SENATE—*Thursday, September 8, 1988*

(Legislative day of Wednesday, September 7, 1988)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the Honorable PATRICK J. LEAHY, a Senator from the State of Vermont.

PRAYER

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

Let us pray:

For I am persuaded, that neither death, nor life, nor angels, nor principalities, nor powers, nor things present, nor things to come, nor height, nor depth, nor any other creature, shall be able to separate us from the love of God, which is in Christ Jesus our Lord.—Romans 8:38, 39.

Eternal God, perfect in justice and truth, thank You for this incredible, unconditional, infallible, universal love of which the Apostle Paul writes. Thank You for this stubborn love which will not let go of us in life or in death.

We praise You, Lord, for the return of Senator BIDEN and pray for his continuing, increasing strength. We join the Capitol Police who wear black stripes on their badges, mourning the unexpected death of Officer James William Mishkel, a 20-year veteran of the Capitol Police. May Your infinite compassion comfort his loved ones in their great loss.

Thank You, Father, for healing in life and Your presence through the valley of the shadow. In His name who is incarnate love. 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, September 8, 1988.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable PATRICK J. LEAHY, a Senator from the State of Vermont, to perform the duties of the Chair.

JOHN C. STENNIS,
President pro tempore.

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

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the distinguished majority leader is recognized.

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

RESERVATION OF LEADERSHIP TIME

Mr. BYRD. I ask unanimous consent that the time of the two leaders be reserved.

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

Mr. BYRD. I yield the floor, Mr. President.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 10:30 a.m., with Senators permitted to speak therein for not to exceed 5 minutes.

The Senator from Wisconsin.

WHY BUSH IS WRONG ON 30 MILLION MORE JOBS IN NEXT 8 YEARS.

Mr. PROXMIRE. Mr. President, how about the prediction made by Vice President BUSH in his acceptance speech that in the next 8 years this country could add 30 million jobs? Is this possible or is this pie in the sky? Later in August some economists in the Bush campaign backed a little away from this prediction. They called 30 million jobs a "goal," not a "promise."

Mr. President, the fact is that 30 million jobs by 1996 as a "goal" or a "promise" is ridiculous. It is an absurdity. Here is why I am so sure GEORGE BUSH is wrong. In the past 17 years this Senator has chaired more than 100 hearings before the Joint Economic Committee on employment and unemployment in this country. Every month since April 1971 the Commissioner of Labor Statistics has come before the Joint Economic Committee on the day the Bureau released its statistics on employment and unemployment in our country. Our committee has meticulously monitored those statistics. We have questioned in great detail a series of commissioners and the commissioner's staff on the level of employment in this country. We have heard testimony from the Nation's economic experts from business, from labor, from the great universities of our country on the American job market. Mr. President, these hearings have given us a wealth of material and understanding. We have gained a perspective over the years on the potentialities and the limitations of governmental economic policies to increase or reduce the number of jobs in America.

So how do we evaluate the stunning assertion by Vice President GEORGE BUSH that if he is elected we will increase employment in this country in the next 8 years by 30 million? Mr. President, make no mistake about it; this was a criticially important matter GEORGE BUSH was discussing. There is literally nothing more important to most Americans than their job. A job is not just a meal ticket—important as that is. It is not simply a matter of being able to pay the rent or buy a home, take a vacation, or earn a retirement pension. Our job is what makes most of us know we are worth something. It is our ticket to self-esteem. Work is not everything. But an honest job, the opportunity to produce, to earn our living goes a very long way toward making our life worthwhile.

So how about it? Is the Vice President's vision of 30 million new jobs in 8 years—3¾ million additional jobs every year between now and 1996 an honest possibility? Mr. President, on the basis of 17 years of unremitting and detailed study of the problem of employment and unemployment in our country, the answer is that 30 million additional American jobs in the next 8 years is absolutely impossible.

Here are a few reasons why this is true. At the present time we have the highest rate of employment for every person male and female, 16 years of age and over in our history. The present level of unemployment, 5.5 percent, can probably not be reduced below 3 percent without causing serious inflation. Second, the available pool of American workers will not continue to grow as it has in the past through simple demographic factors. The baby boom crop that followed after World War II and ended about 20 years later is now largely in the work force. The children now in elementary, high school, and college who will be entering the labor force in the next 8 years is far smaller than it has been in recent years. Third, Americans

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

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at work now can be expected to continue to retire at an average age of 62 or earlier and more will be retiring over the next 8 years than ever before. Fourth, with the immigration law that the Congress has just passed, the number of new workers coming into the country from foreign countries is much more likely to diminish in numbers than increase in the next 8 years. Fifth, the influx of women into the work force, which accounted for a large share of its expansion over the past 10 years, is unlikely to continue at the past rate because there is already nearly as high a proportion of women in the American work force as men. It follows that most of the increase in the work force from the influx of women has already taken place.

So why is it likely that the rapid rate of increase in employment over the past 8 years will speed up by nearly threefold? Keep in mind that the past 8 years has seen a very rapid increase in jobs. Consider what would have to happen to our economy to make this near tripling of the rate of job increase possible. If we put every last one of the presently unemployed to work, we would add not 30 million but only 7 million jobs, and we would shoot inflation sky high. The Bureau of Labor Statistics has made three projections of the increase in the American work force between now and the year 2000. These projections are: The most likely work force growth, a low work force growth, and a high work force growth. The highest work force projection made by the Bureau foresees the outside possibility of as many as 13 million additional workers coming into the work force in the next 8 years, that is, by 1996. So if we increase employment to put all of the 7 million presently unemployed workers to work, plus every last one of the 13 million new net entries into the work force, we would have absolutely flat out no unemployment—no one in between jobs, no frictional unemployment at all. None. We would have super inflation as zooming wages shoved up prices. All of this is with 20 million new jobs.

If the Bush projection of 30 million jobs become a reality, we would have 10 million job vacancies without anyone available to fill them. So then what would happen? By sharply increasing wages, we could dissuade older workers from retiring, but this would require major wage increases that would be highly inflationary. We could eliminate programs that now assist young people to go to college and thereby force more of them to go directly to work. But this would deprive the country of the kind of skilled and educated work force essential to our future economic progress. We could repeal the recently passed immigration law. We could throw our borders open to immigration. This would swell our work force in size, but it is not going to happen.

For anyone who has studied the historical record of employment in this country, particularly in recent years, 30 million in the next 8 years is an absurd and gross exaggeration. It is the kind of exaggeration that comes easily to those who tell us we have to increase the present level of spending for the military space station, pay more for scientific endeavor including a multibillion-dollar super atom smasher, billions more for education, additional billions for child care, and new billions for environmental protection. These same people tell us the Congress must absolutely not increase any taxes. The Bush program would even reduce the capital gains tax and increase tax preferences to the tune of $10 billion, according to President Reagan's former IRS Commissioner Roscoe Egger.

As long as we continue to live beyond our means by running mammoth Federal deficits, we will enjoy a deceptively prosperous present while imposing a huge interest cost from the skyrocketing debt on our children and grandchildren. But even that kind of reckless policy will not produce 30 million additional jobs in the next 8 years. And if GEORGE BUSH will put that good mind of his to work for 2 minutes or so, he will realize what a grotesque exaggeration he has handed the country.

Mr. President, I yield the floor.

Mr. REID addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Nevada.

NATIONAL LITERACY DAY

Mr. REID. Mr. President, some time ago my wife, Landra, visited a day care center in Las Vegas and read a book to the children there. The book was called "My Mother Can't Read." At the end of the story, she asked the children to raise their hands if they knew any adults who could not read. Many children raised their hand.

So when our schools do their best to teach these boys and girls, many go home to mothers and fathers, or aunts and uncles, who cannot read and cannot help them with their homework or provide the motivation and support so important for the child's development. As a result, the child is often at a disadvantage in school, and the cycle of illiteracy in the family is perpetuated.

Today is National Literacy Day, marked by various events and seminars conducted in association with the U.S. Department of Education, the International Reading Association, and the American Newspaper Publishers' Association Foundation.

It is a day when I can assess how much Nevada has accomplished in addressing the problem of illiteracy. Over the past year, Landra chaired a task force challenged with developing a statewide literacy effort in Nevada, in the context of a public-private partnership. A proposal was completed last week and presented to Gov. Richard Bryan. This is a very important first step to addressing a problem that is getting out of control.

The problem is continually cited in an onslaught of headlines, such as one in a Nevada newspaper that reads "Hundreds of Job Applicants Can't Read, Write, or Add."

While international competitors grow stronger, American businesses struggle with workers that have insufficient reading skills.

Take the example of Bently Nevada Corp., the world's largest supplier of electronic instruments used by powerplants and other factories. Thousands of dollars have been wasted on training assemblers who cannot follow instructions. Critical parts have been damaged because the assemblers did not understand technical manuals.

Bently Nevada has since instituted strict job eligibility requirements and testing measures.

Unfortunately, Bently is one of a growing number of American companies that must reconcile a poorly skilled work force with an increasingly sophisticated workplace.

This is not the only example. There are many all over the country.

Mr. President, when Kennecott went out of business in eastern Nevada and closed after having been in business some 70 years, the retraining money that was supplied by Congress and the administration to retrain these displaced workers was not used. The Governor asked why. One of the main reasons was because displaced workers could not fill out the application forms to obtain these retraining moneys.

The literacy initiatives, such as the one that my wife has helped develop in Nevada, are more than educational initiatives that help those who cannot read or write.

All of us benefit. By promoting literacy, we can begin to stem the hidden costs of illiteracy: the increasing number of welfare beneficiaries, the crime, and the lost taxes and lost productivity.

We are beginning to realize that confronting the challenges of illiteracy is too great a task for the Government to tackle on its own. The Federal, State, and local governments have begun working together throughout the country with private sector, labor, academic institutions, volunteers, and local communities. An exciting trend toward public-private partnerships is emerging, characterized by a widespread base of support and participation.

Nevada is only one of many States heading in this direction. Our idea is not a new one. But addressing illiteracy does not call for being creative and unique. It calls for what works. I have observed persons and groups with disparate views put aside questions of turf and ideology, and come together in a cooperative effort to create a more literate, productive society.

It is an exciting trend that holds promise for reversing our country's spiraling illiteracy rate.

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

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

The bill clerk proceeded to call the roll.

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

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

SENATOR REID'S SPEECH ON ILLITERACY

Mr. LEAHY. Mr. President, during the past few months I have had occasion when presiding at the beginning of the session to hear the distinguished Senator from Nevada, now the Presiding Officer, speak on several topics. One was his concern about drunk drivers. I find that here is a case where we live nearly a continent apart, but we both have something in common—States that are small in population where people not only know each other, but also have a sense of self-reliance and duty to their neighbors.

When the distinguished Senator spoke on the issue of those who drive while under the influence, I could not help but think back to my own experience as a prosecutor. As our country became increasingly aware of the problem of drunk driving, many solutions were proposed. I supported efforts to provide alcohol education from grade school on up, as well as improving alcohol rehabilitation programs. But, as a prosecutor, I realized that the most effective way to handle drunk drivers was, of course, to get them off the road.

You are not going to be killed by a drunk driver, you are not going to be injured by a drunk driver, and you are not going to have damage by a drunk driver if that person, he or she, is not driving a car. It is as simple as that. Of course, this requires very tough drunk driving laws, strenuous enforcement of those laws, and a strong commitment on the part of the public to these laws. It can be done.

