. One would normally conclude from that that the problem of photo album dumping had subsided.

The facts, however, show quite a different story. The domestic industry immediately began noticing that photo album imports from Asian countries other than South Korea were increasing dramatically. After January, 1986, exports of photo albums from Korea to Taiwan rose 560%, from 265,498 dozen to 1.952 million dozen. Exports to Singapore rose 489%, to 2.51 million dozen. That means that Singapore was importing 10 photo albums per resident in 1986!

At the same time, Taiwan and Singapore increased their photo album exports to the United States by 1300 percent and 860 percent, respectively. It seems to me that these are persuasive figures that something funny has been going on—most likely that Korean producers were transhipping to the United States through Singapore and Taiwan in order to avoid the dumping duties.

In pursuit of these not-so-elusive albums, one prosecution has occurred. M.B.I., a Korean company which manufactures photo albums, pleaded guilty in December, 1986, to fraudulently transhipping photo albums and received $5,000 in criminal fines. Customs' efforts to obtain a large civil penalty have been thwarted thus far by the defendant's appeal of Customs' ruling that a substantial transformation did not occur in the country from where the albums were shipped. That ruling is based on ample precedent, but the system permits a defendant—in this case one which pleaded guilty and was convicted—to tie up civil litigation indefinitely. The net result is that M.B.I. has effectively gotten away with its crime and is free to continue it through other countries and other ports of entry.

Subsequent efforts to enforce the dumping duty order more broadly have run up against real limitations in Customs resources, the perceived extent of its legal authority to investigate allegedly sham assembly operations in the United States and in third countries, lack of cooperation by third country governments and producers in Customs' enforcement activities, and the relatively low priority the Justice Department gives prosecutions of this nature.

Recently Customs has been making a determined effort to surmount these difficulties, has suspended liquidation of all entries of photo albums and has seized at least one additional shipment in a different port. Even so, simply keeping up with an operation that is constantly shifting from country to country and port to port may well be beyond the Service's capacity.

Mr. President, last month I wrote a column on this case that appeared in the New York Times. I ask that that article be printed in the RECORD at the conclusion of my remarks today.

Mr. President, there is no question in my mind that if a private right of action existed

today in cases like this one—where again, the foreign party pleaded guilty to criminal fraud—U.S. companies would have a valuable tool to assist the Customs Service's efforts to see that people comply with the law.

The article follows:

[From the New York Times, Aug. 21, 1987]

A HUGE CUSTOMS SCAM VICTIMIZES UNCLE SAM

(By John Heinz)

WASHINGTON.—Nobody enjoys a good snapshot more than the people of Singapore. Last year alone, enough photo albums were imported into Singapore to supply 10 to every man, woman and child in that country. Singaporeans are not just camera happy; they must be ecstatic.

But Singaporeans are not nearly the shutterbugs they appear to be. In fact, the flood of photo albums is just part of a grand scheme that makes a mockery of United States trade laws. Other nations are funneling these albums through Singapore to the United States in order to circumvent trade quotas imposed on those countries. In short, it is customs fraud.

In industry after industry, customs fraud is being perpetrated on such a huge scale by many of our trading partners that Federal enforcement agencies cannot keep up with it.

An amendment that is attached to the omnibus trade bill, however, permits those who have been victimized by customs fraud to sue for monetary damages in the United States Court of International Trade. The measure is patterned after remedies that have long been available under antitrust and securities laws. Although many unscrupulous foreign exporter are jittery about the amendment, it is doubtful that a single photographer in Singapore has even noticed.

Customs fraud is increasing. Items ranging from photo albums to steel to coffee are being laundered from one country to another, intentionally mislabeled and sent on to the United States. The practice costs the United States billions of dollars, hundreds of thousands of jobs and a lot of pride.

The Customs Service estimates that about 10 percent of all imports are fraudulent. In fiscal years 1984 and 1985, only 27 percent of the textile and apparel imports involved in customs fraud were even detected, according to customs officials.

A study by the National Treasury Employees Union concludes that such fraud costs America $19 billion a year in lost sales, $8 billion to $12 billion of our gross national product, $1.5 billion to $2.2 billion in Federal taxes and $2 billion in customs revenue. It also results in the loss of 500,000 jobs a year, the union study says. The phantom photo albums are just part of a much bigger problem.

There is compelling evidence that South Korean photo albums are being transshipped to America through third countries such as Singapore in order to circumvent a 1986 United States antidumping order. That order charged that South Korea's photo albums were being unfairly dumped at 65 percent below their cost of production. As a result, we imposed offsetting antidumping duties.

South Korean album exports to the United States subsequently declined from 22.32 million in 1985 to 424,692 in 1986. But at the same time, South Korean album exports to Singapore shot up 480 percent, while shipments to Taiwan increased 560 percent. The two countries, in turn, increased their 1986 photo album exports to the United States by 800 percent and 1,300 percent, respectively.

Despite labels and other identifying marks showing that the products came from Singapore, Taiwan and Hong Kong, laboratory tests have proved that the photo albums were actually made in South Korea. Other evidence suggests that even some albums labeled "Made in the USA" are actually products of South Korea.

Yet no effective action has been taken against this evasion of our laws as the American photo album industry watches its sales dwindle. The domestic industry's right to sue could not be clearer.

Executives of the American photo album industry, however, have only met frustration in their attempts to stop this practice. Customs officials assert that they are spread too thin to catch every fraudulent shipment. Our inability to enforce the antidumping order makes it virtually meaningless.

Nor is the problem limited to Singapore photo albums, or even to false listings of country of origin. Filing false tariff numbers, counterfeiting foreign export visas and providing inaccurate values of shipments are other common methods of operation for crooked traders.

The amendment to the trade bill gives aggrieved companies a way to defend themselves against unfairly traded imports. It puts teeth in the customs laws, and it gives victims of customs fraud the same legal recourse that victims of securities fraud have.●

AMERICAN ENTERPRISE INSTITUTE REPORT ON THE INF TREATY

● Mr. WALLOP. Mr. President, today, along with Senators QUAYLE, KASTEN, and WILSON I bring to the Senate's attention an excellent, comprehensive analysis of the INF Treaty. This report was prepared under the auspices of the American Enterprise Institute by former Deputy Assistant Secretary of Defense Frank Gaffney, who had the principal line responsibility inside the Pentagon for overseeing the ongoing negotiations in Geneva.

This report has noted several areas that should be of concern to Senators as the Senate deliberates over the treaty. One I directly point out is a simple drafting error which, with the simple replacement of an "and" for an "or," has the exact opposite intention that the drafters intended. This should dispel the notion that is prevalent inside the administration that this is somehow a perfect document that neither needs close Senate scrutiny or any possible changes by amendment.

● Mr. QUAYLE. The distinguished Senator from Wyoming is quite correct. Indeed, I found the analysis of article 14 of the treaty—that dealing with our rights and obligations not to circumvent the treaty—to be most troubling. While I believe that the concerns raised by this issue are soluble, I am somewhat dismayed at the administration's contention that this is a nonissue. I believe that it has the potential to cut to the very core of our security commitments to our allies, especially in Europe. In the Armed Services Committee hearings we have heard witness after witness testify to the necessity to continue the modernization of our short-range nuclear forces not covered by the INF Treaty and to develop and deploy unmanned, nonnuclear standoff missiles. This article and articles 2 and 7 will be construed by some as prohibiting many of the programs we need to complete or continue. I believe that the clarification of the exact meaning of these articles is critical to the maintenance of support for those programs here in the United States and especially among our allies. Perhaps a reservation to the INF Treaty or an exchange of letters with the Soviets will be needed to clarify these provisions.

● Mr. KASTEN. Let me echo the concerns of the Senator from Indiana. I am carefully studying this document as part of my review of the INF Treaty. I am struck by the sheer number of ambiguities in the INF treaty, ambiguities which some future Senate may have to grapple with if this Senate does not perform its constitutionally mandated task of providing not only its consent, but its advice to this treaty. I believe this document shows that the INF Treaty needs our attention. It needs work. It may need amendment and quite possibly Senate reservation. There is another aspect of this that concerns me. I fear that if the Senate does not scrutinize this treaty as it should, the view prevalent in the administration that the INF Treaty is a pristine document will carry over into the START Treaty that is being rushed to conclusion. I believe we in the Senate can have a very positive impact on the quality of the START Treaty we get if those negotiating it recognize that the Senate is not just a rubber stamp for whatever the administration negotiates.

● Mr. WILSON. Mr. President, I commend the Senators from Wyoming, Indiana, and Wisconsin for their insightful comments on the INF Treaty. I share their view of the value of the report prepared by Mr. Gaffney and the AEI working group. It is most thorough and well-written. It reveals many of the potential problems inside the INF Treaty that are obscured by legal terminology. It is, in my judgment, required reading for Senators prior to the impending floor debate on consent to the INF Treaty.

Let me comment on one issue raised in this analysis that concerns me. We have heard a great deal in the newspapers and in the committee hearings about problems with the data base the Soviets provided us under the terms of the treaty. This problem is compounded by a feature of the treaty that I

suspect many Senators are unaware of. The data base agreed to and exchanged between the sides at the time the INF Treaty was signed is not the data base that will be used to regulate the treaty. Another exchange will occur 30 days after ratification. The accuracy of that data base, the official data base, will not be subject to challenge by the United States. Changes in the data base from the first data base may not be subject to the verification procedures in the treaty. I believe this may be a serious problem with this treaty that will require further explanation.

I urge my colleagues in the Senate to give this analysis of the treaty a careful read prior to making their decision on consent to ratification. I now ask for myself and my three colleagues present to place the entire analysis in the RECORD immediately following my statement so that it will be available to all Senators and their staff.

The analysis follows:

THE INF TREATY: ANALYSIS AND COMMENT

INTRODUCTION

This analysis of the Intermediate Nuclear Force Treaty, entered into December 8, 1987 between the United Sates and the Soviet Union and currently being reviewed by the U.S. Senate, was prepared by a working group convened at the American Enterprise Institute for Public Policy Research and chaired by AEI visiting fellow Frank Gaffney. The members of the working group are listed on the following page.

The purpose of the working group's analysis is not to support or oppose ratification of the INF Treaty; indeed the group includes individuals on both sides of the ultimate issue before the Senate. The aim here is rather to examine rigorously and in detail the effectiveness of the Treaty's provisions and protocols in achieving the Treaty's own goal: to eliminate all intermediate-range and all shorter-range nuclear missiles. Regardless of the wisdom of this goal it is clearly in the interest of the United States that the Treaty's requirements should be as transparent as possible and that its verification provisions should protect against undetected violations. Mindful of the Soviet Union's exploitation of ambiguities and loopholes in past treaties, and concerned that differing interpretations could lead to an unequal exchange of rights and obligations in the future, the authors have sought clarity, precision, and the timely assessment of ambiguities in the Treaty's text.

The members of the working group believe that a number of the INF Treaty's deficiencies discussed in this analysis could be exacerbated if an agreement limiting strategic arms were concluded and if certain of this Treaty's provisions were regarded as a precedent for the later agreement. They have thus identified problems which may strike some readers as minor details—but which could become critically important in the context of the more ambitious agreements currently being negotiated.

This analysis is offered in a constructive spirit on the premise that the Senate will wish to understand the Treaty in detail before deciding whether to ratify it unreservedly or to amend or adopt reservations to it. Where there are ambiguities the Senate may wish to clarify them by eliciting an indication from the Soviets of how they interpret those provisions. In all events the sort of close scrutiny offered here should assist in placing the final disposition of the Treaty on a firmer basis than if the issues identified were not squarely addressed.

CHRISTOPHER C. DEMUTH,
President, American Enterprise Institute for Public Policy Research.

ARTICLE-BY-ARTICLE REVIEW OF THE INF TREATY

INTRODUCTION

This paper reviews provisions of the INF Treaty, its two Protocols and Memoradum of Understanding. Comments are offered regarding a number of key issues. Where it is not yet possible to ascertain satisfactory the meaning or implications of a given provision, we have highlighted the need for clarification by setting forth the relevant questions.

ARTICLE I—PRINCIPAL OBLIGATION

In accordance with the provisions of this Treaty which includes the Memorandum of Understanding and Protocols which form an integral part thereof, each Party shall eliminate its intermediate-range and shorter-range missiles, not have such systems thereafter, and carry out the other obligations set forth in this Treaty.

Comment: The primary obligation of the Treaty parties is, according to this article, the complete elimination of all intermediate-range and shorter-range missiles and other specified items. This is the standard against which the Treaty's provisions must be judged. If, for example, as a result of the cumulative effect of allowed production, inadequate inspection and permitted R&D, the Soviets can retain or produce prohibited missiles and other systems, the Treaty would fail to achieve its purpose.

ARTICLE II—DEFINITIONS

Analysis of the Article II definitions should take into account not only their suitability in the context of this INF Treaty, but also the implications of their use as precedents for a START Treaty. It should be noted that the provisions of Articles VI and VII significantly add to and in some cases alter the definitions of terms dealt with in Article II.

The Treaty does not define "elimination" as such, though it does specify procedures for eliminating specific items. The problem is that the specified procedures will not in every case result in the actual elimination of these items. In fact, in some cases items "eliminated" according to the specified procedures may even be able to continue to perform their prohibited functions.

Article II, Paragraphs 1 and 2:

For the purposes of this Treaty:

1. The term "ballistic missile" means a missile that has a ballistic trajectory over most of its flight path. The term "ground-launched ballistic missile (GLBM)" means a ground-launched ballistic missile that is a weapon-delivery vehicle.

2. The term "cruise missile" means an unmaned, self-propelled vehicle that sustains flight through the use of aerodynamic lift over most of its flight path. The term "ground-launched cruise missile (GLCM)" means a ground-launched cruise missile that is a weapon-delivery vehicle.

Comment: Taken together, the definitions of ballistic and cruise missiles in Paragraphs 1 and 2 do not capture every possible type of missile. For example, a hyper-velocity glide vehicle appears not to be within the definitions. This should be confirmed, as some work is being done in the United States on that technology. What other missile technologies are similarly excluded by these definitions? Were all such exclusions intended by us? What uses can the Soviets make of such exclusions?

This provision permanently prohibits conventionally-armed ground-launched missile options that could contribute substantially to the non-nuclear defense of Western Europe. (see Report of Commission on Long-Term Integrated Strategy.) The INF Treaty makes such contributions more important than before. The breadth of the definitions—that is, the fact that they cover conventionaly-armed as well as nuclear-armed ground-launched missiles—is said to be justified by the verification difficulties that would be created if conventionally-armed missiles were not prohibited. This verification benefit, however, has largely been negated by the fact that the definitions do not cover drones (remotely piloted vehicles) or any other ground-launched missiles that do not carry weapons.

The operative assumption evidently is that the Article VII counting rule, which specifies that such systems may not be flight-tested for weapon-delivery, will prevent prohibited missiles from being developed in the guise of drones. Is this assumption valid? In other words, is it possible to flight-test a weapon-delivery system in a manner that would not be distinguishable from the flight-test of a drone? For further

* * *

Given that major verification problems still inhere in these definitions, the wisdom of permanently banning conventionally-armed missiles should be reassessed.

Article II, Paragraph 3:

3. The term "BLBM launcher" means a fixed launcher or a mobile land-based transporter-erector-launcher mechanism for launching a GLBM.

Comment: A key issue of the Treaty is its application to Soviet GLBM launchers. See comments on Article IV, Paragraph 1.

Article II, Paragraphs 5 & 6: .

5. The term "intermediate-range missile" means a GLBM or a GLCM having a range capability in excess of 1000 kilometers but not in excess of 5500 kilometers.

6. The term "shorter-range missile" means a GLBM or a GLCM having a range capability equal to or in excess of 500 kilometers but not in excess of 1000 kilometers.

Comment: These definitions refer to "range capability," but that phrase is misleading. In the case of ballistic missiles, as Article VII, Paragraph 4 makes clear, the range is considered to be not the maximum range of which the missile is capable, but only the maximum range to which it has been tested. As for the case of cruise missiles, see comments on Article VII.4.

Article II, Paragraph 8:

8. The term "missile operating base" means:

(a) in the case of intermediate-range missiles, a complex of facilities, located within a deployment area, at which intermediate-range missiles and lauchers of such missiles normally operate, in which support structures associated with such missiles and launchers are also located and in which support equipment associated with such missiles and launchers is normally located; and

(b) in the case of shorter-range missiles, a complex of facilities, located any place, at which shorter-range missiles and launchers of such missiles normally operate and in which support equipment associated with

such missiles and launchers is normally located.

Comment: "Normally operate" is not defined in the Treaty. Its use here implies that missiles and launchers may legally operate outside the missile operating bases. This may mean that missiles that qualify under the Treaty as "non-deployed" may nevertheless be operational, though it is clearly the intention of the Treaty that all operational missiles be deemed "deployed." Is there an agreed meaning for this term? What if anything do we know about the meaning the Soviets attribute to "normally" here?

Ambiguous or unclear terms of this kind may or may not have great significance in the context of the INF Treaty. But we can expect many such terms to be transplanted into the START Treaty, where their significance might increase greatly. It is elementary but bears emphasis that it is very bad practice to allow terms of an arms control Treaty to remain ambiguous or undefined.

ARTICLE III—TREATY-LIMITED SYSTEMS

1. For the purposes of this Treaty, existing types of intermediate-range missiles are:

(a) for the United States of America, missiles of the types designated by the United States of America as the Pershing II and the BGM-109G, which are known to the Union of Soviet Socialist Republics by the same designations; and

(b) for the Union of Soviet Socialist Republics, missiles of the types designated by the Union of Soviet Socialist Republics as the RSD-10, the R-12 and the R-14, which are known to the United States of America as the SS-20, the SS-4 and the SS-5, respectively.

2. For the purposes of this Treaty, existing types of shorter-range missiles are:

(a) for the United States of America, missiles of the type designated by the United States of America as the Pershing IA, which is known to the Union of Soviet Socialist Republics by the same designation; and

(b) for the Union of Soviet Socialist Republics, missiles of the types designated by the Union of Soviet Socialist Republics as the OTR-22 and the OTR-23, which are known to the United States of America as the SS-12 and the SS-23, respectively.

Comment: On the assumption that the SSC-X-4 was at more or less the same early stage of development as the U.S. Pershing IB, the U.S. consented to have the Treaty treat these two missiles in the same fashion, different from the treatment of the "existing" items. The information about the SSC-X-4 in the Memorandum of Understanding—that 84 SSC-X-4 missiles and six launchers have been produced and are located at a storage facility—suggests that that assumption was erroneous.

This evident intelligence error raises questions about our ability to monitor the subject matter of the Treaty. How do we know that the 84 SSC-X-4 missiles that the Soviets have acknowledged are all the SSC-X-4 missiles that they possess? For that matter, what confidence do we have about the accuracy and completeness of the other data supplied by the Soviets? See comments on the Memorandum of Understanding.

Is there any significance to the difference between those inspection provisions applicable to the systems "never deployed" (i.e., Pershing IB and SSC-X-4) and those applicable to "existing" (i.e., deployed) items? See Article X.6.

ARTICLE IV—ELIMINATION SCHEDULE (INTERMEDIATE-RANGE SYSTEMS)

Article IV, Paragraph 1:

Each Party shall eliminate all its intermediate-range missiles and launchers of such missiles, and all support structures and support equipment of the categories listed in the Memorandum of Understanding associated with such missiles and launchers, so that no later than three years after entry into force of this Treaty and thereafter no such missiles, launchers, support structures or support equipment shall be possessed by either Party.

Comment: The Treaty says that all Treaty-limited systems are to be "eliminated," and no such systems are to be "possessed" by either Party after three years. The actual obligation of the Parties, however, is to follow certain "elimination" procedures, custom designed for each banned item, and such procedures amount only to alteration rather than elimination of several Soviet launchers.

Whereas the "elimination" procedures for all Treaty-limited U.S. systems will ensure that such systems are reduced to scrap, the procedures for several Treaty-limited Soviet launchers have been designed to allow the "eliminated" launchers to be used for other purposes. Given that these "eliminated" Soviet launchers will be permitted to operate throughout the Soviet Union, the question is whether, even if we observe them through overhead reconnaissance, we have the capability of ascertaining whether the alterations have been reversed so as to allow the item to perform a prohibited function.

It may be that the Soviets would find it easier to produce a new launcher from "scratch" than to undo the elimination procedures on an old launcher. This raises the question: Do we have any confidence that we would detect clandestine production of Treaty-limited launchers? See comments on Article VI, Paragraph 1.

Some of the Treaty's language implies a greater comprehensiveness of its scope than is, in fact, the case. In drafting the Memorandum of Understanding, the Parties excluded from the list of items to be eliminated certain elements of an INF capability—certain facilities and equipment—that can be used for other purposes, too. With respect to the U.S. facilities and equipment being so spared, this seems a sensible, financially responsible measure. The United States can be expected to fulfill its obligations under the Treaty not to retain an INF capability, and will not put such items to prohibited uses. The exclusion, however, may on the Soviets' side facilitate the concealment of Treaty violations or may enhance their ability to effect a rapid "breakout." For example, the Treaty allows the Soviets to retain without alteration SS-20-related multiple-bay garages and support structures for shorter-range missiles.

Each exclusion from the elimination schedule, gerrymandered definition, and exception to the non-production rule may seem minor in itself, but taken together such provisions mean that the Soviets, even without violating the Treaty, can remain rather close to a militarily significant INF capability. And the violations that would be required to maintain an INF capability are less extensive (and thus easier to conceal) than the Treaty's comprehensive language leads one to believe.

ARTICLE V—ELIMINATION SCHEDULE (SRMS)

Article V, Paragraph 1:

Each Party shall eliminate all its shorter-range missiles and launchers of such missiles, and all support equipment of the categories listed in the Memorandum of Understanding associated with such missiles and launchers, so that no later than 18 months after entry into force of this Treaty and thereafter no such missiles, launchers or support equipment shall be possessed by either Party.

Comment: Regarding the possible significance of this Article's failure to mention the elimination of support structures for shorter-range missiles, see comments on Article IV, Paragraph 1.

ARTICLE VI—COLLATERAL CONSTRAINTS

Article VI, Paragraph 1:

Upon entry into force of this Treaty and thereafter, neither Party shall:

(a) produce or flight-test any intermediate-range missiles or produce any stages of such missiles or any launchers of such missiles; or

(b) produce, flight-test or launch any shorter-range missiles or produce any stages of such missiles or any launchers of such missiles.

Comment: The ability of the Intelligence Community (IC) to monitor Soviet performance under the terms of this provision and the Treaty in general is a major issue. In this connection, the following questions, among others, must be addressed:

Can the IC accurately represent that it knows the location of all the facilities that have been used to produce the Soviets' Treaty-limited systems? Would it know if the Soviets actually began production of banned items at other facilities? Would it know if the Soviets created the capability at other facilities to begin production of banned items?

To what extent could permitted SS-25 production and testing mask or substitute for SS-20 production/testing?

It has been argued that this Article's prohibition of flight-testing serves to guarantee against covert deployment of the SS-20. The contention is that without flight-testing the Soviets would have no confidence in the reliability of their missiles and therefore would not deploy them. But our experience with the SS-16 missile, deployment and flight-testing of which were banned under SALT II, argues to the contrary. According to the Administration, the SS-16 was probably deployed over a long period of time even though we detected no flight tests.

It is also presumably the case that the Soviets will be able to obtain useful reliability information from the permitted launches to destruction and static fire burns prescribed by the Treaty's elimination provisions.

Furthermore, flight tests of the SS-25 will provide the Soviets some data relevant to the SS-20 because the first stages of those two missiles are essentially identical. Indeed, the Soviet Union's ability to use their unregulated SS-25 program as a vehicle for getting around the prohibitions of the INF Treaty or concealing violations of the Treaty is an intractable problem which arises repeatedly throughout this agreement. Some have sought to minimize the gravity of the issue by contending that the Soviets have little incentive to maintain a prohibited, concealed SS-20 capability because the SS-25s themselves, which are not prohibited, can perform the same military function as the SS-20 does.

This argument ignores, however, the possibility that the Soviets may value highly the specialized characteristics of the SS-20—in particular, its multiple warheads, high accuracy, and short time of flight. Such considerations may constitute ample incentive for the Soviets to exploit opportu-

nities to maintain an SS-20 capability despite the Treaty. Also, if a START agreement is concluded, limiting or banning SS-25s and other strategic systems, the Soviets' incentives to violate the INF Treaty would increase substantially.

Article VI, Paragraph 2:

Notwithstanding paragraph 1 of this Article, each Party shall have the right to produce a type of GLBM not limited by this Treaty which uses a stage which is outwardly similar to, but not interchangeable with, a stage of an existing type of intermediate-range GLBM having more than one stage, providing that the Party does not produce any other stage which is outwardly similar to, but not interchangeable with, any other stage of an existing type of intermediate-range GLBM.

Comment: This provision attempts to address the problems caused by the fact that the Treaty-limited SS-20 and the unlimited SS-25 ICBMs have first stages that are so similar that no practical inspection regime would be able to distinguish them. As a result of this provision, the Soviet Union will be allowed to produce first stages that are "outwardly similar to" the SS-20 first stage, thereby vitiating somewhat the general prohibition on production of any intermediate-range missile stage in paragraph 1. Although the Soviets say such stages are "not interchangeable with" SS-20 first stages, the absence of any definition of that phrase makes it meaningless.

Furthermore, it is unclear how—if at all—this Article would affect a future intermediate-range missile that might be developed using the first two stages of the SS-25 (just as the first two stages of the SS-16 gave rise to the SS-20). Could the development, testing and production of such a system be concealed using the SS-25 program as "cover"? In any event, it will be difficult for the U.S. to determine whether anomalous activities within the SS-25 program indicated a surreptitious intermediate-range missile development program.

This paragraph contains a noteworthy drafting error. Read literally, it permits the production of an "SS-25" second stage that is "outwardly similar to, and interchangeable with" the second stage of an SS-20. This problem arises because the paragraph begins with a "notwithstanding" clause that overrides the general prohibition on intermediate-range missile stage production of paragraph 1. This point should be clarified with the Soviets. What the last clause of the Paragraph meant to say (and should be revised to reflect) is: ". . . provided that that Party does not produce any other stage which is either outwardly similar to, or interchangeable with, any other stage of an existing type of intermediate-range GLBM."

ARTICLE VII—COUNTING RULES

As was pointed out in the comments on Article II, the Article VII counting rules have an important bearing on the definitions of key Treaty terms, and analysis of these rules should take into account both their suitability in the context of this INF Treaty and also the implications of their use as precedents for a START Treaty.

Article VII, Paragraphs 1 and 2:

For the purposes of this Treaty:

1. If a ballistic missile or a cruise missile has been flight-tested or deployed for weapon delivery, all missiles of that type shall be considered to be weapon-delivery vehicles.

2. If a GLBM or GLCM is an intermediate-range missile, all GLBMs or GLCMs of that type shall be considered to be intermediate-range missiles. If a GLBM or GLCM is a shorter-range missile, all GLBMs or GLCMs of that type shall be considered to be shorter-range missiles.

Comment: The Treaty does not define the word "type." This suggests that the Parties were unable to arrive at a common understanding of the term. In light of the controversy relating to whether the SS-25 is a new type of ICBM, and thus a violation of SALT II, it is important that the sides not hold to inconsistent definitions of so critical a term.

In the absence of such a definition it is impossible to know how different a new missile must be from a Treaty-limited missile in order for that new missile to be excluded from the Treaty's prohibitions (i.e., in order for the new missile to be considered either (1) not a weapon-delivery vehicle, or (2) not a vehicle of intermediate- or shorter-range).

Article VII, Paragraph 3:

If a GLBM is of a type developed and tested solely to intercept and counter objects not located on the surface of the earth, it shall not be considered to be a missile to which the limitations of this Treaty apply.

Comment: The following questions arise from this provision:

With what effectiveness could a missile now designed for ABM, ATBM, or anti-air purposes be used in a ground-to-ground, weapon-delivery mode?

Could the Soviets develop a new intermediate-range or shorter-range missile in the guise of an ABM, ATBM, or anti-air missile?

Article VII, Paragraph 4:

The range capability of a GLBM not listed in Article III of this Treaty shall be considered to be the maximum range to which it has been tested. The range capability of a GLCM not listed in Article III of this Treaty shall be considered to be the maximum distance which can be covered by the missile in its standard design mode flying until fuel exhaustion, determined by projecting its flight path onto the earth's sphere from the point of launch to the point of impact. GLBMs or GLCMs that have a range capability equal to or in excess of 500 kilometers but not in excess of 1000 kilometers shall be considered to be shorter-range missiles. GLBMs or GLCMs that have a range capability in excess of 1000 kilometers but not in excess of 5500 kilometers shall be considered to be intermediate-range missiles.

Comment: The counting rule for GLBM range capability provides a significant loophole: a new GLBM could be tested to 490 km in a non-minimum-energy trajectory and thus would have much greater actual range. The U.S. would have no grounds to object to such a system, even though it would unquestionably have the ability to strike targets over 500 km away.

The counting rule for GLBM range is taken from the SALT II Treaty (Article II.8, 2nd Agreed Statement). As Secretary Vance's published analysis of SALT II (Document 12B, p. 19) makes clear, the U.S. interpretation of this definition was not confirmed by the Soviets. Was there, in the course of the INF negotiations, any agreement on the meaning of "flying to fuel exhaustion"?

In any event, this provision is not verifiable. If we observed a new Soviet GLCM flying 490 km in a test, how would we be able to know how much fuel it had on board when the flight was terminated? Replacing a large conventional warhead on such a GLCM with a small nuclear warhead would allow it to fly INF ranges—even if the fuel would have been exhausted carrying the first payload to only 490 km.

Article VII, Paragraphs 7 & 8:

7. If a launcher has been tested for launching a GLBM or a GLCM, all launchers of that type shall be considered to have been tested for launching GLBMs or GLCMs.

8. If a launcher has contained or launched a particular type of GLBM or GLCM, all launchers of that type shall be considered to be launchers of that type of GLBM or GLCM.

Comment: Is there any engineering or mechanical reason why the launcher for the SS-25 could not be used to launch an SS-20? Do we know whether any such launcher has ever been used for this purpose—including during development of the SS-25?

If an SS-25 launcher during development testing carried an SS-20 canister, it would be captured by the counting rule in Paragraph 8. Can we be certain no such launcher ever did?

Article VII, Paragraph 10:

Except in the case of elimination in accordance with the procedure set forth in the Protocol on Elimination, the following shall apply:

(a) for GLBMs which are stored or moved in separate stages, the longest stage of an intermediate-range or shorter-range GLBM shall be counted as a complete missile;

(b) for GLBMs which are not stored or moved in separate stages, a canister of the type used in the launch of an intermediate-range GLBM, unless a Party proves to the satisfaction of the other Party that it does not contain such a missile, or an assembled intermediate-range or shorter-range GLBM, shall be counted as a complete missile; and

(c) for GLCMs, the airframe of an intermediate-range or shorter-range GLCM shall be counted as a complete missile.

Comment: Because the first stage of an SS-25 is externally indistinguishable from that of an SS-20, the counting rules for U.S. missiles differ from those for Soviet missiles. They impose a more rigorous standard on the U.S. side (the largest stage of the Pershing II missile alone counts as a full-up missile) than on the Soviet side (only a full-up Soviet missile—or its canister—counts as a missile).

The difference between the counting rules for U.S. missiles and those for Sovet missiles affects the relative values of U.S. and Soviet inspection rights under the Treaty. Because of these counting rules, the U.S. side's rights to conduct continuous monitoring of a Soviet production facility apply only to a Soviet final assembly plant. The corresponding rights of the Soviets, however, apply to a U.S. plant that actually manufactures missile stages. (For further discussion of this point, see Article XI, Paragraph 6.) This means that the Soviet facilities that now manufacture SS-20 second stages (or first stages for that matter) are not subject to monitoring by the United States under the Treaty.

Given that the Treaty effectively permits the Soviets to continue manufacturing first stages of the two-stage SS-20 (see Article VI, Paragraph 2), it is not a minor matter that we have no inspection rights at all at whatever facilities manufacture SS-20 stages.

ARTICLE VIII—SITING LIMITATIONS

Article VIII, Paragraphs 1, 2 and 3:

1. All intermediate-range missiles and launchers of such missiles shall be located in deployment areas, at missile support facilities or shall be in transit. Intermediate-

range missiles or launchers of such missiles shall not be located elsewhere.

2. Stages of intermediate-range missiles shall be located in deployment areas, at missile support facilities or moving between deployment areas, between missile support facilities or between missile support facilities and deployment areas.

3. Until their removal to elimination facilities as required by paragraph 2 of Article V of this Treaty, all shorter-range missiles and launchers of such missiles shall be located at missile operating bases, at missile support facilities or shall be in transit. Shorter-range missiles or launchers of such missiles shall not be located elsewhere.

Comment: This Article describes where intermediate-range and shorter-range missiles and launchers shall be located during the period between entry into force and the end of the elimination period. These requirements raise the following questions:

Will we be able to tell that Treaty-limited items are not located elsewhere? For example, could they be stored without risk of detection in warehouses or other installations? Do we know that all areas in the Soviet Union where operational missiles exist have been identified by the Soviets as "deployment areas?"

How many intermediate-range missiles have the Soviets produced? How confident are we in our estimate?

Article VIII, Paragraph 5: All deployment areas, missile operating bases and missile support facilities are specified in the Memorandum of Understanding or in subsequent updates of data pursuant to paragraphs 3, 5(a) or 5(b) of Article IX of this Treaty. Neither Party shall increase the number of, or change the location or boundaries of, deployment areas, missile operating bases or missile support facilities, except for elimination facilities, from those set forth in the Memorandum of Understanding. A missile support facility shall not be considered to be part of a deployment area even though it may be located within the geographic boundaries of a deployment area.

Comment: If the Soviets have continued after November 1, 1987 to maintain SS-20s or support equipment at any missile support facility previously associated with these missiles but not listed in the MOU, they would be in violation of this provision. Is there evidence that any such items continued to be present at any such facility after November 1, 1987?

Article VIII, Paragraph 6:

Beginning 30 days after entry into force of this Treaty, neither Party shall locate intermediate-range or shorter-range missiles, including stages of such missiles, or launchers of such missiles at missile production facilities, launcher production facilities or test ranges listed in the Memorandum of Understanding.

Comment: The word "locate" in this provision seems to mean "to allow something to be at a loction." On the other hand, it could be read to mean "to move something to a location." This point should be clarified by the Parties especially if consideration is being given to creating a parallel provision in START.

Article VIII, Paragraph 8:

A non-deployed intermediate-range or shorter-range missile shall not be carried on or contained within a launcher of such a type of missile, except as required for maintenance conducted at repair facilities or for elimination by means of launching conducted at elimination facilities.

Comment: This provision seems altogether unmonitorable. And, in any event, even if we were to detect an apparent violation, the loophole (viz., "except as required for maintenance conducted at repair facilities . . .") would make it impossible to establish the point. Is it clear that, for purposes of this provision, a missile can be placed on its launcher only at a repair facility?

Article VIII, paragraph 9:

Training missiles and training launchers for intermediate-range or shorter-range missiles shall be subject to the same locational restrictions as are set forth for intermediate-range and shorter-range missiles and launchers of such missiles in paragraphs 1 and 3 of this Article.

Comment: This provision contains the Treaty's first reference to "training" missiles and launchers. No definition or clarification of such terms is provided in Article II, Article VII, or elsewhere. Have the Parties agreed that training missiles must be inert—i.e., without propellant? If all missiles must be either deployed or non-deployed, where do training assets fit in? How will we be able to tell the difference between such missiles and "real" ones. This point is particularly important in light of last-minute Soviet reallocation of a number of deployed SS-20s into the training category.

ARTICLE IX—DATA AND RELATED NOTIFICATIONS

Article IX, Paragraph 1:

The Memorandum of Understanding contains categories of data relevant to obligations undertaken with regard to this Treaty and lists all intermediate-range and shorter-range missiles, launchers of such missiles, and support structures and support equipment associated with such missiles and launchers, possessed by the Parties as of November 1, 1987. Updates of that data and notifications required by this Article shall be provided according to the categories of data contained in the Memorandum of Understanding.

Comment: The quality of the data contained in the MOU is fundamental to the viability of this Treaty. If such data represent only a portion of the actual Soviet force then the remainder of that force will not be subject to any of the inspection provisions. Issues that need to be explored include: the quality of our intelligence; the likelihood that actual Soviet capabilities are higher; the significance of apparently wide discrepancies in the number of refire missiles associated with each of the several Soviet systems limited by the Treaty; and the extent to which our estimates are being altered on the basis of Soviet-supplied information (despite the fact that the factors which gave rise to these estimates in the first place do not appear to have changed).

Article IX, Paragraph 3:

No later than 30 days after entry into force of this Treaty, each Party shall provide the other Party with updated data, as of the date of entry into force of this Treaty, for all categories of data contained in the Memorandum of Understanding.

Comment: The United States insisted on reviewing before Treaty signature—and retaining the right to reject—the data provided for in the MOU. The data in the MOU, however, are not the data that form the basis of the Parties' obligations under the Treaty. The data that really count are those to be exchanged by the Parties 30 days after the Treaty's entry into force; the Treaty does not afford us the right to reject Soviet data supplied at that time. In fact, if the United States is unsatisfied with the information provided in the data update—e.g., if we judge the Soviets to be understating their INF force—and the Soviets fail to convince us of the accuracy of their new data, then the United States would have no effective recourse. As a practical matter, we would feel compelled to continue to fulfill our obligations under the Treaty.

Under Article X.8, the Soviets will be allowed to remove missile support facilities and operating bases from this data base if they claim to have accomplished certain elimination procedures by the date of entry into force of the Treaty. Since there is no prohibition against eliminating Treaty-limited items during this period, the Soviets may choose to remove missiles and launchers from the updated data base contending that they have been eliminated. However, we will not have any inspection rights with regard to such missiles and hence will not be certain that they have, in fact, been eliminated. It is, moreover, unclear whether the Soviets would be obligated to follow the procedures in the Protocol on Elimination with respect to systems eliminated during this period.

Two of the advertised verification strengths of the Treaty are the agreement on data before Treaty signature (as reflected in the MOU) and the inspection rights applicable to the elimination of Treaty-prohibited items. In light of the foregoing paragraph, one cannot reach a judgment on the contribution these "strengths" make to the Treaty's verification regime until we have received the updated data from the Soviets 30 days after the Treaty's entry into force. In order to minimize the problem, the United States could insist upon a commitment from the Soviets either that, should they eliminate Treaty-limited systems prior to entry into force, they will follow the provisions of the Protocols on Elimination and Inspection or that they will refrain from such eliminations until the Treaty enters into force.

Article IX, Paragraph 5:

Upon entry into force of this Treaty and thereafter, each Party shall provide the following notifications to the other Party:

(f) notification of transit of intermediate-range or shorter-range missiles or launchers of such missiles, or the movement of training missiles or training launchers for such intermediate-range and shorter-range missiles, no later than 48 hours after it has been completed, including:

(i) the number of missiles or launchers;

(ii) the points, dates and times of departure and arrival;

(iii) the mode of transport; and

(iv) the location and time at that location at least once every four days during the period of transit.

Comment: It should be noted that the provision on notification of transit is not as valuable as it might have been, since it does not require that notification be given until 48 hours after the transit is completed.

ARTICLE X—ELIMINATION PROVISIONS

Article X, Paragraph 1:

Each Party shall eliminate its intermediate-range and shorter-range missiles and launchers of such missiles and support structures and support equipment associated with such missiles and launchers in accordance with the procedures set forth in the Protocol on Elimination.

Comment: Unlike Article VI (production) and Article VIII (location of Treaty-limited items), this paragraph does not specifically apply its terms to the stages of Treaty-limited missiles. Section I.3 of the Protocol on Elimination does state that "all stages of intermediate-range and shorter-range GLBMs

shall be subject to elimination." It might be argued, however, that this protocol language applies only to the stages of full-up missiles that are listed in the updated data base and whose elimination is observable pursuant to the Treaty's inspection provisions. That reading would allow the Soviets to separate, before the Treaty's entry into force, the two stages of the SS-20 and retain the separated stages indefinitely. This would greatly facilitate the reconstitution of a Soviet INF capability.

To fix this problem, the Parties could agree to add to Paragraph 1 the words "and stages of such missiles" after the phrase "intermediate-range and shorter-range missiles."

Article X, Paragraph 5:

Each Party shall have the right, during the first six months after entry into force of this Treaty, to eliminate by means of launching no more than 100 of its intermediate-range missiles.

Comment: This provision was included because the Soviets insisted that they would otherwise be unable to eliminate all their intermediate-range missiles within the allowed period. The Intelligence Community should assess whether any benefit might accrue to the Soviets in terms of establishing a useful data base on SS-20 reliability. (See comments on Article VI, Paragraph 1). Does the U.S. expect to destroy any of its intermediate-range missiles by launching them?