As State's attorney I had a rule that you did not give anybody a break. Anyone picked up for drunk driving was treated the same, regardless of who they were. It did not make any difference if the drivers were political officials, community leaders, or a stranger passing through town. They were all treated the same.

Once I recommended to a judge that he sentence a convicted driver to jail, fine him and suspend his license. I turned to the defense attorney and asked him if he had any comments to make. He said yes, he had just one request; that was, if he ever needed a heart transplant, could he have mine because he said it had not yet been used. I may have been tough, but I was proud that deaths resulting from drunk drivers dropped almost 50 percent in the jurisdiction.

When I was State's attorney, you would go by some of the local night spots on a Sunday morning, and think that everybody's business was booming because the parking lots were full of cars even though the place was closed. But that was because people were taking cabs instead of driving home drunk. Tough enforcement of the laws did not mean people could not drink. It just put them on notice not to drive when you drink.

Mr. President, I also wanted to mention Senator REID's speech this morning on adult illiteracy. Again, on this subject, I feel a bond between Nevada and Vermont. My sister, Mary Leahy, runs the Barre Learning Center and works with adult illiterates in Vermont. I know how hard she works. She spends evenings and weekends working with adults, teaching them for the first time how to read. She even takes students on trips into a city to show them how to read street signs, and how to fill out applications.

This morning, Senator REID mentioned the problems when a major plant closed in his State. Many of the people who lost their jobs were unable to fill out applications for programs that might have been available to the displaced workers. I thought of my sister Mary telling me about people who have been driving without a driver's license for years and applying for their first driver's license. They had never applied before, not because they could not drive, but because they did not want to admit to anybody, including the members of their family, that they could not read. They could drive beautifully, but they could not read the forms to apply.

There are also cases in Vermont where people who were bright and responsible workers could not take a job promotion, even though they needed the money, because they could not read. If they took the promotion, they might have to read directives and memos, instead of having somebody tell them what to do. They could not do it.

I remember being with Mary once when a man who had been a sergeant in Vietnam told me how he was now learning to read for the first time. He had somehow worked his way through the service faking it.

There was no question he was as bright as most people you would ever meet. But now, like so many other parents Mary has helped, he could sit down with his children and read to them; something that I took for granted as a parent. Reading bedtime stories to my children is one of the greatest joys I had as a parent.

There is a huge number of adults who cannot read, not only in my State, but throughout the country. Nobody is taking the time to teach them how to read. Nothing gives this Senator greater pleasure to sit down and read. And other people can learn to be anything they want to be if they can read about it.

I am glad the Senator from Nevada has discussed this important issue. There are many Americans who should be able to read in this country—the wealthiest and most powerful nation in the world. Because of the efforts taken by the wife of the Senator from Nevada, my sister Mary, and many others, some will start to learn how to read. But this country ought to do more on that. Eliminating illiteracy is important to the strength of our Nation.

I applaud the Senator from Nevada for raising this important point today.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

TO EXTEND NEPA REPORTING REQUIREMENTS TO U.S. PARTICIPATION IN INTERNATIONAL BANKS

Mr. SYMMS. Mr. President, on August 25, the Senate Environment and Public Works Committee reported an original bill to address a very pressing problem, and that is the U.S. contribution to environmental destruction around the world. I strongly support S. 2753, and this is why—

The United States contributes over $1 billion a year to international financial institutions [IFI's]. Sadly, we have not closely scrutinized where that money has gone and what it has accomplished. We are just now finding out that much of the development we have financed cannot be sustained.

TROPICAL DEFORESTATION

Unsustainable development can have devastating environmental effects, including deforestation, erosion, desertification, water pollution, and waterborne disease. Tropical deforestation,

in particular, is becoming an increasing concern with IFI lending practices. Unsustainable development has reduced Brazil's coastal forest to less than 10 percent of what it was in Darwin's time. The tropical dry forests of the Central American Pacific Coast are now 98 percent nonexistent. And in the Amazon and Zaire basins, coastal West Africa, Central America, and the archipelagos of Southeast Asia, closed tropical forests have already been cut back an estimated 44 percent from their original climatic range of 1.6 billion hectares.

Many biologists believe that these official statistics understate the extent of forest clearing. The World Commission on Environment and Development estimates that in addition to outright clearing of between 7.6 and 10 million hectares of tropical forests each year, another 10 million hectares are grossly disrupted. At the same time, reforestation efforts lag far behind. In Africa, at least 29 trees are cut for every 1 planted. In the Northwest, in Idaho, we plant 10 trees for every 1 that is harvested.

The economic benefits of clearing rain forests have often proved shortlived. In the Amazon Basin, for instance, at least half of the 15 to 17 million hectares of forest converted to pasture and cropland are now abandoned. The heavy rains bleach out nutrients quickly, leaving the land totally unsuitable for domestic agricultural cultivation.

Of the many environmental concerns associated with tropical deforestation, the two most prominent are first, climate change, and second, loss of biodiversity.

CLIMATE CHANGE

Forests play a crucial role in the global cycling of carbon. The Earth's vegetation and soils hold some 2 trillion tons of carbon, roughly triple the amount stored in the atmosphere. When trees are cleared or harvested, the carbon they contain, as well as some of the carbon in the underlying soil, is oxidized and released to the air, adding to the atmospheric store of carbon dioxide (CO_2). This release occurs rapidly if the trees are burned, but slowly if they decay naturally.

Since 1960, forest clearing has contributed some 90 to 180 billion tons of carbon to the atmosphere, compared with 150 to 190 billion tons from the burning of coal, oil, and natural gas. Together deforestation and the combustion of fossil fuels have raised the level of CO_2 in the atmosphere from 280 ppm in preindustrial times to 348 ppm in 1987, a 24-percent increase. Like a one-way filter, carbon dioxide lets energy from the Sun pass through it but absorbs the longer wavelength radiation emitted from the Earth—a phenomenon dubbed the greenhouse effect. The result is an anticipated warming of the Earth. At the American Geophysical Union's 1986 annual meeting, it was reported that cutting South American evergreen forests could precipitate a regional temperature rise of 3 to 5 degrees Centigrade.

The Worldwatch Institute cites studies showing that tropical deforestation alone could have been responsible for the release of as much as 2.5 billion tons of CO_2 in 1980, almost 50 percent as much as worldwide fossil fuel combustion that year. Twenty percent of this deforestation occurred in Brazil, 37 percent in tropical Asia, and 23 percent in tropical Africa.

Widespread deforestation also impairs the capacity of some tropical systems to recycle inland rainfall, as has been demonstrated in the Amazon. This phenomenon may be related to the past 20 years of drought in Africa. The erosion and soil deterioration that accompany deforestation exacerbate drought conditions, possibly contributing to famines like that in Ethiopia.

LOSS OF BIODIVERSITY

Some ecologists believe that the most serious, long-term global problem resulting from deforestation will be the loss of a large portion of the Earth's biological diversity within a few decades. Although only about 500,000 species of tropical organisms have been named, there could be more than 3 million yet to be discovered. Terry Erwin, of the Smithsonian Institution, estimates from preliminary biotic sampling of the upper forest strata that the true number of insect species alone many approach 30 million or more.

Assuming existence of only 3 million species of tropical organisms, the better known group distributions can be used to project how many species could be destroyed or damaged in the next 15 years under current deforestation. For plants, 120,000 of the estimated 165,000 tropical species would not survive. A total of 2.2 million tropical species could be endangered.

The loss of these species would have damaging effects on human standards-of-living. Numerous tropical plants exhibit unique chemical and organic characteristics. Oral contraceptives are produced from Mexican yams; muscle relaxants used in surgery come from an Amazonian vine traditionally used to poison darts; the cure for Hodgkin's disease comes from the rosy periwinkle, a native of Madagascar; and the gene pool of corn was recently enriched by the discovery of a wild perennial relative in the mountain area of Mexico.

THE U.S. ROLE IN DEVELOPMENT LENDING

The debtor countries of Latin America, Africa, and Southeast Asia seldom have the capital to finance their own development. A significant portion must come from outside sources. The United States Government participates in a number of institutions that provide such capital, commonly termed multilateral development banks [IFIs]. More than 88 percent of the outside capital entering Third World debtor countries in the last 8 years has either come directly from IFIs or from commercial banks and businesses in Japan, Europe, or the United States with an IFI providing technical assistance, negotiation, or guarantee.

IFI investment portfolios are determined by individual bank policies, which are theoretically controlled in turn by member-country representatives on the bank's governing board. In most IFIs, the vote of the board is divided up proportionately to the share of bank capital contributed by each member-country. The United States' vote varies from bank to bank, ranging from a high of 34.5 percent in the Inter-American Development Bank to a low of 5.3 percent in the African Development Bank. The United States controls 18 percent of the vote in the World Bank, the IFI accounting for 70 percent of all IFI lending.

The decision as to how the United States will use its vote is ultimately a responsibility of the Secretary of the Treasury. Treasury is advised by the Working Group on Multilateral Assistance [WGMA], an informal group representing State, the Fed, Commerce, Interior, USDA, STR, AID, EX-IM, Labor and Transportation. Some of these agencies have claimed they receive too little information on each loan, with too little time to review it, and their recommendations are seldom reflected in the final Treasury decision.

CURRENT ENVIRONMENTAL REQUIREMENTS

Congress, acting principally through its appropriations committees for IFI funding, has already given Treasury several specific instructions to address the environmental impacts of IFI loans. The continuing resolution for 1987 included directives that the Secretary of the Treasury instruct U.S. Executive Directors (who represent the U.S. in bank votes) to promote the following:

Addition of professional-trained staff in the banks;

Development of plans for systematic and thorough environmental review of projects;

Creation of line units to carry out such reviews;

Establishment of multidisciplinary planning processes;

Development of plans for rehabilitation and management of ecological resources;

Involvement of health and environmental ministers and nongovernmental organizations in the project preparation cycle; and

Increase in the proportion of environmentally-beneficial lending.

Again, the 1987 C.R. reiterated much of the previous year's require-

ments, and further instructed Treasury to:

Analyze debt/conservation swaps;

Discuss with other donors personnel and financial support for environmental programs in the regional development banks;

Enhance early-warning system to identifying problematic loans;

Report on comprehensive strategy to address natural resource problems;

Discuss integrated pest management with other member nation executive director; and

Promote a requirement that the IMF conduct an analysis of the impact of adjustment policies and conditionality on environment, public health, natural resources and indigenous peoples.

Somewhat in response, the World Bank carried out in 1987 a major reorganization of management and staff. A central environmental department was established in the Policy, Planning and Research complex. Twenty-three positions have been authorized for the three divisions of the Bank. In addition, 22 positions have been assigned to environmental units created in the technical departments of the Bank's four regional offices.

THE ROLE OF NEPA

The environmental problems caused by unsustainable development may have finally attracted the attention of Congress, Treasury, and the Banks, but an effective way of addressing such concerns has yet to be adopted. The C.R. language leaves Treasury with a number of environmental requirements that it must consider when casting the vote of the U.S. on bank proposals. What is lacking is an effective and systematic means of employing those requirements. S. 2753 provides this means.

The National Environmental Policy Act [NEPA] was established to "improve and coordinate Federal plans, functions, programs, and resources." It is under the auspices of NEPA that nearly all environmental effects of U.S. Government action are considered. Such an assessment process, integrating environmental considerations in economic and policy decisions, is becoming increasingly popular in many other countries as well. NEPA is one of the statutes to which Patricia Adams, executive director of the Canadian Probe International, referred when she said:

Multilateral banks devote few resources and apply little scrutiny to these issues because they have been permitted to operate in a vacuum, and have not had to answer to the public of any nation. In the rare cases when the banks carry out environmental assessments, they are usually conducted by consultants hired by the proponents of the project—the IFI or the government of the aid-receiving country. Residents of the lending or the borrowing country never have the opportunity to see these assessments, test their assumptions, or challenge their conclusions.

Public scrutiny, public hearings, and freedom-of-information legislation would not end all unsound projects. But comparing the environmental record of the United States to that of Canada, Britain, or any other country in which citizens have weaker or nonexistent rights to any open policy-making process yields the inescapable conclusion that information is an important source of power. Armed with information, the public could challenge the value of proposed projects, and might be able to prevent environmental disasters before they begin.

By extending NEPA or a NEPA-like process to loan decisions, S. 2753 offers the possibility of broader participation and comment on potential environmental effects. This bill, in the true spirit of NEPA which is not a prohibitive or prescriptive statute, simply requires that information be generated, considered, and made available in a consistent and organized manner. Such a process would significantly improve the IFI's somewhat ad hoc environmental assessments. Besides merely improving the assessment process, however, I project that S. 2753 will result in several significant improvements in IFI lending and environmental policy overall. For example:

First, the flagging of environmentally-degrading loans will increase the likelihood that such loans will not be made.

Second, while some types of lending will be discouraged, the bill should encourage in their place micro-enterprise and smaller scale entrepreneurial lending which is more sustainable.

Third, the bill would also require Treasury to "consult with and obtain the comments of any Federal agency which has jurisdiction by law or special expertise." This reinforces the interagency consultation process.

Fourth, the bill requires that all pertinent information be assembled in a public document. Information on environmental effects of bank loans has not been so organized in the past.

Fifth, Treasury must request that environmental documents be made available no less than 120 days in advance of a vote. This would force environmental assessment to be done early in the loan review process. It also allows enough time to bring particularly destructive loans to the attention of bank-member countries before the loan is finalized.

For these and many other reasons, I urge that S. 2753 be brought before the Senate and passed at the leaderships' soonest possible opportunity.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. SYMMS. Mr. President, might I inquire from the majority leader if it would be possible to get 5 additional minutes for some more inserts in the RECORD?

EXTENSION OF MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that morning business continue for 5 minutes, that the Senator be recognized, and may speak therein, and then that the Senate resume consideration of the textile bill.

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

The Senator is recognized for an additional 5 minutes.

Mr. SYMMS. I thank the Presiding Officer, and I thank the distinguished majority leader.

THE COMMUNITIES FOR A GREAT NORTHWEST TIMBER INDUSTRY SOLIDARITY RALLY

Mr. SYMMS. Mr. President, last month, on Saturday, August 20, over 600 people gathered in Farragut State Park near Coeur d'Alene, ID, to express their support for wise multiple use management of this country's national forest lands.

These people were not paid to be present at the rally, to stand and cheer in spite of the periodic rain showers. In fact, they paid to be there. The availability of timber to local mills in northern Idaho is that important to them. To a timber company executive, a decline in timber milled means lost revenue. But the majority of the people at this rally were not industry executives. They were the loggers, the truckers, the mill workers, and mechanics. To them, its their very livelihoods that are at stake.

There wasn't a soul at that rally who advocated cutting down trees at the expense of destroying the forests of northern Idaho. These people are foresters—and they think like farmers. They harvest trees only because they know that through their intensive reforestation efforts and careful stewardship, there will be trees to harvest in northern Idaho for centuries to come.

The Federal Government owns two-thirds of Idaho's land base, and a much higher percentage of its forest base. Because of this, Uncle Sam has a near monopoly on the timber supply to north Idaho's mills. The timber industry is forced to look to the U.S. Forest Service for the logs its needs to stay alive.

That is why I invited Forest Service Chief Dale Robertson to speak at that rally last month. Mr. President, with all due respect to the great men who have served as Chief of the Forest Service in the past, may I say that I have never heard a Chief give any better speech—it was right on the mark. Chief Robertson showed that he knows what it means to be dependent on the forest for a living. And while he emphasized that managing a forest re-

quires balancing conflicting uses, he strongly endorsed those Forest Service personnel who can do so in a spirit of cooperation and not controversy.

I ask unanimous consent that his prepared remarks be printed at this point in the RECORD, and urge my colleagues to pay close attention to how this son of an Arkansas factory worker struck a chord with 600 plus hard-working Idahoans last month.

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

REMARKS BY F. DALE ROBERTSON, CHIEF U.S. FOREST SERVICE AT FARRAGUT STATE PARK, ID

Thank you Senator Symms. Let me add to that introduction: I grew up on a farm in the foothills of the Ozark Mountains in Arkansas. That was poor country. My dad worked in the local shoe factory. My mother and I worked the farm. It took all three of us, working together, to make a decent living.

I still remember, as a young boy, my dad coming home from work and saying, "The shoe factory is closing down; I've lost my job!" I still remember the fear, frustration, anger, and pain that my family went through. I still remember my dad and mother asking themselves the same question over and over, "What do we do now?"

Things eventually worked out. My dad created his own job by going into business for himself. But that experience is something that I will never forget.

PEOPLE MATTER

People matter! I don't make decisions lightly that affect people—their jobs, families, communities, and way of life. I know the importance of jobs associated with the National Forests. There are about 500,000 of them, and a lot of people who hold those jobs are here at this rally. I know the importance of those jobs for families and communities. I know the importance of a strong, diversified economy, too, that creates opportunities for a growing population.

Without that strong economy, most other things just don't work out very well, for jobs, families and communities. We only have to look back a few years, to 1982-83, when the timber industry was laid on its back by poor markets, to see that, and the pain and suffering which that inflicted on people and their communities.

That bust was due to poor markets, and the Forest Service doesn't have a lot of control over markets. But the timber supply is another story. Future timber supply matters, and we can collectively do something about it with decisions about managing both public and private forest lands. That's why the National Forest plans are so important, and why incentives to improve forest productivity on private lands are important, too.

We can do something about the future timber supply, and the Forest Service intends to do our share. We're going to be a significant, reliable supplier of timber from the National Forests.

MULTIPLE USE

But the National Forests are much more than just a source of timber, as important as that is. There are many other things that matter, too!

The National Forests are also important for fish and wildlife. They contain about 50 percent of the nation's big-game habitat, and more than half of the spawning and rearing grounds for salmon and steelhead in the Northwest. They're important for water—the lifeblood of the West. The National Forests are the source of three-fourths of the West's water supply.

They're important for recreation and wilderness, with National Forest recreation use more than double the National Parks, and about 80 percent of the wilderness in the lower 48 states. They're vital for energy and minerals, for grazing, and other uses, and for the 25 percent of their receipts that go for schools and roads in your counties and communities.

When you add it all up, there are so many things on the National Forests that really matter to the people of Idaho and the Northwest. And we need to manage all of those resources to encourage strong, diversified, local economies. We want the National Forests to be an asset, not a liability, to you, your community, and your State.

We want them to contribute their utmost to your economic wellbeing, your quality of life, the stability and growth of your communities, and the quality environment and lifestyle that westerners are so accustomed to.

STAND BY OUR PLANS

That all seems simple enough, doesn't it? Our forest plans will make the National Forests an asset to communities. Yet we've had so much conflict and controversy over working out the details of the National Forest plans. We've had so much debate, and it continues.

In my opinion, if we have a single "silver bullet" that can meet our needs and find room in the National Forests for everyone's purposes, it's the multiple use management concept, with the details of those uses being worked out in partnership between Forest Service professionals and people who care about the National Forests.

To use that "silver bullet," we've got to have a cooperative attitude among all of the partners, with a willingness to give and take a little here and there to accommodate the reasonable needs of everyone.

We've been developing plans for managing the National Forests, and we've come through some difficult and controversial times in getting those plans completed. But I don't feel "beat up" at all by that process. Rather, I feel "upbeat," because people like you—who have a stake in the outcome—are willing to get actively involved.

The management of the National Forests is simply too important to be left up to the Forest Service without involving the people most affected by that management. So we've sat down together, talked and reasoned together, and worked together to work out Forest Plans here in Idaho and Montana that are reasonable and good. We're still working on the plans in Oregon and Washington.

These plans represent our best judgments, trying to balance all of the multiple uses on what we know now. But they aren't perfect, and never will be. They will be changed as we go along and gain experience. They don't represent everything that everyone wanted—I'm not sure they every could. But, at some point, we've got to stop debating and start delivering. We need to quit fighting over the plans, and move on to carry them out, because people—their jobs, communities, and way of life—are at stake.

There simply must be a special bond between the Forest Service and the local people. That bond needs to be strengthened. And now we have a rallying point: Let's get on with full implementation of the forest plans.

EPITAPH FOR AN UNCOMMON DIPLOMAT

Mr. SYMMS. Mr. President, I think we were all saddened to hear the loss of President Zia, of Pakistan. With President Zia in that airplane was a fine American general, General Wasson and also a fine American professional diplomat, Arnie Raphel.

Mr. President, last January I had the privilege of visiting Pakistan and visiting the Khyber Pass. I spent a night in Ambassador Raphel's house with his lovely wife and him, and we had an opportunity to discuss the issues there.

My sympathy goes out to her and to the family of this fine diplomat.

I would like to say, also, that in the process of this that when I left Pakistan after spending 3 days in the country I was very, very proud to be an American, and I was particularly proud of the job that our people in the United States were doing in Pakistan helping to see that Pakistan stays free but also helping to see that the mujaheddin will be successful and freedom will prevail in Afghanistan.

I said when I first heard of the C-130 crash that took the lives of President Zia, our Ambassador, and our general who was there, that I will be surprised if the fingerprints of the KGB are not found over the wreckage of the C-130. I still stand with that belief because it has been no secret that the KGB were operating out of Kabul, training Pakistanis and Afghans that were sympathetic to their cause to go back into Pakistanis and commit acts of terrorism against Pakistani civilians.

I ask unanimous consent to print in the RECORD at the conclusion of my remarks an editorial in Newsweek magazine by Gregg Easterbrook, the contributing editor, an Epitaph of an Uncommon Diplomat.

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

(See exhibit 1.)

Mr. SYMMS. Oftentimes those of us in Congress are very critical of the activities of the U.S. State Department, but this uncommon diplomat is one diplomat who gave his life for freedom and for this country and for a cause that he believed in and was doing a marvelous job, and I hope that his family realizes that many of us appreciate the duties that he carried out and the job that he did that made all Americans and all people all over the world who love freedom very proud.

EXHIBIT 1

EPITAPH FOR AN UNCOMMON DIPLOMAT

(By Gregg Easterbrook)

A while back I made a promise to Arnold Raphel, the U.S. ambassador who died last

week in Pakistan. I came to know Raphel this year while living in Pakistan with my wife, who is also a U.S. diplomat. He worried about letting a journalist loose in the midst of a key country's diplomatic corps, and made me swear to write nothing of what I learned. I have kept that vow, but now I'm going to break it, to write of the man himself.

Raphel was one of the true bright lights in the Foreign Service: smart, skilled, envibably successful, at 45 among the youngest American ambassadors ever assigned to a vital embassy. "Arnie was one of the top two or three officers of his generation, destined for the very top ranks," said Michael Armacost, Under Secretary of State for Political Affairs. When my wife was listing for me all the questionable attractions of a move to Pakistan—terrorism, 115-degree heat, no booze, no halter tops or miniskirts, a diet heavy on goat meat soaked in ghee—the most persuasive reason was the chance for her to work with, and learn from Raphel.