Article X, Paragraph 6:

Intermediate-range and shorter-range missiles which have been tested prior to entry into force of this Treaty, but never deployed, and which are not existing types of intermediate-range or shorter-range missiles listed in Article III of this Treaty, and launchers of such missiles, shall be eliminated within six months after entry into force of this Treaty in accordance with the procedures set forth in the Protocol on Elimination. Such missiles are:

(a) for the United States of America, missiles of the type designated by the United States of America as the Pershing IB, which is known to the Union of Soviet Socialist Republics by the same designation; and

(b) for the Union of Soviet Socialist Republics, missiles of the type designated by the Union of Soviet Socialist Republics as the RK-55, which is known to the United States of America as the SSC-X-4.

Comment: The significance of this paragraph is discussed in the comments on Article III.

Article X, Paragraph 7:

Intermediate-range and shorter-range missiles and launchers of such missiles and support structures and support equipment associated with such missiles and launchers shall be considered to be eliminated after completion of the procedures set forth in the Protocol on Elimination and upon the notification provided for in paragraph 5(e) of Article IX of this Treaty.

Comment: This paragraph makes it clear that the term "elimination" in the Treaty does not mean elimination in the common sense of the term but rather fulfillment of the elimination procedures set forth in the Protocol on Elimination. The adequacy of such procedures was called into question in the comments on Articles II and IV.1.

Article X, Paragraphs 8:

Each Party shall eliminate its deployment areas, missile operating bases and missile support facilities. A Party shall notify the other Party pursuant to paragraph 5(a) of Article IX of this Treaty once the conditions set forth below are fulfilled:

(a) all intermediate-range and shorter-range missiles, launchers of such missiles and support equipment associated with such missiles and launchers located there have been removed;

(b) all support structures associated with such missiles and launchers located there have been eliminated; and

(c) all activity related to production, flight-testing, training, repair, storage or deployment of such missiles and launchers has ceased there.

Such deployment areas, missile operating bases and missile support facilities shall be considered to be eliminated either when they have been inspected pursuant to paragraph 4 of Article XI of this Treaty or when 60 days have elapsed since the date of the scheduled elimination which was notified pursuant to paragraph 5(a) of Article IX of this Treaty. A deployment area, missile operating base or missile support facility listed in the Memorandum of Understanding that met the above conditions prior to entry into force of this Treaty, and is not included in the initial data exchange pursuant to paragraph 3 of Article IX of this Treaty, shall be considered to be eliminated.

Comment: This provision must be read in conjunction with Article XI.5(b), which deals with the inspection of former missile operating bases and support facilities. It opens the door to the possibility that facilities which currently have a role in Treaty-limited activities can be exempted from inspection if the Party claims to have fulfilled the three conditions listed and hence omits them from the data exchange which must be made 30 days after entry into force.

Are all the conditions listed in subparagraphs (a)-(c) discernible by national technical means of verification? If not, how will we have confidence that facilities known to be associated with Treaty-limited activities meet these conditions before entry into force? If so, what is the perceived need for close-out inspections at facilities eliminated after entry into force?

Article X, Paragraph 9:

If a Party intends to convert a missile operating base listed in the Memorandum of Understanding for use as a base associated with GLBM or GLCM systems not subject to this Treaty, then that Party shall notify the other Party, no less than 30 days in advance of the scheduled date of the initiation of the conversion, of the scheduled date and the purpose for which the base will be converted.

Comment: It seems intended, but is not made explicit, that a missile operating base must be "eliminated" before it can be converted for the use of a non-limited GLBM or GLCM. This possible ambiguity takes on special importance given that the Treaty allows the Soviets to retain such structures as multi-bay garages and other SS-20-related items at "eliminated" operating bases.

ARTICLE XI—VERIFICATION: INSPECTION PROVISIONS

The utility of this inspection regime is limited by the fact that it does not provide any right to conduct short-notice, on-site inspections at suspect sites, i.e., sites other than declared (or formerly declared) facilities. Thus, all of the effort described in this article is directed only at those places that the Soviets have in fact listed and thus chosen to make subject to inspection.

Article XI, Paragraph 3:

Beginning 30 days after entry into force of this Treaty, each Party shall have the right to conduct inspections at all missile operating bases and missile support facilities specified in the Memorandum of Understanding other than missile production facilities, and at all elimination facilities included in the initial data update required by paragraph 3 of Article IX of this Treaty. These inspections shall be completed no later than 90 days after entry into force of this Treaty. The purpose of these inspections shall be to verify the number of missiles, launchers, support structures and support equipment and other data, as of the date of entry into force of this Treaty, provided pursuant to paragraph 3 of Article IX of this Treaty.

Comment: If a facility is not included in the updated data base to be provided 30 days after the Treaty's entry into force (which Article X.8 says it need not be if it is "eliminated" prior to entry into force), do we still have the right to inspect it? On the one hand, this provision is said to apply to all facilities listed in the Memorandum of Understanding, but, on the other, the purpose of the inspections it authorizes is said to be the verification of the data in the updated data base. A related ambiguity is discussed under paragraph 5(b) of this Article.

Article XI, Paragraph 5:

Each Party shall have the right to conduct inspections pursuant to this paragraph for 13 years after entry into force of this Treaty. Each Party shall have the right to conduct 20 such inspections per calendar year during the first three years after entry into force of this Treaty, 15 such inspections per calendar year during the subsequent five years, and ten such inspections per calendar year during the last five years. Neither Party shall use more than half of its total number of these inspections per calendar year within the territory of any one basing country. Each Party shall have the right to conduct:

(a) inspections, beginning 90 days after entry into force of this Treaty, of missile operating bases and missile support facilities other than elimination facilities and missile production facilities, to ascertain, according to the categories of data specified in the Memorandum of Understanding, the numbers of missiles, launchers, support structures and support equipment located at each missile operating base or missile support facility at the time of the inspection; and

(b) inspections of former missile operating bases and former missile support facilities eliminated pursuant to paragraph 8 of Article X of this Treaty other than former missile production facilities.

Comment: Subparagraph (b) provides the right to inspect former missile operating bases and support facilities "eliminated pursuant to paragraph 8 of Article X." This right constitutes a major element of the entire inspection regime. Its value, however, could be severely limited depending on how one interprets the ambiguous term "pursuant to." In particular, the question is: Is a site that has been "considered to be eliminated" under the last sentence of Article X.8 ipso facto deemed eliminated "pursuant to" that paragraph? If not, then the Soviets can severely limit the value of this inspection right by "eliminating" as many sites as possible prior to entry into force of the Treaty. This problem would be solved if the Parties agreed to add the following sentence to the end of subparagraph (b): "Any site considered to be eliminated under Article X, Paragraph 8 shall be deemed eliminated pursuant to Article X, Paragraph 8."

This section's negotiating history needs to be carefully reviewed. In particular, what is

the rationale for the diminishing quota of inspections?

Article XI, Paragraph 6:

Beginning 30 days after entry into force of this Treaty, each Party shall have the right, for 13 years after entry into force of this Treaty, to inspect by means of continuous monitoring:

(a) the portals of any facility of the other Party at which the final assembly of a GLBM using stages, any of which is outwardly similar to a stage of a solid-propellant GLBM listed in Article III of this Treaty, is accomplished; or

(b) if a Party has no such facility, the portals of an agreed former missile production facility at which existing types of intermediate-range or shorter-range GLBMs were produced.

The Party whose facility is to be inspected pursuant to this paragraph shall ensure that the other Party is able to establish a permanent continuous monitoring system at that facility within six months after entry into force of this Treaty or within six months of initiation of the process of final assembly described in subparagraph (a). If, after the end of the second year after entry into force of this Treaty, neither Party conducts the process of final assembly described in subparagraph (a) for a period of 12 consecutive months, then neither Party shall have the right to inspect by means of continuous monitoring any missile production facility of the other Party unless the process of final assembly as described in subparagraph (a) is initiated again. Upon entry into force of this Treaty, the facilities to be inspected by continuous monitoring shall be: in accordance with subparagraph (b), for the United States of America, Hercules Plant Number 1, at Magna, Utah; in accordance with subparagraph (a), for the Union of Soviet Socialist Republics, the Votkinsk Machine Building Plant, Udmurt Autonomous Soviet Socialist Republic, Russian Soviet Federative Socialist Republic.

Comment: This provision establishes the asymmetrical monitoring rights discussed in connection with Article VI.2 and VII.10.

ARTICLE XII—VERIFICATION: NATIONAL TECHNICAL MEANS

Article XII, Paragraph 2:

Neither Party shall:

(a) interfere with national technical means of verification of the other Party . . .; or

(b) use concealment measures which impede verification of compliance with the provisions of this Treaty by national technical means of verification carried out in accordance with paragraph 1 of this Article. This obligation does not apply to cover or concealment practices, within a deployment area, associated with normal training, maintenance and operations, including the use of environmental shelters to protect missiles and launchers.

Comment: Given the fact that the Soviets have in the past not complied with the corresponding non-interference provisions of other treaties, there is reason to doubt the value of this provision.

Article XIII, Paragraph 3:

To enhance observation by national technical means of verification, each Party shall have the right until a Treaty between the Parties reducing and limiting strategic offensive arms enters into force, but in any event for no more than three years after entry into force of this Treaty, to request the implementation of cooperative measures at deployment bases for road-mobile GLBMs with a range capability in excess of 5500 kilometers, which are not former missile operating bases eliminated pursuant to paragraph 8 of Article X of this Treaty. The Party making such a request shall inform the other Party of the deployment base at which cooperative measures shall be implemented. The Party whose base is to be observed shall carry out the following cooperative measures:

(a) no later than six hours after such a request, the Party shall have opened the roofs of all fixed structures for launchers located at the base, removed completely all missiles on launchers from such fixed structures for launchers and displayed such missiles on launchers in the open without using concealment measures; and

(b) the Party shall leave the roofs open and the missiles on launchers in place until twelve hours have elapsed from the time of the receipt of a request for such an observation.

Each Party shall have the right to make six such requests per calendar year. Only one deployment base shall be subject to these cooperative measures at any one time.

Comment: We can expect that this provision will be hailed as a major accomplishment in the field of cooperative verification measures. While it does represent a new approach—one designed to obviate on-site inspection of certain suspect facilities—it does not under the circumstances accomplish its purpose, namely to allow us to monitor SS-25 bases to check whether SS-20s have been deployed there in violation of the Treaty. But Subparagraph 3(a) in effect affords the Soviets six hours in which to remove from a challenged site any illegally deployed SS-20s. Given that the SS-20 is a mobile missile designed to be movable upon short notice, it is unreasonable to suppose that, if the Soviets decided to cheat in this manner, they would not be able to effect a timely removal of the SS-20s after a challenge.

Other issues that merit attention in this regard include:

What is the value of this provision relative to the value of the short-notice, on-site inspection regime the United States was proposing up till the final days of the Treaty negotiations? It is noteworthy that, although the United States in the INF negotiations dropped its insistence on on-site inspection of suspect facilities, the Gorbachev-Reagan Summit Statement commits the Soviets to agree to procedures for such inspections in the START agreement. With this commitment in hand, perhaps the United States can now find a way to use it to strengthen the verification regime in the INF Treaty.

Does the negotiating record reflect some understanding about what a fixed structure for a launcher is, and indicate what would happen in the event new fixed structures for launchers appeared which did not have openable roofs? Is it physically possible for the Soviets to open the roofs of all fixed structures at SS-25 bases which are capable of containing SS-20 launchers? What about maintenance facilities, other garages, etc. in which a launcher could be located?

Does the Soviet obligations to show us the "missiles" on SS-25 launchers mean simply that we will be allowed to observe the SS-25 canister which will be judged (applying the standard INF Treaty counting rules) to contain an SS-25 and not an SS-20, or does it constitute an obligation to display the missiles removed from their canisters? If not, what value would this provision have as an aid to verification?

ARTICLE XIII—RESOLUTION OF COMPLIANCE ISSUES

Article XIII, Paragraph 1:

To promote the objectives and implementation of the provisions of this Treaty, the Parties hereby establish the Special Verification Commission. The Parties agree that, if either Party so requests, they shall meet within the framework of the Special Verification Commission to:

(a) resolve questions relating to compliance with the obligations assumed; and

(b) agree upon such measures as may be necessary to improve the viability and effectiveness of this Treaty.

Comment: Given the poor record of the Standing Consultative Commission established under SALT I in resolving serious concerns about Soviet violations of past treaties, it is unclear on what basis one should expect the Special Verification Commission established by this paragraph to do better.

It is also unclear what types of "measures . . . to improve the viability and effectiveness of the Treaty" are envisioned that the parties will agree upon pursuant to subparagraph 1(b). It should be ascertained whether this provision can be used to circumvent the amendment process (described in Article XVI), which properly requires that any proposed amendments to the Treaty be submitted to the Senate for its advice and consent.

ARTICLE XIV—NON-CIRCUMVENTION

The Parties shall comply with this Treaty and shall not assume any international obligations or undertaking which would conflict with its provisions.

Comment: The fundamental question about this provision is: Does it create any obligations over and above those contained in other parts of the Treaty? If not, then it merely emphasizes the Parties' commitment to comply with the Treaty, and, from a legal point of view, is surplusage. We assume that the Administration takes the latter position. However, under international law, if there is a question regarding the interpretation of a Treaty provision, then a reading which entails the creation of an additional obligation of the Parties is presumed correct as opposed to one that regards it as redundant (or "surplusage"). Consequently, if the Administration regards this provision as surplusage, then it must be clearly established now that the parties deem it as such in order to defeat the legal presumption that would otherwise apply. If this is not accomplished, then the provision could be cited as barring various Western defense efforts that, while not prohibited by the Treaty's terms, are said to be somehow "in conflict with" them.

ARTICLE XV—DURATION

Article XV, Paragraph 1:

This Treaty shall be of unlimited duration.

Comment: Although the Treaty is of unlimited duration, the inspection rights it grants last for only 13 years (3 years in the case of the verification enhancement provisions relative to SS-25 bases, possibly less for portal monitoring at Votkinsk under certain circumstances). The working assumption seems to have been that a START Treaty would be signed within 3 years. Should a START Treaty not be signed in that period, should thought be given to ensuring that the verification regime for this Treaty will be extended?

ARTICLE XVI—AMENDMENTS

Each Party may propose amendments to this Treaty. Agreed amendments shall enter into force in accordance with the procedures set forth in Article XVII governing the entry into force of this Treaty.

Comment: See the comment on Article XIII.1(b) concerning the potential uses of the Special Verification Commission to circumvent the requirement that all amendments be submitted to the Senate for its advice and consent.

Signature section

* * *

Done at Washington on December 8, 1987, in two copies, each in the English and Russian languages, both texts being equally authentic.

Comment: Given the haste with which the final texts were prepared, and in view of the significant difficulties we have had in the past with divergent translations being cited as a pretext for Soviet behavior we judged to be inconsistent with their commitments, a careful review of the consistency of the two texts is in order.

Postscript on the Preamble

The United States of America and the Union of Soviet Socialist Republics, hereinafter referred to as the Parties,

Conscious that nuclear war would have devastating consequences for all mankind,

Guided by the objective of strengthening strategic stability,

Convinced that the measures set forth in this Treaty will help to reduce the risk of outbreak of war and strengthen international peace and security, and

* * *

Have agreed as follows:

Though preambular language is often dismissed as having little significance, it can have a bearing on public attitudes about the subject matter of the Treaty and on questions of Treaty interpretation. It is troubling that the preamble here focuses on the threat of nuclear war rather than the threat of war in general. Any major European war would have devastating consequences. The focus on the special threat from nuclear weapons lends itself to use as a criticism of NATO's flexible response policy, which entails reliance on nuclear weapons as a deterrent against aggression.

The preamble implies that the elimination of nuclear weapons as such enhances strategic stability. This could have dangerous effects on attitudes toward the remaining nuclear weapons in Europe and toward strategic arms, all of which are critical to Alliance security—indeed, more critical in the aftermath of the INF Treaty than before.

ELIMINATION PROTOCOL

INTRODUCTION

This protocol specifies the categories of items associated with Treaty-limited systems that the Parties agree to eliminate and the procedures that will be deemed to constitute "elimination." Two points merit particular attention: First, the Parties have agreed that not all the equipment or facilities associated with Treaty-limited missiles are to be eliminated. Second, they agreed that some of the items to be "eliminated" are not actually to be destroyed but simply modified or altered in designated ways so as to allow them to be used for other purposes.

SECTION I

Section I, Paragraph 4:

For both Parties, all stages of intermediate-range and shorter-range GLBMs shall be subject to elimination.

Comment: Notwithstanding this provision, the Soviets are permitted by the Treaty (see Article VI.2) not only to retain but even to produce the first stage of the intercontinental SS-25, which is virtually identical to that of the first stage of the SS-20. Article VI.2 of the Treaty vitiates this section of the Elimination Protocol as far as a key element of the most important Soviet INF system is concerned.

SECTION II

Section II, Paragraph 3:

Prior to a missile's arrival at the elimination facility, its nuclear warhead device and guidance elements may be removed.

Comment: This provision spares from elimination the nuclear warheads of the Treaty-limited INF missile systems. Given the serious concerns on the U.S. side about whether there could be effective verification of nuclear warhead destruction and whether important net intelligence benefits would flow to the Soviets from measures to verify such destruction and, given the Parties' apparently mutual interest in recovering and recycling warhead materials, this provision seems on balance to be desirable.

Section II, Paragraph 4:

Each Party shall select the particular technological means necessary to implement the procedures required in paragraphs 10 and 11 of this Section and to allow for on-site inspection of the conduct of the elimination procedures required in paragraph 10 of this Section in accordance with Article XI of the Treaty, this Protocol and the Protocol on Inspection.

Comment: What is involved in allowing the inspected party to "select the technological means necessary . . . to allow for on-site inspection of the conduct of the elimination procedures"? Is it clear that this right cannot be used to hinder the ability of the inspecting party to conduct a useful inspection?

Section II, Paragraph 7:

A missile stage being eliminated by burning in accordance with the procedures set forth in paragraph 10 of this Section shall not be instrumented for data collection. Prior to the initiation of the elimination procedures set forth in paragraph 10 of this Section, an inspector from the inspecting Party shall confirm that such missile stages are not instrumented for data collection. Those missile stages shall be subject to continuous observation by such an inspector from the time of that inspection until the burning is completed.

Comment: It is unclear whether we can have confidence that the Soviets are complying with this provision.

Section II, Paragraph 10: The specific procedures for the elimination of the items of missile systems listed in paragraph 1 of this Section shall be as follows, unless the Parties agree upon different procedures to achieve the same result as the procedures identified in this paragraph:

For the Pershing II:

Launcher:

(a) erector-launcher mechanism shall be removed from launcher chassis;

(b) all components of erector-launcher mechanism shall be cut at locations that are not assembly joints into two pieces of approximately equal size;

(c) missile launch support equipment, including external instrumentation compartments, shall be removed from launcher chassis; and

(d) launcher chassis shall be cut at a location that is not an assembly joint into two pieces of approximately equal size.

For the SS-20:

Launcher:

(a) erector-launcher mechanism shall be removed from launcher chassis;

(b) all components of erector-launcher mechanism shall be cut at locations that are not assembly joints into two pieces of approximately equal size;

(c) missile launch support equipment, including external instrumentation compartments, shall be removed from launcher chassis;

(d) mountings of erector-launcher mechanism and launcher leveling supports shall be cut off launcher chassis;

(e) launcher leveling supports shall be cut at locations that are not assembly joints into two pieces of approximately equal size; and

(f) a portion of the launcher chassis, at least 0.78 meters in length, shall be cut off aft of the rear axle.

Comment: The procedures "eliminating" SS-20 and other Soviet launchers have been designed to leave them useful to a certain extent. They contrast with the elimination regime applicable to comparable U.S. systems (i.e., the Pershing I's and II's) which requires a cutting up of the systems into halves. The significance of this discriminatory arrangement is discussed in the comments on Article IV.1 of the Treaty.

PROTOCOL ON INSPECTION

INTRODUCTION

This protocol details the rights and responsibilities of the Parties with respect to the inspections called for in the INF Treaty and its associated documents.

SECTION III

Section III, Paragraph 7:

Without prejudice to their privileges and immunities, inspectors and aircrew members shall be obliged to respect the laws and regulations of the State on whose territory an inspection is carried out and shall be obliged not to interfere in the internal affairs of that State. In the event the inspected Party determines that an inspector or aircrew member of the other Party has violated the conditions governing inspection activities set forth in this Protocol, or has ever committed a criminal offense on the territory of the inspected Party or a basing country, or has ever been sentenced for commiting a criminal offense or expelled by the inspected Party or a basing country, the inspected Party making such a determination shall so notify the inspecting Party, which shall immediately strike the individual from the lists of inspectors or the list of aircrew members. If, at that time, the individual is on the territory of the inspected Party or a basing country, the inspecting Party shall immediately remove that individual from the country.

Comment: There are two types of problems relating to this provision. First, the obligation of inspectors "to respect the laws and regulations of the [inspected] State" appears to offer the Soviets the opportunity to circumscribe narrowly the on-site activities of U.S. inspectors. Carrying out the legitimate functions of an inspection (e.g., demanding access to areas off-limits to individuals without necessary clearances) could be characterized as a failure to respect the laws and regulations of the inspected Party. Moreover, this paragraph permits the parties great latitude in deciding whether to expel an inspector.

Second, there is the larger question of ensuring that the inspectors will be able to op-

erate in the Soviet Union in the intended manner and without personal risk. There have been problems in other contexts with Soviet treatment of U.S. (and other Western) inspectors (e.g., when Soviet troops in 1985 insisted on restricting the activity of—and ultimately killing—Major Nicholson, who was serving in East Germany as an inspector under the Four-Power Military Liaison Mission agreement which was concluded in the late 1940s). Have the Parties arrived at any understanding on how to resolve disputes about the proper bounds of the inspectors' activities so that incidents like the shooting of Major Nicholson will not occur?

SECTION IV

Section IV, Paragraph 5:

Either Party may change the point or points of entry to the territories of the countries within which its deployment areas, missile operating bases or missile support facilities are located, by giving notice of such change to the other Party. A change in a point of entry shall become effective five months after receipt of such notification by the other Party.

Comment: This paragraph appears to give the Soviets the right to make a unilateral change in the point of entry into the German Democratic Republic. This issue—a highly sensitive matter dating back to the earliest days of the Four Power occupation of Germany—gave rise to particularly difficult negotiating during the last days of the INF Treaty negotiations. The result was Soviet agreement to name an airport other than Berlin-Schoenefeld (which the United States regards as a part of Berlin and hence subject to Four Power control) as the point of entry into the GDR. If the Soviets have given private assurances that they will not use this paragraph to change the point of entry to Berlin-Schoenefeld, it would be desirable to make them part of the record, lest this subject cause needless friction in the future between the FRG and its friends in the West.

SECTION V

Several paragraphs under Sections V and VI of this Protocol give the inspected Party wide powers to influence the inspection process, e.g., the right to appoint in-country escorts with wide powers; to control in-country transportation; to provide telephonic communications for the inspectors' use; to specify "safety regulations" that the inspectors must observe, etc.

Can the U.S. prevent the Soviets from exploiting these provisions to frustrate effective inspection? What lessons were learned about likely Soviet behavior in the course of such inspections from the visit to Gomel?

Section V, Paragraph 4:

Equipment and supplies which the inspecting Party brings into the country in which an inspection site is located shall be subject to examination at the point of entry each time they are brought into that country. This examination shall be completed prior to the departure of the inspection team from the point of entry to conduct an inspection. Such equipment and supplies shall be examined by the in-country escort in the presence of the inspection team members to ascertain to the satisfaction of each Party that the equipment and supplies cannot perform functions unconnected with the inspection requirements of the Treaty. If it is established upon examination that the equipment or supplies are unconnected with these inspection requirements, then they shall not be cleared for use and shall be impounded at the point of entry until the departure of the inspection team from the country where the inspection is conducted. Storage of the inspecting Party's equipment and supplies at each point of entry shall be within tamper-proof containers within a secure facility. Access to each secure facility shall be controlled by a "dual key" system requiring the presence of both Parties to gain access to the equipment and supplies.

Comment: Equipment and supplies brought in by inspection team may be examined by the "in-country escort" in order "to ascertain to the satisfaction of each Party that [they] cannot perform functions unconnected with the inspection requirements of the Treaty. If it is established [query: by whom?] upon examination that the equipment or supplies are unconnected with these inspection requirements, then they shall not be cleared for use and shall be impounded. . . ."

The Parties cannot intend that this language be taken literally. Any kind of inspection equipment can perform functions "unconnected" with the Treaty; e.g., a camera can take pictures of things other than limited missiles and launchers. Presumably what is meant is that equipment will not be cleared for use if it cannot perform any functions connected with the Treaty. This would be worth clarifying with the Soviets.

Section V, Paragraph 5:

Throughout the in-country period, the inspected Party shall provide, or arrange for the provision of, meals, lodging, work space, transportation and, as necessary, medical care for the inspection team and aircrew of the inspecting Party. All the costs in connection with the stay of inspectors carrying out inspection activities pursuant to paragraph 6 of Article XI of the Treaty, on the territory of the inspected Party, including meals, services, lodging, work space, transportation and medical care shall be borne by the inspecting Party.

Comment: This provision, as well as other provisions which envisage that the Soviets will supply services for U.S. inspectors and bill the United States for them, should be evaluated in the light of our experience with similar arrangements in connection with the construction of the new U.S. Embassy in Moscow.

Use in-country of host aircraft for transport to inspection sites conflicts with policy statements made following agreement at the Conference on Disarmament in Europe that the precedent established in that accord for host-aircraft use would not be applied to further, "serious" arms control agreements. This has possibly still more unsatisfactory implications for the START negotiations.

SECTION VI

Section VI, Paragraph 3:

In discharging their functions, inspectors shall not interfere directly with on-going activities at the inspection site and shall avoid unnecessarily hampering or delaying the operation of a facility or taking actions affecting its safe operation.

What is the implication of this "non-interference" provision for the "stand-downs" (pursuant to Section VII.1) needed to give the on-site inspectors an opportunity to assess what is at the site? Will inspectors be able to enforce the rules requiring that missiles, launchers, etc., not be moved during the pre-inspection period?

Section VI, Paragraph 6:

Inspectors carrying out inspection activities pursuant to paragraph 6 of Article XI of the Treaty shall be allowed to travel within 50 kilometers from the inspection site with the permission of the in-country escort, and as considered necessary by the inspected Party, shall be accompanied by the in-country escort. Such travel shall be taken solely as a leisure activity.

Comment: The intelligence by-products of this provision will not be the same for the two Parties. While it appears that nothing of importance lies within 50 kilometers of Votkinsk, Salt Lake City, an increasingly important commerical and defense center, lies well within the range of "of duty" Soviet inspectors.

Section VI, Paragraph 7:

Inspectors shall have the right throughout the period of inspection to be in communication with the embassy of the inspecting Party located within the territory of the country where the inspection is taking place using the telephone communications provided by the inspected Party.

Comment: This provision, requiring the use of host-country communications systems, may allow the Soviets to hinder effective inspection by U.S. personnel. It gives the Soviets the opportunity to deny U.S. personnel secure communications (or any at all) with their government while in the USSR.

Section VI, Paragraph 9:

The inspection team may bring onto the inspection site such documents as needed to conduct the inspection, as well as linear measurement devices; cameras; portable weighing devices; radiation detection devices; and other equipment, as agreed by the Parties. The characteristics and method of use of the equipment listed above, shall also be agreed upon within 30 days after entry into force of the Treaty. During inspections conducted pursuant to paragraphs 3, 4, 5(a), 7 or 8 of Article XI of the Treaty, the inspection team may use any of the equipment listed above, except for cameras, which shall be for use only by the inspected Party at the request of the inspecting Party. During inspections conducted pursuant to paragraph 5(b) of Article XI of the Treaty, all measurements shall be made by the inspected Party at the request of the inspecting Party. At the request of inspectors, the in-country escort shall take photographs of the inspected facilities using the inspecting Party's camera systems which are capable of producing duplicate, instant development photographic prints. Each Party shall receive one copy of every photograph.

Comment: This provision requires agreement within 30 days of entry into force of the Treaty on the "characteristics and method of use of" equipment brought by inspection teams. Given that the "initial" inspections (pursuant to Article XI.3 of the Treaty) are to start 30 days after entry into force (and to be finished 60 days thereafter), it is necessary that such agreement be reached promptly; will the fact that these discussions will be going on under such great time pressure create a problem for us? Why were these matters not agreed to before Treaty signature?

Section VI, Paragraph 14:

For inspections pursuant to paragraphs 3, 4, 5, 7 or 8 of Article XI of the Treaty, pre-inspection procedures, including briefings and safety-related activities, shall begin upon arrival of the inspection team at the inspection site and shall be completed within one hour. The inspection team shall begin the inspection immediately upon completion of the pre-inspection procedures. The period of inspection shall not exceed 24 hours, except for inspections pursuant to

paragraphs 6, 7 or 8 of Article XI of the Treaty. The period of inspection may be extended, by agreement with the in-country escort, by no more than eight hours. Post-inspection procedures, which include completing the inspection report in accordance with the provisions of Section XI of this Protocol, shall begin immediately upon completion of the inspection and shall be completed at the inspection site within four hours.

Comment: The inspections under Treaty Article XI, Paragraphs 3-5 (i.e., the bulk of the inspections provided for in this Treaty, except for the permanent portal monitoring) are limited in duration to 24 hours. This creates an incentive for the Soviets to delay and quibble. What recourse will the United States have if its inspectors are subjected to dilatory maneuvers?

SECTION VII

Section VII, Paragraph 1:

Within one hour after the time for the specification of the inspection site notified pursuant to paragraph 1(a) of Section IV of this Protocol, the inspected Party shall implement pre-inspection movement restrictions at the inspection site, which shall remain in effect until the inspection team arrives at the inspection site. During the peirod that pre-inspection movement restrictions are in effect, missiles stages of such missiles, launchers or support equipment subject to the Treaty shall not be removed from the inspection site.

Comment: Pre-inspection movement limitations are to be imposed within one hour of notification of the specific site to be inspected; will it be possible to verify that such a "stand-down" order has been issued on behalf of the inspecting Party by the inspected Party and that that order has been obeyed? See comments on Section VI.3 of this Proctocol.

Section VII, Paragraph 8:

A missile, a stage of such a missile or a launcher subject to the Treaty shall be subject to inspection only by external visual observation, including measuring, as necessary, the dimensions of such a missile, stage of such a missile or launcher. A container that the inspected Party declares to contain a missile or stage of a missile subject to the Treaty, and which is not sufficiently large to be capable of containing more than one missile or stage of such a missile of the inspected Party subject to the Treaty, shall be subject to inspection only by external visual observation, including measuring, as necessary, the dimensions of such a container to confirm that it cannot contain more than one missile or stage of such a missile of the inspected Party subject to the Treaty. Except as provided for in paragraph 14 of this Section, a container that is sufficiently large to contain a missile or stage of such a missile of the inspected Party subject to the Treaty that the inspected Party declares not to contain a missile or stage of such a missile subject to the Treaty shall be subject to inspection only by means of weighing or visual observation of the interior of the container, as necessary, to confirm that it does not, in fact, contain a missile or stage of such a missile of the inspected Party subject to the Treaty. If such a container is a launch canister associated with a type of missile not subject to the Treaty, and declared by the inspected Party to contain such a missile, it shall be subject to external inspection only, including use of radiation detection devices, visual observation and linear measurement, as necessary, of the dimensions of such a canister.

Comment: The last sentence will allow the Soviets (except at Votkinsk) to declare any suspicious canister to be a canister for an SS-25 (or for some other non-limited missile) and, it appears, we will be unable to look inside it, weight it or x-ray it. As a result of this provision, the Soviets could keep any number of undeclared SS-20s in SS-25 canisters.

Section VII, Paragraph 9:

A structure or container that is not sufficiently large to contain a missile, stage of such a missile or launcher of the inspected Party subject to the Treaty shall be subject to inspection only by external visual observation including measuring, as necessary, the dimensions of such a structure or container to confirm that it is not sufficiently large to be capable of containing a missile, stage of such a missile or launcher of the inspected Party subject to the Treaty.

Comment: It is unclear how small a structure or container must be in order for this provision to exempt it from inspection other than by external visual observation. For instance, it is not clear whether the counting rules of Treaty Article VII.10 apply to this provision and, if so, how.

Section VII, Paragraph 10:

Within a structure, a space which is sufficiently large to contain a missile, stage of such a missile or launcher of the inspected Party subject to the Treaty, but which is demonstrated to the satisfaction of the inspection team not to be accessible by the smallest missile, stage of a missile or launcher of the inspected Party subject to the Treaty shall not be subject to further inspection. If the inspected Party demonstrates to the satisfaction of the inspection team by means of a visual inspection of the interior of an enclosed space from its entrance that the enclosed space does not contain any missile, stage of such a missile or launcher of the inspected Party subject to the Treaty, such an enclosed space shall not be subject to further inspection.

Comment: The language of this provision is not clear. Does the prohibition on further inspections apply only to the inspection then underway, or would it apply to subsequent inspections of the same facility, as well? In the latter case, would it be overridden by any evidence that a party has increased the dimensions of the space so that it could now contain a Treaty-limited item?

Section VII, Paragraph 14:

During an inspection conducted pursuant to paragraph 5(b) of Article XI of the Treaty, it shall be the responsibility of the inspected Party to demonstrate that a shrouded or environmentally protected object which is equal to or larger than the smallest missile, stage of a missile or launcher of the inspected Party subject to the Treaty is not, in fact, a missile, stage of such a missile or launcher of the inspected Party subject to the Treaty. This may be accomplished by partial removal of the shroud or environmental protection cover, measuring, or weighing the covered object or by other methods. If the inspected Party satisfies the inspection team by its demonstration that the object is not a missile, stage of such a missile or launcher of the inspected Party subject to the Treaty, then there shall be no further inspection of that object. If the container is a launch canister associated with a type of missile not subject to the Treaty, and declared by the inspected Party to contain such a missile, then it shall be subject to external inspection only, including use of radiation detection devices, visual observation and linear measurement, as necessary, of the dimensions of such a canister.

Comment: Rules about inspecting containers, shrouded objects, etc. have the following anomaly: as noted in connection with paragraph 8 above, if the inspected Party declares that a given container is a launch container for an unlimited missile, then said container is subject to a less stringent inspection regime.

SECTION VIII

Section VIII, Paragraph 1:

Inspections of the process of elimination of items of missile systems specified in the Protocol on Elimination carried out pursuant to paragraph 7 of Article XI of the Treaty shall be conducted in accordance with the procedures set forth in this paragraph and the Protocol on Elimination.

* * *

(c) Subject to paragraphs 3 and 11 of Section VI of this Protocol, inspectors shall observe the execution of the specific procedures for the elimination of the items of missile systems as provided for in the Protocol on Elimination. If any deviations from the agreed elimination procedures are found, the inspectors shall have the right to call the attention of the in-country escort to the need for strict compliance with the above-mentioned procedures. The completion of such procedures shall be confirmed in accordance with the procedures specified in the Protocol on Elimination.

Comment: Exactly what does the "right to call the attention of the in-country escort to the need for strict compliance" with the inspection protocols procedures means?

Section VIII, Paragraph 2:

Inspections of the elimination of items of missile systems specified in the Protocol on Elimination carried out pursuant to paragraph 8 of Article XI of the Treaty shall be conducted in accordance with the procedures set forth in Section II, IV or V of the Protocol on Elimination or as otherwise agreed by the Parties.

Comment: The Protocol contains no inspection rules for inspections of elimination of training missiles and launchers.

SECTION IX

The precedents established in this Treaty for continuous monitoring will be important for START. They should be rigorously assessed in that light.

Section IX, Paragraph 1:

The inspected Party shall maintain an agreed perimeter around the periphery of the inspection site and shall designate a portal with not more than one rail line and one road which shall be within 50 meters of each other. All vehicles which can contain an intermediate-range GLBM or longest stage of such a GLBM of the inspected Party shall exit only through this portal.

Comment: The last sentence of this paragraph, as well as other paragraphs of this Section, apparently incorporates the fundamental inequality caused by the counting rule (Article VII.10 of the Treaty) according to which a Pershing II first stage counts as a whole missile, while only a full-up missile or its canister counts as an SS-20 on the Soviet side. In other words, all U.S. vehicles and containers large enough to contain a Pershing II first stage (length 3.7 meters) will be subject to inspection at the Magna facility's portal while only those as large as (or larger than) an entire SS-20 (length 16.5 meters) will be subject to inspection at the Votkinsk gate.

Furthermore, it is not clear whether there is agreement as to what constitutes an

"agreed perimeter." Is there an accord reflecting certain minimum Soviet security standards, or are we making assumptions about the character and quality of such standards based on past practice?

Section IX, Paragraph 13:

Vehicles exiting through the portal specified in paragraph 1 of this Section that are large enough and heavy enough to contain an intermediate-range GLBM or longest stage of such a GLBM of the inspected Party but that are declared not to contain a missile or missile stage as large or larger than and as heavy or heavier than an intermediate-range GLBM or longest stage of such a GLBM of the inspected Party shall be subject to the following procedures.

* * *

(c) If inside a vehicle there are one or more containers or shrouded objects large enough to be or to contain an intermediate-range GLBM or longest stage of such a GLBM of the inspected Party, it shall be the responsibility of the inspected Party to demonstrate that such containers or shrouded objects are not and do not contain intermediate-range GLBMs or the longest stages of such GLBMs of the inspected Party.

Comment: What does "responsibility . . . to demonstrate" means? To inspectors' satisfaction? What is the significance of this choice of words when elsewhere the requirement is spelled out with specificity?

Section IX, Paragraph 14:

Vehicles exiting through the portal specified in paragraph 1 of this Section that are declared to contain a missile or missile stage as large or larger than and as heavy or heavier than an intermediate-range GLBM or longest stage of such a GLBM of the inspected Party shall be subject to the following procedures.

* * *

(c) The inspecting Party shall have the right to weigh and measure the dimensions of any launch canister or of any shipping container declared to contain such a missile or missile stage and to image the contents of any launch canister or of any shipping container declared to contain such a missile or missile stage; it shall have the right to view such missiles or missile stages contained in launch canisters or shipping containers eight times per calendar year. The in-country escort shall be present during all phases of such viewing. During such interior viewing:

(i) the front end of the launch canister or the cover of the shipping container shall be opened; (ii) the missile or missile stage shall not be removed from its launch canister or shipping container; and

(iii) the length and diameter of the stages of the missile shall be measured in accordance with the methods agreed by the Parties so as to ascertain that the missile or missile stage is not an intermediate-range GLBM of the inspected Party, or the longest stage of such a GLBM, and that the missile has no more than one stage which is outwardly similar to a stage of an existing type of intermediate-range GLBM.

Comment: The last sentence suggests that the Parties now know of some non-intrusive and non-damaging way to discriminate between the largest stage of the SS-20 and that of the SS-25. Is this the case? What is this technology? Is it currently available? What is its assessed reliability?

By what mechanisms are the Parties to agree to the methods for measuring SS-20/25 stages at Votkinsk? Do they include the non-damaging image producing equipment mentioned in Section IX.6? If so, why not say so? If the Soviets have not yet agreed that the methods to be used include such equipment, this lack of agreement should be noted.

SECTION X

An inspection shall be cancelled if, due to circumstances brought about by force majeure, it cannot be carried out. In the case of a delay that prevents an inspection team performing an inspection pursuant to paragraphs 3, 4 or 5 of Article XI of the Treaty, from arriving at the inspection site during the time specified in paragraph 2 of Section VII of this Protocol, the inspecting Party may either cancel or carry out the inspection. If an inspection is cancelled due to circumstances brought about by force majeure or delay, then the number of inspections to which the inspecting Party is entitled shall not be reduced.

Comment: This section foresees the possibility of a delay that prevents the inspecting Party from arriving at the inspection site within the 9 hour period specified in Section VII.2. The inspecting Party may cancel (and not have an aborted inspection count against its quota) or continue anyway (and presumably have to be an all-purpose loophole; the inspecting Party has an incentive to cancel since the presumably less worthwhile, delayed inspection still counts against the quota; even if it does not, the inspected Party will have been able to hide anything it wishes before the delayed inspection occurs. (Note that "delay" is distinguished from a force majeure circumstance in which the inspection presumably cannot be carried out at all.)

SECTION XI

Section XI, Paragraph 1:

For inspections conducted pursuant to paragraphs 3, 4, 5, 7 or 8 of Article XI of the Treaty, during post-inspection procedures, and no later than two hours after the inspection has been completed, the inspection team leader shall provide the in-country escort with a written inspection report in both the English and Russian languages. The report shall be factual. It shall include the type of inspection carried out, the inspection site, the number of missiles, stages of missiles, launchers and items of support equipment subject to the Treaty observed during the period of inspection and any measurements recorded pursuant to paragraph 10 of Section VI of this Protocol. Photographs taken during the inspection in accordance with agreed procedures, as well as the inspection site diagram provided for by paragraph 6 of Section VII of this Protocol, shall be attached to this report.

Comment: The written inspection report is to be provided to the in-country escort within 2 hours of the completion of the inspection. This hardly allows for any serious analysis of observations. It seems to assume that the inspection report will simply verify the inspected Parties' information.

In any case, it should be made clear that failure to list an anomaly in the inspection report will not prevent the inspecting Party from raising the issue subsequently, either in the Special Verification Commission or elsewhere.

Section XI, Paragraph 2:

For inspection activities conducted pursuant to paragraph 6 of Article XI of the Treaty, within 3 days after the end of each month, the inspection team leader shall provide the in-country escort with a written inspection report both in the English and Russian languages. The report shall be factual. It shall include the number of vehicles declared to contain a missile or stage of a missile as large or larger than and as heavy or heavier than an intermediate-range GLBM or longest stage of such a GLBM of the inspected Party that left the inspection site through the portal specified in paragraph 1 of Section IX of this Protocol during that month. The report shall also include any measurements of launch canisters or shipping containers contained in these vehicles recorded pursuant to paragraph 11 of Section VI of this Protocol. In the event the inspecting Party, under the provisions of paragraph 14(c) of Section IX of the Protocol, has viewed the interior of a launch canister or shipping container declared to contain a missile or stage of a missile as large or larger than and as heavy or heavier than an intermediate-range GLBM or longest state of such a GLBM of the inspected Party, the report shall also include the measurements of the length and diameter of missile stages obtained during the inspection and recorded pursuant to paragraph 11 of Section VI of this Protocol. Photographs taken during the inspection in accordance with agreed procedures shall be attached to this report.

Comment: In addition to the aforementioned shortcomings of this Section, a further mechanical one merits mention. The problem of having competent translation and conforming of report texts performed under the time pressures stipulated here is not a trivial one. If these reports take on the importance one might expect, then having them done properly and consistently may prove to be as daunting a task as ensuring that they are technically sound.

MEMORANDUM OF UNDERSTANDING REGARDING INF DATA

Serious questions can be—and have been—raised about the accuracy of the data provided by the Soviets in this MOU. This is a matter that can be explored usefully and properly only through an examination of classified estimates and analyses.

However, it should be noted that the State Department stated in the Spring of 1987 that:

In addition to the approximately 400 SS-20 missiles now deployed, there may be as many as 200-400 (or more) such missiles in the USSR's inventory.

Thus, it would seem that our intelligence estimates on these matters fall within a wide range of uncertainty. It is also the case that our estimates have, for some time, been a matter of public record. Consequently, we should not take particular comfort from the contention that the Soviet-provided data fall within that range.●

THE HAZARDOUS WASTE REDUCTION ACT

● Mr. D'AMATO. Mr. President, I am pleased to join so many of my colleagues in cosponsoring the Hazardous Waste Reduction Act, S. 1429.

This country is en route to a waste management crisis. Hazardous waste, which this legislation addresses, is only the tip of the iceberg. The public became aware of the impending waste management crisis last year as a result of the plight of the infamous New York garbage barge. The odyssey of the garbage barge received a great

deal of attention in the media. Many observers took a tongue-in-cheek approach. While this matter is anything but funny, the humor has served a useful purpose by focusing attention on what is a very serious problem.

Hazardous wastes pose very serious environmental as well as health and public safety problems. Our Nation produces an overabundance of hazardous waste each year. The Office of Technology Assessment has estimated that we produce over 250 million tons of hazardous waste each year. In New York State, there are 850 large and 4,000 small generators of hazardous waste which produce 40 million tons every year. The Governor is currently pursuing initiatives to induce these generators to reduce the amount of waste that they produce.

Hazardous waste management is a problem for all States and is one that requires Federal guidance. S. 1429 represents a major Federal initiative in providing that guidance. It establishes a clearinghouse to collect and analyze data about waste reduction so that full advantage can be taken of the efforts already in operation * * * such as those currently being undertaken in New York.

The bill also will make matching grants available to States to invest in innovative waste reduction problems through technical assistance and seed grants to small and medium-sized businesses. Another provision in the legislation is a requirement to report to Congress every 2 years on progress toward industrial waste reduction practices and opportunities on an industry-by-industry basis.

It is imperative that we take decisive action to head off the impending waste management crisis. I believe that S. 1429 is an essential step in that process. I urge my colleagues to fully consider this vital legislation and to promote its swift passage.●

INFORMED CONSENT: NORTH CAROLINA

● Mr. HUMPHREY. Mr. President, I ask that the letters of two women in North Carolina be entered into the CONGRESSIONAL RECORD. These women have had abortions and support the principle that informed consent should be given prior to the performance of an abortion. Lynne Latham states that she had little information upon which to base this important decision. She knew that the Supreme Court had given her the right to an abortion. She thought that it was just a "simple and safe procedure." She did not know that she would suffer physical pain and emotional scars. No one told her that the doctor would have to count the body parts of the fetus to be sure that the process was completed.

I urge my colleagues to support S. 272 and S. 273 which will require abortionists to secure informed consent. These measures are necessary to prevent similar tragedies from recurring.

The letters follow:

MARCH 1987.

DEAR SENATOR HUMPHREY: Please continue your efforts to see that women are adequately informed of the dangers of abortion. Nine years ago, I underwent an early abortion by suction curettage on a pregnancy of 12 weeks. I was never informed of any risks. I experienced severe emotional aftershocks that required me to be hospitalized. Also, I was damaged physically by my "safe" and legal abortion.

During the procedure, my cervix was damaged and that caused problems in my later pregnancies (my abortion was on my first one). My next 3 children were born prematurely and the first one died because of complications that commonly affect premature babies. My other 2 survived, but required special care. In addition, I also suffered a subsequent miscarriage at 12 weeks.

I have read several studies that indicate that there are indeed risks related to abortion. Women are being lied to and exploited by the abortion advocates who don't really care about a woman's right to choice or her well being. If they did, they would be allowing women to make informed choices and possibly never recommending abortion at all!

KATHY BERKOWITZ.

WINSTON-SALEM, N.C.

MARCH 1, 1987.

Hon. GORDON J. HUMPHREY,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR HUMPHREY: I am writing this letter in the hope that someday it will help a woman deal with a crisis pregnancy. Please feel free to use my real name in any publication in which this may appear.

Six years ago, I was a college student in Oxford, OH and found myself faced with a terrifying decision. I was pregnant by the man I was engaged to marry. In most cases, this would seem to be a happy time in a woman's life. For me it ended up being a nightmare. I felt that I was educated and informed enough to believe what the Supreme Court had said was true: I had the *right* to control my body and if I wished, to terminate my unwanted pregnancy. From what I had heard, abortion was a simple and safe procedure. This was also what the counselor at the abortion clinic told me.

Unfortunately and too late, I found out that the clinic was more interested in my money than in helping me to make an informed decision. The doctor treated me more like a piece of meat than a human being. He was rough, abusive, and started the procedure before the gas had a chance to take effect. I was wide awake and felt everything. My child was literally torn apart and sucked from the womb. The procedure was bad, but the emotional scars were worse. I had recurring nightmares, the same dream over and over. I suffered from severe depression and began drinking heavily. I also gained 80 pounds in the six months after my abortion. At the point I thought I had gained control of my life, I had thoroughly lost control. In the mean time, I married the man whose child I had so brutally murdered. We both suffered from the guilt of our hasty and uninformed decisions. Had I known the truth, that at 5 weeks the doctor would count body parts to make sure he had completed his job, I never would have chosen this course of action. I also lost a child through miscarriage two years later.

This story has a happy ending. Thanks to an organization called Open ARMs (Abortion Related Ministries) I have a support group made up of women who have suffered as I did, along with men like my husband and medical personnel. We try to educate the public, to cut through the lies and misconceptions that the abortion industry has fostered. Hopefully, because I have spoken out, other women who find themselves in my situation can make an informed decision.

Respectfully,

LYNNE V. LATHAM.●

THE ALTA IRRIGATION DISTRICT

● Mr. WILSON. Mr. President, 1988 is a very important year for the Alta Irrigation District, located in the Central San Joaquin Valley in California, as it marks its centennial anniversary in the water distribution business as a public district and I think it appropriate to reflect on the history and prosperity of the district since its formation on August 16, 1888.

The Alta Irrigation District was originally formed in May of 1882 as a private water district known as the "76" Land and Water Co.

In March of 1887, the California legislature passed the Wright Act which sought to confer on farming communities, powers of municipalities in the purchase or construction and operation of irrigation works. In complying with provisions of the Wright Act, a petition calling for an election to form a public irrigation district and bearing the signatures of 66 landowners within the proposed district was presented to the Tulare County Clerk, John Knox, on July 7, 1888.

At the time of registering papers for the new public district, it was decided that the district had the distinction of having its diversion point on the Kings River approximately 4 miles higher than any point of diversion. As a result, the district was named the Alta Irrigation District.

At the present time, the Alta Irrigation District has approximately 700 miles of public and private canals and pipelines servicing the many landowners who make their living as farmers within the district.

The importing of surface water into the 130,000-acre irrigation district has been one of the primary factors in allowing the area to become one of the most productive agricultural regions in the world and has ensured the continual development, growth, and prosperity of incorporated cities such as Dinuba, Reedley, and other unincorporated communities within Fresno, Tulare, and King Counties.

I congratulate and commend the Alta Irrigation District and take great pleasure in heralding its centennial

anniversary within this Chamber of the U.S. Senate.

THE PRESIDENT'S BUDGET

● Mr. CHILES. Mr. President, we're only 2 weeks away from the release date of the President's budget. It's always a major event, something people around the Nation watch with great interest.

Here in Washington, the day the budget comes out is also the day the annual scrimmage begins over Federal spending. It's become a familiar format. White House spokesmen say too much money is appropriated and Congress is the culprit.

Today, I want to give the Senate a chance to examine the spending figures and compare the record with the rhetoric. In the 7 years of this administration, Congress has actually appropriated some $50 billion less than requested by the White House.

Let me repeat that: In the past 7 years, the administration has asked to spend an additional $50 billion and Congress declined.

Last year alone, we approved $7 billion less than requested by the White House. What it comes down to is this: the White House has not been shy about asking for money, and it hasn't been shy about borrowing to get it.

I certainly agree with the President when he condemns omnibus spending bills containing virtually all Federal appropriations in a single, 1,000-page measure. And I'm willing to look closely at the President's rescission proposals to see where he thinks we've gone wrong.

Still, we set appropriations caps during last fall's economic summit, and Congress followed up by living within those caps. I would hope that the White House will follow our example, hold down its spending requests and make wise investment choices.

Mr. President, I ask to include in the RECORD at this point, tables showing the level of funding requested by the White House and the amounts approved by the Congress over the last 7 years.

The tables follow:

COMPARISON OF PRESIDENT'S REQUEST AND ENACTED LEVELS FOR APPROPRIATION BILLS, 1981–88 [1]

Fiscal year	Request	Enacted	Difference
1981	432.3	428.3	−4.0
1982	448.1	428.3	4.7
1983	498.6	505.0	6.4
1984	532.9	538.2	5.4
1985	584.2	572.6	−11.6
1986 [2]	584.7	558.3	−26.4
1987	587.5	569.5	−18.0
1988	611.1	604.5	−6.6
Total	4,279.4	4,229.3	−50.1

[1] Estimates for fiscal year 1981–86 are from the Senate Appropriations Committee. Estimates for fiscal year 1987–88 are from the Senate Budget Committee but should be comparable with the earlier estimates.
[2] Enacted level includes reductions from the 1986 sequester.

Appropriations history—total enacted by subcommittee	Fiscal year—															
	1981 request	1981 enacted	1982 request	1982 enacted	1983 request	1983 enacted	1984 request	1984 enacted	1985 request	1985 enacted	1986 request	1986 enacted	1987 request	1987 enacted	1988 request	1988 enacted
Subcommittee:																
Agriculture, Rural Dev. and Rel. Agencies	23,618	23,250	31,592	31,968	41,116	41,764	36,329	36,443	40,521	40,856	46,176	47,336	45,829	46,602	55,304	56,112
Commerce-Justice-State-Judiciary	10,067	9,606	8,449	8,814	9,342	10,243	10,251	10,710	11,751	12,241	12,425	12,226	15,959	12,179	14,821	13,910
Defense	166,866	171,369	208,336	205,318	250,105	232,074	263,203	250,869	294,381	275,384	303,777	270,401	302,367	268,759	294,040	275,534
District of Columbia	532	491	570	557	580	524	570	601	517	547	532	530	580	580	527	550
Energy and Water Development	12,373	12,123	11,889	12,611	12,660	14,815	14,866	14,539	15,877	15,485	15,406	14,574	15,812	14,926	17,647	15,614
Foreign Assistance	13,743	11,834	11,715	12,001	12,148	12,009	21,150	21,962	20,817	21,115	15,272	14,578	17,737	13,372	15,922	13,599
HUD-Independent Agencies	73,337	68,382	53,500	57,382	47,130	53,304	50,370	56,779	54,734	57,123	49,317	52,648	46,652	56,112	51,649	56,712
Interior	9,964	9,011	6,834	7,525	7,069	8,627	6,784	8,722	8,145	8,389	7,770	8,210	6,617	8,221	8,608	9,317
Labor, Health and Human Services, and Education	90,469	92,485	86,054	87,137	86,125	99,542	95,864	105,469	101,156	106,726	101,381	104,933	104,080	113,551	117,350	127,075
Legislative	1,405	1,234	1,510	1,363	1,701	1,504	1,753	1,689	1,703	1,645	1,910	1,602	1,869	1,684	2,044	1,809
Military Construction	5,721	5,326	7,515	7,114	8,212	7,223	8,747	7,178	10,324	8,405	10,340	8,082	10,137	8,156	10,073	8,507
Transportation	13,419	12,446	10,149	10,750	11,375	11,871	11,114	11,092	11,807	11,654	7,895	10,178	6,996	10,255	8,479	10,601
Treasury-Postal Service-General Government	10,246	10,161	9,943	10,193	11,002	11,477	11,898	12,288	12,474	13,076	12,543	13,042	12,865	13,643	14,617	15,127
Detail not available—Continuing resolution	559	597	0	0	0	0	0	0	0	0	0	0	0	1,441	0	0
Grand total, appropriations	432,319	428,315	448,056	452,733	498,565	504,977	532,899	538,341	584,207	572,646	584,744	558,340	587,500	569,481	611,081	604,466
Memo:																
Defense (Function 050) above	176,633	180,656	221,106	217,360	263,650	245,347	279,490	264,962	312,958	291,491	322,546	286,125	321,095	284,777	312,541	292,151
Foreign Operations above	13,743	11,834	11,715	12,001	12,148	12,09	21,150	21,962	20,817	21,115	15,272	14,578	17,737	13,372	15,922	13,599
Domestic appropriations above	241,943	235,825	215,235	223,372	222,767	247,621	232,259	251,417	250,432	260,040	246,926	257,637	248,668	271,332	282,618	298,717

[1] Enacted level includes reductions from the 1986 sequester.

Note.—Estimates for fiscal year 1981–86 are from the Senate Appropriations Committee. Estimates for fiscal year 1987–88 are from the Senate Budget Committee but should be comparable with the earlier estimates.●

BAR COMMITTEE REJECTS REAGAN ADMINISTRATION CASE FOR ABM TREATY REINTERPRETATION

● Mr. LEVIN. Mr. President, on January 4 of this year the Committee on International Arms Control and Security Affairs of the Association of the Bar of the City of New York released a report entitled "The Anti-Ballistic Missile Treaty Interpretation Dispute."

The committee was chaired by Donald H. Rivkin and included a number of very distinguished members of the bar of the city of New York.

As my colleagues know, in the fall of 1985, the Reagan administration announced a new interpretation of the Antiballistic Missile Treaty which would permit testing and development of mobile and space-based antiballistic missiles.

A number of aspects of the administration's arguments are deeply disturbing, but perhaps the most disturbing is the argument advanced by Judge Sofaer, the legal adviser to the Department of State, that:

> When [the Senate] gives its advice and consent to a treaty, it is to the treaty that was made, irrespective of the explanations it is provided.

Under this theory, when administration witnesses appear before the Senate to discuss a treaty, what they tell us is not necessarily authoritative. That is, the Senate cannot rely on statements made by the administration during the treaty ratification hearings and debate. In order to discover the true meaning of the treaty, according to Judge Sofaer, we must review the negotiating record, which consists of a mass of memoranda, cables, internal studies, and so on. That is a deeply disturbing doctrine and would alter profoundly the manner in which the President and the Senate conclude treaties. It would mean that to resolve any ambiguities or to ensure we ratify the true meaning of the treaty, we would have to enact amendments, reservations, or understandings on almost every aspect of the treaty.

Because of the consequences of this theory and because the administration's reinterpretation varied so dramatically from the past understanding of what the treaty meant, Senator NUNN undertook a detailed review of the question. Last year, he made a series of floor statements and released two reports which concluded that the administration was wrong. Senator NUNN concluded that the original meaning of the treaty, as explained to the Senate in 1972 when the Senate ratified it, was the correct interpretation. I am very pleased that the Asso-

ciation of the Bar of the City of New York, one of the most respected bar associations in the country, agrees fully with Senator NUNN's conclusion.

I do not wish to take much of the Senate's time this afternoon, but let me briefly summarize the findings of the report:

First, the report concludes that, "The treaty text supports the traditional interpretation and is inconsistent with the reinterpretation."

Second, "The negotiating history of the treaty supports the traditional interpretation."

Third, "Testimony to the Senate during the ABM ratification proceedings support the traditional interpretation of the treaty."

Fourth, "Conduct by the United States in numerous official statements by United States agencies responsible for arms control or the SDI Program, * * * justified the traditional interpretation."

Finally, the report states, and I quote:

[T]he treaty text, negotiating record, Senate ratification proceedings and subsequent practice all support the traditional interpretation. By contrast, the reinterpretation is an unjustified "loophole" argument that, while identifying some ambiguities in the negotiating record, fails to make its case. In view of the support for the traditional interpretation in contemporaneous memoranda reflecting statements by Soviet negotiators, in the representations to the U.S. Senate by representatives of the administration that negotiated by treaty, in the statements by former U.S. treaty negotiators, and in the official positions taken by the Nixon, Ford, Carter, and Reagan administrations, the burden of proof, to quote Senator Nunn, "is on those who would claim that this has all been an extraordinary mistake."

In our view, that burden has not been met.

In other words, Mr. President, there are four relevant issues to examine in deciding whether the administration is correct in its reinterpretation. These are: First, the treaty text; second, the negotiating record; third, Senate ratification; and fourth, subsequent practice. The administration argues that each of these four areas support the reinterpretation but the Association of the Bar of the City of New York one of our most prestigious legal institutions, has concluded that the administration is dead wrong on all four points. In other words, in every place the administration could be wrong, they were.

Mr. President, I congratulate the Association of the Bar of the City of New York for a first rate job of legal scholarship and writing. The report is clear, concise, and persuasive. I commend it to my colleagues and ask that it be inserted in the RECORD.

The report follows:

THE ANTI-BALLISTIC MISSILE TREATY INTERPRETATION DISPUTE

(A Report of the Committee on International Arms Control and Security Affairs, the Association of the Bar of the City of New York)

COMMITTEE MEMBERS

Donald H. Rivkin, Chairman, George B. Adams, Jr., Daniel J. Arbess, James S. Boynton, Marjorie L. Cohen, John V. Connorton, Jr., Francis J. DeRosa, Stephen J. Dolmatch, Steven B. Feigenbaum, Richard N. Gottfried, John R. Hupper, Jr., Bruce R. Katz, Sylvia Khatcherian, David Leebron, John B. Madden, Jr., Lawrence C. Moss, Charles J. Moxley, Jr., Clyde Evan Rankin, III, Steven A. Rickard, Richard E. Rieder, David B. Rigney, Eliot L. Spitzer, Amy L. Starobin, Patricia H. Trainor, Gregory J. Wallance, Nanette Dembitz, Adjunct Member, and Mitchell B. Reiss, Associate Member.

FOREWORD

The Association of the Bar of the City of New York created the Committee on International Arms Control and Security Affairs out of a recognition that lawyers have a role to play, and an obligation to discharge, in the formulation of American arms control policy. The end products of arms control negotiations are agreements, and lawyers bring special skills to the formulation and drafting of agreements; lawyers schooled in the common law tradition respect precedent and continuity, essential elements of the arms control process; and, finally, practicing lawyers know that the object of private negotiations is, and the object of arms control negotiations ought to be, not the abject defeat of one party by the other but rather an agreement each party believes serves its own interests.

In 1985, this Committee, under the leadership of its then Chairman, Stanley R. Resor, published a report entitled "Achieving Effective Arms Control." One of the conclusions of our study was that "the ABM Treaty is critical to the prospect of future strategic nuclear arms controls." Our belief that the ABM Treaty occupies this central place in Unted States national security policy obliged us to devote our professional attention to the controversy over the interpretation of the Treaty which erupted in the fall of 1985 when the Reagan Administration asserted that the Treaty banned only deployment, but not testing and development, of space-based and mobile ABM systems based upon technologies developed after 1972. Our Committee has concluded that neither the text of the Treaty nor its negotiation and ratification history provides an adequate basis for that proposition.

This report does not necessarily represent the views of every member of the Committee on each of the issues it addresses. All members of the Committee do, however, endorse its conclusion that the Administration has not met its burden of proving that there are legal or historical reasons for departing from the traditional interpretation of the Treaty. (John B. Rhinelander, a member of the Committee, served as legal adviser to the American negotiators of the ABM Treaty. He believes, for that reason, that he should not associate his name with this report or its conclusions.)

The Committee must acknowledge its particular debt to Gregory J. Wallance. Mr. Wallance provided both scholarship and his considerable skills as a draftsman to the research underlying and preparation of this report. It is not an overstatement to say that the report would not exist but for his intellectual leadership

We wish to thank Robert M. Kaufman, the President of the Association of the Bar of the City of New York, who has so generously supported the work of our Committee, as have Fern Sussman, Executive Secretary, and Alan Rothstein, counsel to the Executive Secretary.

Throughout its 117-year history, the charter of the Association has extended beyond the immediate concerns of practicing lawyers to issues of general public interest. We offer this report as respectful inheritors of that tradition.

DONALD H. RIVKIN,
Chairman.

New York, New York, January 4, 1988.

INTRODUCTION

For the past decade and a half, the Anti-Ballistic Missile Treaty of 1972 (the "Treaty") has been a pillar of American national security policy and has made an important contribution to strategic stability between the superpowers. It is the only U.S.-Soviet strategic nuclear arms control agreement that has been ratified and remains in force today. There is a near-universal belief that without the defensive limitations in the Treaty, neither the Soviet Union or the United States would have—nor could have—negotiated the Salt I limitations on offensive nuclear systems and Salt II. Six former Secretaries of Defense, including the Defense Secretary in the Administration that negotiated the Treaty, recently stated:

"By prohibiting nationwide deployment of strategic defenses, the Treaty . . . . makes possible the negotiation of substantial reductions in strategic offensive forces." [1]

For these reasons, the present Administration's new interpretation of the Treaty to permit development and testing of space-based and other mobile types of Strategic Defense Initiative ("SDI") technology, as a first step in nationwide deployment of strategic ballistic missile defenses, raises a legal question of the gravest moment. A treaty is a legal document that expresses not only an international agreement, but also the law of the United States. It is, therefore, appropriate for the legal profession to examine the Administration's interpretation of the Treaty and offer its opinion on whether that interpretation is legally supportable.

Accordingly, the Committee on International Arms Control and Security Affairs of the Association of the Bar of the City of New York undertook a review of the Treaty and the conflicting interpretations of the provisions regarding development and testing of "futuristic" or "exotic" defensive weaponry, such as that contemplated by SDI. Our study concentrated primarily on four areas: the text of the Treaty; publicly available portions of the negotiating record of the Treaty; the record of the ratification of the Treaty in the United States Senate; and the publicly available record of subsequent practice by the United States and the Soviet Union. Our study did not deal with the national security or foreign policy aspects of the Treaty debate; rather, we approached the Treaty as lawyers analyzing an international legal document under accepted principles of treaty interpretation.[2]

Our conclusion: The present Administration's interpretation of the Treaty to allow development and testing of space-based and

[1] Footnotes at end of article.

other mobile types of SDI technology is flawed and lacks sufficient legal justification for departing from what has been, since the entry into force of the Treaty, an interpretation of the Treaty that prohibits such development and testing. We find that the Administration's interpretation is not supported by the text of the Treaty, the available record of the Treaty negotiations, the Senate ratification record, the interpretations of the Treaty by the Administrations since 1972 or by known Soviet statements and practice.

We are particularly impressed by the following considerations which, in our opinion, have not been persuasively dealt with by the present Administration:

The text of the Treaty bans development and testing of "ABM systems or components" that are "sea-based, air-based, space-based, or mobile-land-based"; the Administration's efforts to overcome this unequivocal prohibition depend on a definition of the meaning of "ABM system or components" that is simply not supported by the actual words and structure of the Treaty or by the negotiating record;

The negotiating record contains statements by the Soviet negotiators that the Treaty provisions prohibiting development and testing of ABM systems or their components applied to space-based and other mobile-type ABM systems using future technology;

Every senior member of the Nixon Administration's Treaty negotiating delegation, with the exception of Paul Nitze, has rejected the new interpretation; and even Mr. Nitze, prior to the present Administration's announcement of its new interpretation of the Treaty, supported the traditional interpretation; [3]

The Senate's ratification of the Treaty was based on testimony by the negotiators and other Nixon Administration officials consistent with the traditional interpretation; indeed, the *opposition* to the Treaty was based in part on the Treaty's prohibition of the very development and testing that the present Administration now claims is permitted;

Every Administration since 1972 interpreted the Treaty consistently with the traditional interpretation; even the present Administration, including the SDI Organization, in public statements, until 1985 adhered to the traditional interpretation of the Treaty.

In short, the Administration has failed to make its legal case for the new interpretation of the Treaty.

I. THE DISPUTE OVER THE INTERPRETATION OF THE ABM TREATY

A. The ABM Treaty

The ABM Treaty was one of the two arms limitation agreements negotiated between 1969 and 1972 by the United States and the Soviet Union, known collectively as SALT I.[4] The objective of the ABM Treaty is stated in Article I(2):

"Each Party undertakes not to deploy ABM systems for a defense of the territory of its country and not to provide a base for such a defense, and not to deploy ABM systems for defense of an individual region except as provided for in Article III of this Treaty."

Article II(1) defines the term "ABM systems" used in the Treaty—a definition that is at the center of the dispute over the interpretation:

"For the purpose of this Treaty an ABM system is a system to counter strategic ballistic missiles, or their elements in flight trajectory, currently consisting of (a) ABM interceptor missiles, . . . (b) ABM launchers, . . . and (c) ABM radars. . . ."

Article III of the Treaty, as limited by a 1974 protocol, allows each country to deploy one fixed, land-based ABM system. Article IV allows the existence of test ranges to develop and test the ABM systems referred to in Article III, and limits each party to no more than fifteen ABM launchers at the test ranges. Finally, Article V(1) bans development, testing and deployment of space-based and other mobile-type ABM systems:

"Each party undertakes not to develop, test, or deploy ABM systems or components which are sea-based, air-based, space-based, or mobile land-based."

Until the Reagan Administration announced the new interpretation, the provisions of the Treaty were generally understood to ban development and testing, as well as deployment, of all ABM systems and components other than the single, fixed, land-based system allowed under Article III and the 1974 protocol. At the time of the signing of the Treaty, the Soviet Union had the only operational ABM site, in the vicinity of Moscow. Following the entry into force of the Treaty, the United States constructed one fixed, land-based ABM site in defense of ICBM missiles in North Dakota, but dismantled a second such site then under construction. Subsequently, the United States deactivated the North Dakota ABM site on the ground that its negligible military value was far outweighed by the cost.[5] Until October 1985, neither party sought, nor claimed the right, to develop and test sea-based, air-based, space-based or mobile-land based ABM systems or components.

B. The "Reinterpretation" of the ABM Treaty

On October 6, 1985, Robert McFarlane, then Assistant to the President for National Security Affairs, stated during a television interview: "[The terms of the ABM Treaty] make clear that on research involving new physical concepts, that that activity, as well as testing, as well as development, indeed, are approved and authorized by the Treaty. Only deployment is foreclosed. . . ." [6] Subsequently, on October 22, 1985, Abraham D. Sofaer, the Legal Adviser to the State Department, in testimony in the House of Representatives, provided an in-depth explanation of the Administration's position. Essentially, the Administration's interpretation was that Article II, defining the term "ABM system" was a definition of *limitation*, that is, an "ABM system" was *only* a system consisting of ABM interceptor missiles, launchers and radars using existing technology. According to the Legal Adviser's testimony, such an interpretation of the definitional section of the Treaty was made necessary by the language of Agreed Statement D, an agreement that accompanies the Treaty, which provides as follows:

"In order to insure fulfillment of the obligation not to deploy ABM systems and their components except as provided in Article III of the Treaty, the Parties agree that in the event ABM systems based on other physical principles and including components capable of substituting for ABM interceptor missiles, ABM launchers, or ABM radars are created in the future, specific limitations on such systems and their components would be subject to discussion in accordance with Article XIII and agreement in accordance with Article XIV of the Treaty." [7]

The Legal Adviser concluded that Agreed Statement D allows the development and testing of ABM systems based on "other physical principles," that is, future technology other than ABM interceptor missiles, launchers and radars available in 1972.[8] As he testified:

"Systems and components based on future technology are not discussed anywhere in the Treaty other than in Agreed Statement D. In that provision, the parties felt a need to qualify the term—systems and components created in the future—with the phrase 'based on other physical principles.' If 'ABM system' and 'components' actually meant all systems or devices that could serve ABM functions, whether based on present or future technology, the parties would not have needed to qualify these terms in Agreed Statement D. That this qualification was added suggests that the definitions of 'ABM system' and 'component' in Article II(1) extended only to those based on presently utilized physical principles and not on 'other' ones." [9]

Essentially, the Legal Adviser depends on a "redundancy" argument: if future technology was banned by the definition of an ABM system in Article II, then there would be no need for Agreed Statement D. Instead, he contends, consistent with the principle of avoiding a redundancy if a treaty can be reasonably construed otherwise, the parties to the Treaty intended only to ban mobile ABM systems ("sea-based, air-based, space-based or mobile land-based") utilizing current technology, but reserve for themselves the right to develop and test—but, he concedes, not deploy without agreement—mobile ABM systems utilizing "other physical principles." [10]

The Legal Adviser also reviewed the Senate ratification proceedings and subsequent pronouncements by executive agencies. He concluded that statements during the ratification proceedings, and elsewhere, "consistently advanced the broader interpretation" or provided it with "strong support." Subsequent statements, in his view, have been inconsistent:

"The record of post-ratification statements is thus mixed. The earlier statements continue to support a broad reading of the Treaty. Several later statements present a contrasting view, accepting the restrictive construction. At no time, however, was there a universal interpretation." [11]

As to the negotiating record, the Legal Adviser, who personally reviewed "all of the significant statements and drafts," reached the "firm conclusion" that "although the U.S. delegates initially sought to ban development and testing of non-landbased systems or components based on future technology, the Soviets refused to go along, and no such agreement was reached." [12]

On August 12, 1986, the Legal Adviser submitted to the United States Senate a classified memorandum (dated August 6) analyzing the ABM negotiating record, which reached the same conclusion. On May 13, 1987, the Administration released an 82-page unclassified memorandum (dated May 11) prepared by the Legal Adviser that, while apparently revising the 1986 analysis,[13] adhered to the basic conclusion that "the Soviets refused to agree to prohibit development and testing of mobile [other physical principles] substitutes regardless of their basing mode."[14]

Essentially, the Legal Adviser cited two key episodes during the Treaty negotiations, each concerning a different provision of the Treaty, and argued that on each occasion the American negotiators yielded to a Soviet

position inconsistent with a ban on development and testing of mobile exotics:

(a) on September 15, 1971, the U.S. delegation agreed to drop language from a provision in its own draft treaty (the remainder later modified as Article V(1)) that explicitly referred to exotic anti-ballistic missile defenses;

(b) on December 20, 1971, the United States agreed to define "ABM system" in Article II in a manner that would not prejudice the Soviet position that obligations relating to an ABM system applied only to interceptors, launchers and radars based on current technology.

These episodes, according to the Legal Adviser, support his theory of the negotiations that the United States sought, but failed to achieve, a ban on development and testing of mobile exotics. Instead, the United States negotiators were able only to obtain a commitment from the Soviets—expressed in Agreed Statement D—to discuss deployment limitations on ABM systems based on "other physical principles" but not to preclude their development and testing.[15]

On September 9, 1987, the Legal Adviser released a revised report on "subsequent practice," including the agreements and statements of the parties regarding the Treaty. Consistent with his earlier Senate testimony, he concluded that: "[the] record of subsequent practice does not establish a binding international legal obligation by the U.S. to follow the restrictive interpretation." [16]

C. The Response to the Administration's Interpretation of the ABM Treaty

Essentially, the critics of the position taken by the Administration argue that Article II, defining an ABM system, is a *functional* definition, that is, it defines the prohibited systems on the basis of performance and not technology. As argued by Harvard law professor Abram, and Antonia, Chayes in a "debate" with the Legal Adviser in the Harvard Law Review, "the natural reading of the phrase 'currently consisting of' [in Article II] makes the system description that follows illustrative, not limiting." [17] The traditionalists contend that, because of the reference to Article III in the inducing clause of Agreed Statement D ("except as provided in Article III of the Treaty"), that Statement is limited to reinforcing the Article III limitations on fixed, land-based systems. Under this interpretation, the parties to the Treaty viewed Agreed Statement D simply as an elaboration of the Article III limitations on fixed, land-based systems, under which development and testing of future technology for such systems is permitted, but that the plain language of Article V(1) (and Article II) bans development, testing or deployment of future technology for space-based and mobile-type ABM systems.

With regard to the ratification record and subsequent U.S.-Soviet practices, on March 11, 1987, Senator Sam Nunn made public a lengthy study of the 1972 Senate ratification proceedings and the available record of subsequent United States and Soviet practices. He concluded that, during the ratification proceedings, "executive branch witnesses clearly stated that development and testing of mobile space-based exotics was banned while development and testing of fixed land-based exotics was permitted." [18] Senator Nunn's study also found that "the available record of both official and unofficial U.S. statements" since the Treaty ratification support the traditional interpretation of the ABM Treaty and "contradict Judge Sofaer's claim that the U.S. position on the issue has not been consistent."[19]

At the same time, after a study of the classified negotiating record and of the Legal Adviser's August 6, 1986 memorandum, which he was not then able to release publicly, Senator Nunn presented a summary conclusion that, notwithstanding "ambiguities" in the cables and memoranda that made up the negotiating record, there is "substantial and credible information which indicates that the Soviet Union did agree that the development and testing of mobile/space-based exotics was banned. I have concluded that the preponderance of evidence in the negotiating record supports the Senate's original understanding of the Treaty—that is, the traditional interpretation." [20]

On May 19, 1987, Senator Nunn, following the agreement of the administration to declassify his study of the negotiating record, released his report on the August 6, 1986 Legal Adviser's memorandum and attached an Apppendix that provided "summary observations" of the updated May 11, 1987 analysis by the Legal Adviser.

Senator Nunn's interpretation of the negotiating history is that the United States delegation, which had been instructed to obtain a ban on development and testing of mobile exotics, overcame initial Soviet resistance and obtained explicit agreement, as reflected in internal memoranda prepared by the American negotiators, that Articles II and V in the final version of the Treaty imposed such a ban. With regard to the two key episodes, according to Senator Nunn, the following occurred:

(a) on September 15, 1971, when the United States negotiators dropped more explicit language from Article V banning testing and development of mobile exotics, they did so because the Soviet negotiators, according to a memorandum of the meeting, informed the United States delegation that the *Soviet* test imposed a ban on "any type of present or future components" of ABM systems;

(b) with respect to Article II, on December 20, 1971, the United States delegation proposed the phrase "currently consisting of" to connect two separate sentences in its draft, which thereby modified the listing of then-current ABM components. According to a memorandum of the meeting, "the Soviet side, as well as the American, recognized that there could be future systems" and even though the limitation on such systems "would be settled elsewhere than in Article II," the connective phrase in that article had to take account of that fact.

Thus, according to Senator Nunn, by the end of 1971 the United States had achieved agreement on a ban on development and testing of *mobile* exotics. However, at the beginning of 1972, the parties still had not reached agreement on limitations on either current or exotic *fixed, land-based* systems. Eventually, in Senator Nunn's view, the parties agreed to a scheme under which Articles III and IV prohibited deployment of exotic fixed, land-based system (while allowing deployment of fixed, land-based ABM systems based on current technology in specified locations). Agreed Statement D (together with Articles III and IV) implicitly allowed development and testing of fixed, land-based exotics at ABM test ranges. As one example, Senator Nunn cites the following statement on December 14, 1971 by the scientific advisor to the Soviet delegation as the genesis of this scheme, which was agreed in principle in January 1972, even though final language was not agreed to until just weeks before the Treaty signing:

"[I]t should be possible to provide that if components based on new technologies were developed which could substitute for the components limited under Article III . . . the matter should be referred to the [Standing Consultative Commission] and agreements thereon reached by Governments so there could be no circumvention of the limitations on Article III." [21]

Senator Nunn has not yet responded to the Legal Adviser's September 9, 1987 report on the "subsequent practice" of the Soviet Union and the United States. However, on September 22, 1987, a majority report of the United States Senate Committee on Foreign Relations concluded that: "[the] record of the 'subsequent practice' of the parties—reflected in U.S. and Soviet conduct under the ABM Treaty regime, in formal diplomatic exchanges, and in official public statements—provides overwhelming evidence that the parties jointly adhered to the interpretation of the Treaty articulated by U.S. negotiators in 1972 and understood by the U.S. Senate when it consented to ratification." [22]

D. The Applicable Principles of International Law

The applicable principles of international law for the interpretation of treaties between nations are not in serious dispute in the Treaty debate. As the Supreme Court observed recently:

"In interpreting an international treaty, we are mindful that it is 'in the nature of a contract between nations, *Trans World Airlines, Inc.* v. *Franklin Mint Corp.*, 466 U.S. 243, 253 (1984), to which [g]eneral rules of construction apply. *Id.* at 262. *See Warve* v. *Hylton*, 3 Dall. 199, 240-241 (1796) (opinion of Chase, J.)." *Societe Nationale Industrielle Aerospatiale* v. *United States District Court for the Southern District of Iowa*, 96 L. Ed. 2d 461, 477 (1987).

While the text of a treaty is obviously a primary guide, "the context in which the written words are used," *Air France* v. *Saks*, 470 U.S. 392, 397 (1985), the treaty's history, including "the negotiations, and the practical construction adopted by the parties," may also be relevant. *Id.* at 396 (quoting *Choctaw Nation of Indians* v. *United States*, 318 U.S. 423, 431-432 (1943)).

As discussed below, this Report concludes that the Treaty text supports the traditional interpretation and is inconsistent with the reinterpretation. The Report's review of the debate over the Treaty, as a matter of organizational efficiency, considers first the negotiating history of the Treaty, then the ratification proceedings in the U.S. Senate and subsequent practice by both the Soviet Union and the United States, and then analyzes the text of the Treaty in light of this history.

II. THE NEGOTIATING HISTORY OF THE ABM TREATY SUPPORTS THE TRADITIONAL INTERPRETATION

Developments during the negotiations of the ABM Treaty in 1971 and 1972 support the traditional interpretation. The American negotiators were instructed by the Nixon administration to achieve a treaty that banned development and testing (as well as deployment) of mobile exotics, but permitted development and testing of fixed, land-based exotic ABM systems (but not their deployment). Particularly in the negotiations over Article V (prohibition on development, testing, and deployment) and Article II (the definition of an ABM system), the American negotiators achieved this objective; indeed, they elicited statements

from Soviet negotiators that the language of the text of the Treaty reflected the American objectives. Subsequent cables and reports by the negotiators stated that the original instructions to achieve a ban on development and testing of exotic mobile defenses, but to allow development and testing of fixed, land-based exotic missile defense, had been successfully carried out. What follows is a summary of the key developments during the negotiations.

A. NSDM 127

On August 12, 1971, President Nixon issued National Security Decision memorandum 127, which provided the following instruction to the Treaty negotiators:

"3. The agreement should contain a provision whereby neither side shall deploy ABM systems using devices other than ABM interceptor missiles, ABM launchers, or ABM radars to perform the function of these components. (This paragraph along with that in the next paragraph, should not prohibit the development and testing of future ABM components in a fixed, land-based mode.)