But then the diplomatic world has lots of smart guys, many of them martinets with handshakes cold as fish fins. More impressive than formal credentials was that Raphel knew the joys of life. He wisecracked through highlevel meetings, shunning all formalities of ambassadorial starch, saying he ran a "loosened-tie operation." Devoted to his own wife, Nancy, and his family, Raphel "took an interest in the careers and families of people in positions to do him *no good at all,*" marvels one colleague.

No blue blood himself, Raphel made a special effort to encourage female officers, traditionally shut out of the old-boy Foreign Service network. His deputy, Elizabeth Jones, is believed to be the first woman ever chosen deputy chief of a "Class 1" embassy. When Raphel ran the Bureau of Near Eastern and South Asian Affairs, it had the highest percentage of female senior personnel of any Foggy Bottom bureau.

Raphel spent most of his State Department years in hot-spot countries. Nearly a decade ago he was the working-level negotiator who, jawboning in Persian, sealed the deal that released the hostages from Iran. Afghanistan and Pakistan were his other specialties. A simple testament to Raphel's diplomatic prowess is that he communicated with the factions of these three intensely Muslim countries despite being Jewish. He was equally effective in the bureaucratic thicket. It's rare for a Washington luminary to trust an aide who has links to a powerful rival, but Raphel managed to be mentored by Henry Kissinger, Lawrence Eagleburger, Cyrus Vance, Warren Christopher and George Shultz.

Raphel was one of the unsung heroes of the Soviet withdrawal from Afghanistan. As State's senior Washington-based official for the Near East during the dark days of the early 1980s, when conventional wisdom held that the mujahedin could never, ever prevail, Raphel argued tirelessly on their behalf. Later, as envoy to Islamabad, he persuaded Pakistan to continue as a U.S. logistics base for the war, a controversial proposition inside the country. And this year, as the Soviet disengagement was negotiated, Raphel was a crucial conduit for communications among the White House, the mujahedin and the Pakistani government. Though the historic reversal of Soviet fortunes in Afghanistan seems to have drawn a curiously muted reaction in the United States, the Kabul regime, on its last legs, was acutely aware of where credit was due; there have long been rumors it would try to strike back at the two men most responsible for its plight, Raphel and Mohammad Zia ul-Haq. With Raphel's death, more U.S. ambassadors have now died in the line of duty during the last 15 years than U.S. two-, three- and four-star generals were killed in action in Vietnam.

There are thousands of patriots like Arnie, who dedicate themselves to the American vision. Though their names won't make the papers, they are the blood plasma of the free, responsible nation we strive to be, and we never thank them till after it's too late. Countries like America are made possible by people like Arnold Raphel. Let that be his epitaph.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. SYMMS. Mr. President, I ask unanimous consent that I might proceed for 1 more minute.

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

WATCHMAN ON THE WALL.

Mr. SYMMS. Mr. President, I had the opportunity over the recess to see an article about the late Congressman Larry McDonald, from the New American, August 29, 1988.

I had the privilege of having known Congressman McDonald before he came to the Congress when he was a practicing physician in Atlanta, after he came to the Congress, and he was a highly underrated Member of this Congress.

Oftentimes people who excel in intelligence and brilliance are not appreciated by their colleagues because they oftentimes march to a different drummer. That was truly the case of the late Congressman Larry McDonald.

He graduated from Emory University at age 16, the way I recall it, graduated from medical school at age 22, was a Navy flight surgeon, the youngest one in the Navy at the time, and had had an excellent record.

But I saw this article, and I thought that since, in 1983 when he was murdered by the Soviet airplane that shot down the KAL 007, it would only be appropriate that we remember Congressman McDonald, remember what he stood for, and recognize that countless articles, issues, and research was done by him and his staff in the years he was in the Congress that excelled the intellect of most of our expectations in this body.

So, I ask unanimous consent that the article "American Hero, Watchman on the Wall, Congressman McDonald Sounded the Trumpet," be printed in the RECORD.

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

WATCHMAN ON THE WALL—CONGRESSMAN MCDONALD SOUNDED THE TRUMPET

Lawrence Patton McDonald was born in Atlanta in 1935. His mother, Callie Patton McDonald, was a cousin of the famous general, George S. Patton, Jr., who was killed in a vehicular accident at the conclusion of World War II, when Larry was ten years old. In General Patton, young Larry McDonald had a hero in the family and a figure worthy of his emulation.

Larry also imitated the best qualities of his father's side of the family: his grandfather and father were both hard-working Atlanta physicians, and from boyhood, Larry wanted to follow in their footsteps. He received his MD at Emory University in 1957 and served for four years as a Navy physician and flight surgeon. After a two-year residency in general surgery in Atlanta and three years residency in urology at the University of Michigan, Dr. McDonald joined his father's urological clinic in Atlanta.

But there was something in McDonald's nature that demanded more from him—a sense of his place in history. His southern code of chivalry required that he do nothing less than his gallant best to defend a beleagured Western Civilization.

According to Larry's brother, Dr. Harold McDonald, Jr., the future Americanist leader first became concerned about the Red threat while he was a Naval surgeon in Iceland and physician to diplomatic personnel at the U.S. Embassy in Reykjavik. His brother noted:

"He came back from Iceland after discharging his Naval Reserve active duty obligations and began reading political history and books on foreign policy. . . . He also looked around for anyone else concerned about Communism, and the only organization he found trying to do anything was The John Birch Society. Larry believed in saving the country from Communism as strongly as a missionary to Africa in the nineteenth century believed in saving the souls of the people."

Larry McDonald became a member of the National Council of The John Birch Society in 1967. By 1972, McDonald felt that he could do even more for his country in public office and made an attempt at a congressional seat, losing closely to Representative John Davis. Two years later, he defeated the same incumbent and won his seat in the House.

Congressman McDonald's first speech on the floor of the House was on April 29, 1975. The subject: *outrage* that the Carter Administration was planning to ignore Captive Nations Week. The freshman from Georgia at once demonstrated his powerful oratory and organizational skills and proved he was a force with which the Left would have to reckon. The Administration relented and proclaimed Captive Nations Week.

Throughout his nearly nine years in Congress, Larry McDonald compiled an outstanding record as a totally Constitutionalist (he preferred that term to "conservative") Congressman. Republican Congressman Phil Crane said of the Georgia Democrat:

"I regard Larry as one of the most staunch conservatives here in Congress. We have pooled our efforts on many occasions, often calling upon his expertise in the health area, but most recently Larry has been a great asset to the Panama Canal [giveaway] opponents as he again demonstrates real devotion to the cause of freedom. And, of course, his stern presence on the Armed Services Committee is an important watchdog for us all."

Larry McDonald's many accomplishments during his four-plus terms in Congress are too numerous to mention, but he accumulated a perfect 100 percent score on "The

Conservative Index," then compiled by The Review Of The News.

But Larry McDonald was much more than an exemplary legislator—others in Congress could share that description. He was becoming the unifying force of American, and even international, anti-Communists. By assuming the Chairmanship of The John Birch Society, establishing the Western Goals Foundation (whose motto was ". . . so to rebuild and strengthen the political, economic and social structure of the United States and Western Civilization so as to make any merger with totalitarians impossible"), and serving on the boards of Conservative Caucus and the Committee for the Survival of a Free Congress, Larry McDonald had become the most dangerous enemy the Communists had.

Drawing inspiration from the Biblical reference to the watchman on the wall in Ezekiel 3:17-21, Larry often noted that "if evil, villainy, or war comes, and if the Watchman does not sound the trumpet, then the blood is on his hands. Any of the blood that is shed is on the hands of the Watchman who goes to sleep. But if the Watchman sounds the trumpet and if the people are too lethargic, too busy enjoying the good life to care, then the blood and responsibility is on the hands of the people."

The evil, villanous force of which Larry McDonald spoke struck personally at him five years ago, when the Soviets attached Korean Air Lines Flight 007. We Americanists who have continued Larry McDonald's crusade must keep sounding the trumpet—lest the blood be on our hands.—WARREN P. MASS

Mr. SYMMS. Mr. President, I thank the distinguished majority leader and managers of the bill for their indulgence, and I yield the floor.

The PRESIDING OFFICER. The Senator's time has expired.

TRIBUTE TO LEADER BYRD

Mr. INOUYE. Mr. President, when the 101st Congress covenes, our Senate Chamber and our Nation will be deeply diminished by the absence—for the first time in 22 years—of Senator ROBERT C. BYRD as Democratic leader of the Senate. As majority or minority leader over the past decade, Leader BYRD has served his colleagues and our Nation in an outstanding manner.

I join my colleagues in paying tribute to our majority leader reluctantly, not for lack of admiration, but in recognition of the awesome vacuum that his absence will create. Despite the fact that Senator BYRD will still be with us in the important positions of chairman of the Committee on Appropriations and President pro tempore, his presence and guidance as official leader of the Senate will be keenly missed.

The life and background of Senator BYRD is well worth repeating, as a lesson in perseverance, motivation and sheer hard work. He was an orphan raised by poor relatives in the coalfields of West Virginia. He toiled as a gas station attendant, a meatcutter, a skilled welder and a grocery store operator. ROBERT BYRD was honored as valedictorian of his class, but was unable to go to college because of poverty. He earned his college degree while a member of the West Virginia House and Senate, and he earned his juris doctor degree, cum laude, from American University's College of Law by attending classes at night while also fulfilling all of his responsibilities as a U.S. Senator.

Leader BYRD leads as one who has surmounted obstacles in every step of life's way, as one whose success derives from the dignity of labor, and as one whose devotion to public service stems from a firsthand understanding of the plight of poverty.

Listening to Leader BYRD quote from memory at length from the Bible or "Gibbons' Rise and Fall of the Roman Empire" is a twofold lesson: it is both a history course and an impressive display of a scholar's ability to recall and apply his knowledge. No one can match Leader BYRD's thorough knowledge of Senate procedures and traditions. I am hopeful that his wisdom and guidance will be available to his successor.

As one who has served in a position of leadership alongside Senator BYRD since 1977, I have tremendous respect and admiration for him as a man of high character and unquestioned integrity. The task of majority leader—managing the Senate's schedule and its relationship with the other Chamber and the Executive, while serving as both a legislative and political spokesman, and at the same time serving one's constituents' needs and concerns—is overwhelming. The ability of Leader BYRD to carry out these responsibilities with grace and distinction is a tribute to his remarkable wisdom, legislative acumen, and dedication to our Nation.

TRIBUTE TO THE ALABAMA SYMPHONY ORCHESTRA

Mr. HEFLIN. Mr. President, it is my great pleasure to rise today to inform the Senate that the Alabama Symphony Orchestra will be performing at the Kennedy Center here in Washington on October 2, of this year. I am hopeful that some of my colleagues will be able to attend and hear for themselves what a wonderful asset Alabama has in this orchestra. This concert, the Alabama Symphony Orchestra's first major engagement outside of the State, is made possible through a contribution from the Alabama Federal Savings & Loan Association and will serve as the national kickoff for the Alabama reunion.

I am very proud that the Alabama Symphony Orchestra will represent my State in our Nation's Capital. The orchestra, under the brilliant direction of Paul Polivnick, will perform a program which includes Russell Peck's "Peace Overture" and Adam Khachaturian's "Piano Concerto" featuring Lorin Hollander as soloist. The concert finale, "Mussorgsky's Pictures at an Exhibition" by Vladimir Ashkenazy, features an arrangement never performed in the Kennedy Center.

The Alabama Symphony Orchestra premiered Peck's "Peace Overture" in its 1988 annual Birmingham Festival of Arts concert. The festival commissioned this piece which serves as a salute to former Egyptian Prime Minister Anwar Sadat and former President Jimmy Carter. The orchestra is proud to present soloist Lorin Hollander in the Khachaturian "Piano Concerto." Hollander, one of our country's most gifted and inspiring pianists, has performed with every major orchestra in the world. He should add a brilliant touch to the concert.

Mr. President, the Alabama Symphony Orchestra represents an incredible State resource and treasure. It is the oldest professional arts organization in the State of Alabama. For 55 years, symphony performances have provided the people of my State with opportunities to enjoy and support cultural activities. Although the Alabama Symphony Orchestra usually performs music from the standard classical repertory, it has twice won the American Society of Composers and Publishers Award for the presentation of contemporary American music. The symphony participates in the Festival of Sacred Music, the Festival of Arts, Civic Opera performances, the Alabama State Ballet performances, and other church and musical performances as well as its regular season and pops concerts. The symphony's guest artist program has enabled thousands of Alabamians to see the world's premier performers including composers Igor Stravinsky and Ernest Von Doohnanyi, as well as soloists Issac Stern, Arthur Rubenstein, Van Cliburn, Robert Merrill, Rise Stevens, and Elanor Steber.

For the past 3 years, the Alabama Symphony Orchestra has been fortunate to have Paul Polivnick as the music director and conductor. He brings to the symphony a vast musical background and varied musical skills including piano, violin, and trumpet. Polivnick studied conducting at the Julliard School under Jean Morel. He also worked and studied with Walter Susskind, Jorge Mester, Franco Ferrara, and Leonard Bernstein. Paul Polivnick's talent has become widely recognized and the past 2 years have seen his shining conducting debuts in Portugal, Vienna, and Korea. His charismatic leadership has invigorated the symphony and brought much critical acclaim.

Mr. President, I am looking forward to this performance with great anticipation. I encourage my colleagues and

others here in Washington to take advantage of this wonderful opportunity. The Alabama Symphony Orchestra performance at the Kennedy Center on October 2, will allow people here and in the rest of the country to see what Alabama has to offer.

LEAVE OF ABSENCE

Mr. RIEGLE. Mr. President, I would like to inform the Senate that I will be necessarily absent for part of today's proceedings, September 8, 1988. My wife Lori underwent surgery this morning for the removal of a herniated disc in her lower back, and I will be helping her through her recovery.

Lori has been treated for several years for this problem and her doctors concluded that the surgical procedure was needed at this time. I was with her through the surgery and am pleased to inform my colleagues that the surgery was successful.

I ask that my absence from the Senate be excused today.

CHARLES Z. WICK AND THE USIA

Mr. PRESSLER. Mr. President, a revolution has occurred in global communications and public diplomacy in recent years. Since 1981, the U.S. Information Agency [USIA], which is responsible for America's public diplomacy, has become a more effective voice around the world.

The dramatic improvement in America's public diplomacy is the product of the unusual dedication and perseverance of a man who is the longest serving Director of USIA and who, on June 9, 1988, completed 7 years in that post.

Mr. President, I am referring to the remarkable Charles Z. Wick.

Public diplomacy involves direct Government communication with people throughout the world. Once considered a peripheral aspect of American foreign policy, it has been transformed by the information technology revolution and the increasing influence of public opinion in the international political arena into a key instrument of foreign policy.

Modern communications can be used to foster freedom and democratic values—or they can be used for less noble purposes by the forces of repression. Consider, for example:

How access to the communication media in the Philippines brought the unknown wife of a reform leader onto the world's stage;

How the televised images of apartheid have brought the moral force of world opinion to the door of the South African Government;

How audio cassettes recorded in Paris and smuggled into Iran helped overthrow the Shah;

How terrorists deal with authorities, through global television coverage of kidnapings, hijackings, and airport attacks; or

How a $100 million Soviet disinformation campaign played a role in stopping United States deployment of the neutron bomb.

This is the world we face today. It is smaller and more interdependent. It is a world whose people are hungry for freedom. It is a world in which the skillful practice of public diplomacy can advance the cause of freedom and democracy.

The remarkable leadership of Charles Wick at USIA has furthered that cause.

Mr. President, at this time I would like to review some of the many accomplishments of the USIA under the directorship of Mr. Wick since 1981.

WORLDNET

WorldNet, the world's first global television satellite network, began operations on November 3, 1983. This interactive state-of-the-art network links Washington via satellite with U.S. embassies and other posts overseas, providing two-way audio and one-way video transmission. Now U.S. leaders can respond quickly to fast-breaking news that might affect our interests. These messages are replayed through the foreign media in homes around the world.

There are now 121 WorldNet satellite Earth stations installed in 81 countries around the world. USIA's goal is to establish a worldwide network of some 200 TV Earth stations, all with access to a daily satellite signal direct from USIA Washington, by the end of fiscal year 1990.

Since 1983, WorldNet has grown dramatically to meet the needs of America's public diplomacy. WorldNet's European service expanded from 2 hours to 4 hours daily on April 20, 1987. WorldNet's Latin American service sends 1 hour each weekday to South and Central America and the Caribbean. On August 17, 1987, USIA extended this daily feed throughout Africa. On April 4, 1988, USIA extended daily service into Africa, the Near East, and South Asia.

WorldNet interactive programs—totaling over 850 in the last 5 years—have reached over 80 countries worldwide. Over 30 Members of Congress have appeared on WorldNet.

Through WorldNet, USIA has been able to achieve more media placement abroad for America in the last 4 years—by television, radio, and print—than in the entire 30-year history of the agency.

Two congressional hearings have been televised abroad via WorldNet. One hearing considered hunger in Africa and another involved exchanges between the United States and Central America. Both inspired enthusiastic responses from officials in both regions.

Recently, two WorldNet programs allowed journalists in Central America and Europe to interview high-ranking Nicaraguan defector Maj. Roger Miranda on his views regarding Sandinista activities and compliance with the Central American peace process. The program beamed to Europe was timed to coincide with Nicaraguan President Ortega's visit to several European cities, where it effectively countered many of Ortega's statements.

Tom Clancy, author of "The Hunt for Red October," was a recent participant on WorldNet. He later wrote to USIA Director Wick, and I would like to quote from his letter:

> On visiting your broadcast facility last August, my reaction was as positive as it was immediate: I think WorldNet has the potential to become the most powerful, most useful, most cost-effective tool of American diplomacy . . . WorldNet has the potential to remake the world.

The most remarkable feature of WorldNet's success is that it has been achieved in less than 4½ years. But, we must be aware of the 1986 report of the U.S. Advisory Commission on Public Diplomacy which stated:

> WorldNet cannot be turned on and off like a spigot. If funding is cut due to the Gramm-Rudman-Hollings Act or other episodic concerns, the contracts, access, and favorable arrangements with foreign governments could be lost permanently.

VOICE OF AMERICA

Radio, with its ability to penetrate closed societies, is an essential component of America's public diplomacy. In 1980, the Voice of America [VOA] was broadcasting with World War II equipment, from outdated studios and with transmitters incapable of carrying a strong signal to Soviet Central Asia and other vital areas. The Reagan administration and Charles Wick have changed that.

In 1982, President Reagan announced a long-term commitment to modernize the Voice of America. Since VOA's modernization program began, USIA has secured agreements for eight new overseas relay stations in Sri Lanka, Morocco, Thailand, Botswana, Costa Rica, Belize, Grenada, and Antigua. Broadcast capability in the Federal Republic of Germany has been improved, and an agreement for a jointly operated VOA-Board for International Broadcasting station in Israel has been approved. The first overseas result of the modernization program was the inauguration of medium wave stations in Costa Rica and Belize in 1985 and 1986. On October 9, 1987, a new 500-kilowatt shortwave transmitter began broadcasting VOA programs from Bavaria, West Germany.

VOA's 1981 estimated audience of 66 million increased in just 7 years to 129 million. Since 1981, the number of

VOA broadcast languages has increased from 39 to 44 with the addition of Amharic, Azerbaijani, Cantonese, Pashto, and Creole. The number of weekly program hours has risen from 891 in 1981 to 1,208 at the present time, including Radio Marti and VOA Europe broadcasts.

One of the most important additions to VOA programming came in 1985 when, with strong bipartisan support from Congress, USIA established the Radio Marti Program of the Voice of America.

Radio Marti has penetrated what former Cuban political prisoner and author of the acclaimed prison memoir, "Against All Hope," Armando Valladares called the "void of information that is Cuba today." Cuban human rights leader Ricardo Bofill has said of Radio Marti:

> It seems to me that there will arrive a moment concerning the situation in Cuba when it will be necessary to speak of the time before and after the broadcast of Radio Marti.

The Cuban media have been forced to cover news and events they would have kept from the Cuban population prior to Radio Marti's inception. Similarly, the Cuban Government has been forced to respond to news and information provided by Radio Marti because it knows, that the program has an extensive audience.

Audience surveys were conducted by both Radio Marti and by the public relations firm of Hill & Knowlton. Results of these studies indicate that Radio Marti has twice the audience of the next leading domestic or international station.

This fall, Radio Marti plans to expand its on-air hours from 17.5 to 24 hours per day.

Radio Marti has been so successful that Congress appropriated $100,000 to the Advisory Board for Radio Broadcasting to Cuba to undertake a study of the feasibility of TV Marti. More recently, Congress appropriated $7.5 million to initiate TV Marti operations.

UNITED STATES-SOVIET EXCHANGES

During the past few years, under the inspired leadership of Charles Wick, USIA has responded vigorously to the Soviet information challenge and has engaged in serious and fruitful discussions aimed at stopping the jamming of the Voice of America and opening Soviet media to the uncensored views of American officials.

With a winning combination of straight facts, intelligence, and wit, Director Wick has met face to face with Soviet officials—including Soviet General Secretary Mikhail Gorbachev—both in Moscow and in Washington, on such sensitive issues as the jamming of the Voice of America, disinformation, media reciprocity, and the free flow of information between our two countries. Never before had these issues been discussed at such high levels between our two countries.

The results have been encouraging. The Soviets stopped jamming all VOA English and vernacular broadcasts to the Soviet Union on May 23, 1987. Limited jamming of VOA Dari and Pashto to Afghanistan continues, as well as heavy jamming of Radio Free Europe and Radio Liberty transmissions to Eastern Europe.

Director Wick's meetings with senior Soviet media officials during the December 1987 Washington summit, and conversations with General Secretary Gorbachev and Politburo member Aleksandr Yakovlev have led to a mutual commitment to discuss outstanding informational, cultural, and educational issues in a systematic manner. The result of the December discussions in Washington was last April's unprecedented United States-Soviet information talks, which also took place in Washington. This month, Mr. Wick is scheduled to lead a delegation of some 50 Americans from the private sector to Moscow for the second round of information talks.

Signs of this improved atmosphere are evident in other areas:

Academic and scholarly exchanges have been revived and are reaching the peak levels established during the 1970's. One new program will involve, for the first time, undergraduates from both countries in fields other than language training.

Also for the first time, we have established reciprocal youth exchanges. Most notable was the high school exchange between students at Phillips Academy in Andover and the Novosibirsk Physics and Mathematics School.

Two conferences sponsored on the American side by the Chautauqua Society brought together unprecedented numbers of Soviet and American citizens, including high-level government officials, for wide-ranging discussions on issues of mutual concern.