4. The agreement should contain a provision whereby neither party shall develop, produce, test, or deploy:

(a) sea-based, air based, space based, or mobile land-based ABM launchers, ABM missiles, or ABM radars;

(b) ABM components other than ABM interceptor missiles, ABM launchers, or ABM radars to perform the functions of these components."[23]

The significant point of NSDM 127, in view of the subsequent negotiations, was its distinction between fixed, land-based exotic missiles and mobile exotics; the negotiating team was instructed to achieve an agreement that did "not prohibit the development and testing" of fixed, land-based exotics. NSDM 127 just as clearly instructed the negotiators to achieve an agreement under which "neither party shall develop, produce, test, or deploy" mobile exotics, including space based ABM systems.

B. The Negotiations Over Article V

1. The Test of Article V

Article V of the Treaty states as follows:

"1. Each Party undertakes not to develop, test, or deploy AMB systems or components which are sea-based, air-based, space-based, or mobile land-based.

2. Each party undertakes not to develop, test, or deploy AMB launchers for launching more than one ABM interceptor missile at a time from each launcher, not to modify deployed launchers to provide them with such a capability, not to develop, test, or deploy automatic or semi-automatic or other similar systems for rapid reload of AMB launchers."[24]

2. The Negotiations

Five days after receiving NSDM 127, on August 17, 1971, the American negotiators in Geneva presented the Soviet side with a proposal that, consistent with the instructions in NSDM 127, distinguished between fixed, land-based exotic defensive systems (*permitting* their development and testing) and mobile exotic systems (*banning* their development and testing). The draft, then-titled Article VI, states:

"1. Each Party undertakes not to deploy AMB systems using devices other than ABM interceptor missiles, AMB launchers, or AMB radar to perform the functions of there components [later known in revised form as draft Article V(3) and then as Agreed Statement D].

2. Each Party undertakes not to develop or produce for or test or deploy in sea-based, air-based or mobile land-based modes: ABM interceptor missiles, ABM launchers, ABM radars, or other devices to perform the functions of these components [later known in revised form as draft Article V(1)].[25]

By way of emphasizing the importance of achieving a ban on development and testing of mobile exotics, on August 27, Harold Brown, U.S. Delegate-at-Large, commented before Soviet negotiators on the United States draft Article VI. He explained that paragraph 1 of Article VI—which implicitly dealt only with fixed, land-based exotic defensive systems, pursuant to paragraph 3 of NSDM 127—covered *"any present or future system* which employs other means or devices to perform the functions of interceptor missiles, launchers, or radars in rendering ineffective strategic ballistic missiles or their components in flight trajectory."[26] Brown also defined for the Soviet delegation the meaning of the word "development" in paragraph 2 of draft Article VI:

"By 'development' we have in mind that stage in the evolution of a weapons system which follows research (in research we include the activities of conceptual design and laboratory testing) and which precedes full-scale testing. The development stage, though often overlapping with research, is usually associated with the construction and testing of one or more prototypes of the weapons system or its major components. In our view, *it is entirely logical and practical to prohibit the development—in this sense—of those systems whose testing and deployment are prohibited.*"[27]

The American proposal initially met with opposition from the Soviet negotiators; however, the Soviet delegation did not categorically reject it. Instead, the Soviet negotiators raised objections on the ground of verifiability, sought to have the United States define which systems would be included within the ban on mobile exotic weapons, and insisted that the proposal could not apply to the elements of the Soviet air defense network, especially surface-to-air missiles and air defense radars—a proposition that the American negotiators did not contest.[28]

As a result, the United States proposal on exotics was referred to an ad-hoc Salt I subpanel, headed on the Soviet side of Viktor Karpov and, on the American side, by Sidney Graybeal. On September 8, Karpov presented a Soviet counter-offer to the American draft Article VI(2), which read as follows:

"Each Party undertakes not to construct, not to test and not to deploy mobile land-based, sea-based, air-based or space-based ABM systems and their components, specially constructed for such systems."

In explaining this proposal, Karpov informed the American negotiators that the Soviet proposal *"took into account the wishes of the U.S. side."*[29]

In response, Graybeal presented a new American proposal on mobile/space-based exotic defense systems:

"Each Party undertakes not to develop, test or deploy sea-based, air-based, space-based or mobile land-based ABM interceptor missiles, ABM launchers, ABM radars, or other devices for performing the functions of these components."[30]

On September 15, Karpov and Graybeal met at the Soviet Embassy in Helsinki for what appears to have been the decisive meeting in the negotiations over the proposed American ban on development and testing of mobile defensive systems, including space-based ABM systems. The Soviet negotiators assured the Americans in this meeting that the Soviet proposal would accomplish the American objective—a ban on development of "any type of present or future components" of mobile ABM systems. As stated in the U.S. memcon of the meeting:

"Karpov argued that the new information [of the Soviet proposal] . . . obviates the requirement for the phrase 'other devices for performing the functions of these components' appearing at the end of [the U.S. proposal] . . . The Soviets were proposing to eliminate specific listing of AMB system components (launchers, interceptors, and radars) and substitute the word 'components' (using the literal Russian word 'komponenty') for this instead of the word for 'components' ('sredstva') used in Article 2 when referring to launchers, interceptors or radars. *Karpov agreed with Graybeal's interpretation that the Soviet text meant 'any type of present or future components' of ABM systems.*

Karpov said they would give favorable consideration to Graybeal's suggestion that the phrase 'specially constructed for such systems' be dropped from the Soviet wording . . .

Graybeal said he would take the new Soviet formulation into consideration and refer it to the U.S. Delegation. It is agreed that paragraph 1 of U.S. Article 6 [the U.S. proposal to ban deployment of fixed, land-based exotics] would remain bracketed as a U.S. proposal."[31]

Subsequently, the American negotiators proposed, as a modification of the Soviet proposal, that the agreed text conclude with the phrase "mobile land-based ABM systems or any components therefore," instead of the Soviet language "and their components, specially constructed for such systems." The American modification, which was ultimately accepted, further emphasized the point that the Soviet text applied to "any type of present or future components' of mobile defensive systems, not just to those components "specially constructed" for such systems, which might only imply a ban on development of upgraded mobile systems.

On September 17, the Soviet Delegation accepted this proposal. The United States then proposed a technical correction in the provision by changing the words "or any components therefore" to read "or their components." This technical change was accepted by the Soviets on September 22 and, on September 23, 1971, the mutually agreed U.S./Soviet Joint Draft Text read as follows:

"Each Party undertakes not to develop, test, or deploy sea-based, air-based, space-based, or mobile land-based ABM systems or their components."[32]

On September 24, the American negotiators cabled to Washington that the United States' position, reflected in draft Article VI(2), *"including components for future ABM systems which are not fixed and land-based . . . was agreed ad referendum."*[33]

Between January and May 1972, John B. Rhinelander, a Deputy Legal Adviser at the Department of State who joined the U.S. Delegation as its legal adviser in April, 1971, prepared a series of Article-by-Article analyses of the Treaty (extracts of his documents were declassified in May 1987). The final analysis, dated May 24, 1972—two days before the Treaty was signed in Moscow—stated with respect to Article V(1):

"Paragraph 1 of Article V prohibits the development, testing, or deployment of:

—an ABM system that is sea-based, air-based, space-based, or mobile land-based.

—an ABM interceptor missile, ABM launcher, or ABM radar that is sea-based, air-based, space-based, or mobile land-based.

—a device capable of substituting for an ABM interceptor missile, ABM launcher or ABM radar that is sea-based, air-based, space-based, or mobile land-based (such as an air-based "killer" laser)" [34]

3. The Article V Negotiations Support The Traditional Interpretation

The negotiating history of Article V of the Treaty supports the traditional interpretation that development and testing of mobile exotic defensive systems is prohibited by Article V. The American negotiators were instructed to achieve such a prohibition; they proposed a draft that reflected those instructions; the Soviet negotiators, while putting forth language of their own, stated that their proposal "took into account the wishes of the U.S. side"; and the Soviet negotiators stated that their text applied to "any type of present or future components" of ABM systems.

In response to these developments during the negotiations, the Legal Adviser makes, *inter alia*, the following points. First, he contends that the withdrawal of the United States draft in favor of the Soviet proposal reflects the American failure to achieve a ban on development and testing of mobile exotic defensive weapons. Second, with regard to the September 15th exchange between Karpov and Graybeal, in which Karpov stated that the Soviet text applied to "any type of present or future components" of ABM systems, the Legal Adviser contends that by "future components," the Soviet negotiator meant only "future AMB interceptor missiles, launchers or radars," *i.e.*, improvements or variations on the presently available interceptor missiles or launchers.[35]

Neither of these arguments is persuasive. The fact that the American negotiators withdrew their own proposal in favor of the Soviet text was hardly a "failure" to achieve American objectives, given the Soviet concession that the *Soviet* text applied to "any type of present or fuure component," of an ABM system. Indeed, if the American negotiators, after receiving such a major Soviet concession, still had insisted that the Soviets—sensitive to any implication that their air defense systems might be limited by the Treaty—accept *only* the American text, word-for-word (such as inclusion of the broad term "devices"), they would have risked losing agreement on a restriction in the Treaty that they had been instructed to achieve and which the Soviet negotiators now accepted.

Nor are we persuaded by the Legal Adviser's argument that Karpov did not mean what he said on September 15, 1971. The Legal Adviser presents no evidence that Karpov meant to restrict the scope of Article V(1) to future versions of existing components of ABM systems; rather, throughout the negotiations, both the American and Soviet negotiators used interchangeably such phrases as "future systems," "future components," "future devices," "future means," "future types" and "future kinds." [36] There is simply no suggestion in the record of the negotiations that the parties expressly or implicitly adopted a rule of construction that references to future ABM "systems" and "components" excluded exotic defensive systems.

In short, the plain words of the exchanges between the Soviet and American negotiators, as reported by contemporaneous memoranda, together with the evolution of the text of Article V(1), support the traditional interpretation that Article V bans development and testing of mobile exotic ballistic missile defensive systems and their components.

C. The Negotiations Over the Definition of ABM Systems and Components in Article II

1. The Text of Article II in the ABM Treaty

Article II of the ABM Treaty states:

"1. For the purpose of this Treaty an ABM system is a system to counter strategic ballistic missiles or their elements in flight trajectory, currently consisting of

(a) ABM interceptor missiles, which are interceptor missiles constructed and deployed for an ABM role, or of a type tested in an ABM mode;

(b) ABM launchers, which are launchers constructed and deployed for launching ABM interceptor missiles; and

(c) ABM radars, which are radars constructed and deployed for an ABM role, or of a type tested in an ABM mode.

2. The ABM system components listed in paragraph 1 of this Article include those which are:

(a) operational;

(b) under construction;

(c) undergoing testing;

(d) undergoing overhaul, repair or conversion; or

(e) mothballed."

2. The Negotiations

The Soviet proposal for the definition of an ABM system, first put forward in March 1971, provided as follows:

"The obligations provided for under this Treaty shall apply to systems specially designed to counter strategic ballistic missiles and their components in flight trajectory, namely: (a) ABM launchers, (b) ABMs, (c) Long-range acquisition radars, (d) Tracking and ABM guidance radars." [37]

As then drafted, the Soviet text was purely a definition of limitation applying only to the ABM systems then in use. By contrast, on July 27, 1971, the United States proposed a broad, functional definition of an ABM system, which it defined as: "an anti-ballistic missile (ABM) system is a system constructed or deployed to counter strategic ballistic missiles or their components in flight trajectory." The American definition then listed separately the three components in use, interceptor missiles, launchers, and radars.[38]

At the end of the Fifth Session, which lasted from July to September 1971, the two sides did not agree on the language of Article II. Significantly, as will be shown, the Soviet definition of "ABM system" by then had been modified to add the words "and including the following components—ABM interceptor missiles, ABM launchers and ABM radars," and then defined those three components in sub-paragraphs.[39]

The Sixth Session began on November 15, 1971. During the next month, the Soviets first agreed to delete the phrase "and including the following components" from their draft of Article II, and then reintroduced that language in a revised draft Article II less than one week later.[40] However, the Soviet Union plainly tied its language in Article II to the disagreement with the United States over the American proposal for a ban on deployment, but not development and testing, of fixed, land-based exotics (formerly draft Article VI(1), *See* pp. 22-23, *supra*, now identified as draft Article V(3)).[41] The Soviet negotiators proposed that, if the United States withdrew Article V(3), the Soviets would agree to the functional definition in Article II, as then drafted by the United States. However, the Soviet negotiator implied that he did not expect the United States to drop Article V(3); rather, as reported by an American negotiator:

"It would be necessary for his Delegation to go through the ritual of trying to get concessions from our [*i.e.*, the U.S.] side on Article V before he could be authorized to reach an agreement accepting the basic U.S. position on Article II." [42]

On December 20, the United States proposed a slightly modified draft for Article II that maintained a functional definition of ABM system ("a system to counter strategic ballistic missiles or their elements in flight trajectory"), and which also retained separate listing of ABM missile, launchers, and radars without any connective between the definition for "system" and the listing for the three different system components.

Later that day, an important exchange between Soviet and American negotiators over the definition of an ABM system took place. In that exchange the Americans proposed the connective "currently consisting of," while expressly noting that such language would bring future systems into the definition of an ABM system. The December 20 memcon states as follows:

"Grinevsky stated that the second problem [of three concerns he had about the new U.S. text] was the absence of a connective between the sub-paragraph defining ABM systems, and the three sub-paragraphs following which defined components. His Delegation strongly believed that there should be some connective such as 'namely' or 'consisting of.' Garthoff stated that the American side did not consider that a connective of this kind was either necessary or desirable. If, however, there was to be one, it should be precise. Therefore, he suggested, we might consider use of the phrase 'currently consisting of' as a connective. This was clearly a new thought to Grinevsky and Kishilov and they appeared uncertain of the reaction of their side. *Garthoff noted that the Soviet side, as well as the American, recognized that there could be future systems, and while the question of constraints on future systems would be settled elsewhere than in Article II, the correct way of indicating a valid connection between components and systems would be to include the word 'currently'.* Grinevsky agreed to take up this possibility with his Delegation." [43]

As the memcon reflects, the American proposal was to agree on a text for Article II that would define ABM systems to include exotics ("Garthoff noted that the Soviet side, as well as the American, recognized that there could be future systems"), but use other provisions of the treaty to decide what limitations applied to such systems ("while the question of constraints on future systems would be settled elsewhere than in Article II . . . ").

The following day, December 21, the Soviet Delegation proposed a new draft text that adopted the American proposal by incorporating the connective "currently consisting of." The Soviet draft was incorporated into the Joint Draft Text of January 20, 1972, which read as follows:

"1. For the purposes of this Treaty an ABM system is a system to counter strategic

ballistic missiles or their elements in flight trajectory, currently consisting of: . . . ." [44]

On May 24, 1972, the U.S. Delegation legal adviser, John B. Rhinelander, completed his final analysis of the separate articles prior to the signing of the Treaty. With regard to Article II, Rhinelander wrote as follows:

"An ABM system is described in paragraph 1 of Article II in terms of 'current' ABM components. This does not however, limit the generality of the term ABM system as used in the treaty to systems composed of 'current' ABM components, but would also include 'future systems' based on physical principles other than those used for 'current' ABM components and capable of substituting for a 'current' ABM component." [45]

3. The Negotiations Over Article II Support The Traditional Interpretation

From the point of view of the debate over the interpretation of Article II of the ABM Treaty, several important points emerge from the exchanges between the Soviet and American negotiators in the Sixth Session. One key development was the December 20 Grinevsky-Garthoff exchange in which the American negotiator proposed the connective "currently consisting of" for Article II and made the point that his proposal—which the Soviet delegation accepted—would incorporate "future systems" in the Treaty definition of ABM systems and components.

Of equal significance was the fact that, prior to this major Soviet concession, the Soviet delegation *twice* had proposed a connective that used the phrase "and including the following components"—and *twice*, confronted with adamant American support for a functional definition, withdrew that language. Yet the proponents of the broad interpretation argue that it makes more sense to read Article II as though it contained the language "*and* currently consisting of" three defined components, *i.e.* as a definition of limitation. Indeed, in an appearance in 1985 before the Senate Armed Services Committee, the Legal Adviser testified, with regard to Article II, that "it makes more sense to put the word 'and' in." Senator Nunn, Chairman of the Armed Services Committee, asked, "are you saying it makes more sense to use the word 'and'?" The Legal Adviser repeated his point: "yes; to read it as though the word 'and' was there, certainly." [46]

The Legal Adviser's position that the Article II connective should be read as though it contained the word "and" is squarely contradicted by the negotiating record; the Legal Adviser advances the *identical* position that the Soviet Union *unsuccessfully* proposed on *two* separate occasions before agreeing to an American proposal reflecting the long-standing American insistence on a functional definition. We conclude that the Legal Adviser's position lacks support in the negotiating record.

D. The Relationship Between Article III and Agreed Statement D

1. The Treaty Text

Article III of the ABM Treaty provides:

"Each Party undertakes not to deploy ABM systems or their components except that:

(a) within one ABM system deployment area having a radius of one hundred and fifty kilometers and centered on the Party's national capital, a Party may deploy [a specified number of ABM launchers, interceptor missiles and ABM radar complexes] . . . ; and

(b) within one ABM system deployment area having a radius of one hundred and fifty kilometers and containing ICBM silo launchers, a party may deploy [a specified number of ABM launchers, ABM interceptor missiles and ABM radars]. . . .

Agreed Statement D provides as follows:

"In order to ensure fulfillment of the obligation not to deploy ABM systems and their components except as provided in Article III of the Treaty, the Parties agree that in the event ABM systems based on other physical principles and including components capable of substituting for ABM interceptor missiles, ABM launchers, or ABM radars are created in the future, specific limitations on such systems and their components would be subject to discussion in accordance with Article XIII and agreement in accordance with Article XIV of the Treaty."

2. The Negotiations Over Article III And Agreed Statement D

To summarize, as demonstrated by the above analysis, by the end of 1971, the Soviet and American Delegations agreed on the following principles:

(1) a complete ban on development and testing (as well as deployment) of mobile exotic defensive systems, including space-based defensive weapons; and

(2) a definition of ABM systems that included future ABM systems and their components.

The negotiations next turned to the limitations on fixed, land-based systems, which originally had been addressed by the U.S. draft Article VI(1) (later Article V(3)).

a. The negotiations over agreed statement D

At the outset, a significant impasse developed over the limitations on fixed, land-based exotic defensive weapons, whose *deployment* (but *not* development and testing) the United States sought to ban. Initially, the Soviet negotiators resisted the ban on deployment of futuristic, fixed, land-based systems. On December 7, 1971, however, a Soviet negotiator "urged that some way be found to express the difference over this point [*i.e.*, limits on fixed, land-based exotics] in Article III rather than in Article V[3] [the successor to U.S. Article VI(1)]." [47] Then, in a major concession, on December 14, another Soviet negotiator, in a meeting with Harold Brown, proposed that in the event new technologies for the fixed, land-based systems covered by Article III were developed, the issue of their deployment should be dealt with by negotiations between the two countries (both the Legal Adviser and Senator Nunn assert that, as a consequence of this concession, which led to Agreed Statement D, deployment would be banned subject to negotiation):

"[I]t should be possible to provide that if components based on new technologies were developed which could substitute for the components limited under Article III . . . the matter should be referred to the (SCC) and agreements thereon reached by Governments so there would be no circumvention of the limitations on Article III." [48]

This proposal led to an agreement on the language of Agreed Statement D *before* the negotiators reached agreement on the language of Article III, which defined, *inter alia*, limits on the deployment of fixed, land-based ABM systems using current technology. On January 26, at a meeting in the Stadtkrug Restaurant in Vienna, two Soviet and two American negotiators reached agreement on the basic language of Agreed Statement D:

"In order to insure fulfillment of the obligation not to deploy ABM system components except as provided in Article III of the Treaty, it is agreed that in the event ABM system components other than ABM interceptor missiles, ABM launchers, or ABM radars are created in the future, specific limitations on such system components would be subject to discussion in accordance with Article XIII and agreement in accordance with Article XIV of the Treaty."

At this meeting, a Soviet negotiator stated, with regard to Agreed Statement D, *"that his side had now accepted the earlier American formulation completely, and in fact had accepted the American position on the subject entirely,* save only that it would be a jointly agreed interpretation rather than a paragraph in the treaty." [49]

b. The negotiations over article III

Over the next five months—literally up until just weeks before the Treaty signing—the negotiators made slow progress over the limitations applicable to fixed, land-based systems, which later became Article III. Initially, the American proposal for Article III provided that each party: "undertakes not to deploy ABM interceptor missiles, ABM launchers, or ABM radars except in its own territory and only at one of the following [specified geographic locations]." [50]

On January 31, 1972, the American Delegation presented the Soviets with a "Statement on Future ABM Systems," which stipulated with regard to Article III:

"Article III should be drafted so as not to permit the deployment of devices other than ABM interceptor missiles, ABM launchers, or ABM radars to substitute for and perform their functions." [51]

Far from being opposed to the application of Article III to exotics, the Soviets reacted favorably to the American statement of the objective of Article III, which plainly precluded deployment of fixed, land-based exotics. The memcon of the meeting at which the American statement was presented states as follows:

"After reading the talking points [the American 'Statement'], *Grinevsky said that he believed there was complete agreement.*" [52]

On April 11, 1972, the United States proposed a draft of Article III that modified the lead-in clause in a manner that would more clearly ban the deployment of all ABM systems, while permitting an exception for fixed, land-based systems using current technology in specified geographic locations:

"Each Party undertakes not to deploy ABM systems or their components except that each Party may deploy ABM interceptor missiles, ABM launchers, and ABM radars within [specified geographic locations]." [53]

On April 28, 1972 the Soviet negotiators stated that the new United States formulation was acceptable. The April 28 memcon reads as follows, with regard to the discussion of Article III:

"I [Ambassador Parsons] said that if I understood him correctly, he [Grinevsky] was saying that they could agree to a formulation undertaking not to deploy ABM systems or their components except as the article would provide. *Grinevsky said that they could as this would ban 'other systems'.*" [54]

Ten days later, and two days before the Treaty signing, John B. Rhinelander drafted an analysis of Article III which stated that:

"Article III limits the deployment of ABM systems to those based on ABM interceptor missiles, ABM launchers and radars." [55]

3. The Negotiations over Article III and Agreed Statement D Support the Traditional Interpretation

The period of negotiations from December 1971 until final agreement on the draft text of the Treaty in May 1972, which was devoted in part to Agreed Statement D and Article III, presents challenges for both interpretations. On the one hand, many of the memcons report discussions between Soviet and American negotiators regarding limitations on "other" systems or "future" systems without clarifying whether the discussion regarded fixed, land-based future systems or mobile future systems or both. For this reason, proponents of the reinterpretation argue that limitations on future systems had not been resolved in the negotiations over Article II and Article V(1); rather, they contend, the United States was only able to salvage from its original negotiating position an agreement—Agreed Statement D—that in the event such systems were developed, the Soviets would discuss limitations on their deployment. The proponents cite remarks by Soviet negotiators to support this view, such as the statement in late December 1971 that "inclusion of a provision on so-called 'other ABM systems' *in the text of a treaty* limiting ABM systems is not acceptable. . . ." [56] Such statements, they contend, indicate that the Soviet negotiators still opposed any limitations on future systems, notwithstanding the basic agreement the two countries by then had reached on the text of Article II and V(1).

On the other hand, the negotiations concerning, first, Agreed Statement D, and then Article III, plainly were in the context of limiting fixed, land-based systems, *not* mobile exotic systems. At the very outset, for example, Soviet negotiators, as reported in a memcon quoted above, sought to use Article III to "express the difference over . . . limits" on fixed, land-based exotic weapons, and later proposed that an "agreed statement" serve that purpose. Moreover, during this period, the Soviet negotiators also made statements inconsistent with the Legal Adviser's argument that they had succeeded in thus far limiting Articles II and Article V(1) to conventional, non-exotic defensive weapons. Indeed, the Legal Adviser acknowledges that two Soviet negotiators indicated that "they regarded Articles I, II and III as together banning the deployment of future systems." [57] The Soviet negotiators' statement simply cannot be reconciled with the Legal Adviser's own argument that those Articles, as a result of adamant Soviet hostility to limiting future systems, reflected only limits on existing, conventional ABM launchers, interceptors and radars.

Because of the earlier Soviet acknowledgements that Articles II and V(1) applied to exotic weapons (see pp. 20-39, *supra*), and because the negotiations over Article III and Agreed Statement D were clearly in the context of fixed, land-based systems, the Legal Adviser's position lacks merit. Explicit statements by the Soviet negotiators throughout the negotiations over Articles II and V(1) establish that United States negotiators fulfilled their instructions to achieve a ban on development and testing of mobile exotic weapons. For example, on December 4, 1971, a Soviet negotiator, while expressing opposition to the United States proposal to ban deployment of futuristic, fixed, land-based ABMs, made an explicit statement that future, mobile-type ABMs were *already* prohibited by Article V(1): "The prohibition on air-based, space-based, land-based, etc. ABM systems is adequate to cover the problem of future systems." [58]

Thus, since the Soviet negotiators agreed that the ABM Treaty banned development and testing of mobile exotic systems, the remaining negotiations over Article III and Agreed Statement D occurred only in the context of the dispute over limitations on fixed, land-based systems. Accordingly, *initial* Soviet opposition to including in the Treaty text a provision banning fixed, land-based "other systems"—opposition which was eventually dropped—is not inconsistent with the Soviet Delegation's contemporaneous agreement to ban development and testing of mobile exotic systems.

Nor do we find persuasive the Legal Adviser's argument that, if Article III prohibited deployment of fixed, land-based systems other than those specified, then Agreed Statement D was superfluous and need not have been adopted by the parties, *i.e.*, the redundancy argument. Two considerations, in our view, defeat this argument:

First, agreement on Agreed Statement D actually was reached *before* agreement on the text of Article III. Yet the negotiations over the specific geographical limitations of Article III obviously were necessary since those specific limitations were not addressed by Agreed Statement D. By the time the negotiators were finished—almost on the eve on the signing of the Treaty—Article III prohibited deployment of futuristic, land-based systems, as did Agreed Statement D (both the Legal Adviser and Senator Nunn agree on the effect of Agreed Statement D on deployment of such systems). It made far more sense to leave both provisions in the Treaty rather than risk additional negotiations at the last minute over issues that, in fact, were settled; certainly there was no sensible reason for the United States to object to having *two* provisions in a Treaty that expressed limitations on exotic systems that had been the objective of United States negotiating efforts for nearly one year.[59]

Second, while the Legal Adviser's redundancy observation has some accuracy, its significance is seriously overstated. The actual text of the Treaty contains no redundancy. Within that text, Article V(1) prohibits development, testing and deployment of mobile exotics, while Article III limits deployment of fixed, land-based exotic defensive weapons (but not development and testing). The agreed statements were intended to clarify, reinforce or amplify those provisions and, as such, almost necessarily had to be somewhat redundant. Agreed Statement D serves such a function—a statement by the parties to the Treaty that supplements the Treaty text. By itself, such redundancy can hardly serve to reverse an otherwise sound interpretation of a treaty fully supported by the treaty's negotiating history.[60]

In sum, in view of explicit Soviet concessions to the Unites States' position that the Treaty should ban development and testing of mobile defensive systems based on future technology, as recorded in contemporaneous memoranda of negotiating sessions prepared by the American negotiators and as reflected in the American negotiators' final analysis of the terms of the Treaty, the negotiating history of the Treaty supports the traditional interpretation.

III. THE UNITED STATES SENATE RATIFIED THE ABM TREATY ON THE BASIS OF THE TRADITIONAL INTERPRETATION

Under the Constitution, the understanding of the United States Senate at the time it consents to a treaty has an important role in treaty interpretation. Article II, section 2, of the Constitution gives the President power "by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the Senators present concur." According to a leading scholar of foreign affairs and constitutional law, this provision dicates that "the President cannot make a treaty with a text different from the one to which the Senate consented; he cannot make a treaty with a meaning different from the one to which the Senate consented." [61]

This principle governs the meaning of a treaty whether the Senate's understanding is expressed in a formal reservation or "is apparent from the Senate's deliberations leading to its expression of consent. The Senate's understanding of the treaty to which it consents is binding on the President." [62]

Therefore, statements by Nixon Administration witnesses and by Senators during the ratification process are not only a guide to the meaning of the ABM Treaty under international law, but an expression of Senate understanding which, as a matter of constitutional law, governs the meaning of the treaty.

A. Statements During the U.S. Senate Hearings and Floor Debate Support the Traditional Interpretation

There is persuasive evidence that the United States Senate ratified the ABM Treaty on the understanding, as conveyed by spokesmen for the Nixon Administration, that the Treaty *banned* testing and development of exotic mobile defensive weapons. No Administration official during the Senate hearings on the Treaty advocated, or even suggested, to the Senate the textual analysis developed by the present Legal Adviser. A number of Nixon Administration witnesses used the distinction between fixed, land-based systems and mobile defensive systems, first emphasized in NSDM 127, the original instructions to the Treaty negotiators, to explain the ban on development and testing of future technology for mobile ABM systems.

For example, during Senate Committee on Armed Services' hearings, which occurred even before the formal transmittal of the Treaty to the Senate, Senator Goldwater, a critic of the Treaty, asked Secretary of Defense Melvin Laird whether development of space-based laser systems could proceed under the Treaty.

"Q. For my money, we should have long since moved on the space-based system with boosting phase destruction with shot, nuces, or lasers. I have seen nothing in SALT that prevents development to proceed in that direction. Am I correct?"

Laird submitted the following prepared response for the record:

"A. *There is . . . a prohibition on the development, testing or deployment of ABM systems which are space-based. . . .* The U.S. side understands this prohibition not to apply to basic and advanced research and exploratory development of technology which could be associated with such systems, or their components. . . . *There are no restrictions on the development of lasers for fixed, land-based ABM systems.*" [63]

Later in the hearings, Senator Henry Jackson, another critic of the ABM Treaty, closely questioned General Bruce Palmer, Jr., Acting Chief of Staff of the Army, on the meaning of Article V's ban on "development" of space-based defensive systems. General Palmer made plain that the Joint Chiefs of Staff interpreted the Treaty to

permit only development of "futuristic systems" that are fixed and land-based:

"A. [T]he facts are that when the negotiation started the only system actually under development in any meaningful sense, was a fixed, land-based system. . . . [T]his had to be confined to the fixed, land-based [ABM] system. The [Joint] Chiefs [of Staff] were consulted. . . . [The Joint Chiefs of Staff agreed to the] concept that does not prohibit the development in the fixed, land-based ABM system. *We can look at futuristic systems as long as they are fixed and land-based.* . . . The [Joint] Chiefs [of Staff] were aware of that and had agreed to that and that was a fundamental part of the final agreement."

"A. The obligation undertaken by Article V [not to develop a space-based ABM system] is applicable only to that stage of development which follows laboratory development and testing. . . . Exchanges with the Soviet delegation . . . made clear that this definition was also the Soviet interpretation of the term 'development'." [64]

Perhaps the most significant testimony was that of Dr. John S. Foster, Jr., Director, Defense Research and Engineering, Department of Defense. Senator Jackson expressed his view to Dr. Foster that the Treaty prohibited testing and development of exotic weaponry other than fixed, land-based systems. Dr. Foster responded that Article V prohibited all but laboratory testing of mobile system technology:

"Q. Article 5 says each party undertakes not to develop and test or deploy ABM systems or components which are . . . space based. . . .

A. Yes sir. . . .

Q. If it is . . . space based . . . *[i]f it is a fixed land-based ABM system, it is permitted; am I not correct?*

A. *That is right.* . . . You can develop and test up to the deployment phase of future ABM system components which are fixed and land based. . . . Article V prohibits the development and testing of ABM systems or components that are sea-based, air-based, space-based, or mobile land-based. *Constraints imposed by the phrase 'development and testing' [in Article V] would be applicable only to that portion of the 'advanced development stage' following laboratory testing, i.e.,* that stage which is verifiable by national means. Therefore, a prohibition on development—the Russian word is 'creation'—would begin only at the stage where laboratory testing ended on ABM components, on either a prototype or bread-board model." [65]

Following these hearings, and during the floor debate, then Senator James Buckley explained that he would cast his vote against the ratification of the Treaty, *inter alia,* because the Treaty prohibited "development and testing" of space-based laser weapons—precisely the technology that the Reagan Administration now proposes to develop and test:

"Thus the agreement goes so far as to prohibit the development, test or deployment of sea, air or space-based ballistic missile defense systems. *This clause, in Article V of the ABM treaty, would have the effect, for example, of prohibiting the development and testing of a laser type system based in space* which could at least in principle provide an extremely reliable and effective system of defense against ballistic missiles. This technological possibility has been formally excluded by this agreement." [66]

B. The Legal Adviser to the State Department Essentially Concedes that the Nixon Administration Witnesses Represented to the U.S. Senate that the Treaty Banned Development and Testing of Mobile Exotic Weapons

Not one witness or Senator interpreted the Treaty during the ratification proceedings to allow the development and testing of mobile exotic defensive systems. The Legal Adviser argues instead that, because statements by several Administration officials referred to the prohibition on deployment of future systems, but failed to identify restrictions on development and testing of such systems, or because they suggested that development of exotics was not prohibited but failed to limit their statement to fixed, land-based systems, the Senate ratification record, at the very least, is ambiguous. For example, the Legal Adviser cites the following exchange between Senator Aiken, a member of the Senate Foreign Relations Committee, and Ambassador Gerard Smith, the lead Salt I negotiator:

"Senator AIKEN. Is the ABM system getting obsolete? If the lasers can be used to knock out the SAM's, wouldn't they be effective against other types of missiles also?

Mr. SMITH. Senator Aiken, I think it is an entirely different problem with respect to the use of lasers to help guide offensive missiles and from their use to guide defensive missiles, but we have covered this concern of yours in this treaty by prohibiting the deployment of future type technology. Unless the treaty is amended, both sides can only deploy launchers and interceptors and radars. There are no inhibitions on modernizing this type of technology except that it cannot be deployed in mobile land-based or space-based or sea-based or air-based configurations. But the laser concern was considered and both sides have agreed that they will not deploy future type ABM technology unless the treaty is amended." [67]

The Legal Adviser contends that since Ambassador Smith "could easily have responded with a clear assertion of the narrow interpretation," his failure to do so suggests that the Administration did not have a "clear and uniform view" on the issue of whether the ABM Treaty prohibited development and testing of mobile exotic weapons.[68]

The Legal Adviser also argues that separate exchanges between Senator Smith and Senator Goldwater and Ambassador Smith "can be read strongly to imply" that development of space-based laser systems is not prohibited. He quotes the following:

[Ambassador SMITH.] Senator Smith [,] one of the agreed understandings says that if ABM technology is created based on different physical principles, an ABM system or component based on them can only be deployed if the treaty is amended.

Work is [sic] that direction, development work, research, is not prohibited, but deployment of systems using those new principles in substitution for radars, launchers or interceptors, would not be permitted unless both parties agree by amending the treaty.

Senator GOLDWATER. . . . One, under this agreement are we and the Soviets precluded from the development of the laser as an ABM?

Mr. SMITH. No, sir.[69]

The Legal Adviser's arguments are unpersuasive and do not afford a reasonable basis for concluding, in view of the representations made to the Senate by Administration witnesses regarding the Treaty's ban on development and testing of exotics, quoted above, that the ratification record is ambiguous with regard to Treaty prohibitions on such development and testing. In view of the fact that in 1972, the *only* American laser ABM research program of any significance was a *fixed land-based system,*[70] and in view of later statements, such as those of Senator Buckley, that the Treaty prohibited development and testing of space-based laser defensive systems, these statements by Ambassador Smith, for example, are *not* inconsistent with the traditional interpretation; the Treaty as even the Legal Adviser concedes, bans deployment of "future type technology" whether fixed, land-based or mobile-based defense systems and, as Senator Nunn points out, allows development of fixed land-based anti-ballistic missile lasers, such as the one laser research program undertaken by the United States. Rather, the failure of witnesses to articulate on a handful of occasions throughout lengthy proceedings that covered a multitude of issues the distinction between limitations on development and testing of mobile weapons and the permitted development and testing of fixed, land-based weapons is of little probative value.

Far more significantly, on those occasions where Senators asked precise questions regarding prohibitions on development of fixed versus mobile defensive systems, the answers provided by official spokesmen for the Administration that negotiated the Treaty were fully consistent with the traditional interpretation and, in fact, *excluded* the contention of the reinterpretation that development and testing of mobile systems is allowed by the Treaty. Indeed, the Legal Adviser in an apparent partial repudiation of his earlier position (*see* p. 10, *supra*), now does not dispute that authoritative statements were made to the Senate that the Treaty banned such development and testing. As the May 1987 report of the Legal Adviser concedes:

"During the course of the hearing before the Senate Armed Services Committee, however, the Administration provided answers in writing and orally that in varying degrees could be read to support the restrictive interpretation. The position taken, apparently on the basis of guidance circulated on June 16, 1972, was that the Parties could engage in development of fixed, ground-based lasers, for ABM purposes. This statement implied that development of any mobile OPP [other physical principles] device was prohibited, though that position was not expressed with clarity and directness. *Nevertheless, the answers, particularly those given by DOD [Department of Defense] and JCS [Joint Chiefs of Staff] officials, reasonably led the few Senators who focused clearly on this issue to conclude that the Treaty precludes the development and testing of space-based lasers.*" [71]

Further, the Legal Adviser acknowledges that the testimony before the Senate Armed Services Committee reflected well-considered government deliberations and that it was reasonable for the Senate to rely on the interpretation of the Treaty presented by the Administration's witnesses:

"The President should, however, give appropriate weight to any understandings reflected in the ratification record even though they may not be binding as a matter of law. *The record contains Executive representations to the Senate which support the restrictive interpretation, which were apparently cleared in the government by NSC staff and upon which Senators could justifiably have relied in granting advice and con-*

sent: The legal issue is one which requires the President to consider all relevant factors in exercising his judgment." [72]

In sum, testimony to the Senate during the ABM Treaty ratification proceedings, supports the traditional interpretation of the Treaty that development and testing of space-based and other mobile-type exotic mobile defensive systems is prohibited.[73]

IV. SUBSEQUENT PRACTICE SUPPORTS THE TRADITIONAL INTERPRETATION

A. The Governing Principles of International Law

Under the international law the "subsequent practice" of the parties shall be considered in interpreting a Treaty.[74] Article 31(3) of the Vienna Convention on the Law of Treaties provides, in pertinent part:

There shall be taken into account, together with the context:

(a) any subsequent agreement between the parties regarding the interpretation of the treaty or the application of its provisions;

(b) any subsequent practice in the application of the treaty which establishes the agreement of the parties regarding its interpretation; . . . Vienna Convention on the Law of Treaties, done, May 23, 1969, S. Exec. L. 92d Cong., 1st sess. (1971).[75]

The emphasis of the Vienna Convention is on conduct by the parties—subsequent agreements or practices in applying the Treaty—that reflect their understanding of the Treaty's terms. This type of "evidence" obviously has "a high probative value as to the intention of the parties [to a treaty] at the time of its conclusion." [76] At a lower level of probative value are unilateral official statements by the parties as to the interpretation of the Treaty, for example, by government agencies or ministries responsible for arms control or defense policy. Least probative, if not entirely irrelevant, are uncommunicated, unofficial statements or deliberations of a party.[77]

Judged by these standards, the probative "subsequent practice" cited by the Legal Adviser is consistent with the traditional interpretation and fails to support the reinterpretation. As summarized:

(i) The Legal Adviser cites no evidence that the United States or the Soviet Union—prior to the Reagan Administration's statement of the reinterpretation—developed or tested exotic mobile defensive systems; indeed, during the 1980s, including a period of two years following President Reagan's announcement of the SDI program, the United States stated that its development and testing activities for space-based defensive systems had been designed to be consistent with the traditional interpretation;

(ii) Official statements by agencies of the United States, both prior to and during the first two years following the SDI announcement, are consistent with the traditional interpretation; there is an insufficient record of official Soviet statements, prior to the SDI announcement, from which to infer that the Soviet Union's understanding of the Treaty's terms is inconsistent with the traditional interpretation, while unofficial Soviet statements, and official Soviet statements following the SDI announcement, generally support the traditional interpretation; and

(iii) Some internal deliberations of United States arms control and defense agencies support the traditional interpretation, while others are consistent with the reinterpretation however, as even the Legal Adviser acknowledges, "internal deliberations are entitled to little if any weight in ascertaining an agreed understanding." [78]

B. The Conduct of the Soviet Union and the United States Since the Entry Into Force of the ABM Treaty is Consistent with the Traditional Interpretation

1. United States Conduct

The conduct of the United States, during the past decade when it first acquired the capacity to develop and test future defensive systems, has been consistent with the traditional interpretation. As acknowledged by the Legal Adviser:

"During the 1980's, however, and particularly between 1983 and 1985, the U.S. explicitly explained tnat its development and testing activities have been designed to be consistent with the restrictive interpretation."