"Information USA," the first USIA exhibit in the Soviet Union since the 1985 Geneva accord, is attracting record crowds. This multimedia exhibit, which highlights America's communications and information revolution, is expected to be seen by over 2 million Soviets during its nine-city tour.

After years of returning "unsold" copies of America Illustrated, USIA's magazine to the Soviet Union, the Soviets recently informed our Embassy in Moscow that the magazine now sells out.

For the first time ever, a Voice of America bureau will open in Moscow later this year.

EXCHANGES OF PERSONS

The exchange of persons programs always have been essential to the accomplishment of USIA's mission. With strong bipartisan support from Congress, Charles Wick has reaffirmed the importance of these programs and rebuilt them to the high-water levels of the mid-1960's. Since 1982, the funding of exchange programs in real dollars has almost doubled. The Fulbright program, which had dwindled to 3,500 grantees in the late 1970's, now stands at a total of 5,500 grants.

Likewise, under Mr. Wick's leadership, USIA has expanded the number of participants in its International Visitor Program from 2,000 in 1980 to over 2,800 in 1988, while maintaining the vitality of the Humphrey Fellowship Program and expanding support for books and libraries.

At the same time that it has been reinvigorating these programs, USIA has developed new exchange mechanisms, and improved and refined others to be more responsive to our national needs—the needs of U.S. scholars, professionals, youth, and the government—and the needs of our exchange partners. For example:

The Campus program, begun in 1985 as a response to a recommendation by the Kissinger Commission, brings financially disadvantaged young Central Americans to the United States for academic study. Some 238 students have participated—students whose leadership potential creates the possibility of a great multiplier effect.

The President's youth exchange initiative, begun in 1982, has promoted some 34,500 additional exchanges of young people and expanded beyond the original 7 target countries to 88.

Yet another innovative exchange program is the University Linkage Program. Begun in 1983, the program seeks to establish enduring partnerships between United States and foreign colleges and universities through exchanges of faculty and staff.

One of the most creative and cost-effective programs created by Charles Wick is the Artistic Ambassador Program, which sends abroad some of America's most talented, but still undiscovered, musicians. Since its creation in 1983, 28 musicians have toured 63 countries, giving performances and holding master classes with students and conservatory faculties.

PRIVATE SECTOR SUPPORT

Under Charles Wick, U.S. public diplomacy has made great strides forward in the past 7 years because of the generosity and spirit of voluntarism of America's private sector. Ten private sector advisory committees—composed of over 200 outstanding leaders in American business and industry—have provided valuable expertise and counsel to USIA. When we have needed their help, this unique group of Americans has been there. Together, they have contributed approximately $100 million in time and in-kind contributions to USIA since 1981.

Director Wick recently introduced a new dimension to this vital partner-

ship when he established the USIA International Council. Last October, and again in June, over 100 opinion leaders from some 30 countries met in Washington to present their perceptions of and attitudes toward the United States. USIA has incorporated this data into its research on foreign attitudes.

Mr. President, Charles Wick is a visionary. He long ago understood the power and potential reach of satellite television, not only as a force for America's public diplomacy, but also for world peace and understanding.

Just as President Reagan is considered "the great communicator," so it should be no surprise that years hence, Charles Wick will become known as the father of modern global public diplomacy.

Public servants come and go in our Nation's Capital, but the impact of Charles Wick on USIA and the United States' role in global public diplomacy will be felt for decades to come—well into the 21st century.

My distinguished colleagues, please join with me in saluting a great American—Charles Z. Wick.

RENEWABLES, CLEAN AIR, AND AGRICULTURE

Mr. FOWLER. Mr. President, last year I introduced the Renewable Energy and Energy Conservation Act of 1987. Its purpose is to strengthen our efforts to develop safe and reliable alternative energy sources—efforts which have diminished as we have become complacent about our energy security.

Just before we recessed for August, this bill was reported by the Energy Committee. I rise to bring my colleagues' attention to that fact, as we head into the home stretch of the 100th session of Congress, because I think this legislation addresses many of the important issues we have struggled with this year.

During my days in the Congress, I have advocated greater reliance on renewable sources of energy. I have stood here before in the well of the Senate to talk about reducing our dependence on oil imports—the kind of dependence that has our ships patrolling the Persian Gulf. We can reduce that dependence, which is about to top 60 percent of our oil needs—and which keeps our Nation from being truly secure—through the development of solar, wind, geothermal, biomass, and other virtually inexhaustable sources of power.

We worked all year, and had heated political battles, to pass a trade bill to aid American competitiveness. In earlier remarks, I have pointed out that development of renewables would reduce our trade deficits by reducing our oil imports. Renewable technologies would also open up vast export markets for America, since 75 percent of the developing world is not yet connected to a power grid. Photovoltaics, which produce energy from the sun without any harmful byproducts, are already replacing diesel generators in many of these remote areas. But in this decade we have lost our lead in the world photovoltaics market to the Japanese—as they have increased their national commitment to research and development and we have reduced ours.

I have promoted renewables in part because of the clean air benefits they promise. Recently the news is full of studies and hearings on the greenhouse effect, the potentially catastrophic warming of our climate caused by the burning of fossil fuels. Again, alternative energy sources are a large part of the solution.

When most of us think of cleaning up our atmosphere, we associate those efforts with our cities. But we are making a mistake if we do not focus our attention on environmental issues in the countryside as well.

Just before the August recess we passed drought legislation in the Senate to help our farmers recover from the dry, scorching summer we have endured. But another long-term economic and environmental problem facing our agricultural areas is low-level ozone.

The same ozone that, in our stratosphere, protects us from harmful radiation is a harmful pollutant when introduced into our lower atmosphere. It hurts our lungs, burns our eyes, and keeps the old, the young, and even athletes from enjoying the outdoors on hot summer days when ozone levels are the highest.

In our cities, ozone is the reason why on summer days you can't see Atlanta's skyline from the airport or the Capitol Dome from the Lincoln Memorial. In the countryside, ozone rarely blocks the view, but it can have grave impacts on the economic backbone of rural America—agriculture.

Since 1950, scientists have known that air pollution can hurt agricultural yields, but only recently have they started to quantify this damage. In 1984, the Office of Technology Assessment reported that ozone has reduced crop yields in the United States by 6 to 7 percent.

OTA estimates that if we could bring ozone levels in rural areas down to their natural, background levels, we would see soybean yields increase by 13 percent and peanut yields increase by 24 percent.

It is hard to imagine what this could do for farmers in Georgia. We'd see a little more bustle in the streets of Ocilla. We might see some John Deere outlets reopen in other small towns. More teenagers from Ludowici and Cordele would be able to go off to college. The whole rural economy of my State would benefit.

Across America, for all crops, the OTA estimates we could increase the value of our agricultural production by $2 to $3 billion, simply by getting ozone levels down where they belong.

And even if we cannot go all the way overnight, scientists predict that just reducing the current ozone levels by 25 percent would provide an additional $1.7 billion dollars in agricultural benefits.

On the other hand, along with that promise goes a warning. A modest increase in ozone, by 25 percent, which is not outside the realm of possibility in many rural areas, could cost us $2.1 billion in crop losses.

So how can we prevent that from happening? These are complex problems with complex sources—but I can give one approach.

In 1985, transportation sources were responsible for 34 percent of the hydrocarbon emissions and 45 percent of the nitrogen oxides emissions, both of which create ozone. We have done far too little thinking about what will power our cars and trucks and buses and trains in the future—without the damage caused by dirty fossil fuels.

We need more research into cleaner alternative fuels. Methanol, ethanol, and compressed natural gas may offer benefits over ordinary gasoline in reduced emissions, and in the long-term, solar and electric vehicles may be the cleanest possible way to get around.

When I first entered the House of Representatives in 1977, the thought of running a vehicle on Sun-power was almost laughable. But General Motors recently raced an unusual vehicle almost 2,000 miles across Australia using only the Sun for energy. Alternative energy sources can come of age with our commitment.

Modest increases in Federal support for research into these promising technologies can put us on the road to energy independence—and a healthier and more productive environment. And with the cooperation and support of America's greatest resource—private industry—we can begin to make some headway toward long-term answers to these challenges.

We need to develop the energy sources of the future—and I include clean coal as one of the technologies that can power our economy and industry with our own resources—without harming our environment.

We also need to protect our air, in the meantime, through workable clean air legislation. I cannot think of anything that is more in the general, public interest than clean air. According to the Environmental Protection Agency, Americans are exposed to more toxins in the air than through their food or water supplies.

The Senate has before it a Clean Air Authorization that addresses these issues. Last December, we decided to put off some of these discussions until August 31, and at the time it seemed the prudent thing to do. August is past us now, Mr. President, and the country is counting on us to fulfill our responsibility and our promise to grapple with these issues.

I urge my colleagues not to put off any longer the tough decisions we must make to develop renewable energy sources and formulate a clean air policy—to reduce the pollutants that endanger our health; that induce potentially catastrophic climate change; that threaten our farmers and their crops, which are such a vital element of our national strength.

This is a basic responsibility of our stewardship. I hope the Senate will focus on the issues addressed by renewable energy and conservation bill. I also commend my colleagues—from Senator MITCHELL of Maine to Senator MATSUNAGA of Hawaii—who have worked diligently to fashion national policies that will result in clean air and energy security. We need a comprehensive plan to achieve these goals for future Americans. Not just for generations to come in the next century.

According to our scientists we need to act on behalf of today's children, Americans such as Emily Richardson Humphreys, who was born on August 10 to Elizabeth and Steve Humphreys of my staff in Alexandria Hospital. The basic promise of the American dream is that we will leave a better country for our children. I hope that we will think seriously about this obligation as we consider the legislation before us—which represents the first step in resolving the questions about powering our society and restoring our environment, questions we can no longer afford to neglect.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Time for morning business has also expired.

TEXTILE AND APPAREL TRADE ACT

The PRESIDING OFFICER. The Senate will now resume consideration of Senate bill No. 2662, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2662) to remedy injury to the United States textile and apparel industries caused by increased imports.

The Senate resumed consideration of the bill.

Mr. HOLLINGS. Mr. President, I understand the distinguished Senator from Texas [Mr. GRAMM] is momentarily on his way to the floor and will be presenting an amendment.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. BYRD. Mr. President, the Senate has been on the textile bill now for several minutes and all Senators knew that we were going to return to it today at 10:30. Mr. HOLLINGS, the manager of the bill, is here at his post of duty and the Senate is marking time. Even though time is being used out of the overall 30 hours, that is not a great deal of consolation.

But the Senate needs to act and to act we ought to have somebody come over and call up amendments. There are several amendments that are at the desk ready to be called up by Senators on the other side of the aisle.

I know that there are some committee meetings going on, but we have not given consent for committees to meet, and it may be well not to give consent for committees to meet if we do not get Senators to come over here and call up amendments.

I hesitate to put in a quorum call and make it go live at this time, which I could do. That would break up the committee meetings. That would get Senators over here and perhaps we could get an amendment up and get the Senate moving. As it is, the tail is wagging the dog. The committees, which are the creatures of the Senate, the parent body, are having their meetings and the Senate, which is the parent body, is here just marking time with no action. So I suggest that Senators on the other side get over to the floor and call up their amendments so that the Senate can be acting rather than just twiddling its thumbs and frittering away the time.

We might keep in mind that the longer we wait at this point, the later we will be in completing action on the bill. So that what we lose on the front end comes in the tail end. So if Senators will keep all of these wise sayings in mind and listen, they will come over to the floor and call up amendments.