However, the Legal Adviser contends that the United States decision to limit development and testing activities ultimately "was based on an inadequate study of the negotiating history [of the ABM Treaty]." [79] In other words, the subsequent practice of the United States, while consistent with the traditional interpretation, was a "mistake." Suffice it to point out that, since the Legal Adviser's study of the negotiating history was, in fact, inadequate (see pp. 20–50, *Supra*), this circular argument is not a convincing reason for ignoring American compliance with the traditional interpretation.

2. Soviet Conduct

The Legal Adviser cites no evidence of Soviet conduct violating the traditional interpretation of the Treaty. To the contrary, Soviet behavior, insofar as it is known to the United States, has been consistent with the traditional interpretation.[80] However, the Legal Adviser argues that "[n]o convincing evidence exists . . . that the Soviet's have advanced to the development stage with ABM applications for . . . [certain future] technology," *i.e.*, the Soviet Union may be incapable of developing and testing exotic defensive technology, although the Legal Adviser concedes that "a confident judgment" on this point is "impossible." [81]

The Legal Adviser's dismissal of Soviet conduct is itself unconvincing; in effect, he contends that the advocates of the traditional interpretation are required to demonstrate, first, that the Soviet Union had the capacity between 1972 and 1985 to develop and test futuristic defensive systems and, second, that they refrained from doing so—an impossible burden of proof, as even the Legal Adviser acknowledges ("a confident judgment as to whether or not the Soviets have progressed to this stage is impossible"). Rather, since the Legal Adviser seeks to revise an understanding of the Treaty that has been commonly accepted for a decade and a half, it is *his* burden to prove Soviet conduct *inconsistent* with that interpretation—which he utterly fails to do.[82] At best, too little is known about Soviet capabilities and conduct to justify a departure from the traditional interpretation, particularly in light of the substantial evidence in the negotiating record that the Soviet Union agreed to prohibit development and testing of mobile exotic systems.

In sum, subsequent conduct by the United States and the Soviet Union fails to justify the reinterpretation. Rather, American conduct has been entirely consistent with the traditional interpretation, while known Soviet conduct is consistent with the traditional interpretation.

C. Official Statements by the United States Support the Traditional Interpretation; Soviet Official Statements Either Support the Traditional Interpretation or Lack Probative Value

1. Official United States Statements

The Legal Adviser concedes that public statements by the U.S. Arms Control and Disarmament Agency (ACDA) supported the traditional interpretation of the ABM Treaty. Specifically, the FY 1979 Directed Energy Arms Control Impact Statement (ACIS) explicitly stated the official U.S. position that "PBWs [post-boost weapons] used for BMD [Ballistic Missile Defense] which are fixed land-based could be developed and tested but not deployed without amendment of the ABM Treaty, and the development, testing, and deployment of such systems which are other than fixed land-based is prohibited by Article V of the Treaty." [83]

The Legal Adviser also acknowledges that the FY 1979 High Energy Laser ACIS and the FY 1980, FY 1981, and FY 1982 Directed Energy Program ACIS contained similar language. The State Department concurred in all similar language. The State Department concurred in all of these ACIS.[84] Indeed, during this period the Legal Adviser's Office interpreted the ABM Treaty in accordance with the traditional view.[85]

Further, there are numerous examples of official United States support for the traditional interpretation even *after* President Reagan's SDI speech on March 23, 1983, in which he declared that SDI was a scientific research program that would be consistent with U.S. obligations under the ABM Treaty, which at that time were viewed officially as the traditional interpretation. As the Legal Adviser acknowledges, "a variety of Executive Branch actions and statements that occurred after the SDI announcement supported the restrictive interpretation . . . either implicitly or explicitly." [86]

Among such examples, the FY 1986 ACIS (transmitted in February 1985) "continued implicitly but clearly to support the restrictive interpretation." [87] Similarly, the Defense Department's Strategic Defense Initiative Organization (SDIO) reported to Congress in March 1985 that the SDI program complied with the Treaty, which it described in terms of the traditional interpretation.[88]

2. Official Soviet Statements

There are few "official" Soviet "statements" on Treaty constraints on exotic defensive systems, prior to the announcement in March 1983 of the SDI program. One arguably "official" statement was a speech to the Supreme Soviet, reported by *Pravda* on September 30, 1972, by Defense Minister Grechko, which included the following:

"The treaty on limiting ABM systems provides for a quantitatively small development of ABM facilities by the USSR and the United States and prohibits the handover of these facilities to other states or the deployment of them outside the countries' national territories. At the same time it imposes no limitations on the performance of research and experimental work aimed at resolving the problem of defending the country against nuclear missile attack. Thus the treaty checks the further quantitative increasing of ABM facilities and blocks the development of competition between offensive and defensive nuclear missile weapons." [89]

This statement, by itself, is inadequate as evidence of Soviet understanding of the Treaty. "Research and experimental work"

is, if anything, *more* consistent with the permitted "laboratory testing"—but not development and testing—of future mobile systems under the traditional interpretation; certainly, these brief remarks can not sustain a reasonable inference that Grechko viewed the Treaty as allowing development and testing of exotic defensive systems.

Following President Reagan's announcement of the SDI program, but *prior* to the promulgation in October 1985 of the reinterpretation, "public" Soviet statements endorsed the traditional interpretation of the Treaty's restriction on future defensive weapons. For example, on June 4, 1985, Marshall Sergei Akhromeyev, Chief of the Soviet General Staff and First Deputy Minister of Defense, authored an article on the ABM Treaty in *Pravda*, which stated in part as follows:

"The provisions of the Treaty apply to any systems intended, as defined in Article II of the Treaty, to counter strategic ballistic missiles or their elements in flight trajectory. Since the ABM components being created within the framework of the "Strategic Defense Initiative" are intended for precisely this purpose, that is, they are designed to replace the interceptor missiles mentioned in the Treaty, all the provisions of the Treaty fully apply to them, above all the ban on the creation, testing, and deployment of space-based ABM systems or components." [90]

At a less public level, in May 1985 Lieutenant General Viktor Starodubov, then the Soviet Commissioner on the Standing Consultative Commission, stated to his American Counterpart, General Richard Ellis, that the Treaty prohibited testing in space of ballistic missile defensive systems or components based on other physical principles.[91]

In sum, we conclude that the Legal Adviser fails to identify any "official" statements by the United States or the Soviet Union that clearly articulated the premise of the reinterpretation. Rather, official statements of the United States Government endorsed the traditional interpretation of the Treaty. While the Soviet Government apparently does not publish official reports regarding the Treaty, published articles and statements by senior Soviet officials, prior to October 1985 when the Reagan Administration promulgated the reinterpretation, either are consistent with the traditional interpretation or lack sufficient probative value to be relevant to the debate over the Treaty.

D. Unofficial Statements of the Parties Do Not Justify the Reinterpretation

1. "Unofficial" United States Statements

At the outset of the report on subsequent practice, the Legal Adviser concedes that "[m]ost of the evidence examined in this study consists of statements, usually unconnected with any action having probative worth." [92] Many of these "statements" involve United States inter- and intra-agency debates, memoranda and directives. For example, the Legal Adviser contends that a "strong divergence of views" within the Department of Defense over limitations on development and testing of exotics emerged during the formulation of the internal directive for compliance by the United States with the Treaty; earlier drafts reflected the premise of the reinterpretation while the final version was consistent with the traditional interpretation.[93]

The most probative "quasi-official" statements, however, support the traditional interpretation. In May 1985, Paul Nitze, a Treaty negotiator and still a U.S. government official, in a speech at John Hopkins School of Advanced International Studies, stated that the ABM Treaty prohibited development and testing of mobile ballistic missile defensive systems based on exotic technology. After October 1985, when the reinterpretation was announced, Nitze withdrew his earlier position.[94]

2. "Unofficial" Soviet Statements

Similarly, the one "unofficial" Soviet statement cited by the Legal Adviser and connected with an "action having probative worth" cannot be easily reconciled with the reinterpretation. During the Salt II negotiations, a discussion took place between Soviet and American negotiators over the definition of multiple, independently targetable re-entry vehicles (MIRVS) launched by ballistic missiles. The U.S. negotiator proposed a definition for an "Agreed Statement" that used the following introductory phrase: "Re-entry vehicles are currently understood to be independently targetable if. . . ."

The negotiator explained to his Soviet interlocutor that the phrase "currently understood to be" was intended to assure that the definition applied to new techniques or devices for achieving the same result as MIRVS and that "precedent" for the use of the word "currently" appeared in Article II of the ABM Treaty.

The Soviet negotiator, Victor Karpov, a member of the Soviet Salt I delegation, responded as follows:

"With respect to the word 'currently,' it is translated into Russian as *v nastoyashcheye vremya.'* In support of the use of this term, the U.S. referred to the ABM Treaty. Such a comparison is not quite justified. The point is that the nature of the ABM Treaty and the new agreement are different. The ABM Treaty is of unlimited duration. The new treaty has a specific defined period of time for its duration. *Moreover, the approach in the ABM Treaty is based on a combination of two elements. The first element is in Article II,* which Karpov proceeded to read. At the same time, there was a Common Understanding between the sides, as follows: [quoting Agreed Statement D]. . . . *In the ABM Treaty, using 'currently' in Article II is quite justified because of the unlimited duration and the Common Understanding.* With the new agreement, the Soviets believe there is no need to use the word 'currently,' because the duration of the agreement is specifically circumscribed and there are elements in the second part of the Agreed Statement which make the reference redundant." [95]

Karpov's statement is consistent with the traditional interpretation of "currently" in Article II(1). His point was that in Article II of the Treaty, the word "currently" was both appropriate and necessary because the parties sought to regulate both current and future systems through a treaty of unlimited duration. By contrast, since the Salt II Treaty would only last five years, in Karpov's view, there was no similar necessity for a functional definition of MIRVS. The significance of this exchange is that Karpov was the lead Soviet negotiator for Article V during the negotiations of the Treaty, and that he was addressing in a comparable context in the Salt II negotiations the precise issue raised by the reinterpretation.[96]

By contrast, unofficial Soviet statements elsewhere cited by the Legal Adviser as supporting the reinterpretation lack the probative value of Karpov's observation and do not as directly address the issue of limitations on future systems. For example, at an October 1974 Soviet-American meeting to discuss a Soviet proposal to restrict new types of strategic offensive arms, Soviet Ambassador Semenov offered his opinion that the Soviet proposal was more specific than Agreed Statement D in the ABM Treaty. U.S. Ambassador Johnson, who had not been a member of the Salt I delegation, disagreed, and referred to the ABM Treaty provision "which in his recollection stated that systems based on new physical principles would be banned unless they were specifically permitted by additional agreement between the sides."

According to Johnson's memcon: "Semenov interrupted to say that he did not think that this was quite correct. It would be better to check the wording of the ABM Treaty and to analyze the proposal the Soviet side had submitted today." [97]

The Legal Adviser argues that Semenov's comment raises a "question whether Semenov concurred in Johnson's description of Agreed Statement D as banning all future systems," and provides an interference that the Soviet Union may have interpreted Agreed Statement D differently from the United States.[98]

There is no valid basis for the reference that the Legal Adviser draws from Semenov's comment. First, Semenov did not categorically reject Johnson's description of the ABM Treaty; rather, he cautiously suggested that both he and Johnson should re-examine the ABM Treaty, which they were apparently quoting from memory. The Legal Adviser's attempt to, in part, base the interpretation of a significant international treaty on an inference drawn from a negotiator's request to re-read the treaty before committing himself to an interpretation is, to say the least, questionable. Second, Johnson's description of the limitations on future defensive systems in the ABM Treaty, which distinguishes between basing modes, was, at best, cursory. He did not address the distinction between permitted development and testing of fixed, land-based systems and the prohibition of such activities regarding mobile systems. Therefore, Semenov's sensible suggestion that "it would be better" to check the wording of the ABM Treaty, before agreeing to Johnson's characterization, is probative of nothing more than the Soviet negotiator's desire to describe the Treaty's terms with precision. Third, the United States did not consider this remark worth pursuing further during the negotiations, and the issue was not raised by the United States at the ABM Treaty review conferences in 1977 and 1982.[99]

We conclude that conduct by the United States and numerous official statements by United States agencies responsible for arms control or the SDI program, including Arms Control Impact Statements and publications of the Strategic Defense Initiative Organization, justify the traditional interpretation. Soviet conduct either supports the traditional interpretation or is simply insufficiently known to be probative. With regard to unofficial, but "probative" Soviet statements, Karpov's remarks in March 1976 during the Salt II negotiations clearly support the traditional interpretation. Notably, the Legal Adviser does not mention other evidence of Soviet support for the traditional interpretation, such as Marshall Akhromeyev's *Pravda* article, or the Soviet statement in May 1985 in the Standing Consultative Commission, both of which supported the restrictive interpretation.[100]

In the final analysis, the Legal Adviser's "subsequent practice" argument rests on

the least authoritative source of evidence, internal United States agency memoranda and inter-agency papers. As stated by the Legal Adviser: the "body of substantial evidence that supports the broader interpretation has been essentially internal." [101] Yet, as the Legal Adviser also admits, "internal deliberations are entitled to little if any weight in ascertaining an agreed understanding." [102]

V. SUMMARY AND CONCLUSION

The traditional interpretation of the ABM Treaty is fully supported by the Treaty text, negotiating history, Senate ratification proceedings, and subsequent practice of the Soviet Union and the United States. The language of Article II(1), which defines the terms used in the Treaty ("[A]n ABM system is a system to counter strategic ballistic missiles or their elements to flight trajectory, currently consisting of . . .") refutes the reinterpretation. The plain and natural meaning of the phrase "currently consisting of" makes the following reference to "missiles," "launchers" and "radars" illustrative only, in recognition of the obvious fact that, since the Treaty did not have a time limit, "exotic" ABM systems might be developed.[103] During the Treaty negotiations, the United States proposed the insertion of the word "currently" as a way of drawing a connection between future systems and the three then-current components. As a Soviet negotiator later stated during the Salt II negotiations, "in the ABM Treaty, using 'currently' in Article II is quite justified because of the unlimited duration and the Common Understanding." *i.e.* Article II(1) encompassed future systems not just current ones.[104]

Article V(1), without any qualification, forbids each party to "develop, test or deploy ABM systems or components which are sea-based, air-based, space-based, or mobile land-based." Nothing in Article V(1) suggests that the Treaty permits development and testing of futuristic mobile systems. When read together with Article II(1)'s broad definition of an "ABM system" to include exotics, Article V clearly and convincingly bans development and testing of future mobile systems. Further, the negotiating record reflects a clear Soviet statement that the text of Article V applies to "any type of present or future components of ABM systems." Consistent with the Treaty text and the negotiations, the representative of the Joint Chiefs of Staff informed the United States Senate that Article V prohibited development and testing of futuristic systems:

"We can look at futuristic systems as long as they are fixed and land-based . . . the [Joint] Chiefs [of Staff] were aware of that and had agreed to that and that was a fundamental part of the final agreement . . . the obligation undertaken by Article V [not to develop a space-based ABM system] is applicable only to that stage of development which follows laboratory development and testing." [105]

Article III and Agreed Statement D complete a coherent, uncontradictory Treaty framework that allows the development and testing (but not deployment) of fixed, land-based systems using exotic technology, while elsewhere banning the development and testing of exotic mobile ABM systems. The lead-in or "inducing" clause of Agreed Statement D ("In order to insure fulfillment of the obligation not to deploy ABM systems and their components except as provided in Article III of the Treaty"), adapts the Article III limitations on deployment of fixed, land-based systems to future technologies; the failure of the inducing clause in Agreed Statement D to refer to Article V further emphasizes that the scope of the Agreed Statement is limited to fixed, land-based systems.

Further, from the very outset of the negotiations, as reflected in the Presidential instructions to the American negotiators, continuing through explicit exchanges with the Soviet delegation, to the testimony of representatives of the Nixon Administration during the Senate ratification proceedings, there was repeated and consistent emphasis on the distinction between permitted testing and development of exotic fixed, land-based systems and the prohibition of such activities for mobile systems. Indeed, the Soviet negotiators, as reported by an American memcon, sought to use Article III to "express the difference" over limits on fixed, land-based exotic weapons, and later proposed that an "agreed statement" serve that purpose. Subsequently, the Secretary of Defense informed the Senate that the original instructions to obtain a Treaty that distinguished between basing modes for the purpose of development and testing of exotic systems had been successfully carried out: "[t]here is . . . a prohibition on the development, testing or deployment of ABM systems which are space-based. . . . The U.S. side understands this prohibition not to apply to basic and advanced research and exploritory development of technology. . . . There are no restrictions on the development of lasers for fixed, land-based ABM systems." [106]

Finally, the traditional interpretation is far more consistent with the overriding purpose of the Treaty than the reinterpretation. As specified in Article I(2): "Each Party undertakes not to deploy ABM systems for a defense of the territory of its country and not to provide a base for such a defense, and not to deploy ABM systems for a defense of an individual region except as provided for in Article III of this Treaty." The proposition—necessarily advanced by the reinterpretation—that the United States or the Soviet Union, notwithstanding the undertaking not to "deploy [nationwide] ABM systems" or "to provide a base" for a nationwide ABM defense, could complete, without violating the Treaty, all development and testing of a future ABM system needed for such deployment, is simply not credible. The undertaking not to deploy or provide a base for ABM systems—a commitment of unlimited duration—would be of little value if both sides felt unconstrained by the Treaty to complete *all* preparations for such a future technologies ballistic missile defense "base" short of its actual deployment. The plain language of Article I(2) is directly at odds with such a contradictory reading of the Treaty—yet this is precisely what the reinterpretation contends is allowed by a Treaty whose agreed upon, overriding objective is to avoid deployment of ABM systems for an unlimited period of time.

Our conclusion is that the Treaty text, negotiating record, Senate ratification proceedings and subsequent practice all support the traditional interpretation. By contrast, the reinterpretation is an unjustified "loophole" argument that, while identifying some ambiguities in the negotiating record, fails to make its case. In view of the support for the traditional interpretation in contemporaneous memoranda reflecting statements by Soviet negotiators, in the representations to the United States Senate by representatives of the Administration that negotiated the Treaty, in the statements by former U.S. Treaty negotiators, and in the official positions taken by the Nixon, Ford, Carter and Reagan Administrations, the burden of proof, to quote Senator Nunn, "is on those who would claim that this has all been an extraordinary mistake." [107]

In our view, that burden has not been met.

FOOTNOTES

[1] Statement dated March 9, 1987, *reprinted in* 133 Cong. Rec. S-3171, p. 3 (daily ed. Mar. 13, 1987).

[2] An earlier report of this Committee examined a range of arms control issues, including the relationship between strategic offensive weapons and defenses against ballistic missiles. *Achieving Effective Arms Control: Recommendations, Background and Analysis*, Committee on International Arms Control and Security Affairs of the Association of the Bar of the City of New York (November 1985).

[3] This Report uses the term "reinterpretation" (also referred to in quoted materials as the "broad" interpretation) to describe the Reagan Administration's position that the Treaty permits development and testing of SDI technology. The term "traditional interpretation" (also referred to in quoted materials as the "restrictive" or "narrow" interpretation) is used in this Report to refer to the view that the Treaty bars such activities.

[4] Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Anti-Ballistic Missile Systems, May 26, 1972, 23 U.S.T. 3435, T.I.A.S. No. 7503. The text of the ABM Treaty and related agreements and statements is reprinted in the Appendix to this report.

[5] *See* Protocol on the Limitation of Anti-Ballistic Missile Systems, July 3, 1974, Art. I, 27 U.S.T. 1645, 1648, T.I.A.S. No. 8276 (Background on the construction of ABM sites provided by Stanley R. Resor, former Secretary of the Army and a past chairman of this committee).

[6] Chayes & Chayes, *Testing and Development of "Exotic" Systems Under the ABM Treaty: The Great Reinterpretation Caper*, 99 Harv. L. Rev. 1956 n.1 (June 1986) (cited as "Testing and Development").

[7] Both sides in the debate appear to equate the phrase "are created" in Agreed Statement D with development and testing.

[8] *Treaty Interpretation Dispute: Hearing Before the Subcommittee on Arms Control, International Security and Science Subcommittee of the House Foreign Affairs Committee*, 99th Cong., 1st Sess. (Oct. 22, 1985) (Testimony of Abraham D. Sofaer, Legal Adviser, U.S. Department of State), (cited as "Sofaer Testimony").

[9] *Id.*, p. 14.

[10] *Id.*, p. 15. Agreed Statement D uses the phrase "other physical principles." In this Report, the phrases "future systems" and "exotics" or "exotic defensive systems" are interchangeable with the term "other physical principles."

[11] *Id.*, pp. 211-12 (Appendix 15).

[12] *Id.*, p. 16.

[13] *See* Interpretation of the ABM Treaty, Part Four: An Examination of Judge Sofaer's Analysis of the Negotiating Record (Sen. Sam Nunn) (May 19, 1987), p. 12, corrected copy dated June 4, 1987 (cited as "Nunn, May 19, 1987, p. ").

[14] The ABM Treaty, Part I: Treaty Language and Negotiating History, Office of the Legal Adviser, Department of State (May 11, 1987) p. 75 (cited as "Legal Adviser Report, May 11, 1987, p. ").

[15] *Id.*

[16] The ABM Treaty, Part III: Subsequent Practice, Office of the Legal Adviser, Department of State (September 9, 1987), p. 108 (cited as "Legal Adviser Report, September 9, 1987, p. ").

[17] *Testing and Development, supra*, p. 1958.

[18] 133 Cong. Rec. S-2967, p. 2 (daily ed. Mar. 11, 1987).

[19] 133 Cong. Rec. S-3090, pp. 1-3 (daily ed. Mar. 12, 1987).

[20] 133 Cong. Rec. S-3171, p. 2 (daily ed. Mar. 13, 1987).

[21] Nunn, May 19, 1987, p. 107. The Standing Consultative Commission was established by the United States and the Soviet Union in 1972 to provide an ongoing consultation process to facilitate implementation of the Salt I accords.

[22] *The ABM Treaty Interpretation Resolution*, Report of the Committee on Foreign Relations,

U.S. Senate, 100th Cong., 1st Sess. 24 (Sept. 22, 1987) (cited as "The ABM Treaty Interpretation Resolution"). In November, 1987, the Congress and the Reagan Administration reached an agreement under which the Administration will abide by the traditional interpretation for one year—*i.e.*, not to develop or test space-based or mobile-type SDI technology, N.Y. Times, p. 1 (Nov. 18, 1987). This agreement only defers the Treaty dispute; it does not resolve it. Similarly, the joint United States-Soviet statement issued at the conclusion of the recent summit between President Reagan and General Secretary Gorbachev stated with regard to the Treaty: "The leaders of the two countries also instructed their delegations in Geneva to work out an agreement that would commit the sides to observe the ABM Treaty, as signed in 1972, while conducting their research, development, and testing as required, which are permitted by the ABM Treaty and not to withdraw from the ABM Treaty, for a specified period of time."

N.Y. Times, p. 10 (Dec. 12, 1987). This formulation appears to defer the issue of the Treaty's interpretation regarding development and testing.

[23] Nunn, May 19, 1987 pp. 20-21 *See generally* Garthoff, Raymond L., *Policy vs. Law: The Reinterpretation of the ABM Treaty,* (Washington, D.C.: The Brookings Institution, September 1987) (cited as "Garthoff").

[24] Although subparagraph 2 of Article V does not expressly state that development, testing and deployment of ABM launchers is limited to fixed, land-based sites, in view of the references to "launching more than one ABM interceptor missile" and to "automatic or semi-automatic or other similar systems for rapid reload" this subprovision implicity has that effect.

[25] Nunn, May 19, p. 22. The concept of exotic anti-ballistic missile defensive systems had not been raised in the first four negotiating sessions, which commenced in November 1969.

[26] *Id.*, p. 25, quoting Legal Adviser's Report, A-438 (emphasis supplied).

[27] *Id.* (emphasis supplied). The written record of the Treaty negotiations consists principally of Memoranda of Conversations ("memcons") prepared by the United States negotiators to report on conversations between members of both delegations and on meetings of representatives for negotiation. According to Raymond L. Garthoff, an American Treaty negotiator:

"All formal records of meetings, papers presented or received and memcons were transmitted to the interested agencies in Washington by 'airgrams' (in fact, in typed form, in the diplomatic pouch) with 'A-000' identifying numbers. In all some 1,000 A-memoranda were filed in the SALT I negotiation from November 1969 through May 1972, in which the ABM Treaty and Interim Agreement were negotiated. Shorter versions of particularly important materials were sent by encrypted telegram over the Department of State communications network (with U.S. Del SALT 000 designations), and instructions from Washington were similarly sent by cable (State 000000 designations).

"It should be borne in mind that except for papers exchanged, there is no common or verbatim record of the negotiations. Each side took such notes and prepared such memoranda as it found useful. Memoranda were usually dictated or written as soon after a discussion as was practical, but they are not transcripts of exchanges (Garthoff, *supra* page 30)."

This section of the report necessarily is based only on available, declassified memcons and negotiating documents.

[28] Nunn, May 19, 1987, pp. 30-37. The American negotiators had been instructed not to specifically address the types of technology that would be precluded by the Treaty. Paragraph 5 of NSDM 127 stated:

"In presenting this position, the Delegation should not invite a detailed negotiation or discussion of future ABM systems. Our objective is to reach agreement on the broad principle that the agreement should not be interpreted in such a way that either side could circumvent its provisions through future ABM systems or components. We intend to handle any problems that may arise through the Joint Commission and the formal review procedures."

[29] Nunn, May 19, 1987, pp. 41-42 (emphasis supplied).

[30] *Id.*, p. 42.

[31] Legal Adviser Report, May 11, 1987, A-503, p. 1 (emphasis added). Indeed, the quotation marks—"any type of present or future components"—in the original memcon suggested that this was the most significant development of a meeting expressly called for the purpose of resolving the issue of whether the two sides could agree on a text that would ban development of "any type of present or future components" for mobile ABM systems.

[32] Nunn, May 19, 1987, p. 45. One final modification remained before the language of Article V emerged in its present form. The parties agreed to a rearrangement of its text—the phrase "or their components" was placed after a revised introductory phrase, "Each Party undertakes not to develop, test or deploy ABM systems," in order to make clear that the provision applied to components of all mobile systems, not just mobile land-based systems.

[33] *Id.*, p. 47 (emphasis supplied).

[34] *Id.*, p. 83 (emphasis supplied). The May 24 memorandum also stated: "For example, a 'killer' laser system or particle accelerator which substituted for one or more ABM components would be prohibited. In addition, a satellite sensor, using advanced technology such that it could observe the boost phase of ICBM trajectories and obtain sufficienly accurate data that would permit launching an ABM interceptor without relying on other ABM tracking sensors, would be considered a prohibited, future system based on devices which substituted for current ABM components."

Id.

[35] Legal Adviser Report, May 11, 1987, p. 76.

[36] Nunn, May 19, 1987, pp. 53-54.

[37] Legal Adviser Report, May 11, 1987, p. 38.

[38] *Id.*

[39] *Id.*, p. 41.

[40] *Id.*, p. 41, citing A-626, p. 2, A-633, p. 4 and A-644, p. 5.

[41] According to the Legal Adviser, "Grinevsky noted on December 9 that the Soviet difficulties with Article II were 'related to the differences contained in Article V.' . . ." *Id.* at 42.

[42] Nunn, May 19, 1987, p. 86.

[43] *Id.*, p. 87 (emphasis supplied).

[44] Legal Adviser Report, May 11, 1987, p. 44. Significantly, the December 21 memcon reveals that, by effectively accepting the American definition of an ABM system, the Soviet negotiators faced "a very delicate situation within the Soviet Delegation" in that "the expression 'currently consisting of' had been strongly objected to by some members of the Soviet Delegation." Nunn, May 19, 1987, p. 87. This revealing comment, which apparently came from the Soviet negotiators, further supports the view that Article II, as adopted, reflected a functional definition of an ABM system which *included* exotic defensive systems, or their components; otherwise, the apparent *split* in the Soviet Delegation—presumably, there were holdouts who still hoped to limit the Treaty to present technology notwithstanding their concession on Article V—would make no sense in view of the initial Soviet resistance to the American proposal to limit future weapons systems.

[45] Nunn, May 19, 1987, p. 94.

[46] "Strategic Defense Initiative," *Hearings Before the Subcommittee on Strategic and Theater Nuclear Forces of the Committee on Armed Services,* U.S. Senate, 99th Cong. 1st Sess. 179 (Nov. 21, 1985).

[47] Nunn, May 19, 1987, p. 107. As will be recalled, the reference to Article V is to the initial American draft Article VI (1), which dealt with fixed, land-based systems and later was denominated in revised form as Article V(3), and then Agreed Statement D.

[48] *Id.*

[49] Legal Adviser's Report, May 11, 1987, A-743 (emphasis supplied). The reference to Article III in the draft Agreed Statement D apparently was to the proposed text, whose final language was not yet agreed to by the Soviet Union and the United States.

[50] *Id.*, p. 69.

[51] Nunn, May 19, 1987, p. 96.

[52] Legal Adviser Report, May 11, 1987, A-763 (emphasis supplied).

[53] *Id.*, p. 69.

[54] Nunn, May 19, 1987, p. 97 (emphasis supplied).

[55] *Id.*, p. 100.

[56] Legal Adviser Report, May 11, 1987, p. 53 (emphasis supplied).

[57] *Id.*, p. 57.

[58] *Id.*, A-613; Nunn, May 19, 1987, p. 68.

[59] *See* Rhinelander and Rubin, "Mission Accomplished. An Insider's Account Of The Negotiating Record," *Arms Control Today,* Volume 17, No. 7 (September 1987), p. 13 (cited as "Rhinelander and Rubin").

[60] The Legal Adviser is not consistent in his concern for Treaty redundancies. He correctly notes that the Article III limitations on *all* deployments except those at "launch sites" can be read as "allowing deployment only of fixed land-based systems." Legal Adviser Report, May 11, 1987, p. 9, n. 2. Yet he acknowledges without concern that this renders the Article V ban on the other deployment modes redundant, although he attributes this as a problem of only the traditional interpretation, which it clearly is not. It is equally redundant under the new interpretation which bans deploying "currently" existing components in space both in Article III (implicitly by omitting them from permitted deployments) and in Article V (explicitly).

Moreover, there is a respectable view that Agreed Statement D provided additional measures not present in Article III. As stated recently by John B. Rhinelander: "[B]y clarifying the future technologies would become subject to discussion and agreement in the [Standing Consultative Commission] only when they were 'capable of substituting for' existing components, Agreed Statement D not only prevented circumvention of the specific limitations on deployment in Article III, it also allowed for the use of new technologies as 'adjuncts,' an outcome sought by both sides."

Rhinelander and Rubin, p. 13. Agreed Statement D also modified Article XIII by adding to the list of issues that "will" be discussed within the Standing Consultative Commission limitations on fixed land-based systems "based on other physical principles" that are "created" by the parties.

[61] Testimony of Professor Louis Henkin, *The ABM Treaty and the Constitution: Senate Hearings 100-110, Before the Committee on Foreign Relations and the Committee on the Judiciary,* U.S. Senate, 100th Cong., 1st Sess. 81 (March 11, 1987) (statement of Professor Louis Henkin). Professor Henkin observed that these principles "have not been disputed in the past and are not controversial today."

[62] *Id.*, p. 82.

[63] *Military Implications of the Treaty on The Limitations of Anti-Ballistic Missile System and The Interim Agreement on Limitations of Strategic Offensive Arms: Hearings Before The Senate Committee on Armed Services,* 92d Cong., 2d Sess. 40-41 (June 6, 1972) (hereafter "Armed Services Hearings") (emphasis supplied).

[64] Armed Services Hearings, pp. 443-44 (emphasis supplied in part). The second paragraph quoted above was subsequently inserted in the record by the Department of Defense as a supplement to General Palmer's testimony.

[65] Armed Services Hearings, p. 275 (emphasis supplied). Similarly, Dr. Foster's statement beginning with the phrase "Article V prohibits . . ." was subsequently inserted in the record as a supplement to his testimony.

[66] 118 Cong. Rec. 26703 (Aug. 3, 1972).

[67] Legal Adviser Report, May 11, 1987, p. 13 ("The ABM Treaty, Part 2: Ratification process").

[68] *Id.*, pp. 13, 28.

[69] *Id.*, pp. 17-18; *see* Armed Services Hearings at 306.

[70] 133 Cong. Rec. S-3171, p. 10 (daily ed. March 13, 1987) (Sen. Nunn). The Legal Adviser also fails to point out that immediately following Ambassador Smith's response to Senator Goldwater's question about development of lasers, the following exchange took place between Senator Goldwater and Ambassador Smith:

Senator GOLDWATER. Well, now, there is a point of confusion, because I have been told that we are precluded from the development of the laser. *I have read that the orders have come down from the Secretary of Defense to stop the development of the lasers for ABM purposes. . . .* Yesterday Senator Proxmire made a statement that under this agreement the SAM-D [surface-to-air], which is an Army anti-aircraft missile, would be precluded from being tested; is that correct?

Mr. SMITH. No, sir. (Emphasis supplied.) The "orders" from the Secretary of Defense necessarily referred to the one existing land-based ABM laser program, strongly suggesting that Senator Goldwater's question only concerned fixed, land-based lasers. Further, the reference to a *land-based* anti-aircraft missile in the same context as the discussion of lasers also suggests that the lasers referred to by Senator Goldwater were in the fixed, land-based mode.

[71] Legal Adviser Report, May 11, 1987 ("The ABM Treaty, Part II"), p. 28 (emphasis supplied).

[72] *Id.*, p. 4 (emphasis supplied).

[73] In an April 1987 memorandum to the Legal Adviser, the Department of Justice's Office of Legal Counsel, in analyzing the implications for the ABM Treaty of the debate over the reinterpretation, concluded that "the deliberative record that is created when the Senate advises and consents to a treaty cannot be ignored in the interpretive process." The memorandum went on to state: "Obviously, a President could not negotiate a treaty with other nations on the basis of one understanding of the Treaty's import, submit the treaty to the Senate on a wholly-different understanding, and then, in implementing the treaty, rely solely on the understanding he had reached with the other parties."

The ABM Treaty Interpretation Resolution, supra, p. 61.

Notwithstanding the analysis by the Department of Justice of the implications of the testimony of administrative branch witnesses to the Senate during the ABM Treaty ratification hearings, advocates of the reinterpretation essentially urge that, although the treaty was submitted to the Senate on the basis of "one understanding" of its limitations on development and testing of exotic weapons, in implementing the treaty the President was entitled to rely on a different understanding that he claimed his predecessor had reached with the Soviet Union.

[74] This section of the Report necessarily responds only to the unclassified third part of the State Department's study.

[75] Section 325 of the *Restatement of the Foreign Relations Law of the United States (Revised)* codifies general principles governing the interpretation of international treaties that correspond to those set forth in the Vienna Convention. This section provides, in pertinent part: "Any . . . subsequent practice between the parties in the application of the agreement is to be taken into account in interpreting the agreement."

Restatement of the Foreign Relations Law of the United States (Revised) Section 325 (Tentative Final Draft 1985).

[76] McNair, *The Law of Treaties*, 424 (1961).

[77] Legal Adviser Report, September 9, 1987, p. 105.

[78] *Id.*, p. 9. Subsequent practice covers the period from the entering into force of the Treaty to the inception of the dispute over its terms. In this case, the Treaty entered into force on October 3, 1972. The re-interpretation was first expressed by United States Government officials in October 1985. *The ABM Treaty Interpretation Resolution, supra*, p. 20.

[79] Legal Adviser Report, September 9, 1987, p. 108.

[80] *See* The President's Unclassified Report On Soviet Non-compliance With Arms Control Agreements (March 10, 1987), cited in Nunn, The ABM Reinterpretation Issue, 10 Washington Quarterly 45, 49 (1987).

[81] Legal Adviser Report, September 9, 1987, p. 100.

[82] The Legal Adviser contends that "the Soviets" insisted on "several occasions during [1974-1978] that the definition of ABM system in Article II(1) was intended to include only conventional ABM systems." *Id.*, p. 21. The Legal Adviser then summarizes the "discussions" in which this purported Soviet insistence arose, but at no time does he identify the forum in which these discussions took place, the identity of the negotiators, the author and nature of the documents memorializing these discussions, or provide anything other than brief, fragmented quotations from unidentified documents. In the absence of supporting documents, more details of these discussions, or of the identity of the Soviet and American negotiators, it is impossible to assess the probative value of this alleged event; indeed, in his cursory description, the Legal Adviser suggests the alleged Soviet position "is limited by the fact that the Treaty articles in question during the discussions were written to restrain only the conventional three types of components." *Id.*

[83] *Id.*, p. 55.

[84] *Id.*, and p. 60.

[85] *Id.*, pp. 55-57. In May 1983, Davis Robinson, the then-State Department Legal Adviser, sent a memo to the Deputy Secretary of State supporting the traditional interpretation. *Id.*, p. 75. An October 1983 interagency study examining the policy and strategic implications of a move toward greater reliance on ballistic missile defense also explicitly espoused the traditional interpretation. *Id.*, p. 76.

[86] *Id.*, p. 74.

[87] *Id.*, p. 79.

[88] *Id.*

[89] *Id.*, pp. 14-15. The Legal Adviser cites the speech to support his position even though, technically, it occurred prior to the entry in force of the Treaty.

[90] "The ABM Treaty—An Obstacle in the Path of the Strategic Arms Race," *Pravda*, June 4, 1985, reprinted in part, in *Arms Control Today*, Vol. 17, No. 7 (September 1979), pp. 17-18. To the extent Marshall Akhromeyev's statement suggests the Treaty banned "creation" in the sense of laboratory testing of space-based ABM systems, it is inaccurate.

[91] *Id.;* Nunn, *The ABM Reinterpretation Issue*, 10 Washington Quarterly 45, 49 (1987).

[92] Legal Adviser Report, September 9, 1987, p. 2.

[93] *Id.*, pp. 17, 20.

[94] The ABM Treaty Interpretation Resolution, *supra* at 25. With the exception of Paul Nitze, all of the United States Salt I negotiations emphatically support the traditional interpretation and maintain that the Soviet Union agreed to it during the Treaty negotiations. In 1974, for example, John B. Rhinelander wrote that: "The overall effect of the Treaty, therefore, is to prohibit any deployment of future systems and to limit their development and testing to those in a fixed-land based mode."

John B. Rhinelander, "The SALT I Agreements" in Mason Willrich and John B. Rhinelander, *SALT: The Moscow Agreements and Beyond* 128 (New York: The Free Press, 1974).

[95] Legal Adviser Report, September 9, 1987, p. 26 (emphasis supplied but brackets in the original).

[96] The Legal Adviser contends that Karpov's reference to Agreed Statement D suggests that the Soviet understanding of the Treaty was consistent with the reinterpretation. Had Karpov referred *only* to Agreed Statement D, the Legal Adviser's argument might have merit. But, in the context of the discussion of future technology, Karpov's reference to the word "currently" as, at least in part, imposing constraints on future systems, squarely repudiates the central thesis of the reinterpretation that "currently" has *no* relationship to future systems.

[97] *Id.*, p. 34. The Legal Adviser quotes four other internal U.S. memoranda that refer to this exchange. *Id.*, pp. 36, 39, 40-41.

[98] *Id.*, p. 35.

[99] Article XIV of the Treaty provides that, five years after the entry into force of the Treaty and at five-year intervals, "the Parties shall together conduct a review of this Treaty." Documents reflecting the planning for the 1982 ABM Treaty Review Conference "included no proposed discussion of the Treaty's applications to development and testing of mobile OPP devices. ACDA's planning papers included an analysis, however, that reflected the restrictive interpretation." *Id.*, p. 66.

[100] *See*, pp. 71-72, *supra*.

[101] Legal Adviser Report, September 9, 1987, p. 13.

[102] *Id.*, p. 9. At most, these "internal" memoranda only indicated some uncertainty that the Soviet Union *might* have adopted the broad interpretation. Tellingly, over the course of more than a decade, this uncertainty never rose to a level where the United States felt it necessary to approach the Soviet Union to clarify its position.

[103] The listing of ther "current" components serves an obvious purpose. Article VIII of the Treaty requires the parties to destroy or dismantle *existing* components not allowed under Artice III. By listing the "currently" existing "components" the Treaty defined the obligations under Article VIII with precision. In this regard, the Legal Adviser argues that the re-interpetation is supported by the fact that many Treaty provisions refer to 1972-type components. However, in order to fulfill the purposes of the Treaty, listing and defining *current* ABM components would seem to be unavoidable. In addition to 'Article VIII, the Treaty imposes very specific obligations regarding "currently existing" components. Some "ABM radars" would be permitted, while some "ABM launchers" were to be destroyed and therefore, these existing components needed to be defined.

[104] Legal Adviser Report, September 9, 1947, p. 26.

[105] *See* p. 54, *supra*.

[106] *See* p. 53, *supra*.