As I say, I am tempted to put in a live quorum call now and have the Sergeant at Arms instructed. That would get a rollcall vote. That would get the blood pressure flowing and the cholesterol unclogged out of the veins and arteries. But I hesitate to have that vote right now because I have good reason for not wanting to do it right now. The good reason is that my good colleague on the other side, the Republican leader, had to go to the dentist, which we all have to do once in a while. Not everybody has good teeth like I have. He had to go to the dentist and I told him I would not have a vote until he got back here. So I do not want to have a vote while he is out. But we ought to have somebody on the other side scrambling around and getting some amendments up.

Having said that now, I feel much better, but I will feel even better if, through the door on the east side, there appears a Senator carrying a handful of amendments.

Hearing no applause, I suggest the absence of a quorum and take my seat.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

The Senator from Texas.

Mr. GRAMM. Mr. President, I would like to begin this morning by explaining I was over this morning with the Armed Services Committee with my colleague, the senior Senator from South Carolina. We are getting the final report this morning on the *Vincennes*. My other two colleagues from Oregon and Washington, who have been heavily involved in the debate, are in markup this morning and that explains why we are slow getting off, in terms of debating this important bill.

If our absence this morning has caused any inconvenience I would like to begin by apologizing to our colleague from South Carolina.

Mr. President, yesterday we focused on the unfairness of this bill and, at the potential risk of being somewhat redundant, since what tends to happen in these debates is that we have one side talk about their facts and figures, we have the other side talk about their facts and figures, everybody varies their end points or the period they choose and so we just talk past each other. I think it is fair to say that my distinguished colleague from South Carolina and I, who agree with each other on so many subjects, are totally in disagreement on this subject, and I am unlikely to convince him and I think he has already reached the conclusion that he is unlikely to convince me on this subject. But we are making a record here. Members are listening to the debate. So I would like to begin this morning by summarizing what we were doing yesterday, and then begin our program for today.

Mr. President, yesterday we were trying to focus on the unfairness of this bill. I would like to just simply begin by outlining the points we were trying to make yesterday.

Point No. 1: we hear talk about the textile industry and about the perils of world competition but the reality, which has in no way been disputed by

anyone here, is that the textile industry is the most protected industry in America. Nobody can deny that.

There are 1,500 quotas that limit the freedom of every American to buy textiles abroad if somebody got to the store and bought them first. No one denies that that artificially drives up the cost of textiles to the American consumer. My own opinion is that Americans on average pay about twice for textiles what they would pay in the absence of these quotas. The cost to the American consumer, by people who have done indepth studies about this degree of protectionism, ranges between about $300 per family of four and $700 per family of four that we pay in extra costs in putting clothing and shoes on the backs and feet of our children and our parents and ourselves.

Mr. President, the second point I would like to make that we focused on yesterday is that it is not as if this great imperiled textile industry in America stands naked before the world in terms of competition. It is not as if, if we failed to adopt this textile bill, they are going to have no degree of protection in competing with the textile industry of the world. The truth is we have already 1,500 different quotas. We have a tariff which averages 18 percent on textiles.

Every time an American consumer goes to K-Mart or J.C. Penney's or Sears or whatever, some fancy clothing store somewhere, and buys a textile product that was produced abroad, he or she is paying an 18-percent tax on everything on that textile product. Combine that with the quotas and you see the massive costs on the consumers we are talking about.

Yesterday we really posed the question, if consumers are already paying $300 to $700 per family of four to protect the textile industry, if, in fact, we already have 1,500 different quotas and an 18-percent tax on the consumer, does the textile industry need or deserve additional protection?

In trying to answer this question, we looked at several things. First of all, what has happened in the last 3 years? What has happened in the period during which we have debated this textile bill? To an outsider, it may look like the textile lobby lost when Congress refused to enact the bill in the face of the President's opposition. The reality does not bear that initial observation out.

The reality is that in response to the incessant pressure from protectionism, the Government of the United States has taken 19 different actions to in one way or another grant additional restrictions on imports or limits on competition. The Multi-Fiber Agreement, which has been reached, severely limits the ability of foreign producers to sell products on the American market.

Yesterday both of our colleagues from South Carolina talked about China and about their sales. The current agreement that has been entered into with China has limited their sales growth to about 3.3 percent a year. That is a very severe restriction. I note that since there are other products produced in America that generate jobs besides textiles, as important as the textile industry is, that when we started this dispute with China about textile sales, we cut off their ability to sell us 50 million dollars' worth of textiles. They responded by canceling agricultural purchases of $699 million of American products.

Anybody who thinks that kind of trade war helps America is a lunatic. Anybody who thinks that we gain by preventing 50 million dollars' worth of sales in the United States that would have benefited the consumer, and we end up losing 699 million dollars' worth of ag sales abroad because of that, anybody who thinks that is good policy never read the history of the Smoot-Hawley tariff.

In addition to all this, let me say, Mr. President, out of all fairness, that no matter when this debate occurred, I would not have been for this bill. Just being fair up front, this is raw, rotten, stinking protectionism and is an anathema to everything I believe in my life and everything I think is important to America.

But some people might have had a legitimate position in supporting this bill 5 years ago or 10 years ago or maybe 3 years ago. But the great paradox, Mr. President, is that this bill today has absolutely no leg to stand on. If there ever was an argument for this bill, it has long since passed. It has long since passed because the textile industry, much to its credit, unable to get Congress to come in and just block off competition, has been forced to reach down and grab itself by its bootstraps and modernize, to come in and build the same kind of equipment that their foreign competitors were using. As a result, there is a renaissance going on in the textile industry.

Granted, there is always somebody who can pick a couple of months or last week or Thursday afternoon and say, "Thursday afternoon was a bad afternoon in the textile business." But the plain truth is that if you take any extended period of time, and let me just take 1985, which is when we started voting on it, and 1987, which was the end of last year where we got good hard data, between 1985 and 1987, all manufacturing in America on average has seen a growth in manufacturing of 6.5 percent. Our textile industry during that same period has seen a growth in manufacturing of 13.5 percent, which, obviously, in arithmetic is about twice as fast.

Mr. President, that is a great testament to the genius of the American free enterprise system. The fact that in 1985 we were here on the floor saying the textile industry is dying; we cannot compete; America does not have the ability to compete; we are incapable of competing; we cannot do it, why, do you realize there are people making lower wages than Americans? Do my colleagues realize that from the time the first Pilgrim stepped on Plymouth Rock that America has always had the highest real wages in the world, at first because we were a labor shortage country; second, because we were the most modern, mechanized industrial nation on Earth? We have never competed against people who paid higher wages than we do; never. And yet we have whipped their fanny because we have done it better, because we have developed technology.

We have 115 million Americans at work. We have created more jobs than all our industrial trading partners combined since 1982. Seventy-five percent of those jobs are in the upper half of the income distribution of the country, and we have done it while paying more because we produce more, which is the only way a nation can pay more.

Our distinguished colleague from South Carolina has not looked at the history of Great Britain. They wanted to pay more without producing more. They put up all these tariffs at the end of World War I because they wanted to "protect the British worker." And what happened? Living standards went right through the floor. Britain declined as a world power and is coming back today only because they have stopped that nonsense. Of course, some of our historians now write about the decline of nations as if Britain declined because it was a world leader, not because it was following poor economic policy.

Much to the glory of the textile industry, when they did not get what they wanted legislatively, they went out and did what they had to do economically. The results have been pretty impressive. Let us just look at pretax profits. We know Congress spends all this money buying votes mostly and then they raise people's taxes. That is Congress' fault and the textile industry cannot help that. But their before tax rate of return for the last 12 months certified by the Department of Commerce, no estimates, actual figures, their before-tax rate of return last year was 26 percent on average. For every dollar of real equity invested in the textile industry last year in America, 26 cents were earned. It is almost twice the average equity return before taxes by manufacturing in general.

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Mr. President, I am not here saying we ought to suddenly rush out and tax the textile industry. I congratulate them for what they have done. I wish they were earning 126 percent because every dollar they are earning they are plowing back into building better tools, building newer, more modern plants. They are making America more competitive. So I say God bless them for earning 26 percent. I wish it were 126 percent. And if it were 1,026 percent, I would oppose any efforts to take it away from them.

But, Mr. President, how can we be here on the floor arguing that this industry ought to have more protection against competition when it earned a before-tax rate of return on equity last year roughly twice what was earned in other industries in America?

Mr. President, we have heard a lot about jobs in textiles, and there is no doubt about the fact, and our colleagues have made very clear, there has been a decline in the number of people employed in the textile industry. Nobody disputes that most of that reduction has been because of mechanization. The truth was we were sitting on our duffs. We let foreign competition build better tools than we were building. We let them learn the processes that we were using and improve on them. There is one thing that is certain in this life, I do not care what Congress does, what law we pass, you cannot use poor tools and pay higher wages. I do not care what kind of laws you pass, you cannot repeal the laws of economics. We found ourselves in a position where we had to modernize, and we have.

But last year we had an increase in the number of people working in the textile industry, in the apparel industry, or between 20,000 and 40,000, depending on which number you take. So here we are saying to the American consumer, we want you to pay another $10 million for textiles and apparel. We want you to do it to help an industry that has seen its production grow twice as fast as all manufacturing in America, that has a before tax rate of return twice as high as the average for all manufacturing for America in the last fiscal year that we have data, that is experiencing a growth in employment for the first time in a long time.

Then we are hearing about the States that are affected. Now, Mr. President, the Founding Fathers intended that we should be here as Members of the Senate representing our States. We all try to do that. It is understandable when we sometimes lose sight of reality in trying to do that. But let me talk about the States that are going to be the big beneficiaries of this bill. Let me take the top five textile producing States in America: North Carolina, Georgia, New York, South Carolina, and Pennsylvania. Per the last unemployment figure we have, which is June of this year, unemployment in those five States averaged 4.8 percent. Unemployment in America was 5.5 percent. As a matter of reference, most of these States had unemployment roughly half of the unemployment rate in my State, Texas. Yet our colleagues are here saying, "Look, the before tax rate of return on investment may be twice the national average in textiles, production may be growing twice as fast, employment may be growing, and unemployment in the textile States may be half the national average, but it is not enough. We want to impose protectionism, force the consumer to pay another $10 billion for textiles and apparel, let other nations reciprocate by imposing tariffs and quotas on other American goods because it is not enough."

(Mr. ADAMS assumed the chair.)

Mr. GRAMM. Now, shoes are in here, and we have all heard about shoes on an unending basis. But, Mr. President, if you look at the top five shoe-producing States: Maine, Missouri, Tennessee, Massachusetts, and New York, the average unemployment rate in those States in the last month we have figures is 25 percent below the national average.

Mr. President, why should we be raising the cost of buying work boots for people that are out using those boots walking around looking for a job in Odessa, TX, when the States that are producing the boots have an unemployment rate 25-percent below the national average?

In short, all of yesterday, in amendment after amendment after amendment, the point we were making is that this bill is not fair. It is not right. It is not fair to impose this additional cost on the American people. In fact, this bill points out the greatest problem with democracy, in my opinion. The greatest problem with democracy, in my opinion, is that even in the greatest political system that the world has ever known piracy works. Any small group of people can get very well organized and activate the beneficiaries of their policies and can pirate the rest of society, and that is in essence what we are seeing. Unfortunately, the cost will fall heaviest on working men and women, on the people who spend the largest share of their income on clothing. In the very week that most of the schools in America are going back into session and people are going all over the country to buy new tennis shoes for Johnny, to buy new clothing, to buy new dresses for Mary to go to school, we are debating how we can raise their costs and make them pay more.