[107] Nunn, May 19, 1987, pp. 115-116. With regard to arguments supporting the re-interpretation, not specifically addressed in this Report, we rely on Senator Nunn's thorough analysis of the issues in the debate over the interpretation of the Treaty.

[Appendix]

Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Anti-Ballistic Missile Systems

The United States of America and the Union of Soviet Socialist Republics, hereinafter referred to as the Parties,

Proceeding from the premise that nuclear war would have devastating consequences for all mankind,

Considering that effective measures to limit anti-ballistic missile systems would be a substantial factor in curbing the race in strategic offensive arms and would lead to a decrease in the risk of outbreak of war involving nuclear weapons,

Proceeding from the premise that the limitation of anti-ballistic missile systems, as well as certain agreed measures with respect to the limitation of strategic offensive arms, would contribute to the creation of more favorable conditions for further negotiations on limiting strategic arms,

Mindful of their obligations under Article VI of the Treaty on the Non-Proliferation of Nuclear Weapons.

Declaring their intention to achieve at the earliest possible date the cessation of the nuclear arms race and to take effective measures toward reductions in strategic arms, nuclear disarmament, and general and complete disarmament,

Desiring to contribute to the relaxation of international tension and the strengthening of trust between States,

Have agreed as follows:

Article I

1. Each Party undertakes to limit anti-ballistic missile (ABM) systems and to adopt other measures in accordance with the provisions of this Treaty.

2. Each Party undertakes not to deploy ABM systems for a defense of the territory of its country and not to provide a base for such a defense, and not to deploy ABM systems for defense of an individual region except as provided for in Article III of this Treaty.

Article II

1. For the purpose of this Treaty and ABM system is a system to counter strategic ballistic missiles or their elements in flight trajectory, currently consisting of:

(a) ABM interceptor missiles, which are interceptor missiles constructed and deployed for an ABM role, or of a type tested in an ABM mode;

(b) ABM launchers, which are launchers constructed and deployed for launching ABM interceptor missiles; and

(c) ABM radars, which are radars constructed and deployed for an ABM role, or of a type tested in an ABM mode.

2. The ABM system components listed in paragraph 1 of this Article include those which are:

(a) operational;

(b) under construction;

(c) undergoing testing;

(d) undergoing overhaul, repair or conversion; or

(e) mothballed.

Article III

Each Party undertakes not to deploy ABM systems or their components except that:

(a) within one ABM system deployment area having a radius of one hundred and fifty kilometers and centered on the Party's national capital, a Party may deploy: (1) no more than one hundred ABM launchers and

no more than one hundred ABM interceptor missiles at launch sites, and (2) ABM radars within no more than six ABM radar complexes, the area of each complex being circular and have a diameter of no more than three kilometers; and

(b) within one ABM system deployment area having a radius of one hundred and fifty kilometers and containing ICBM silo launchers, a Party may deploy: (1) no more than one hundred ABM launchers and no more than one hundred ABM interceptor missiles at launch sites, (2) two large phased-array ABM radars comparable in potential to corresponding ABM radars operational or under construction on the date of signature of the Treaty in an ABM system deployment area containing ICBM silo launchers, and (3) no more than eighteen ABM radars each having a potential less than the potential of the smaller of the above-mentioned two large phased-arrary ABM radars.

Article IV

The limitations provided for in Article III shall not apply to ABM systems or their components used for development or testing, and located within current or additionally agreed test ranges. Each Party may have no more than a total of fifteen ABM launchers at test ranges.

Article V

1. Each Party undertakes not to develop, test, or deploy ABM systems or components which are sea-based, air-based, space-based, or mobile land-based.

2. Each Party undertakes not to develop, test, or deploy ABM launchers for launching more than one ABM interceptor missile at a time for each launcher, not to modify deployed launchers to provide them with such a capability, not to develop, test, or deploy automatic or semi-automatic or other similar systems for rapid reload of ABM launchers.

Article VI

To enhance assurance of the effectiveness of the limitations on ABM systems and their components provided by this Treaty, each Party undertakes:

(a) not to give missiles, launchers, or radars, other than ABM interceptor missiles, ABM launchers, or ABM radars, capabilities to counter strategic ballistic missiles or their elements in flight trajectory, and not to test them in an ABM mode; and

(b) not to deploy in the future radars for early warning of strategic ballistic missile attack except at locations along the periphery of its national territory and oriented outward.

Article VII

Subject to the provisions of this Treaty, modernization and replacement of ABM systems or their components may be carried out.

Article VIII

ABM systems or their components in excess of the numbers or outside the areas specified in this Treaty, as well as ABM systems or their components prohibited by this Treaty, shall be destroyed or dismantled under agreed procedures within the shortest possible agreed period of time.

Article XI

To assure the viability and effectiveness of this Treaty, each Party undertakes not to transfer to other States, and not to deploy outside its national territory, ABM systems or their components limited by this Treaty.

Article X

Each Party undertakes not to assume any international obligations which would conflict with this Treaty.

Article XI

The Parties undertake to continue active negotiations for limitations on strategic offensive arms.

Article XII

1. For the purpose of providing assurance of compliance with the provisions of this Treaty, each Party shall use national technical means of verification at its disposal in a manner consistent with generally recognized principles of international law.

2. Each Party undertakes not to interfere with the national technical means of verification of the other Party operating in accordance with paragraph 1 of this Article.

3. Each Party undertakes not to use deliberate concealment measures which impede verification by national technical means of compliance with the provisions of the Treaty. This obligation shall not require changes in current construction, assembly, conversion, or overhaul practices.

Article XIII

1. To promote the objectives and implementation of the provisions of this Treaty, the Parties shall establish promptly a Standing Consultative Commission, within the framework of which they will:

(a) consider questions concerning compliance with the obligations assumed and related situations which may be considered ambiguous;

(b) provide on a voluntary basis such information as either Party considers necessary to assure confidence in compliance with the obligations assumed;

(c) consider questions involving unintended interference with national technical means of verification;

(d) consider possible changes in the strategic situation which have a bearing on the provisions of the Treaty;

(e) agree upon procedures and dates for destruction or dismantling of ABM systems or their oponents in cases provided for by the provisions of this Treaty:

(f) consider, as appropriate, possible proposals for further increasing the viability of this Treaty, including proposals for amendments in accordance with the provisions of this Treaty;

(g) consider, as appropriate, proposals for further measures aimed at limiting strategic arms.

2. The Parties through consultation shall establish, and may amend as appropriate, Regulations for the Standing Consultative Commission governing procedures, composition and other relevant matters.

Article XIV

1. Each Party may propose amendments to this Treaty. Agreed amendments shall enter into force in accordance with the procedures governing the entry ito force of this Treaty.

2. Five years after entry into force of this Treaty, and at five-year intervals thereafter, the Parties shall together conduct a review of this Treaty.

Article XV

1. This Treaty shall be of unlimited duration.

2. Each Party shall, in exercising its national sovereignty, have the right to withdraw from this Treaty if it decides that extraordinary events related to the subject matter of this Treaty have jeopardized its supreme interests. It shall give notice of its decision to the other Party six months prior to withdrawal from the Treaty. Such notice shall include a statement of the extraordinary events the notifying Party regards as having jeopardized its supreme interests.

Article XVI

1. This Treaty shall be subject to ratification in accordance with the constitutional procedures of each Party. The Treaty shall enter into force on the day of the exchange of instruments of ratification.

2. This Treaty shall be registered pursuant to Article 102 of the Charter of the United Nations.

Done at Moscow on May 26, 1972, in two copies, each in the English and Russian languages, both texts being equally authentic.

For the United States of America, Richard Nixon, President of the United States of America;

For the Union of Soviet Socialist Republics, L.I. Brezhnev, General Secretary of the Central Committee of the CPSU.

Signed at Moscow May 26, 1972.

Ratification advised by U.S. Senate August 3, 1972.

Ratified by U.S. President September 30, 1972.

Proclaimed by U.S. President October 3, 1972.

Instruments of ratification exchanged October 3, 1972.

Entered into force October 3, 1972.

Agreed Statements

The texts of the statements set out below were agreed upon and initialed by the heads of the Delegations on May 26, 1972 [letter designations added]:

[A]

The Parties understand that, in addition to the ABM radars which may be deployed in accordance with subparagraph (a) of Article III of the Treaty, those non-phased-array ABM radars operational on the date of signature of the Treaty within the ABM system deployment area for defense of the national capital may be retained.

[B]

The Parties understand that the potential (the product of mean emitted power in watts and antenna area in square meters) of the smaller of the two large phased-array ABM radars referred to in subparagraph (b) of Article III of the Treaty is considered for purposes of the Treaty to be three million.

[C]

The Parties understand that the center of the ABM system deployment area centered on the national capital and the center of the ABM system deployment area containing ICBM silo launchers for each Party shall be separated by no less than thirteen hundred kilometers.●

LITHUANIAN INDEPENDENCE DAY

● Ms. MIKULSKI. Mr. President, February 16, 1988, marks the 70th anniversary of Lithuania's Declaration of Independence.

Lithuania became a sovereign nation in 1918. For the next 21 years Lithuania flourished with independence and economic growth. In 1939, the Molotov-Ribbentrop Pact paved the way for Soviet troops to enter the country. The troops have not yet left.

The people of Lithuania never asked to be part of the Soviet Union. They were illegally and forcefully annexed by the U.S.S.R. The people of Lithuania and their relatives throughout the world, many of whom live in Maryland, have resisted Soviet domination for almost 50 years.

I commend the Lithuanian people for their peaceful resistance to Soviet rule. We should not rest in our effort to bring the cause of Baltic self-determination to the world's attention.

I am committed to bringing freedom and independence to Lithuania. We safeguard freedom in the United States when we demand freedom in other lands. When we reach out to the people of Lithuania, we reach back to our principles of liberty, democracy, and self-determination. When we pledge that we will never forget, we pledge that one day, freedom will come to Lithuania.

To those who gather in Vilnius and Kaunas on February 16 to mark the 70th anniversary of Lithuania's Declaration of Indepencence, I say Dieve palaimink Lietuva [God bless Lithuania].●

COMPETITIVENESS AND CAMPAIGN '88

● Mr. BINGAMAN. Mr. President, last week the Council on Competitiveness, an organization of leading executives from business, labor and higher education, released its report, "Competitiveness and Campaign '88," outlining the views of 13 Presidential candidates on our Nation's competitiveness challenge. The council is to be commended for this important work. As this election year progresses, we must keep our attention focused on the principal problems confronting our economy. As David Broder pointed out in a recent column in the Washington Post, competitiveness is the issue of the 1988 election. The council's report, while maintaining strict neutrality, provides an excellent guide to this issue. I hope the council will continue to keep the issue of competitiveness before the American electorate. I ask that the overview of the council's report and Mr. Broader's article be included in the RECORD.

The articles follow:

COUNCIL ON COMPETITIVENESS—
COMPETITIVENESS AND CAMPAIGN '88

America has a competitiveness problem. That is the one major point upon which all the 1988 Presidential candidates agree. Yet, none of the six Democrats and six Republicans surveyed define this crisis as a single issue. Without exception, they view it as a series of interrelated concerns—each one sufficiently important and complex as to require unprecedented attention by itself. More importantly, the majority of the candidates have specific ideas and proposals for addressing the components of the problem.

If no common definition of competitiveness was revealed, a number of common themes did emerge. They include:

The macroeconomic and structural nature of the nation's critical challenges.

The need to reduce the federal budget deficit.

The primacy of human resource development.

The importance of finding ways to improve the export performance of American industry.

The twin notions of accountability and productivity—in both business and education.

The need for expanding the federal government's role in certain areas.

Through their statements most candidates acknowledge that many of the nation's most pressing challenges are macroeconomic and structural in nature. This permits a threading together of many issues: fiscal policy, exchange rates, budget deficits, education and retraining, science and technology, and labor-management relations, among others. Time and again, when asked to concentrate on a single issue—trade, for instance—candidates offered a wide range of responses stressing the relationships between savings and investment, technological innovation and human resource development and trade.

To the extent that a single issue dominates the candidates' responses, it is the need to resolve the federal budget deficit. Discussion of this overriding concern consistently appears throughout the report. Several of the candidates cited budget-deficit reductions as their top priority.

If reducing the federal budget deficit is the priority most frequently mentioned, improving the education of American students and expanding the training of American workers is a close second. Concerns are expressed in a variety of ways—from fear over the affordability and accessibility of higher education, to finding new ways to upgrade worker skills, and repeated calls for new levels of basic literacy.

The relationship between accountability and productivity appears repeatedly in a number of contexts—most pointedly in the discussion of the K-12 education system. Teachers and students must be held more accountable for their performances, according to the candidates. But they also stress the concomitant responsibility of business executives to train workers, improve product quality and seize export opportunities.

In the section on international trade, the candidates seem to be saying that the best way to improve competitiveness is to go out and compete. In general, they focus less on unfair trade practices by foreign competitors and more on the means to boost American export capability. For example, when asked how to address competition from low-wage countries, a number of the candidates took the opportunity to discuss productivity-related issues, such as research and development and education.

Finally, the report underscores broad bipartisan agreement that the federal role should be expanded in certain areas. In particular, candidates from both parties want increased federal support—direct and indirect—for America's science and technology efforts. They tend to stress initiatives that will expedite and improve the commercialization of American ideas. Further, most of the candidates favor more federal involvement in training and retraining the nation's work force.

A closer look at this report's findings follows:

CAPITAL FORMATION

Federal Budget Deficit

All candidates support reducing the federal budget deficit and most believe such reductions are critical—both to promote private savings and investment and to reduce the trade deficit. They disagree somewhat, however, on the relative importance of deficit reduction. And their views differ considerably on the means by which to reduce the deficit.

On spending: Eleven of the twelve candidates favor spending reductions. The twelfth, Kemp, advocates "putting a lid" on federal spending. In terms of specifics, two Democrats (Gephardt and Jackson) would concentrate on defense cuts, while a third (Simon) would either freeze or cut defense spending. Gephardt specifies a plan to restructure agricultural support programs, while Du Pont would eliminate farm subsidies altogther. Babbitt proposes a "universal needs test" for all federal spending and $20 billion in specific cuts in FY 1988.

Four Republicans (Bush, Dole, Du Pont and Kemp) support a line-item veto for the President.

Two Democrats (Gore and Simon) and three Republicans (Bush, Dole and Du Pont) support a balanced-budget amendment. Republican Haig volunteered that he opposes a balanced-budget amendment.

Two Republicans (Dole and Kemp) say they would not change the Social Security system.

On revenues: Only Babbitt favors a consumption tax to raise new revenues, and then only if it is progressive and the revenues are used to reduce the deficit. Gephardt supports an oil-import fee. Jackson supports taxes on the "wealthy" and corporations. Dukakis believes that the IRS should collect as much as possible of $110 billion in uncollected taxes through tougher IRS enforcement.

Six candidates would not support new taxes (Democrat Gore and Republicans Bush, Dole, Du Pont, Kemp and Robertson). Four of them (Bush, Du Pont, Kemp and Robertson) strongly oppose new taxes, arguing that they would undermine competitiveness. Dole says he might favor user fees.

Private savings and investment

The majority of candidates favor reducing the federal budget deficit as a principal mechanism for increasing domestic private savings. Other specific ideas include:

A consumption tax to shift economic incentives from consumption toward savings (Babbitt). Dole would consider replacing income taxes with a consumption tax to reduce overall rates—as long as the change is not regressive.

Tax incentives for workers to take part of their compensation in employee stock (Babbitt).

Various changes in public and/or private pension plans (Democrats Babbitt, Gephardt, Jackson and Simon and Republican Du Pont).

Changes in the treatment of capital gains (Democrat Simon and Republicans Bush, Kemp and Robertson).

Reviewing limitations on Individual Retirement Accounts (Republicans Dole and Robertson).

Reducing high tax rates and/or eliminating double taxation (Republicans Kemp and Robertson.)

Controlling insider trading and short-term financial speculation (Dukakis). Supplementing the Social Security System with a

Financial Security Plan to promote private savings (Du Pont).

HUMAN RESOURCES

K-12 educational system

Restoring excellence to the K-12 educational system is a priority for most of the candidates. A common theme is the need for increased accountability—as indicated by widespread support for more performance testing of teachers, students and administrators. Several candidates also support "carrot-and-stick" approaches, with financial rewards for improved performance. Among the specific proposals advanced:

Two Democrats (Gephardt and Simon) and two Republicans (Bush and Haig) support national testing of teachers. Three candidates (Democrat Gore and Republicans Dole and Robertson) favor state testing.

Three Democrats (Babbitt, Dukakis and Gore) and three Republicans (Bush, Dole and Robertson) favor state testing of student performance.

Beyond testing, several other incentives for improved performance were offered.

Among the ideas: education bonus grants to states that boost student performance and reduce drop-out rates (Gephardt); higher pay and greater autonomy for teachers in return for more accountability (Gore); and merit-based teacher pay (Bush, Kemp and Robertson).

Five candidates support increased federal funding for education programs (Democrats Babbitt, Gore, Jackson and Simon and Republican Bush). Five candidates support more funding for pre-school programs, particularly for the disadvantaged (Democrats Babbitt, Dukakis, Jackson and Simon and Republican Bush).

Two Republicans (Du Pont and Robertson) propose educational vouchers to give parents more flexibility in choosing schools, while a third (Kemp) proposes tuition tax credits for the same purpose.

Three Republicans advocate a "back-to-basics" approach to teaching (Dole, Haig and Robertson).

A variety of other ideas were proposed. Among them: a federal-state child-care voucher system to help working parents (Babbitt); special schools for students skilled in math and science (Bush); increased use of "magnet" schools (Kemp); federal incentives to help train teachers in new classroom technologies (Dole); home schooling as an alternative to "academic mediocrity" in schools (Robertson); and a $250-million national teaching excellence fund (Dukakis).

Student loans for post-secondary education

Most of the candidates believe that rising tuition costs threaten the continued availability of college education for all those who are qualified. To address this problem, the following ideas were advanced:

Two Democrats (Gephardt and Gore) and two Republicans (Bush and Dole) favor creating IRA-type savings accounts to help parents save for their children's college education. Bush also favors creating a College Savings Bond. Robertson supports long-term investment vehicles to promote private savings for education. Five Democrats (Dukakis, Gephardt, Gore, Jackson and Simon) and two Republicans (Bush and Robertson) favor increased support for low-income students through one or more of the following: grants, loans and work-study programs.

Among other ideas offered, Babbitt would provide unlimited government loans to all students. Bush and Babbitt would link debt repayments to post-graduation earnings, while Babbitt would forgive debts for graduates who teach for at least five years. Du Pont would create a National School Training Bank to supply government-guaranteed financing to individuals at market rates. Haig supports a proposal for a higher education "revolving fund." Dukakis proposes an "education insurance fund."

Training and retraining for American workers

There is widespread support for creating additional tax incentives for training and retraining, as well as for making training programs more readily available to new workers.

Three Democrats (Babbitt, Jackson and Simon) and three Republicans (Dole, Kemp and Robertson) support increased corporate and individual tax incentives for worker training and retraining efforts. Babbitt is the most specific, proposing an "individual training entitlement" similar to an IRA, to help workers save for their training needs.

Several ideas were offered to expand the availability of training. Democrats Gore and Gephardt call for expanding the Job Training Partnership Act. Dole proposes revising the trade adjustment assistance law to focus on training and retraining. Gore points to his co-sponsorship of the bill that requires advance notification of plant closings, which he says is critical for implementing an effective retraining program. Dukakis supports increased federal funding for dislocated workers.

In terms of sharing responsibility for training, two Republicans (Kemp and Robertson) advocate a greater role for the states. Democrats Gephardt and Simon advance several specific proposals for increasing business involvement in training and retraining efforts.

Among other ideas offered, Du Pont would create a National School Training Bank to provide government-guaranteed loans to workers at market rates. Gephardt favors a series of steps to make the Unemployment Insurance system more effective. And Dukakis supports measures to combat functional illiteracy.

INTERNATIONAL TRADE

Candidates generally agree that America's trade problems have been at least partially caused by domestic policies that have driven up the dollar's value and undermined productivity. A number of candidates, for instance, used the international trade section to address issues such as the federal budget deficit, public education, the R&D infrastructure and employee training. Thus, candidates tended to focus on steps America could take to get its own house in order.

Four Democrats (Dukakis, Gephardt, Jackson and Simon) and four Republicans (Bush, Du Pont, Kemp and Robertson) urge increased government support for boosting U.S. exports. Simon specifically calls for new Eximbank financing programs for small manufacturers. Du Pont advocates removing government-imposed disincentives to export. Bush and Kemp support the creation of North American free-trade agreements.

Two Democrats (Gephardt and Jackson) favor a mandatory reduction in trade imbalances, under certain circumstances, with countries whose trade surpluses are caused by unfair foreign trade practices. A third Democrat (Babbitt) does not favor such a mandatory reduction, but proposes a negotiated set of international agreements requiring countries with a multilateral trade surplus to reduce that surplus by one-third each year or face across-the-board tariff increases. Democrats Dukakis, Gore and Simon are opposed to the measure, but Simon states he is not unwilling to use access to the U.S. market as leverage to address unfair trade practices. Republican Dole offers an alternative approach to the so-called Gephardt Amendment, requiring USTR to initiate Section 301 investigations against countries with a persistent pattern of unfair trade practices. Republican Du Pont "strongly opposes" mandatory reduction in trade imbalances, as does Republican Haig.

Five Democrats (Dukakis, Gephardt, Gore, Jackson and Simon) and two Republicans (Dole and Robertson) would address the problem of foreign government subsidization of high-tech industries by using current trade rules and/or by negotiating new GATT rules.

Several macroeconomic initiatives were proposed, including reducing global debt burdens and improving coordination of industrialized nations' economic policies (Democrat Dukakis and Republicans Dole and Haig); a global monetary conference (Kemp); and bilateral exchange-rate agreements to devalue the dollar against the currencies of South Korea and Taiwan (Jackson).

SCIENCE AND TECHNOLOGY

Federal research and development programs

All the Democrats believe a disproportionate share of federal R&D funds are spent on defense and related programs, with negative consequences for U.S. commercial competitiveness. By contrast, Republican Du Pont feels that there have been many ways in which defense R&D efforts have contributed to U.S. commerical competitiveness. Republican Robertson, noting the space program, thinks that spin-offs are possible.

Democrats Gephardt and Simon both believe that federal funding for civilian R&D programs should be increased, with Gephardt calling for the federal government to invest 3 percent of GNP annually in civilian R&D programs such as university labs.

Gephardt also calls for the creation of an Advanced Technology Institute to foster applied research, plus the establishment of a White House office to oversee fedeal R&D programs. Gore believes that steps should be taken to increase private sector access to federal labs.

Federal support for science and technology

Four Democrats (Dukakis, Gephardt, Gore and Simon) and two Republicans (Bush and Robertson) support making the R&D tax credit permanent. Gore would raise the credit to 25 percent and Gephardt would expand it for manufacturing processes. Dole would consider extending a "well-targeted" R&D tax credit, if it could be done in a "fiscally responsible manner." Babbitt and Du Pont support the tax credit, but for various reasons would not make it permanent.

Five Democrats (Babbitt, Dukakis, Gephardt, Jackson and Simon) support increased federal funding of university labs and equipment. Du Pont supports such increased funding, but only if it is tied to specific projects. Robertson says state and private funds should be used for such improvements. Dukakis proposes to leverage these funds by requiring matching grants from the states and the private sector.

Four Democrats (Babbitt, Dukakis, Gephardt and Simon) support federal funding for Sematech, the semiconductor research consortium. A fifth Democrat (Gore), while

not specifically citing Sematech, says he supports increased public-private collaboration on R&D projects. Republican Du Pont does not favor such expenditures; instead, he favors reducing antitrust restrictions on corporate collaboration on R&D and marketing efforts. Republican Robertson is undecided on the Sematech funding issue.

Several other ideas to strengthen science and technological capabilities were advanced by the candidates. Among them: strengthening intellectual property protection (Democrat Gephardt and Republicans Bush, Dole, Haig and Robertson); tightening the Freedom of Information Act to restrict access to the trade secrets of U.S. companies (Robertson); and a "factory extension service" to bring advanced technology and innovation to factories around the country (Gephardt).

THE ISSUE FOR '88: AMERICA'S COMPETITIVENESS

[From the Washington Post, Feb. 3, 1988]

(By David S. Broder)

DES MOINES.—Competition is a concept the average American grasps without explanation. People who have made an unofficial national holiday of the contest between two football teams on Super Bowl Sunday tune in to the notion that the country itself is engaged in a struggle for economic survival.

So it is not surprising that the set of issues embodied in the word "competitiveness" has emerged at the center of the 1988 political debate. It is as natural as the Redskins' rout of the Broncos. But it is still a development of significance.

Each national election serves two functions. One is the choice of leadership. The other is the determination of the agenda. Reporters focus on the former, because in our business names make news. But often, it is the selection of issues and problems to be addressed that is more significant.

On election night in 1980, we knew not only that Ronald Reagan would be the new president but that a military buildup, a tax cut and a slowdown in domestic spending were on the agenda. On the eve of the Iowa caucuses, the first major event of the 1988 presidential election, we do not know the name of Reagan's successor. But we do know that improving America's position in the world economy will be higher on the 1989 agenda than any of the three items Reagan brought with him to Washington in 1981.

We know that, because the campaign dialogue has established a consensus among the 13 candidates on that point. The fact is well documented in a report called "Competitiveness and Campaign '88," published last week by the privately funded Council on Competitiveness. But even if the point had not been made so neatly in this report, it would be obvious to anyone covering the campaign.

The candidates' consensus reflects a public temperament that has been reported in this column several times. To Reagan's credit, fears of inflation and of American impotence in the world, which powered him to the presidency in 1980, have abated. In their place is a rising public consciousness that we are struggling—but not winning—the battle to maintain our place in a rapidly changing world economy, of which we are inextricably a part.

Voters I have interviewed in the past 18 months ask two overriding questions: What kind of jobs will there be for us and our children in the next 20 years? And what is the chance of maintaining the American standard of living for the next generation, when we are competing with countries that have accepted far lower living standards for themselves?

Ever since the autumn of 1986, I have believed that the candidate who could best address those two questions—whatever his party or ideology—would be the best bet to win the White House after Reagan. Nothing I have seen in the campaign shakes that opinion.

John A. Young of Hewlett-Packard, the head of the Council of Competitiveness, and his colleagues found in examining the candidates' answers that several major themes emerged: the need to reduce the budget deficit; to improve education of young people and training of adults; to improve accountability and productivity in business, labor and the schools; to expand exports; and to expand investment, both public and private, in research and development of civilian goods and services.

The issues intermingle; they scramble party lines. Education is such an overriding concern that few Republicans and no Democrats are devoid of proposals for ways the federal government might help. Deficit reduction is at least as important, so no Democrat feels safe without plans for cutting certain areas of federal spending.

There are still sharp differences among the candidates. Richard Gephardt's approach to trade legislation is light-years away from that of Gary Hart, Michael Dukakis, Jack Kemp or Pete du Pont.

But almost without exception, the 1988 candidates agree that policies in all these areas must be judged, in large part, by their effect on America's competitiveness. And that is a very different criterion than Reagan brought to office in 1981.

One other big difference jumps out when you read what they have been saying: the attitude toward government itself has changed. Young and his colleagues found "broad bipartisan agreement that the federal role should be expanded in certain areas. In particular, candidates from both parties want increased federal support—direct and indirect—for America's science and technology efforts. . . . Further, most of the candidates favor more federal involvement in training and retraining the nation's work force."

This is a far cry from the government-bashing of the Great Inflation era, and it represents a big shift in post-Reagan politics. One of the major questions of the 1988 election has been settled already. Targeted governmental activism has won.●

SENATOR DANIEL INOUYE

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

● Mr. BIDEN. Mr. President, in the 15 years that I have been privileged to serve in this body, I have had the opportunity to work with a number of men and women for whom the title "Statesman" is most fitting. These colleagues have not only served their States and this Nation well but, from my own personal perspective, have helped the junior Senator from Delaware to be a better Senator as well. They have been my allies when I most needed allies, my teachers when I most needed guidance, my friends in times of disappointment and despair, and my examples when I most needed the courage of my convictions.

Inevitably, when I pause to reflect upon those men and women, DAN INOUYE is among the first to come to mind. For he has been all of those—ally, teacher, friend, and example. In the quarter century that he has served the people of Hawaii, DAN INOUYE has been a vital part of the fabric that makes the U.S. Senate the greatest legislative body in the world.

He has served the Senate well on occasions when we as an institution not only faced our greatest challenges in recent history, but were compelled to meet those challenges as the whole world watched. While the world watched to see if our system of checks and balances worked, to see if we were willing and able to bring to light the facts when high administration officials sought to corrupt our political system, DAN INOUYE'S service on the Watergate Committee answered the doubters. And when there were those who began to believe that the conduct of American foreign policy was the province of individuals not subject to the law of the land, DAN INOUYE and his committee brought out the facts and set the record straight.

These were not easy tasks, for in each case there were powerful forces working to keep the facts from being brought to light. But the challenge of those tasks is precisely the reason that the senior Senator from Hawaii was asked to undertake them. For in a quarter century, DAN INOUYE has never let this body down. He has been a model not only of hard work, but of integrity and forthrightness.

Those who would claim that political considerations would ever outweigh the value that he places on those qualities simply do not know Senator DANIEL INOUYE.

I am privileged because I do know DANNY INOUYE, and am honored that he is my colleague and my friend.●

THE SECURITY OF PAKISTAN

● Mr. HUMPHREY. Mr. President, the Congress wisely approved the President's follow-on package of military and economic assistance for Pakistan. In my view, the vote on aid to Pakistan was one of the most important on foreign policy issues during 1987.

Pakistan today is directly threatened. For her principled and courageous stand against Soviet aggression in Southwest Asia, Pakistan has come under direct attack by the Soviet puppet regime in Afghanistan. A report issued by the Department of State in December 1987 indicates that the puppet regime in Kabul violated Pakistan's airspace more than 574 times during 1987, killing more than 183 innocent people and wounding

more than 437. More than 450 Soviet and Kabul-inspired terrorist incidents took place in Pakistan during 1987, killing and wounding scores of innocent people.

Unfortunately, Pakistan also faces a hostile neighbor to the East. I am concerned with recent reports that the Indian Navy has taken delivery of a Soviet nuclear power submarine. The Indian Trade Fair in Kabul last summer and exchanges of high-level officials between New Delhi and Kabul give reason for concern especially in light of the fact that the illegitimate regime in Kabul was condemned by an overwhelming majority of the U.N. General Assembly last November.

A recent column by Rowland Evans and Robert Novak entitled "Pincers on Pakistan," that appeared in the Washington Post on February 1, 1988, outlines the pressures facing Pakistan in a very troubled region of the world.

I ask that the editorial be printed in the RECORD.

The editorial follows:

PINCERS ON PAKISTAN

(By Rowland Evans and Robert Novak)

ISLAMABAD, PAKISTAN.—Moscow's stealthy decision to build India's military might with nuclear submarines and AWACS-style radar planes is both bad news for Pakistan and highly disturbing for U.S. and Western security beyond the Persian Gulf.

India is "ambitious" to become a "regional superpower" from the Gulf to the coast of China, President Zia of Pakistan told us over lunch. That ambition makes a snug fit with the long Soviet effort to undermine Pakistan, India's archrival.

Next to Turkey, Pakistan is America's strongest Asian ally, crucial in blocking a Soviet victory in Afghanistan. "Only two countries in South Asia—Turkey and Pakistan—have stood up to the Soviets," Zia said. "Take Pakistan out and the Soviets would become supreme from Turkey to Vietnam."

Western diplomats here agree with that sentiment. Judging from the U.S. commitments in the Persian Gulf and Afghanistan, so do President Reagan's policy-makers in Washington.

But what is not yet so clear is whether Reagan and his advisers fully understand the potential menace of the tightening Soviet-Indian alliance. The expected addition of three nuclear-powered submarines to the Indian Navy, in addition to a couple of aircraft carriers that are coming from the British, suggests a future challenge to U.S. supremacy in the Indian Ocean. India was furious in 1972 when, during the celebrated "tilt" to Pakistan, the United States sent a carrier task force there.

Things have now changed. Indeed, with Indian naval bases on both sides of the subcontinent, even Australia is signaling distress over the potential impact of such a large naval force.

The Soviet fleet, with a base at Aden, another on a key island in the Indian Ocean and a third huge naval arsenal at the U.S.-built Camranh Bay on the coast of South Vietnam, has given nightmares to Pentagon planners ever since the United States was driven off mainland Asia in the Vietnam War. The new Indian Navy now becomes a major add-on to the powerful Soviet fleet.

But India's military acquisitions from Moscow go a good deal further. One wing of MiG-29s, the latest Soviet model, is on its way and at least two more appear to have been promised to India. No Soviet-bloc state has ever been allowed to get its hand on the MiG-29.

As for the AWACS-style early-warning planes, the Soviet promise is ironically tied to Moscow's strategy in Afghanistan to destabilize Pakistan. Official figures show that Soviet-Afghan air attacks across the border into Pakistan killed or wounded at least 966 Pakistani citizens between 1980 and last may. This is the Soviet fist to split Pakistan and the United States, ending Pakistan's aid to Afghan refugees and the mujaheddin freedom-fighters.

But Pakistan has refused to buckle to that pressure. Instead, Zia asked the United States for AWACS aircraft to protect its border. That sent India rushing to Moscow demanding equal treatment, claiming that early-warning planes for Pakistan would be a security risk for India. And what happened? India is getting its planes, while the United States continues to "study" Pakistan's request.

The Soviet buildup of India to a regional superpower has not been big news in the United States. Most members of Congress seem uninterested, a fact underlining pro-Indian political prejudice. If Pakistan received a nuclear-powered sub from the Soviets, Congress would cancel all leaves and work through the weekend to handle the resolutions of condemnation and the bills cutting off U.S. aid.

This prejudice of U.S. politicians, despite India's naval buildup, is even more surprising in view of India's support for the Soviet invasion of Afghanistan. Officially, India sees no evil. It accepts the preposterous Soviet claim that the Red Army occupied Afghanistan because of outside "interference" with the Communist government—the very regime that was planted in Kabul by the Kremlin.

India has even informed Moscow that it will give asylum to Afghan Communist leaders if they have to flee for their lives following the oft-promised Soviet withdrawal.

That perverse loyalty to the Soviets by the country that has led the world in preaching against imperialism and for human rights shows how badly India wants to achieve its ambition as regional superpower. The probable targets in this power game are the United States and Pakistan, a fact well understood by President Zia, whose strategic mind is often underestimated in the United States. Even without the new India, Zia's strategic warning deserves closest attention in Washington.●

LEGALIZATION PROGRAM OF IMMIGRATION ACT

● Mr. CHAFEE. Mr. President, today I am pleased to join my colleague Senator KENNEDY and others in cosponsorship of S. 2015, legislation that would amend the Immigration and Nationality Act to extend for 1 year the application period under the legalization program.

In my view, extending the application period for the legalization program is a positive step toward this elusive success. An extension would not change the legalization program in any way, and it would give us the time we need to do some studied fine-tuning.

I have often been on record as a supporter of the landmark Immigration Reform and Control Act, one of the most carefully crafted compromises that the Senate has worked out. It was a hard-fought battle, and a job well done.

Nevertheless, we should not rest on our laurels. We must keep a vigilant eye on this at once compassionate and pragmatic program, and be willing to do what it takes to meet its goals.

Numerous midprogram changes in eligibility requirements, backlog, poor advertisement and explanation of the program, and unanswered questions about family unity are factors which are contributing to the low turnout for amnesty. There is a growing consensus that the confusion generated by the legalization program warrants an extension of the application period.

I believe that an extension of the application will give immigration advocates and the INS time to solve these problems, and make the legalization program a success.

Of particular concern is how the Immigration and Naturalization Service will treat families in which one spouse qualifies for amnesty while the other spouse and the children do not.

I am aware that many of my colleagues are convinced that this problem has been adequately addressed by INS Commissioner Nelson's announcement last fall of a family fairness plan. Yet the evidence from my home State suggests widespread fear and uncertainty.

It is still my hope that hearings will be held on my legislation, S. 1408, the Humanitarian Family Unity Act. I am not satisfied that the problem of family unity is at all solved, and I urge my colleagues not to drop the issue, not to ignore it, not to rest until immigrant families can be absolutely certain that they will not be separated under the new immigration law.

Thus, I am pleased to become a cosponsor of S. 2015. I do hope that an extension of the application period will lead to increased public education, which in turn will encourage many more qualified aliens to come forward, out of the shadows, and apply for legal status.

I also hope we will continue to look hard at this program, and do whatever it takes in the time we have remaining to make it a complete success.

The Most Reverned Louis E. Gelineau, Roman Catholic Bishop of Providence, RI, recently called for a truly humanitarian family unity policy and an extension of the legalization program's deadline, as objectives which go hand-in-hand. I ask unanimous consent that the full text of Bishop Gelineau's November 30, 1987, editorial

in the Providence Journal be printed in the RECORD.

The editorial follows:

[From the Providence (RI) Journal, Nov. 30, 1987]

U.S. MUST ACT TO ALLAY THE FEARS OF ILLEGAL ALIENS

(By Louis Gelineau)

As most people know, the United States has had a new immigration law since Nov. 6, 1986. It provides for sanctions against employers who knowingly hire illegal aliens after that date, as well as an amnesty for persons illegally residing in the United States since before Jan. 1, 1982.

The intent of Congress, as is clear from the CONGRESSIONAL RECORD, was to provide a broad, generous amnesty to those persons who established and maintained an illegal residence in the United States before Jan. 1, 1982. Unfortunately, the regulations devised by the Department of Immigration to implement the amnesty program do not always reflect this original generous intent.

The relative restrictiveness with which the Department of Immigration interpreted the statute, and the distrust with which the population in question has traditionally viewed the Immigration and Naturalization Service have resulted in surprisingly low numbers of persons applying for amnesty.

Although the INS estimated that 3.9 million undocumented persons nationwide would benefit from the amnesty program, only some 750,000 had applied by the six-month mark. (The program is scheduled to run through May 4, 1988). If trends continue, more than 2 million potentially eligible persons will not obtain amnesty. We face a potential humanitarian crisis of enormous proportions in some regions of the country, in which tens of thousands of families nationwide could find themselves out of work, owing to employer sanctions, homeless as a result, and caught between a country in which they no longer have a place, and a home to which they are unable or unwilling to return.

It is true that the Department of Immigration has taken steps to liberalize certain aspects of their regulations. For example, the INS recently announced that persons who were otherwise eligible for amnesty—who had left the country and returned with a "valid" non-immigrant visa (generally obtained through misrepresentation at the U.S. embassy abroad)—would no longer be deemed to have interrupted their continuous illegal residence. Nationwide, it is estimated that this change may aid as many as 100,000 persons who previously had been judged statutorily ineligible.

Unfortunately, the INS has not taken similar steps with regard to another key issue; family unity.

According to the non-governmental human service agencies aiding persons to prepare their amnesty applications, the issue of family unity is perhaps the major reason that so few have applied for amnesty. This is true, even though the confidentiality of information contained in legalization applications is guaranteed, and even though INS recently announced that minor children of legalized aliens will not be deported. This policy applies only to children if both parents receive amnesty, or in the case of a single parent household, if the parent that the child lives with receives amnesty.

The issue of family unity goes to the heart of the credibility problem that hampers the efforts of the INS to encourage amnesty applications. Confidentiality notwithstanding potentially eligible amnesty applicants are not convinced that amnesty will not result in the exposure of ineligible family members. Without a clear policy decision that affirmatively provides not only for minor children, but for spouses as well, hundreds of thousands of otherwise eligible persons will simply not come forward.

The stated purpose of the amnesty was to bring a large part of the country's documented population forward, incorporating them into the democratic system. If only half of those eligible for the amnesty actually apply, can we say that the program has been a success? How will we face the serious problems which will surely arise but will not have been planned for?

Because of the favorable changes that have occurred in the amnesty program, and those which I trust will take place in coming months, as Bishop of Providence I urge potentially eligible aliens to contact one of the following Rhode Island agencies to discuss their cases with complete confidentiality: Catholic Social Services, 467-7200; International Institute, 461-5940; SER Jobs for Progress, 724-1820.

I also join with Cardinal Bernard Law, Archbishop of Boston, in calling for a six-month extension of the May 4, 1988 amnesty program deadline. Programmatic changes necessarily require time to be disseminated, and even more time is needed for those affected to take advantage of them.

Additionally, I would urge the Department of Immigration to consider extending the period for appeals from 30 to 90 days. It seems likely that a flurry of denials will attend the close of the amnesty program, overburdening efforts to provide adequate legal services to those persons. Also, 30 days is scarcely sufficient to gather the additional documentation which will certainly be required in many cases.

It is clear that for the amnesty program to be a success and fulfill its original humanitarian intent, the Department of Immigration must make some substantive gestures of good faith to remedy existing shortcomings. Such policy changes must address the issue of family unity and would do well to consider extending the program deadline and the appeals period. Only then will suspicion and distrust be allayed, freeing hundreds of thousands to take advantage of the opportunity of a lifetime.●

THE ABORTION NEUTRAL AMENDMENT

● Mr. HEINZ. Mr. President, last week the Senate approved S. 557, the Civil Rights Restoration Act which reversed the 1984 Grove City decision and restored four major civil rights laws to the full meaning and scope intended by Congress.

I was an orginal cosponsor of the legislation. I voted for final passage of the legislation. I voted against amendments that would dilute the civil rights contained in the legislation. I did, however, vote for my colleague, Senator DANFORTH's so-called Abortion Neutral amendment, which clarified that neither title IX of the Education Act amendments nor the implementing regulations require educational institutions, hospitals or other entities to provide or pay for abortions as a condition of receipt of Federal funds.

This amendment provided considerable controversy, Mr. President, before, during, and after its passage. However, in the wake of that debate, my hometown newspaper, the Pittsburgh Post-Gazette, has published a very thoughtful and dispassionate editorial on the amendment. Entitled "'Grove City' Limits," it culls through the rhetoric to what I believe are the real issues. It offers some valuable insights. For these reasons, I ask that it be printed in the RECORD.

The editorial follows:

[From the Pittsburgh (PA) Post-Gazette, Wednesday, Feb. 3, 1988]

"GROVE CITY" LIMITS

Four years ago, in a case involving Pennsylvania's Grove City College, the U.S. Supreme Court unduly restricted the scope of laws against discrimination by institutions that receive federal funds. Last week the U.S. Senate took a major step toward overruling the court's crabbed interpretation, but that accomplishment was overshadowed by an exaggerated controversy over abortion.

Grove City College is a small, church-affiliated school in Mercer County that scrupulously resists entanglement with the federal bureaucracy. But because it enrolled students who received federal grants and loans, it was ordered to certify that it was complying with a 1972 federal law against sex discrimination. (Grove City's objection was to the certification requirement, not to the principle of equal treatment for women.)

To the Post-Gazette, it seemed at the time—and still does—that federal loans for individual students should not be regarded as aid to an "institution." The Supreme Court judged the matter otherwise, however. Then the court took a sidestep: It held that the law against sex discrimination in any federally aided "education program or activity" applied only to the specific program receiving federal money—in Grove City's case, the financial office—and not to the college as a whole.

It is this interpretation that the Senate rightly decided to overrule, not only in laws banning sex discrimination on the basis of race, religion, age and disability. The so-called Civil Rights Restoration Act thus qualifies as one of the most important civil-rights bill to be considered by Congress in years.

One would think that supporters of the Restoration Act would be jubilant over their victory in the Senate, which is likely to be followed by similarly overwhelming approval in the House of Representatives. (President Reagan has threatened to veto the legislation, but few take his threat seriously.) Yet the bill's most ardent supporters are grumbling because the Senate attached an amendment to the bill dealing with abortion.

Proposed by Sen. John Danforth of Missouri, the amendment says that nothing in the legislation "shall be construed to require or prohibit any person or public or private entity to provide or pay for any benefit or service, including the use of facilities, related to abortion." It also says that nothing in its language "shall be construed to permit a penalty to be imposed on any person because such person has received any benefit or service related to legal abortion."

Sen. Danforth said he offered his "abortion-neutral" amendment out of a fear that the broader law contemplated by the Restoration Act might force Catholic and other religious universities to perform abortions at their hospitals or else lose federal funding. Not so, said opponents of the amendment, who noted that the law already provided for exemptions for schools that claimed compliance with the law would violate their religious tenets. But then the same critics, led by Sen. Lowell Weicker of Connecticut, proposed their own amendment, whose language was similar to that of the Danforth amendment.

The ensuing debate bordered on the metaphysical, with "pro-life" and "pro-choice" Senators accusing one another of hidden meanings and secret agendas. The most coherent argument against the Danforth amendment was that its language prohibiting a "penalty" against a student who has undergone an abortion might not be strong enough to prevent such mistreatment in cases where a reprisal, such as the loss of a scholarship, might be viewed by the courts as the loss of a benefit rather than as a penalty.

If there is merit to that quibble, it can be addressed in a House-Senate conference committee. The main thrust of the Danforth amendment is hard to fault. As we have observed before, there is no harm in clarifying that performing abortions is not a condition of receiving federal aid. That clarification is especially appropriate now that Congress is moving to enlarge the scope of anti-discrimination laws.●

MAE BOREN AXTON

● Mr. BOREN. Mr. President, on February 15, friends of Mae Boren Axton from across the country will gather in Nashville, TN, at the Vanderbilt Plaza to salute her for her tireless efforts in public service and for her legendary contribution to country music. Our colleagues, Senator and Mrs. GORE and Senator and Mrs. JIM SASSER will be among the sponsors.

Having penned the first million dollar hit for Elvis Presley with "Heartbreak Hotel," Mae Boren Axton was a principal actor in American music history of the 20th century. She not only wrote countless songs and articles of criticism, but had a hand in promoting the careers of artists such as Willie Nelson, Waylon Jennings, Mel Tillis, and many others.

Such wide-ranging contributions have made Mae Boren Axton, a native Oklahoman, one of our State's favorite daughters: she has been selected as a member of the Oklahoma Women's Hall of Fame and Gov. George Nigh, 2 years ago, proclaimed Mae Boren Axton Day in the State.

Above all, Mae Boren Axton has a strong commitment to be a positive influence in the lives of others. Whether it is for the mentally ill, the elderly, those with health problems, or just a friend in need, Mae Boren Axton is always there, ready to give help and encouragement in difficult times.

It is no coincidence that all of the proceeds of the February 15 event in her honor will go to benefit the Spina Bifida Association of America to help fight against the No. 1 birth defect affecting American children.

Mae's efforts have changed the course of history in modern, indigenous, American music, and her public service work has altered the lives of many individuals on a deeply personal level.

My colleagues can understand my personal pride in the fact that Mae Boren Axton is my aunt. The love, compassion, and concern that she gives to her family is deeply felt and her example of extending that same love and feeling for all God's children with whom she has contact, is an inspiration to us all.●

JEAN S. KEENER APPRECIATION DAY

● Mr. SASSER. Mr. President, February 12, 1988, is a red letter day for Mrs. Jean Keener and her family. On that day Morristown Federal Savings and Loan is honoring Jean with an appreciation day for an outstanding career of 50 years of loyal service to Morristown Federal Savings and Loan. As a close friend of Jean and her entire family, I congratulate her and join in saluting her on a remarkable career.

Jean's dedication to Morristown Federal Savings and Loan should come as little surprise to those who know her. Jean's father, George F. Smith, founded the institution. Jean started to work there upon graduation from Sullins College in 1938.

Being the daughter of the S&L's founder, one might have expected Jean to take an easy path in her work. She did not opt for the path of least resistance. She worked in almost every capacity at Morristown Federal. As the saying goes, she made her way the old fashioned way—she earned it.

As the years went by, Jean's responsibilities grew. In 1964, she was first elected president of Morristown Federal. She moved up to chairman of the board in 1985. In both posts, she charted a course for Morristown Federal which made it one of the leading financial institutions in the region.

Jean's expertise in the world of finance has meant ever-increasing responsibilities for her. In 1981, she was elected as president of the Tennessee League of Savings Institutions, and in 1982, she served as the Tennessee director of the Southeastern Conference of Savings and Loan Associations. Her grasp of matters important to the industry led to her selection in 1983 as director of the U.S. League of Savings Institutions.

As a member of the Senate Banking Committee, I have found Jean's involvement with these organizations and her insight on financial issues to be an invaluable asset. I have benefited greatly from her advice over the years and look forward to her continued input.

Jean Keener has not limited her substantial talents to just the financial community. She has personified the best that we can expect from a community's business leader. She is active in many local civic projects. She has worked tirelessly with Walters State Community College to enhance that school's standing. In addition, she plays a leading role in preserving the historical integrity of her Tennessee community through services with local museums and preservation efforts. She is active in the United Way. She helps our youth discover what the business world has to offer in her work with junior achievement.

These are just a few of the civic, social, and charitable organizations that Jean has been associated with throughout her career. All of us take great pride in her dedication to her community over the years.

I know that Jean's family will be enjoying her appreciation day on the 12th. Her husband, George, her three children, and nine grandchildren can take pride in her numerous accomplishments. It has been my honor and pleasure to have known and worked with Jean and her family for many years, and I join her family and community in extending best wishes to a truly wonderful lady.●

STUDENT AID

● Mr. PELL. Mr. President, we are all well aware of the importance of the Federal student aid programs in assisting disadvantaged students to obtain a strong, solid education. I would like to place an article in the RECORD which illustrates clearly the overwhelming value of these programs, as well as the benefit of the Job Training Partnership Act.

The article, which appears in the February/March edition of the Community, Technical, and Junior College Journal [AACJC] was written by a friend not only of mine but of all of education, Frank Mensel. Mr. Mensel, who is vice president for Federal Relations at the American Association of Community and Junior Colleges, has long been recognized as an exceptionally strong, effective and thoughtful leader in the education community.

The article that Mr. Mensel has written demonstrates clearly that student aid, combined with the essential elements of motivation and perseverance by a student, can help produce a veritable success story. I strongly recommend this most important article be read by each of my colleagues.

I ask that the full text of the article be printed in the RECORD.

The article follows:

MARY E. JOHNSON: THE PELL GRANT SUCCESS STORY

(By Frank Mensel)

The story of Mary E. Johnson of Tekamah, Nebraska, is a story lived by tens of thousands of Americans every year in community colleges. Yet it is a story that cannot be told too often—at least as far as the AACJC-ACCT Joint Commission on Federal Relations is concerned.

The Commission heard her at its hearings conducted during the regional "federal update" conference in Omaha in November. Her story is a ringing example of the feel the Commission gains for federal programs and legislative priorities by holding grassroots hearings each year.

Basically, her story is a Pell Grant and Job Training Partnership Act success story. Well before her testimony was finished, the eyes of the 60 listeners brimmed with tears. here are Mary's own words.

"When I was in my last year of high school, some 18 years ago now, my mind was concerned with what I was going to do with my life. I enjoyed school and did well, so college seemed the natural next step. The financial situation in my family was quite limited. So after searching for any help available, I was all set to go to college for a year. As life has a way of doing, it slapped me in the face. An unexpected child was due in the spring.

"In March, my son was born. As he grew, it soon became apparent something was wrong physically. He was diagnosed as being slightly brain damaged. With his need for physical therapy and lots of extra attention, I saw the need to stay home and care for him. My hopes of going on to college were tucked away for 'maybe someday.' Also, my husband's health was not good, due to diabetes. So, the best place for me was home with my family. I worked occasionally to help support us, never in the area I was interested in, but in whatever I could get at the time.

"We are farmers, living on a small 90-acre farm inherited from my father-in-law. After trying several areas of livestock production, we took a big gamble and started a dairy. It was profitable for a time. Gradually, as the bills kept coming in and more often than not we were unable to pay them, it became apparent we would have to sell out. Everyone on the farm seems to be having difficulties in the past few years.

"Soon after the birth of my daughter, in 1984, we sold the dairy operation. In one respect, it was a sad happening. But, I had had to spend a lot of time working with the animals, and after a time began to resent the farming operation because it was not the type of work I cared to do, only what I *had* to do.

"Now, we had to seek additional income off the farm as 90 acres are not enough to make a living from today. My husband found work at a large commercial dairy on the night shift. I looked for work but nothing was available that paid enough to make it worthwhile, after I paid the gas and babysitting expenses. After a time, I too went to work for the dairy that employed my husband, working alongside him. Again, I was working, but not doing anything that fulfilled me as a person—just working. After one and a half years of this, I decided this was it; there had to be a better way! The need for education became apparent; I was getting nowhere without it.

"But where did I start? We certainly didn't have the money to put me through college. I didn't even know exactly what I'd study if I ever got there; and after 15 years and two kids, could I cope with it anyway?

"One day I picked up the local paper and these headlines seemed to jump out at me: 'Career Planning Classes to be Held,' offered through the Ag-Action Centers of area community colleges. I frantically read on, almost believing someone had read my mind. I was going to classes come hell or high water!

"I faithfully attended and spent several evenings listening to the counselor telling me that there was a way for me to get to school. I then spent three days taking extensive tests and discussing my needs and wants with the counselors. They directed me to several agencies that were there to help people in just my particular situation.

"Now came all the red tape of proving that we were truly in need and that I could manage a family, school, and all the driving that going to school would entail.

"I drive 45 miles each way, daily, to attend classes at Metropolitan Community College. I encountered one agency which rejected me on that fact alone. Thank goodness there are agencies and supervisors with enough foresight to realize that I was a determined lady and would at least give it all I had! JTPA is that agency.

"My first funding assistance through JTPA came at the time of the Vocational Assessment Testing done prior to my enrolling in college. Later, when the decision was made to enter college, JTPA provided payment for my first year's tuition and books. Through the financial aid application, I was also eligible for and have received the Pell, Supplemental Opportunity, Board of Governors, and State Student Incentive Grants, plus college work-study.

"Though funding in my second year has declined somewhat, I have received funding from the special assistance program called WAGE, which combined with the Pell Grant, college work-study, and a small scholarship, allow me to continue with my education. I plan to earn my associate degree in accounting this summer.

"I am able to attend college solely because assistance was available to me; without financial help, I would be in the same situation as before—working, but not fulfilling myself in any way. An education can open many doors for you; some you don't even realize exist. I have been given an opportunity to better myself through my education. I hope this chance is extended to as many students as possible in the future. Although an education is desired by many, if it cannot somehow be paid for, it is not possible."

She closed her testimony on the perfect note; she pointed out that she now has part-time employment in her chosen field, with good prospects that it will open up a full-time career as soon as she graduates.●

JOHNSON AND WALES COLLEGE CULINARY TEAM FROM THE UNITED STATES

● Mr. PELL. Mr. President, Rhode Island is proud to have one of the top culinary schools in the Nation at Johnson and Wales College and we are even prouder to have students representing Rhode Island and the Nation competing in international culinary events.

A culinary team of six students from Johnson and Wales College left last weekend for Hotelympia 1988—the International Hotel and Catering Exhibition in London—where they will compete in the 105-year-old Salon Culinaire International de Londres.

The Johnson and Wales student culinary team is the only United States team, student or professional, competing in this prestigious event. The team is sponsored by Sarah Coventry, Inc., designer and manufacturer of brand-name fashion products.

Team Manager Noel Cullen, director of operations at Johnson and Wales College, also will judge England's "Chef of the Year" competition.

I understand the London competition is expected to serve as a dress rehearsal for the 1988 "Culinary Olympics" in October in Frankfurt, Germany. The Johnson and Wales students will be the only United States college team at that event competing against student teams from around the world.

The students named to the team are: Douglas Alley of Beals, ME; William Erlenbach of Valparaiso, IN; Suzanne Finkele of Wellsboro, PA; Wendy Geiler of Baltimore, MD; Dannella McWilliams of Kensington, MD; and Christine Stamm of Walpole, NH.

I am confident that I represent their many supporters throughout the Nation when I wish them well. I trust they will bring hard-earned honors home from London, when they return to Rhode Island on February 4, and that they will represent our country with equal pride in October.●

RECENT DEVELOPMENTS IN NORTHERN IRELAND

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

● Mr. BIDEN. Mr. President, I am concerned and dismayed about two recent developments in the affairs of Northern Ireland, developments which threaten to tear apart a crucial framework for peace in that beleaguered province.

The framework is the Anglo-Irish agreement, a treaty signed in November 1985 by the Republic of Ireland and the United Kingdom. The agreement gives the Dublin government a consultative role in the daily affairs of the North, and attempts to reassure the Catholic minority that its rights will be protected. One key provision of the accord was intended to secure evenhanded treatment for Catholics by the police and the judiciary. Because of a long history of discrimination in this area, Catholic suspicions about fairness in the administration of justice run deep.

Two decisions last week in London have reaffirmed these suspicions, and as a result have clouded future prospects for the accord. Many people in the Republic and Northern Ireland have expressed outrage at these decisions, and they are questioning the

commitment of the British to fulfilling all of the terms of the agreement.

First, British Attorney General Sir Patrick Mayhew announced that his government would not prosecute officers of the Royal Ulster Constabulary [RUC]—the Northern Ireland police force—who interfered with an investigation into allegations of a shoot-to-kill policy by the security forces in 1982. The Attorney General admitted to evidence of attempts to "pervert the course of justice," but said that the officers would not be prosecuted because of undisclosed "national security" reasons. He further announced that the case was closed and that the report on the matter would not be published.

Second, a British Court of Appeal upheld the convictions and sentences of a group of men—all Catholics from Northern Ireland—convicted for two 1974 pub bombings in the British midlands. New evidence and a report that their confessions may have been coerced cast doubt on their guilt, and indicated they may have been wrongly convicted in a rush to judgment. Catholics in Northern Ireland believe that the denial of the appeal confirms their view that the British justice system is rigged against them.

These decisions are extremely regrettable. In particular, it is difficult to understand how the British Government could decide against prosecuting police officers in the face of evidence that they had obstructed an investigation. This announcement makes a mockery of the justice system, for it implies that members of the security forces are somehow above the law. It would appear that the RUC is not to be held publicly accountable for its actions, and that its officers are free to act without fear of prosecution. The damage to relations between the nationalist community and the RUC will be difficult to reverse. How do the British expect to increase public confidence in the security forces when it announces that its members are to be shielded from criminal prosecution?

The events of last week will also have serious implications for relations between Dublin and London. The decision not to prosecute the RUC officers is a slap in the face for Dublin, which has been pressing the Thatcher government to address the crucial issue of the administration of justice.

These recent developments call into question the British commitment to the Anglo-Irish Agreement. London should take concrete steps in the next few months to reassure skeptics on both sides of the Atlantic that they have not retreated from the accord. Otherwise, doubts about British's dedication to the treaty will continue, to the detriment of the long-term prospects for peace in Northern Ireland.●

NATIONAL WOMEN IN SPORTS DAY

● Mr. PACKWOOD. Mr. President, today marks the second anniversary of "National Women in Sports Day." As the sponsor of the resolution which created this day, I would like to say how pleased I am by the support that my colleagues have given this legislation.

Despite a rich history of participation in sports, women's contributions as athletic leaders have long been ignored. This day is one effort to see this situation does not long prevail. By drawing attention to our Nation's women champions and their legacy of excellence, I and the 50 Senators who joined me in cosponsoring this event want women and girls everywhere to see what fine role models they have in the athletic arena.

I first conceived the idea for "National Women in Sports Day" after learning of the tragic death of Flo Hyman, a champion volleyball player and Olympic silver medalist. A leader both on and off the court, Flo personified the best in human achievement that participation in sports can produce. I first met Flo in 1984 when she was contacting Senators regarding civil rights legislation. Therefore, it is especially fitting that our celebration this year takes place only one 1 week after Senate passage of the Civil Rights Restoration Act, a bill which guarantees better treatment for women athletes, students, and coaches. I am honored once again to be taking an active part in this celebration.

Last year, I presented an award named in memory of Flo to Martina Navratilova whose leadership and athletic excellence are an example to us all. This year the President will present the Flo Hyman award to Jackie Joyner-Kersee, a talented track and field star whose style and grace win her both gold medals and boundless respect.

Through athletic endeavor we learn that we can always jump higher, work harder, and do better. Our recognition of this day focuses special attention on the achievements of women athletes while stressing the important opportunity for learning leadership skills, building friendships, initiative, confidence, and discipline that sporting activities provide for women and girls.●

SITUATION IN EAST TIMOR

● Mr. DURENBERGER. Mr. President, in August of last year, 39 of my colleagues joined me in sending a letter to Secretary of State Shultz regarding the continuing tragedy in the former Portuguese colony of East Timor, which was invaded and occupied by Indonesia in 1975. By sending that letter, my colleagues and I wanted to ensure that East Timor receive international attention to help alleviate the suffering in that territory. I intend to pursue further efforts of this nature on the East Timor issue in 1988, not only because the suffering in East Timor persists, but also because silence can only help to breed further abuses in that little-known territory. I cannot, in good conscience, allow the plight of East Timor to continue without comment.

While the situation has improved since the traumatic days of the late 1970's and early 1980's, there should be no doubt that abuses in East Timor continue. A December 13, 1987 article in the Sunday Boston Globe makes that abundantly clear. So do persistent reports from a wide variety of religious and secular sources. The article in the Globe paints a grim picture of widespread fear among the Timorese population. It discusses abuses of detainees, and notes that the little the world hears about East Timor is merely a reflection of the tight restrictions placed on visitors, and the people whom they attempt to visit, by the Indonesian military.

The United States should do more about the East Timor situation. After I sent my letter last year, the State Department rapidly briefed my staff and claimed that there were no longer human rights problems in East Timor. This was strikingly similar to what I heard earlier in this decade when I first became involved in the tragedy of Timor. I do not dispute that the situation in Timor is better in 1988 than in 1981. But I also cannot dispute the numerous first-hand reports I have received about continuing violations in the area.

And if the U.S. Government should do more to address human rights violations in East Timor, so should others. Beginning this month, the U.N. Human Rights Commission will meet in Geneva to discuss the East Timor situation and other questions. I urge all members of the Human Rights Commission to approve the strongest possible resolution on the Timor situation. While there have been some improvements in Timor in recent years, this in no way outweighs the gravity of general conditions in the territory or the feelings of the inhabitants, who have thus far been denied any meaningful say in their own future. After as many as 150,000 to 200,000 East Timorese deaths as a result of the Indonesian assault, it is vital that the situation not be allowed to deteriorate any further. Current reports make it clear that serious human rights problems persist in East Timor. The U.N. Human Rights Commission will, I hope, act accordingly.

For the benefit of my colleagues, I ask that excerpts from the December 13, 1987 Boston Globe be published in the RECORD along with a New York

Times article concerning the letter I sent with my Senate colleagues last year.

The material follows:

[From the Boston Globe, Dec. 13, 1987]

A "HIDDEN HOLOCAUST" IN THE PACIFIC

(By Richard H. Stewart)

It has been called the "hidden holocaust," so far removed from the world's consciousness that only a handful of people are aware of the tragic events that have ravaged the population of the little-known Pacific island of East Timor.

It has been estimated that as many as 200,000 people out of a population of nearly 700,000 have perished from violence, starvation and disease since the 1975 invasion by troops of Indonesian dictator General Suharto.

Based on a population comparison, this would be comparable to 36 million deaths in the United States.

International human-rights organizations such as Amnesty International and Asia Watch as well as a coalition of inter-national church groups have provided reports of the brutality inflicted on the Timorese by Indonesian forces, including summary executions, beheadings, torture, imprisonment without trial and the use of civilians as human walls in front of Indonesian troops battling guerrilla forces.

Some civilians who have "disappeared" from their villages have been reported by several independent sources to have been dropped to their deaths from helicopters. There have been reports of a photograph in an Indonesian newspaper showing Indonesian soldiers holding up the heads of their Timorese victims.

Exact death tolls can only be estimated because the Indonesians have virtually shut off the island to access by outsiders. But sources with contacts in East Timor insist the reports of inhuman treatmnet by the Indonesians are not exaggerated.

THE STAGGERING STATISTICS

The International Committee of the Red Cross has been able to provide food and medical aid to limited parts of the island and is the only humanitarian organization allowed access to the island, even on a restricted basis.

Some evidence of the human suffering can be surmised from the report in 1985 of East Timor Gov. Mario Carrascalao, who said that 100,000 East Timorese had died since 1975 and the island had 20,000 orphans, 13,000 widows and 8,000 crippled or maimed.

The 12-year agony of the Timorese began Dec. 7, 1975, when Indonesian troops invaded the island under the guise of preventing a communist takeover. They claimed that the East Timorese had sought integration with Indonesia.

In the aftermath of the invasion, the United States protested its illegality by announcing an embargo on the sending of American weapons to Indonesia. The embargo was nothing more than a political smokescreen. Professor Benedict Anderson of Cornell University, an Asia expert, discovered from a Pentagon report that the flow of arms to Indonesia had never been halted.

Prior to 1975, East Timor had been under Portuguese rule for 400 years, but the Portuguese government has all but abandoned the island in the wake of domestic political problems at home, leaving it vulnerable to Indonesian expansionist interests.

Ten days before the invasion, the East Timorese declared themselves independent from Portugal under the rule of a political party known as The Revoluntionary Front for the independence of East Timor, which became better known as Fretilin.

To counter Indonesian forces, Fretilin leaders formed an armed guerrilla force, which has harassed the Indonesian military ever since.

Most recent estimates are that nearly two-thirds of the island, about the size of New Jersey, still has not been secured by Indonesian troops.

Last August, 40 U.S. senators protested conditions in East Timor and wrote to Secretary of State George Shultz that Indonesian forces were engaged in "a renewed offensive" against Timorese insurgents. Similar protests have been lodged by 144 members of Congress.

A former apostolic administrator (the Catholic diocese is being administered from the Vatican rather than from Indonesia) from 1977 to 1983, Msgr. Martino da Costa Lopes, outlined the conditions of the population in a private letter last year:

"In the interior, in many villages and concentration camps, the people lack the conditions of life to enable them to survive as a people . . . the people live in a state of permanent encirclement. They are not allowed to go more than three kilometers outside their villages. In addition, they always have to have a 'pass' issued by the Indonesian military authorities.

"It happens easily that East Timorese are accused of having contact with the guerrillas and then they become victims of torture, massacres, etc."

Msgr. Costa Lopes has testified that, when foreign visitors requested a meeting with him at his East Timor home, his home was first searched and Indonesian intelligence officers were often present during the discussions.

East Timor is predominantly Catholic. Indonesia is a Moslem nation.

CONDITIONS IN EAST TIMOR

Sources recently in contact with East Timor offer this picture of current conditions there:

A knock on the door is enough to make people afraid. Homes are raided and searched. People suspected of sympathizing with or supporting the guerrillas are arrested, often at night. People are afraid to be seen talking in groups.

It is illegal to listen to foreign broadcasts. People are arrested for having aerials. When foreign broadcasts do refer to East Timor, military vehicles tour the capital city of Dili with loudspeakers denouncing the broadcasts as lies.

Most jobs and places in schools go to Indonesians who have been moved into the island. Indonesian culture and language is being forced on the Timorese.

On the rare occasions when foreigners are allowed to visit, they are restricted in their movement. Indonesian soldiers are dressed in civilian clothes, and military vehicles are taken off the streets.

When foreign journalists visited the island during Indonesian elections in April, people were forced to take part in pro-Indonesian demonstrations. Even the prison population was released to swell the ranks of the demonstrators.

People who did not vote could not get identification cards, which are required for jobs and other means of survival.

Prisoners are held in secret prisons, which the Red Cross is not allowed to visit. Prisoners are beaten and tortured and some have been murdered.

Restrictions on movement make it difficult to grow crops, and severe malnutrition has resulted in some rural areas. Indonesia has taken control of the lucrative coffee crop.

Food shipped in from Indonesia is too expensive for many of the Timorese. There is a high mortality rate for children up to age 5.

Indonesia has instituted a highly-active birth-control program, particularly in the interior where guerrillas are most active, using Deprovera, a vaccine banned in most Western countries. The birth-control program is financed by the World Bank. Some men and women have been sterilized without their knowledge during medical treatment.

Medicines are so scarce that hospitals have a shortage. Medicines are also so expensive that much of the indigenous population can't afford them. Birth control is free.

The current apostolic administrator. Msgr. Carlos Ximenes Belos, is under close military scrutiny Military vehicles are frequently positioned outside his home.

Although the United Nations General Assembly condemned the indonesian invasion soon after it occurred, 38, nations, including the United States, abstained. The resolution has been reaffirmed annually through 1982 but with dwindling support.

Indonesia's anticommunist government, its oil resources and strategic location between the Pacific and Indian oceans give it considerable international clout.

Portugal has neither the political will nor the military power to challenge the Indonesians, although there have been talks between the two nations.

A source in Lisbon said, "Indonesia feels it can keep protests at a lower level and avoid political embarrassment by agreeing to talks and making them drag on for as long as possible."

[From the New York Times, Aug. 9, 1987]

SENATORS VOICE CONCERN ON TIMOR

(By Richard Halloran)

A bipartisan group of 40 senators has written to Secretary of State George P. Shultz about what they called "a renewed Indonesian military offensive against Timorese insurgents."

It was unusual for that many senators, led by Dave Durenberger, Republican of Minnesota, and Daniel Patrick Moynihan, Democrat of New York, to express concern for a situation that draws little public attention.

Mr. Durenberger said in a statement that "by sending this letter, my colleagues and I want to insure that East Timor receives international attention that will help to alleviate the tragic suffering of the Timorese people."

Timor is an island at the eastern end of the Indonesian archipelago. During the colonial era, it was under Dutch rule in the west and Portugese rule in the east. Indonesia inherited the Dutch portion when it gained independence and invaded East Timor in 1975.

Since then, according to repeated reports by Roman Catholic and humanitarian organizations, the Indonesians have sought, often with military force, to subdue East Timorese nationalist insurgents, many of whom are Catholics. Indonesia is largely Moslem. The statement by Mr. Durenberger said "international human-rights organizations and church bodies estimate that 150,000 East Timorese, one fifth of the

island country's population, have perished from warfare and famine over the past 12 years."●

"NATIONAL KNOW YOUR CHOLESTEROL MONTH"

Mr. KARNES. Mr. President, high blood cholesterol is undeniably a major killer of Americans. As a result, I believe anything we do to educate the public on this disease is time well spent. In recent years, cholesterol awareness has grown steadily and I can assure you this knowledge has not evolved by accident.

Indeed, the cholesterol education of America can largely be attributed to the efforts of numerous dedicated groups and individuals. The National Institutes of Health, along with countless other public and private organizations, has been deeply involved in the study of blood cholesterol levels. In addition, my predecessor, the late Senator Edward Zorinsky, was extremely committed to cholesterol research and education. As you will recall he was the first of our colleagues to introduce cholesterol awareness legislation in the Congress.

Because Senator EXON and I are very interested in cholesterol awareness, we are following up on Senator Zorinsky's lead. Last week we introduced Senate Joint Resolution 243, a joint resolution proclaiming the month of April 1988 as "National Know Your Cholesterol Month."

It is my hope that during the month of April, Americans will make an effort to have their blood cholesterol level checked. We can only guess at the number of lives such an initiative may save, but I am sure it would eventually be in the hundreds of thousands.

In conjunction with the April observance, the National Heart Savers Association—an organization dedicated to promoting cardiac health—will be on Capitol Hill once again to provide cholesterol screening. Last April, over 9,600 Senators, Representatives, and Capitol Hill employees took advantage of this opportunity.

Mr. President, there are many ways to decrease the likelihood of contracting heart disease. Knowing your cholesterol level is perhaps one of the most important such means. I urge each of our colleagues to support this important resolution and to participate in the second annual Capitol Hill cholesterol screening.●

TREATMENT OF THE PEACE CORPS UNDER THE INSPECTORS GENERAL BILL: S. 908

● Mr. CRANSTON. Mr. President, on Tuesday of this week, the Senate passed S. 908, the proposed "Inspector General Act Amendments of 1988." That measure contained certain provisions, in section 5, relating to the internal audit and investigation functions of the Peace Corps and a number of other entities not having inspectors general.

As originally introduced, those provisions of the bill would have had an adverse effect on the Peace Corps' unique personnel system. Under that system—which is designed to ensure the ongoing infusion of new blood and new ideas and the opportunity for returned volunteers to serve on Peace Corps staff—Peace Corps employees generally may serve in that agency for no more than 5 years and, upon leaving Peace Corps employment, may not be rehired for a period of time equal to their prior period of employment. This is called the 5-year rule and is unique in the Federal Government. The bill as introduced would have given the head of the Peace Corps' audit unit employment authorities that would not have been subject to that rule. In my view, making the audit unit exempt from the 5-year-rule could have caused its staff members to be perceived as having a special tenure status not available to those employed in other Peace Corps offices and thereby caused a serious loss of morale as well as other internal problems. Thus, the drawbacks of the proposed modification to the Peace Corps personnel system would have unquestionably outweighed any benefit that would have been derived from the establishment of a career service for the purpose of ensuring greater continuity in investigations and auditing.

Due to these concerns, I initiated a letter, in which I was joined by the chairman of the Foreign Relations Subcommittee on Western Hemisphere and Peace Corps Affairs, Mr. DODD, to the very able chairman of the Governmental Affairs Committee, Mr. GLENN, to urge him to make a modification in S. 908 with respect to the Peace Corps—in order to avoid making a harmful change in the Peace Corps' personnel system.

As we stated in our June 11, 1987, letter to Senator GLENN on this subject:

> Favoring, as we do, the other provisions of S. 908 that would strengthen the Peace Corps' audit function, we believe it would be unwise to risk diminishing the Peace Corps' ability to carry out its vital work by making it subject to sweeping legislation affecting a host of other, dissimilar agencies without providing the exception that we believe is necessary in light of its unique mission and structure.

In response, Senator GLENN indicated that the bill as reported by the Committee on Governmental Affairs was not subject to this criticism because it modified the original version to make the internal audit head's personnel-appointment authority subject to the applicable law and regulations governing the Peace Corps employment.

Mr. President, I am very grateful to Senator GLENN for his excellent cooperation on this matter and the concern for the vitality of the Peace Corps which his actions in this matter have reflected. I thank him for his courtesy and great responsiveness to the concerns we brought to his attention.

Mr. President, I ask that my exchange of correspondence with Senator GLENN on this subject be printed in the RECORD at this point.

The material follows:

COMMITTEE ON FOREIGN RELATIONS,
Washington, DC, June 11, 1987.

Hon. JOHN GLENN,
Chairman, Committee on Governmental Affairs, U.S. Senate, Washington, DC.

DEAR JOHN: We are writing in connection with your Committee's consideration of legislation, in section 5 of S. 908, the proposed "Inspector General Act Amendments of 1987," to strengthen the internal audit capacity of various executive branch agencies which do not have an Inspector General and for which none is proposed in the bill. We are generally very supportive of this effort but wish to urge strongly that you make one modification with respect to the Peace Corps—in order to avoid making a very harmful change in the Peace Corps' personnel system.

The modification we seek would provide the Peace Corps with an exception to the provision, in subsection (f) of new section 8D of the Inspector General Act of 1978 (as proposed to be added by section 5(a) of the bill), that would give the head of each agency's internal audit unit the authorities set forth in section 6(a)(6) of that Act "to select, appoint, and employ . . . officers and employees . . . subject to the provisions of Title 5, United States Code, governing appointments in the competitive service" and to certain provisions of that title relating to pay.

The Peace Corps has a unique personnel system which was specially-tailored in 1965 to meet the particular needs of this overseas Volunteer agency. Under the 1965 legislation (Public Law 89-134), as amended in 1985 (section 1103(a) of Public Law 99-83), the Peace Corps' personnel authority for its United States citizen employees consists of time-limited foreign service appointments, which Peace Corps employees generally may not hold for more than 5 years (with the possibility of serving up to 6 years or 7½ years in certain exceptional cases). Thus, the Peace Corps personnel system was designed for the employment of a staff which, like the Volunteers they support, consists of individuals who view working in the Peace Corps as a special opportunity for service rather than as a career.

Separating out the Peace Corps' audit unit for different treatment—making audit unit members Civil Service personnel and exempting them from the 5-year rule—would have a very serious detrimental effect on the agency.

First, the 5-year-rule exemption could be interpreted as a message from the Congress that the mission of the audit unit is of a more important, higher order than other Peace Corps offices. Although the audit function is clearly very important, its responsibilities do not warrant elevation above other Peace Corps offices.

Second, making any particular Peace Corps office exempt from the 5-year rule could create a very serious morale problem.

In 1981, the Congress enacted legislation Senator Cranston authored and Senator Dodd cosponsored (section 601 of Public Law 97-113) to restore the Peace Corps' independence, removing the Peace Corps from the ACTION Agency. Under that legislation, more than 450 career civil service employees were transferred from the ACTION Agency to the Peace Corps. These employees were required, within 3 years after the enactment of the 1981 law, to accept limited foreign service appointments, which all United States-citizen employees of the Peace Corps hold. It would clearly be inequitable to those employees—of whom more than 200 are still in Peace Corps employ—to make one office exempt from the 5-year rule, to which all others are subject.

Third, such special treatment of audit personnel could, after a few years, bestow on that office an artificially-created aura of being the experienced "experts" on what the Peace Corps should be like and how it should function. In our view it would be most unwise to confer status on any office of the Peace Corps.

We are aware that some may argue that the audit function requires career personnel and more of an "institutional memory" than the 5-year rule allows or that, since the audit unit is not a policy-making office, it is not important for the 5-year rule to apply to it.

Responding to this argument it is not the case that audit units do not play a policy role. In our experience, audit units, although not charged with developing agency policy, clearly can and often do have a major impact in the creation or modification of policy. As the Chairman or ranking minority member of an authorizing committee, the Veterans' Affairs Committee, with oversight responsibility over an agency, the VA, having an Inspector General for the last 9 years, Senator Cranston is aware of a host of examples of the IG's profound influence on agency policy.

Moreover, the argument regarding the need for career audit personnel could be made as well for other Peace Corps administrative offices and its legal office, for example, as well as its program offices. Obviously, in all such cases, what is involved is a trade-off between the desirability of a personnel system that is attuned to the volunteer concept and provides for a continuing infusion of fresh blood and new ideas (including, in this case, new audit concepts and possibly more objectivity), on the one hand, and one that provides for longer-term staff more experienced in the agency's programs, on the other hand.

We, and we believe many others who have worked closely with the Peace Corps over the past two decades, credit the 5-year rule with contributing greatly to the agency's vitality and constantly renewed vision. Congress has not decided that any Peace Corps office should be a "career" office.

John, we are convinced that it would be a serious mistake to enact an exception in S. 908 to the Peace Corps' 5-year rule. The Peace Corps has a great record of working to help the peoples of developing Nations fight poverty, illiteracy, and malnutrition and to promote world peace and understanding. Favoring, as we do, the other provisions of S. 908 that would strengthen the Peace Corps' audit function, we believe it would be unwise to risk diminishing the Peace Corps' ability to carry out its vital work by making it subject to sweeping legislation affecting a host of other, dissimilar agencies without providing the exception that we believe is necessary in light of its unique mission and structure. For your convenience, we are enclosing a draft amendment to S. 908 to provide this exception.

Thank you for your consideration of this important issue. If you have questions or need further information, please have a member of your staff contact Ed Scott.

With warm regards,

Cordially,

CHRISTOPHER J. DODD,
Chairman, Subcommittee on Western Hemisphere and Peace Corps Affairs.

ALAN CRANSTON,
Chairman, Subcommittee on East Asian and Pacific Affairs.

DRAFT AMENDMENT TO S. 908, THE PROPOSED "INSPECTOR GENERAL ACT AMENDMENTS OF 1987"

(Purpose: To provide the Peace Corps with an exception to the internal audit unit head's civil service employment authorities)

On page 15, line 9, strike out "Sections" and insert in lieu thereof "(1) Except as provided in paragraph (2), sections".

On page 15, lines 13 through 17, redesignate clauses (1) through (4) as clauses (A) through (D), respectively.

On page 15, between lines 18 and 19, insert the following:

"(2) Clause (7) of section 6 shall not be applied to the internal audit unit and internal audit unit director of the Peace Corps.

COMMITTEE ON GOVERNMENTAL AFFAIRS,
Washington, DC, September 9, 1987.

Hon. CHRISTOPHER J. DODD,
Russell Senate Office Building,
Washington, DC.

Hon. ALAN CRANSTON,
Hart Senate Office Building,
Washington, DC.

DEAR CHRIS AND ALAN: I am writing in response to your joint letter concerning that provision of S. 908, the Inspector General Act Amendments of 1987, which would authorize the head of an agency's internal audit to employ officers and employees. On June 30, 1987, the Governmental Affairs Committee agreed to amend S. 908 to accommodate the Peace Corps' and other designated Federal entities' unique personnel systems. Specifically, S. 908, as reported to the floor with a favorable recommendation by the Committee, provides:

In addition to the other authorities specified in this Act, an internal audit unit director is authorized to select, appoint, and employ such officers and employees as may be necessary for carrying out the functions, powers, and duties of the internal audit unit and to obtain the temporary or intermittent services of experts or consultants or an organization thereof, subject to the applicable laws and regulations that govern such selections, appointments, and employment, and the obtaining of such services, within the designated Federal entity.

At this time, I would greatly appreciate your cosponsorship of S. 908. Information concerning the provisions of the bill are contained in the Committee's Report to accompany S. 908, numbered 100-150. If you are interested in cosponsoring, please have your staff contact Stephen Ryan or Lorraine Lewis.

Sincerely,

JOHN GLENN,
Chairman.●

S. 557 AND SECTION 504 OF THE REHABILITATION ACT: COVERAGE OF PERSONS WITH CONTAGIOUS DISEASES OR INFECTIONS

● Mr. CRANSTON. Mr. President, last Thursday, January 28, in connection with Senate action on S. 557, the proposed Civil Rights Restoration Act, an amendment to the bill was adopted relating to the protection under the provisions of section 504 of the Rehabilitation Act of 1973 of individuals with contagious diseases. This amendment, coauthored by my friend from Iowa [Mr. HARKIN], chairman of the Subcommittee on the Handicapped, was designed to allay any fears employers may have in hiring and retaining employees with contagious diseases. I fully endorse the Harkin-Humphrey amendment.

Prior to Senate consideration of this Harkin-Humphrey amendment, however, the Senator from Colorado, Mr. ARMSTRONG, and my colleague from California [Mr. WILSON] discussed at some length their interpretations of the Supreme Court decision in the Nassau County School Board versus Arline case and, in the case of Senator WILSON, the amendment itself. I believe that a number of points they made regarding the case and coverage for handicapped individuals under section 504 warrant a response, and thus, as the Senate coauthor with Senator STAFFORD of section 504, I am taking this opportunity to respond and to seek to clarify the issues involved.

SECTION 504

Mr. President, section 504 of the Rehabilitation Act of 1973 was enacted to ensure that recipients of Federal assistance deal fairly and reasonably with disabled individuals who are seeking to participate more fully in our society and in the activities of our commercial, professional, recreational, social, and governmental institutions. It prohibits Federal and federally assisted programs from discriminating against "otherwise qualified" handicapped individuals solely on the basis of their handicapping conditions.

During 1972, 1973, and 1974, I chaired, at the request of Senator Randolph, then-chairman of the Labor and Public Welfare Committee's Subcommittee on the Handicapped, a series of hearings regarding the range of problems facing disabled persons and restricting their opportunities for rehabilitation, work, and participation in society. One of the results of those hearings was the Rehabilitation Act of 1973, including section 504, which I crafted with my friend from Vermont

[Mr. STAFFORD], and three other great friends of disabled persons, Senators Javits, Williams, and Randolph.

Although that legislation was twice vetoed by President Nixon, it was finally enacted on September 26, 1973, as Public Law 93-112.

However, section 504 was originally limited in its applicability to individuals who had a physical or mental disability which constituted or resulted in a substantial handicap to employment and who could be expected to benefit from vocational rehabilitation, and it quickly became clear that the scope of section 504 needed to be clarified.

Thus, the following year we same five Senators proposed and the Congress enacted in the Rehabilitation Act Amendments of 1974—Public Law 93-516—a much broader definition of "handicapped individual" for purposes of the section 504 nondiscrimination provisions and the provisions in section 503 requiring certain Federal contractors to take affirmative action in the hiring and employment of handicapped persons. This definition includes any individual, first, who has a physical or mental impairment substantially limiting a major life activity; second, who has a record of such an impairment; or third, who is regarded as having such an impairment.

In enacting section 504 and the broadening definition, Congress recognized that much of the discrimination facing disabled individuals is not the inevitable result of their handicapping conditions, but, rather, arises out of the false perceptions and prejudices that others hold about individuals who have those conditions. The clear congressional intent was to sweep broadly—to change attitudinal barriers which had served so unfairly to deprive disabled persons of the rights and opportunities afforded to other Americans. Our goal was to ensure that individuals are evaluated individually based on their abilities—rather than only on any disabilities that they might have—and that unfair, blanket assumptions were not made about any individual, or categories of individuals, because of a real or perceived handicapping condition.

1978 AMENDMENTS REGARDING DRUG AND ALCOHOL ABUSERS

Mr. President, in 1978, concerns—similar to those which were discussed last Thursday by the Senator from Colorado and others regarding contagious diseases—were raised that sections 503—the contractor-affirmative-action provision—and 504—the antidiscrimination provision—of the Rehabilitation Act would compel certain airlines and other companies having Federal contracts or receiving Federal assistance actively to recruit and employ alcoholics and drug users or force employers to hire and retain alcoholics or drug users to perform jobs for which their condition made them unsuited or could endanger the public safety.

Although clearly the "otherwise qualified" standard, which has been in the law ever since it was originally enacted in 1973, would prevent such an outcome, many employers were nevertheless concerned. Thus, legislation was enacted which provided that the term "handicapped individual" would not include any individual who is an alcoholic or a drug abuser and whose current use prevents him or her from performing the duties of the job or whose employment would, by reason of current use, constitute a direct threat to the property or safety of others. That provision clarified by restating in statutory language the prevailing interpretation of, and clear congressional intent underlying, section 504.

In the course of the debate on the amendment of Senator CANNON, from which the provision ultimately enacted was derived, the then-chairman of the Human Resources Committee, Senator WILLIAMS, in a statement beginning on page 30323 of the RECORD for September 20, 1978, made very clear the view that the amendment was unnecessary and simply codified the existing interpretations of the Attorney General and Secretary of Health, Education, and Welfare. Senator WILLIAMS noted that the need for the legislation arose out of "misunderstandings and distortions concerning employment rights of alcoholics and drug dependent persons" and stated that the amendment would protect alcoholics and drug dependent persons from discrimination, and also would reassure employers that it is not the intent of Congress to require any employer to hire a person who is not qualified for the position or who cannot perform competently in his or her job. Moreover, an employer would remain free to consider past employment and work performance records of all applicants and to fire any employee whose job performance is unsatisfactory.

Senator WILLIAMS also expressed the view that the use of the word "qualified" in sections 503 and 504 "already serves * * * [the] purpose" of meeting employers' legitimate concerns regarding their employees' "capacity for safe, effective job performance" and that the amendment "merely reconfirms that, for purposes of sections 503 and 504 as they relate to employment, the term 'handicapped individual' does not include any person * * * whose * * * alcoholism or drug abuse renders that person not qualified * * *."

Senator HATHAWAY, then-chairman of the Human Resources Committee's Subcommittee on Alcoholism and Drug Abuse, whose remarks appeared in the RECORD immediately after Senator WILLIAMS, also stated that he did not believe that a "clarifying amendment is necessary."

Although the 1978 amendment literally stated that, for purposes of sections 503 and 504 as they relate to employment, the definition of "handicapped individual" did not include an alcoholic or drug abuser whose current use prevented performance of the job or constituted a direct threat to property or safety, that amendment did not result in any basic change in the process under section 504 by which it is determined whether the individual claiming unlawful discrimination is handicapped and whether that individual is "otherwise qualified," taking into account—as in the case of all other handicapped persons—any reasonable accommodations that should be made to enable him or her to perform the job satisfactorily. The practical effect, therefore, is the same as it would have been if the amendment had provided an exclusion from a definition of the term "otherwise qualified"—which is not defined statutorily.

THE ARLINE DECISION

Mr. President, the Supreme Court's decision in the School Board of Nassau County versus Arline case is completely consistent with congressional intent and case law on section 504 of the Rehabilitation Act. It does not, as the Senator from Colorado [Mr. Armstrong] contended, in his statements beginning on pages 378 and 381 of the RECORD for last Thursday, January 28, extend or expand the protections of section 504 to a new category of individuals to which it previously did not apply. There is absolutely no basis whatever in the language of section 504 or any other provision of the Rehabilitation Act, in the legislative history thereof, or in the implementing regulations for excluding handicaps resulting from contagious diseases from the scope of section 504. Thus, the Arline decision contained no surprises and does not in any sense represent judicial legislation. Rather, the Arline decision serves to ensure that the letter and the spirit of the law will be fully implemented.

Mr. President, under section 504 as interpreted by the Supreme Court in the Arline case, if a handicapped individual's employment would present a signficant risk to the health or safety of others, which a reasonable accommodation by an employer would not avoid, he or she would not be considered to be "otherwise qualified" for the job. This "otherwise qualified" standard provides the type of safeguards and protections for the public health and safety that the Senator from Colorado [Mr. ARMSTRONG] is concerned about. Section 504 does not require that employers hire all disabled individuals for all jobs. Rather, it provides disabled individuals with the opportunity to have their cases

judged on their merits and to be free of unjust and unjustifiable discrimination.

Mr. President, the Senator from Colorado misrepresented the Arline decision in his remarks last Thursday, by implying that it would somehow require federally assisted organizations to take unwarranted risks in the health of other persons through the employment of persons with contagious diseases. On the contrary, the Court held that "a person who poses a significant risk of communication of an infectious disease to others * * * will not be otherwise qualified" and agreed with the American Medical Association that employment decisions about persons with contagious diseases should be based on reasonable medical judgments. The decision was well-reasoned and sensible. It protects handicapped individuals from being denied employment because of unfounded and irrational fears while, at the same time, providing for the protection of the public health and safety.

Mr. President, I want to emphasize that neither the Supreme Court in the Arline decision nor I am suggesting that the rights of handicapped individuals should be protected to the detriment of the public health or that other individuals should be placed at risk of harm. In fact, in the brief that I, joined by Senators STAFFORD, WEICKER, KENNEDY, INOUYE, and SIMON, and 30 Members of the House of Representatives submitted to the Supreme Court in support of the holding reached in the Arline case, we specifically stated that we "do not seek, and would oppose, any interpretation of section 504 that would require exposing schoolchildren, or any other individuals, to an appreciable risk of contracting a serious disease."

Mr. President, the Senator from Colorado contends that the Arline decision will "tie the hands of employers in making * * * decision[s] for the protection of other employees, of students and the general public." The Arline decision clearly states that, if an individual poses a significant risk to others based on sound medical judgment and a reasonable accommodation would not eliminate that risk, then the employer would be fully within his or her rights to discharge or not hire that individual. What section 504 does prevent is an employer firing, or refraining to hire, an individual because of misperceptions, ignorance, or irrational fears.

Mr. President, the Senator from Colorado also contended that the Arline decision will mean that "more healthy children and adults will be unwillingly exposed to persons with communicable disease" because employers will not want to face the possibility of a court hearing. That same type of argument could be made about any handicap currently covered under section 504 and the so-called burden that the law places on businesses. I simply do not agree. Section 504 has worked and has established an appropriate balance between protecting the rights of handicapped individuals and the public health and safety.

Mr. President, for an excellent analysis of the Arline decision and its importance to handicapped individuals, I would like to refer my collegues to the statement by the distinguished chairman of the Subcommittee on the Handicapped [Mr. HARKIN] which appeared in the March 3, 1987, RECORD beginning on page 4656.

Finally, Mr. President, I want to comment on a statement by my colleague from California [Mr. WILSON] in reference to the Harkin-Humphrey amendment. He stated that the amendment:

> will be an adjustment in the definition of the phrase "handicapped person," to take into account that someone who is currently afflicted with the contagious disease or an infection and who by reason of that would constitute a threat to public safety or by reason of that affliction would be unable to perform the duties. That person will not have the protection that exists for those who simply suffer a handicap and pose no threat of harm to others.

Mr. President, the reference to a lesser degree to protection for certain persons under the Harkin-Humphrey amendment is misleading. That amendment was obviously patterned after the 1978 alcoholism and drug abuse amendment and, therefore, should result in no substantive change in the law. Those whose handicap is the result of a contagious disease or infection would be entitled to the same procedures and application of the same criteria under section 504, including the reasonable accommodation principle, as are all other individuals with handicaps. The outcome in any particular case—whether it involves a contagious disease or some other type of handicapping condition—will depend on the facts of the case, including the individual's abilities, the nature of the job, and the effects of the handicap on the individual's ability to perform it. In this sense, an individual to whom the Harkin-Humphrey amendment applies would have no less protection than anyone else.

Mr. President, just as the 1978 law provided a sensible and balanced solution to the concerns raised, so does the Harkin-Humphrey amendment. It would help allay concerns that employers may have about employees with contagious diseases and infections and would still provide protection against discrimination for handicapped individuals. I congratulate Senators HARKIN and HUMPHREY for their efforts in achieving this goal●

SRI LANKA'S FORTIETH ANNIVERSARY

● Mr. LUGAR. Mr. President, Sri Lanka celebrates the 40th anniversary of its independence. I would like to take this occasion to congratulate a country which during the past four decades has provided an outstanding example of democratic growth and economic development.

In Sri Lanka, democratic institutions have indeed struck deep roots. In the course of seven national elections since independence, power has changed hands peacefully and voter turnout has been consistently high. Sri Lanka's parliamentary system is bolstered by the country's laudable success in education, with literacy rates approaching 90 percent for both men and women.

The economy of Sri Lanka has turned in a solid performance in recent years, with a growth rate of over 4 percent registered for last year. Since 1977, the government of President Jayewardene has moved toward a more market-oriented system and has promoted decentralization and entrepreneurship. Foreign investment has been successfully encouraged through the establishment of free trade zones. At the same time, foreign assistance has been channeled into beneficial projects such as the Maheweli hydroelectric and irrigation program in which the United States participates along with five other countries.

The United States has enjoyed a close bilateral relationship with Sri Lanka over the past 40 years. We welcome Sri Lanka's policy of permitting port calls by U.S. naval vessels. Sri Lanka has long hosted a Voice of America station on its territory, and a project is underway to upgrade the station as part of a new worldwide VOA Program. And in foreign affairs, we recognize Sri Lanka as a force for moderation.

The United States welcomed the peace accord signed July 29, 1987, between Sri Lanka and India providing for a cessation of hostilities in the Tamil conflict and an attempt to provide greater home rule. We commend the efforts by all parties to implement the accord under difficult circumstances and trust that realization of this agreement will help maintain the human rights of all Sri Lankans.●

SENATE CONFIRMATION OF THE APPOINTMENT OF THE COMMISSIONER OF FOOD AND DRUGS

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 124, H.R. 1226.

May we have order in the Senate. If there is no order in the Senate and

until we get order in the Senate we will not proceed.

The Senate is doing the people's business, Mr. President. May we have order in the Senate.

The PRESIDING OFFICER (Mr. ADAMS). The Senate will be in order. Those in the gallery will take their seats. They are guests of the Senate. We ask them to please refrain from conversation.

Senators will take their seats so that the majority leader may be heard. The Senate will be in order.

Mr. BYRD. Was the title stated?

The PRESIDING OFFICER. The clerk will report the bill.

The legislative clerk read as follows:

A bill (H.R. 1226) to amend the Federal Food, Drug, and Cosmetic Act to require the appointment of the Commissioner of Food and Drugs to be subject to Senate confirmation.

The PRESIDING OFFICER. Without objection, the Senate will proceed with consideration of the bill.

AMENDMENT NO. 1401

(Purpose: To establish the Food and Drug Administration by law, and for other purposes)

Mr. GORE. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Tennessee [Mr. GORE] proposes an amendment numbered 1401.

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

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

The amendment is as follows:

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 "Food and Drug Administration Act of 1987".

SEC. 2. FINDINGS.

Congress finds that—

(1) the public health has been effectively protected by the presence of the Food and Drug Administration during the last eighty years;

(2) the presence and importance of the Food and Drug Administration must be guaranteed; and

(3) the independence and integrity of the Food and Drug Administration need to be enhanced in order to ensure the continuing protection of the public health.

SEC. 3. ESTABLISHMENT OF ADMINISTRATION BY LAW.

(a) ESTABLISHMENT.—Chapter IX of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 391 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 903. FOOD AND DRUG ADMINISTRATION.

(a) IN GENERAL.—There is established in the Department of Health and Human Services the Food and Drug Administration (hereinafter in this section referred to as the "Administration").

"(b) COMMISSIONER.—

"(1) APPOINTMENT.—There shall be in the Administration a Commissioner of Food and Drugs (hereinafter in this section referred to as the "Commissioner") who shall be appointed by the President by and with the advice and consent of the Senate.

"(2) GENERAL POWERS.—The Secretary, through the Commissioner, shall be responsible for—

"(A) providing overall direction to the Food and Drug Administration and establishing and implementing general policies respecting the management and operation of programs and activities of the Food and Drug Administration;

"(B) faithfully executing this Act;

"(C) faithfully executing any other federal laws for which responsibility for administration has been delegated to the Commissioner from the Secretary;

"(D) coordinating and overseeing the operation of all administrative entities within the Administration;

"(E) research relating to foods, drugs, cosmetics, and devices in carrying out this Act;

"(F) engaging in educational and public information programs relating to the responsibilities of the Food and Drug Administration; and

"(G) performing such other functions as the Secretary may prescribe.

"(a) TECHNICAL AND SCIENTIFIC REVIEW GROUPS.—The Secretary through the Commissioner of Food and Drugs may, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, establish such technical and scientific review groups as are needed to carry out the functions of the Administration, including functions under the Federal Food, Drug, and Cosmetic Act, and appoint and pay the members of such groups, except that officers and employees of the United States shall not receive additional compensation for service as members of such groups.".

(b) CONFORMING AMENDMENTS.—Title 5, United States Code, is amended—

(1) in section 5316, by striking out the item relating to the Commissioner of Food and Drugs, Department of Health and Human Services; and

(2) in section 5315, by adding at the end thereof the following new item:

"Commissioner of Food and Drugs, Department of Health and Human Services".

(c) EFFECTIVE DATE.—(1) The Amendments made by this Act shall take effect on the date of enactment of this Act, except as provided in paragraph (2).

(2) Section 903(b)(1) of the Federal Food, Drug, and Cosmetic Act (as added by subsection (a) of this section) shall apply to the appointments of Commissioners of Food and Drugs made after the date of enactment of this Act.

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

The amendment (No. 1401) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. KENNEDY. Mr. President, I rise to speak on behalf of H.R. 1226, a bill to amend the Federal Food, Drug, and Cosmetic Act to require the appointment of the Commissioner of Food and Drugs to be subject to Senate confirmation. The Food and Drug Administration firmly stands to protect the food and supply of drugs and medical devices for the American public. I have advocated this provision since 1978 when I introduced legislation addressed to the findings of 4 years of legislative oversight of the FDA and the pharmaceutical industry.

Appointment of the Commissioner of the Food and Drug Administration does not currently require confirmation by the Senate. This is in contrast to nearly all other appointments at the same level in the administration, such as the Surgeon General. H.R. 1226 would simply require Senate confirmation of the Commissioner of the Food and Drug Administration, to allow greater Senate oversight over the important duties of the FDA. In addition, H.R. 1226 will establish in law that the FDA Commissioner shall have the authority to perform functions related to the administration of the Food, Drug and Cosmetic Act.

I am pleased to offer this legislation for the consideration of the Senate, and wish to thank Senator GORE, sponsor of the amendment to it, for his energy and commitment on behalf of this bill.

Mr. GORE. Mr. President, it is time we let everyone know that they can count on having FDA around for many years to come. The legislation we are about to pass ensures that there will always be an FDA and that its head will be a Commissioner appointed by the President and subject to Senate confirmation. The Commissioner will have the responsibility for carrying out the Nation's food and drug laws.

I hope my colleagues see this measure for what it is intended to be, a routine measure, long overdue, and I hope my colleagues will be quick to support it.

For more than a century, the Food and Drug Administration has stood for solid protection of our food supply and medicines. All of us here can understand the importance of an independent and dependable FDA.

From the Pure Food and Drugs Act of 1906 to the Infant Formula Act of 1980, Congress has always turned to the FDA to ensure and enhance the public health. Its jurisdiction includes vital areas of public health, ranging from approval of drugs and food additives to inspection of medical devices and consumer complaints. Through the years, the agency has developed a worldwide reputation for professionalism and expertise.

We in Congress should strive to protect and promote that reputation for excellence. This amendment would give the FDA an independent Commissioner, appointed by the President and subject to congressional approval. An

independent Commissioner will answer to Congress and the American people, not to several other agencies in the administration.

The head of every other major Federal health and safety agency is currently subject to Presidential appointment and Senate confirmation with a single exception—FDA. This includes the heads of the Federal Aviation Administration, the Environmental Protection Agency, the Occupational Health and Safety Administration, the National Highway Traffic Safety Administration, the Consumer Product Safety Commission, and the Nuclear Regulatory Commission.

The FDA is larger than the CSPC and the NRC, and more powerful than NHTSA or OSHA. It seems only reasonable to require the FDA Commissioner to account to Congress just as so many other commissioners must do.

Besides making the FDA Commissioner a Presidential appointment, this amendment would clarify the FDA's place in the executive process by having the Commissioner report directly to the Secretary. It also ensures the continued record of objectivity and professionalism that have become the hallmark of FDA technical and scientific review groups.

Mr. President, this legislation should enjoy the support of industry and public advocates alike. In the past, the current arrangement has resulted in serious delays in decisionmaking—delays that have endangered the public health and cost industry millions of dollars. I think we will all benefit from an independent and accountable FDA.

We must never allow red tape to stand in the way of progress or public safety. It's time to let the FDA concentrate on the business of safeguarding the health of the American people.

Mr. President, I hope my colleagues will support this small but essential step to bolster the independence of this tremendously important agency.

The PRESIDING OFFICER. 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 a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, shall it pass?

So the bill (H.R. 1226) was passed.

Mr. GORE. Mr. President, I move to reconsider the vote by which the bill was passed.

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

The motion to lay on the table was agreed to.

PUBLIC HEALTH SERVICE AMENDMENTS ACT

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 506.

The PRESIDING OFFICER (Mr. WIRTH). The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 1968) to amend the Public Health Service Act to provide for National and Regional Centers for Pediatric Emergency Medical Services, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 1402

(Purpose: To remove the section that provides for National and Regional Centers for Pediatric Emergency Medical Services)

Mr. BYRD. Mr. President, on behalf of Mr. KENNEDY 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 West Virginia [Mr. BYRD], for Mr. KENNEDY, proposes an amendment numbered 1402.

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

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

The amendment is as follows:

On page 1, line 5, strike out "1987" and insert in lieu thereof "1988".

Beginning on page 2, strike out line 1 and all that follows through page 6, line 25.

On page 7, line 1, strike out "3" and insert in lieu thereof "2".

Amend the title so as to read as follows: "To amend the Public Health Service Act to make certain technical amendments, and for other purposes".

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

The amendment (No. 1402) 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 the third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 1968

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 "Public Health Service Amendments Act of 1988".

SEC. 2. TECHNICAL AMENDMENTS.

(a) Section 788(d)(1)(D) of the Public Health Service Act (42 U.S.C. 295g-8(d)(1)(D)) is amended by striking out "(other than training and retraining of faculty for schools of medicine and osteopathy)".

(b) Section 788(e) of the Public Health Service Act (42 U.S.C. 295g-8(e)) is amended—

(1) in paragraph (1), by striking out "physicans and dentists" and inserting in lieu thereof "physicians, podiatrists, and dentists";

(2) in paragraph (2)—

(A) by inserting "and, where appropriate, full-time or part-time teaching podiatrists" after "physicans" in subparagraph (A); and

(B) by inserting ", or in a department of geriatrics established prior to November 14, 1986" before the semicolon in subparagraph (C);

(3) in paragraph (3)(A)—

(A) by striking out "and" at the end of clause (i);

(B) by striking out the period at the end of clause (ii) and inserting in lieu thereof "; and"; and

(C) by adding at the end thereof the following new clause:

(iii) podiatrists who are faculty members at colleges of podiatric medicine or at hospital postdoctoral residency programs,";

(4) in paragraph (3)(B)—

(A) by striking out "and" at the end of clause (i);

(B) by striking out the period at the end of clause (ii) and inserting in lieu thereof "; and"; and

(C) by adding at the end thereof the following new clause:

"(iii) podiatrists who have completed postdoctoral residency programs."; and

(5) in paragraph (4)—

(A) by striking out "and" at the end of subparagraph (A)(ii);

(B) by striking out the period at the end of subparagraph (B)(ii) and inserting in lieu thereof "; and"; and

(C) by adding at the end thereof the following new subparagraph:

"(C) the term 'post-doctoral residency program in podiatric medicine' means a program sponsored by a college of podiatric medicine, a hospital, or public or private institution, which—

"(i) offers post-doctoral training in the specialties of podiatric medicine; and

"(ii) has been accredited by the Council on Podiatric Medical Education."

(c) Section 701 of the Public Health Service Act (42 U.S.C. 292a) is amended—

(1) by adding at the end of paragraph (4) the following new sentence: "The term 'graduate program in clinical psychology' means an accredited graduate program in a public or nonprofit private institution in a State which provides training leading to a doctoral degree in clinical psychology or an equivalent degree."; and

(2) by striking out paragraph (14).

(d) Section 702(a)(1)(A) of the Public Health Service Act (42 U.S.C. 292(a)(1)(A)) is amended by inserting before the semicolon "and clinical psychology".

(e) Section 704 of the Public Health Service Act (42 U.S.C. 292d) is amended—

(1) by striking out "or any training center for allied health personnel" in the first sentence and inserting in lieu thereof ", any training center for allied health personnel, or any graduate program in clinical psychology"; and

(2) by striking out "or training center" each place it appears in the first and second sentences and inserting in lieu thereof ", training center, or graduate program".

(f) Section 338C(b)(5)(A) of the Public Health Service Act is amended by inserting "clinical psychology" after "podiatry".

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

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

The motion to lay on the table was agreed to.

NATIONAL CHILD PASSENGER SAFETY AWARENESS WEEK

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of House Joint Resolution 402.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 402) to designate the week of February 7-13, 1988 as "National Child Passenger Safety Awareness Week."

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. LAUTENBERG. Mr. President, I rise in support of House Joint Resolution 402, legislation to designate the week of February 7-13, 1988, as "National Child Passenger Safety Awareness Week." This legislation will help promote public awareness of the importance of child passenger safety.

I am pleased to be the sponsor of the Senate companion of this legislation. I would like to note that 51 of my colleagues have joined in cosponsoring Senate Joint Resolution 214.

Since coming to the Senate, I have worked to improve safety on our roads and highways. Over the last several years, tremendous progress has been made. Promising airbag technology continues to improve. Legislation I authored to raise the minimum drinking age was passed, and that law has resulted in tangible savings of lives.

Mr. President, we are saving hundreds of teenage lives a year. But there is another group we need to look after—the small children riding as passengers in our cars.

Motor vehicle crashes are the leading cause of death and crippling of children over the age of 6 months in the United States. More children under the age of 5 are killed or crippled as a result of motor vehicle crashes than the total number of children killed or crippled by the seven most common childhood diseases. Between 1978 and 1986, nearly 9,300 children under the age of 5 were killed, and more than 450,000 children were injured, as a result of traffic crashes.

Children can be highly vulnerable as motor vehicle passengers, much more so than adults. For example, an unrestrained child is less protected by padding and energy-absorbing materials than an adult in a motor vehicle crash because protective devices are placed in areas more likely to benefit adults. In addition, because their bodies are less developed and provide less protection, unrestrained children are subject to a significantly higher risk of serious head, spine, chest, and abdominal injury in a crash than older passengers.

The death of any child is a tragedy. But what is particularly tragic about the deaths and injuries of children involved in motor vehicle accidents, is that they are so often preventable if simple precautions are taken. Research shows that the correct use of child passenger protection devices is over 70 percent effective in preventing death and 67 percent effective in preventing injury in motor vehicle crashes.

However, despite the fact that all 50 States and the District of Columbia have laws mandating the use of child passenger protection systems, the latest national surveys show that only 72 percent of children under 5 are placed in child safety seats, and that one-third of such seats are used incorrectly. That means that only 48 percent of children under 5 are fully protected in cars through the proper usage of child safety seats.

Mr. President, our children are our future. It's our responsibility to protect them. We need to educate the public about the serious dangers children can face as automobile passengers and the importance of child safety protection devices and their correct use. Next week, "National Child Passenger Safety Awareness Week" will help focus the Nation's attention on the passenger safety of children and help promote the universal and correct usage of child passenger protection devices. Safety groups, law enforcement officials, and health professionals and others in communities across the country will be involved in activities and events designed to underscore the importance of child passenger safety and the precautions necessary to achieve. I urge my colleagues to join me in supporting this resolution.

The PRESIDING OFFICER. Is there further discussion of the joint resolution? If not, the question is on the third reading and passage of the joint resolution.

The joint resolution (H.J. Res. 402) was passed.

Mr. BYRD. I move to reconsider the vote by which the joint resolution was passed.

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

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, I ask unanimous consent that the companion joint resolution (S.J. Res. 214) be indefinitely postponed.

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

NATIONAL BURN AWARENESS WEEK

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Senate Joint Resolution 210.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A joint resolution (S.J. Res. 210) to designate the period commencing February 8, 1988 and ending February 14, 1988 as "National Burn Awareness Week."

There being no objection, the Senate proceeded to consider the joint resolution.

The PRESIDING OFFICER. Is there further debate? If not, the question is on the third reading and passage of the joint resolution.

The joint resolution (S.J. Res. 210) was ordered to a third reading, was read the third time, and passed.

The preamble was agreed to.

The joint resolution, with its preamble, reads as follows:

S.J. RES. 210

Whereas the burn problem in the United States is the worst of any industrialized nation in the world;

Whereas burn injuries are one of the leading causes of accidental death in the United States;

Whereas every year approximately two million people are victims of burn injury in the United States;

Whereas of these injuries, seventy thousand are hospitalized and account for nine million disability days annually;

Whereas approximately twelve thousands people die from burn injuries annually;

Whereas the rehabilitative and psychological impact of burns are devastating;

Whereas children, the elderly, and the disabled are most likely to suffer serious burns;

Whereas it is estimated that approximately 75 percent of all burns could be prevented by proper education of children and adults and the appropriate use of design and technology;

Whereas a general public awareness of the need for smoke detectors and home fire escape plans, in combination with an understanding of the risk associated with items in our home environment, can influence the reduction of injury and loss of life; and

Whereas there is a need for an effective national program that deals with all aspects of burn injuries: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the period commencing February 8, 1988, and ending February 14, 1988, is designated as "National Burn Awareness Week" and the President is authorized and requested to issue a proclamation calling upon the people of the United States and all Federal, State, and local government officials to observe such week with appropriate programs and activities.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the joint resolution was passed. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER FOR COMMITTEES TO REPORT LEGISLATIVE OR EXECUTIVE CALENDAR MATTERS

Mr. BYRD. Mr. President, I ask unanimous consent that committees be permitted to report legislative or executive calendar matters on Thursday, February 11, 1988, between the hours of 10 a.m. and 3 p.m.

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

ADJOURNMENT RESOLUTION

Mr. BYRD. Mr. President, I call up House Concurrent Resolution 242, which is at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 242) providing for a conditional adjournment of the House from February 9 to February 16, 1988, and a conditional adjournment of the Senate from February 4 or 5, to February 15, 1988.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution (H. Con. Res. 242) was agreed to.

THE EXECUTIVE CALENDAR

Mr. BYRD. Mr. President. I inquire of the distinguished assistant Republican leader, Mr. SIMPSON, as to whether or not the following calendar orders on the Executive Calendar have been cleared on that side of the aisle: All calendar orders on page 2, all calendar orders on page 3, and all nominations placed on the Secretary's desk in the Foreign Service appearing on page 4.

Mr. SIMPSON. Mr. President, all of those items on the Executive Calendar have been cleared on this side of the aisle.

Mr. BYRD. I thank my friend.

EXECUTIVE SESSION

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider the aforementioned nominations; that the Senate proceed to the consideration of the nominations en bloc; they that be agreed to en bloc, that the motion to reconsider en bloc be laid on the table; and that the President be immediately notified of the confirmation of the nominees.

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

The nominations considered and confirmed en bloc are as follows:

BARRY GOLDWATER SCHOLARSHIP AND EXCELLENCE IN EDUCATION FOUNDATION

Thomas G. Pownall, of Maryland, to be a member of the Board of Trustees of the Barry Goldwater Scholarship and Excellence in Education Foundation for a term of 2 years.

NATIONAL ADVISORY COUNCIL ON WOMEN'S EDUCATIONAL PROGRAMS

The following-named persons to be members of the National Advisory Council on Women's Educational Programs for terms expiring May 8, 1990:

Esther Kratzer Everett, of New York. (Reappointment.)

Helen J. Valerio, of Massachusetts. (Reappointment.)

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Carolynn Reid-Wallace, of the District of Columbia, to be a member of the National Council on the Humanities for a term expiring January 26, 1992.

NATIONAL ADVISORY COUNCIL ON EDUCATIONAL RESEARCH AND IMPROVEMENT

Robert Lee McElrath, of Tennessee, to be a member of the National Advisory Council on Educational Research and Improvement for a term expiring September 30, 1990.

J. Wade Gilley, of Virginia, to be a member of the National Advisory Council on Educational Research and Improvement for a term expiring September 30, 1990.

DEPARTMENT OF STATE

Richard Salisbury Williamson, of Illinois, to be an Assistant Secretary of State.

John R. Davis, Jr., of California, a career member of the Senior Foreign Service, class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Poland.

Leonard H. O. Spearman, Sr., of Texas, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Rwanda.

Chester E. Norris, Jr., of Maine, a career member of the Senior Foreign Service, class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Equatorial Guinea.

NOMINATIONS PLACED ON THE SECRETARY'S DESK IN THE FOREIGN SERVICE

Foreign Service nominations beginning Richard L. Barnes, and ending David M. Schoonover, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of January 26, 1988.

Foreign Service nominations beginning John A. Sanbrailo, and ending F. Gary Towery, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of January 26, 1988.

LEGISLATIVE SESSION

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

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

SENATE TO RECONVENE ON MONDAY, FEBRUARY 15, 1988

Mr. BYRD. Mr. President, the Senate will reconvene at 12 o'clock meridian on Monday, February 15, 1988. After the prayer, the distinguished junior Senator from North Carolina, Mr. TERRY SANFORD, will deliver the address, George Washington's Farewell Address to the Senate.

There will be no business conducted beforehand. There will be no business conducted thereafter.

ORDER FOR RECESS FROM FEBRUARY 15, 1988, UNTIL 9:30 A.M., FEBRUARY 16, 1988

Mr. BYRD. Mr. President, I ask unanimous consent that, upon the completion of the reading of George Washington's Farewell Address on Monday, February 15, the Senate stand in recess until the hour of 9:30 a.m., hoping that somebody can get here in any kind of weather on Tuesday.

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

THE JOURNAL

Mr. BYRD. I further ask unanimous consent, Mr. President, that on Monday, February 15, 1988, that the Journal be considered approved to that date.

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

ORDER OF PROCEDURE ON TUESDAY, FEBRUARY 16, 1988

Mr. BYRD. Mr. President, the Senate will come in at 9:30 a.m., Tuesday, February 16. Barring any unforeseen inclement weather conditions that would make it difficult for Senators to reach the Senate by 9:30 on that day, I will suggest the absence of a quorum at 10 o'clock unless there is other business on which we can get a vote early. I foresee none at this point.

It would be my plan, then, to move to direct the Sergeant of Arms to direct the attendance of absent Senators and to ask for the yeas and nays on the motion.

Mr. President, if that motion is made—I say "if" because I have no way of knowing, none of us do, what the weather will be like, but it is the middle of February and it could be bad, so I am just going to say "if." If that motion is made at that time, the yeas and nays are ordered, I ask unanimous consent that the call for the regular order be automatic at the conclusion of 30 minutes.

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

FIRST ROLLCALL ON FEBRUARY 16 TO BE A 30-MINUTE ROLLCALL VOTE

Mr. BYRD. That being the first rollcall of the day and being relatively early, I think it should be a 30-minute rollcall vote.

I compliment Senators on getting to the floor and casting their votes within the 15-minute period that has been ordered at the beginning of the 100th Congress.

They are coming to the floor, they are voting, and time is not being extended. I want to thank the leadership on the Republican side for its support of this effort. By virtue of the fact that the leadership on the other side

has been very supportive and all Senators have been supportive, I think that the effort has been met with general approval by Senators on both sides of the aisle. A great deal of time is being saved.

As the Senate goes on into the summer and the sessions become longer and busier, the time that will be saved will be considerable.

Mr. President, if no other Senators wish to address the Senate or if there is no further business to be transacted——

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

Mr. BYRD. I yield the floor.

Mr. SIMPSON. I thank the majority leader.

I do share his views about the voting in these last days. I think nothing arrests the attention of a Senator quite like missing a vote, and certainly that is unfortunate when it happens. But this, indeed, is part of the quality of life that we all agreed we wanted to pursue. Even though it is a little tough and perhaps a little distressing to some, I commend the majority leader for entering that unanimous consent under the rule. We will adhere to it. I think it will add greatly to the process of our deliberations.

(Further remarks of Mr. SIMPSON pertain to the introduction of legislation and will be found in today's RECORD under Statements on Introduced Bills and Joint Resolutions.)

NO MOTIONS OR RESOLUTIONS OVER UNDER THE RULE

Mr. BYRD. Mr. President, I ask unanimous consent that no motions or resolutions over, under the rule, come over on Monday, February 15.

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

CALL OF THE CALENDAR WAIVED

Mr. BYRD. Mr. President, I ask unanimous consent that the call of the calendar under rule VIII be waived for Monday, February 15.

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

Mr. BYRD. Mr. President, does any other Senator wish to speak or conduct business?

Mr. SIMPSON. Mr. President, I would add that I thank the majority leader for the job of moving this critical legislation in these past days, and I look forward to working with him upon our return after the recess period.

Mr. BYRD. Mr. President, I extend my thanks to the distinguished Senator, the assistant Republican leader, for his excellent cooperation.

PROGRAM

Mr. BYRD. Mr. President, I have already indicated that on Monday, February 15, there will be no business, and only the reading of the George Washington's Farewell Address by Senator SANFORD. I hope Senators will come to the floor and listen to that address. I hope and expect to be here. And I trust that others will attend.

On Tuesday, then, the Senate will come in early, and there will be in all likelihood a rollcall vote beginning at 10 o'clock that morning. That would be a 30-minute rollcall vote with the call for the regular order being automatic.

As I indicated earlier, that is the present plan barring unforeseen bad weather conditions.

I hope that it might be possible for our staffs to clear Calendar Order No. 496, an act to authorize appropriations for the Bureau of the Mint for fiscal year 1988. And there is another bill, Calendar Order No. 467, S. 675, a bill to authorize appropriations to carry out the Endangered Species Act of 1973. If the staff could clear action on that measure, it would be much appreciated. And action could perhaps be taken on one or both of those bills on Tuesday, February 16. Other measures may be cleared for action.

ADJOURNMENT TO MONDAY, FEBRUARY 15, 1988

Mr. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the provisions of House Conference Resolution 242, that the Senate stand in adjournment until 12 o'clock meridian on Monday, February 15, 1988.

The motion was agreed to; and, at 9:49 p.m., the Senate adjourned until Monday, February 15, 1988, at 12 noon.

CONFIRMATIONS

Executive nominations confirmed by the Senate February 4, 1988.

BARRY GOLDWATER SCHOLARSHIP AND EXCELLENCE IN EDUCATION FOUNDATION

THOMAS G. POWNALL, OF MARYLAND, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE BARRY GOLDWATER SCHOLARSHIP AND EXCELLENCE IN EDUCATION FOUNDATION FOR A TERM OF 2 YEARS.

NATIONAL ADVISORY COUNCIL ON WOMEN'S EDUCATIONAL PROGRAMS

THE FOLLOWING-NAMED PERSONS TO BE MEMBERS OF THE NATIONAL ADVISORY COUNCIL ON WOMEN'S EDUCATIONAL PROGRAMS FOR TERMS EXPIRING MAY 8, 1990:

ESTHER KRATZER EVERETT, OF NEW YORK REAPPOINTMENT.

HELEN J. VALERIO, OF MASSACHUSETTS REAPPOINTMENT.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

CAROLYNN REID-WALLACE, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 1992.

NATIONAL ADVISORY COUNCIL ON EDUCATIONAL RESEARCH AND IMPROVEMENT

ROBERT LEE MCELRATH, OF TENNESSEE, TO BE A MEMBER OF THE NATIONAL ADVISORY COUNCIL ON EDUCATIONAL RESEARCH AND IMPROVEMENT FOR A TERM EXPIRING SEPTEMBER 30, 1990.

J. WADE GILLEY, OF VIRGINIA, TO BE A MEMBER OF THE NATIONAL ADVISORY COUNCIL ON EDUCATIONAL RESEARCH AND IMPROVEMENT FOR A TERM EXPIRING SEPTEMBER 30, 1990.

DEPARTMENT OF STATE

RICHARD SALISBURY WILLIAMSON, OF ILLINOIS, TO BE AN ASSISTANT SECRETARY OF STATE.

JOHN R. DAVIS, JR., OF CALIFORNIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO POLAND.

LEONARD H.O. SPEARMAN, SR., OF TEXAS, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF RWANDA.

CHESTER E. NORRIS, JR., OF MAINE, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF EQUATORIAL GUINEA.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

FOREIGN SERVICE

FOREIGN SERVICE NOMINATIONS BEGINNING RICHARD L. BARNES, AND ENDING DAVID M. SCHOONOVER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 26, 1988.

FOREIGN SERVICE NOMINATIONS BEGINNING JOHN A. SANBRAILO, AND ENDING F. GARY TOWERY, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 26, 1988.