Now, today we want to take a different tack. The tack we want to take today is that we are not just talking about the consumer. We are talking about jobs. We are talking about jobs because this protectionist bill is a step back down the road to Smoot-Hawley and the Great Depression. As I look at the future of America and the future of the world, in my opinion, the greatest peril we face is the peril of protectionism. It is a great paradox—I pointed it out may times—that here we are the greatest beneficiary of world trade; we have created more jobs since 1982 than Japan and Germany combined have created in a decade, and yet everywhere in Congress there is a scream to stop trade. To stop trade means to stop growth. To build walls around America to keep foreign goods out keeps in American goods.

If we pass this bill under existing GATT agreements, every nation affected has the right to go to GATT and say, that the United States of America has violated the GATT agreement. And GATT looks at the facts and says, "Well, that is right." Then they say, "Under the GATT agreement, we demand our right of offset and compensation."

Now, what are they going to offset and compensate? I can tell you what the Japanese are going to do. They are a lot more concerned about jobs in high technology than they are in textiles, so they are going to ask for right of compensation and offset in computer chips and in high technology. The Koreans are going to ask for right of offset in chemicals and agricultural products. Europe is gong to ask for right of offset and compensation on aircraft and on manufactured goods and on chemicals. These are industries that have an average wage of twice the industry we are talking about. So for whatever job might be saved in textiles, we are going to lose at least one job in these other areas and they are by and large jobs with higher wages. They are jobs that represent the future of America in terms of being able to compete. Mr. President, that is not smart policy.

I have tried to put together an amendment to address this issue. I am going to call it up in a second, but I want to outline what it does. We have not heard these words in this debate, but we heard them the last time we had this bill before us. Mostly we have not heard them because the people who are here debating do not make any bones about the fact that this is protectionist. I am sure that as we get close to a final vote we are going to have a rush of Members coming over here saying, "I am not a protectionist. I just want fair trade. I just want countries to treat us like we treat them. If they will buy our goods, we will buy their goods. I am not a protectionist."

Well, I thought that I would begin this debate this morning by giving everybody an opportunity to put their vote where their mouth is, so I am

going to call up an amendment. The amendment is simple and straightforward. It is an amendment that in essence says that we go out and study all of our trading partners' protections, we look at their quotas, we look at their tariffs, we look at their licensing fees and we say, "Is this country more or less protectionist than the United States?"

If it is more protectionist than the United States or as protectionist as the United States, then we impose these restrictions on that country. On the other hand, if the country is less protectionist than we are or wants to sell more textiles, not be affected by this, and is willing to become less protectionist, if they are willing to open up their markets and let more American goods in which is what we claim we want them to do, then this will exempt them from this bill.

That will not leave their textile industry "unprotected"—still 1,500 tariffs, still an 18-percent tax. But what this amendment says is if a country is less protectionist than we are, if it allows American goods freer access to its economy than we allow goods access to our economy, then it is exempt from this bill.

AMENDMENT NO. 2864

(Purpose: To exempt from quotas under the bill imports from countries that are less protectionist than the United States)

Mr. GRAMM. Mr. President, I call up amendment 2864, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Texas [Mr. GRAMM] proposes an amendment numbered 2864.

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

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

The amendment is as follows:

At the end of the bill insert the following new subsection:

"(d) EXEMPTION FOR LESS PROTECTIONIST COUNTRIES.—"Notwithstanding any other provision of this Act, any limitation imposed by this provision of this Act, any limitation imposed by this Act on the quantity of any article that may be entered, or withdrawn from warehouse, for consumption in the customs territory of the United States shall not apply to such articles of a country if—

"(1) the President, after consulting with the United States Trade Representative, determines that the tariffs and quotas that such country imposes on United States exports to such country (based on the weighted average of the value of such exports) are lower than tariffs and quotas the United States imposes on exports of such country to the United States based on the weighted average of the value of such foreign exports), and

(2) the President submits to the Congress a written statement certifying such determination within 90 days after the date of enactment of this Act.".

Mr. GRAMM. Mr. President, I ask unanimous consent that I be given 20 minutes of Senator PACKWOOD's time.

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

The Senator from Texas.

Mr. GRAMM. Mr. President, I think the amendment speaks for itself. If people simply want to open up more trade, create more jobs, if we want fair trade, if our objective here is to penalize people who are cheating in trade, then we ought to adopt this amendment. If the country is less protectionist than we are, if they are letting in American goods on a freer basis than we are letting in their goods, I do not think we ought to slap on another degree of protection and induce them in turn to let in fewer American goods.

So I hope my colleagues will adopt this amendment.

I yield the floor.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. HOLLINGS. Mr. President, I trust the distinguished former economics professor has enjoyed his lecture this morning.

Earlier it was said that the distinguished minority leader, Senator DOLE, had to go to the dentist. I doubt he suffered more pain in the dentist's chair than I did here listening to this smokescreen about Smoot-Hawley and Plymouth Rock, tariffs and quotas, such oozing of concern that America be fair and benign.

The reason I direct this comment to my distinguished colleague from Texas is that I know he knows better. He is among the most brilliant Members of the entire Congress. He has proven it time and again. I have worked with him intimately. I'll testify to his cleverness. Yesterday he treated us to a panoply of diversionary tactics.

He started off with the issue of constitutionality. He knows this bill is constitutional. He took refuge in the buzzwords "work shoes" and "work coveralls."

He tried every device imaginable to sneak in some votes, and now he has given us this Texas A&M lecture. I am delighted to lecture him in turn, because he misses the entire point about competition.

We can go back to that fellow David Ricardo and his theories of free trade and comparative advantage. British disciples of Ricardo counseled our Founding Fathers, "Let us use our comparative advantage. You in America will ship to us in the mother country the raw materials that you produce best and there will be no tariffs. There will be no quotas. And we in turn from merry old England, mother country, will ship back to you the manufactured goods that we produce best under our comparative advantage, and there will be no tariffs. And there will be no quotas."

Alexander Hamilton, when he heard this comparative advantage nonsense, replied in his pamphlet "Report on Manufactures." He said, in effect, "Stick it in your ear." Of course, he worded it somewhat more eloquently, but that is the gist of his reply. He told Great Britain, look, we just fought a war to liberate ourselves from your colonialism. Now you want to shackle us to economic colonialism. We will ship to Britain our timber and indigo and tobacco and rice, and you will build up your British industry by shipping to America your finished manufactured goods. Thanks, but no thanks.

Hamilton replied "No." He insisted that America would build up its own industrial backbone. And we would build that strength the old-fashioned way, with tariffs and barriers and cargo preference laws. The first bill authorized by Hamilton, Jefferson, and Madison, signed on July 4, 1789—it was not a holiday—was a tariff bill of up to 50 percent on 70 different articles starting with steel and going right down the line. We started building up the industry of America. The result was the mightiest economic power in history.

All of these politicians up here know about military competition. And they know about political competition; that is how we all get here. But we do not know anything in this Nation about industrial competition and international markets.

America's industrial might was not some happenstance, serendipitous byproduct of free trade. Entirely to the contrary. America's economic might was fostered and nurtered by the intelligent use of government. The British tried to choke us off. We battled back for our political and economic independence. And one vital tool in our arsenal was—yes, use the dreaded word—protectionism.

You might find others embarrassed to use their government to foster our Nation's industrial strength. But you will not find this Senator embarrassed. Call me protectionist if that makes you feel morally superior. Make me the No. 1 protectionist in the country. But, in fairness, Alexander Hamilton must come first, so make me No. 2.

Martin Luther King said he had been to the top of the mountain. I have been to the top of our industrial mountain. I have opened industries in Palestine, TX.

I started 30 years ago with a State that resembled an undeveloped country—poor education, low income, no skills. South Carolina had the second lowest per capita income and next to no industry. We created a develop-

ment board at the State level. We built technical training colleges to gain worker skills. I went to my friends Mike DeSalle in Ohio and Abe Ribicoff in Connecticut. I got together the best ideas and strategies so that we could gain the skills and become as smart as you folks are in Seattle, making those airplanes. I put in a business development corporation to finance it. In short, I proudly used the creativity and leverage of Government to build South Carolina's economic strength. I say we must use Government as Hamilton did.

As for Smoot-Hawley, ask your friend JOHN HEINZ, of Pennsylvania, about that. As Senator HEINZ pointed out 10 years ago, Smoot-Hawley affected less than one-third of our trade. Less than 1 percent of our GNP was tied to trade. Now we are at 9 percent to 10 percent tied to international trade. We are a commercial Nation.

What did old Cordell Hull say? Protectionism. He said let us have reciprocal free trade. I do not believe in free trade per se. That is a hollow cry. Whoever heard of business being fair? Everybody is in business to get the other fellow out, to get the bigger market and a bigger profit. These politicians around here have never run a business. They all holler: "Be fair, be fair." This free-trade charade has been going on since Eisenhower, for 30 years. I was once part of it. I thought it might work.

But the name of the game today is controlled capitalism, with Government orchestrating strategy and setting forth the ground rules. That is the story in Japan and across the Pacific rim and Europe.

It was Government that brought South Carolina into the first world. All the States do it, and Texas, too. Take Michigan under Governor Blanchard. I hope somebody from Michigan is listening. I used to go up to Michigan and clean their clock, luring away their industry. They did not foster their industry 30 years ago. In contrast, Governor Blanchard now has a kitty of $350 million to attract industry and develop research. He has built a dynamic economy. More power to him.

Those who get elected in the States know how to use their governments, and the Japanese have emulated us.

Consider the record of Abraham Lincoln? We wanted to build a transcontinental railroad, and the cry in Congress was, "We can import it cheaper." Sound familiar? That is the same cry that the Senator from Texas makes. We can get it cheaper. He says you are a lunatic if you do not like $50 million worth of textiles coming in here at a cheap price. I will show you in a minute that Senator GRAMM's is a grossly false economy. He says you are a lunatic if you do not like those cheap imports. Well, then Lincoln was a lunatic, because he believed we had to build those steel plants ourselves.

Abraham Lincoln said, "We are going to produce our own steel." Yes, we can get it cheaper abroad, but that is not necessarily in our national interest.

I take my hat off to the Senator from Texas, because he knows about sacrifice, but I want you to talk about sacrifice in industrial competition. It costs in the short run, but it pays off.

Lincoln said, "We will have the transcontinental railroad, but we will not get it on the cheap from England." The lobbyists were swarming here from Great Britain, like the Japanese lobbyists are swarming now. It is against the law to lobby in Japan.

Plain and simple, Abraham Lincoln practiced protectionism. That is how we got the Harrimans and Carnegies, the great endowments. That is how we built up our capital and infrastructure. The Government was willing to sacrifice.

Pulling out of the Depression, to rescue the good State of Texas, we enacted price adjustments for agriculture as well as protectionist quotas. I support that brand of protectionism. I want you to see one in the flesh; I am a protectionist.

Mr. GRAMM. I know.

Mr. HOLLINGS. So we have American agriculture. What a great thing America's agriculture is. It produces enough to feed America and 15 other countries. We have done it with the backing of Government. We voted $4 billion because we had a drought. I supported it. I voted for the agricultural program. But let us know where it is coming from.

Free trade: "Tend to your economic interests," said Cordell Hull. We put in the Export-Import Bank to finance airplane sales and other products for export. We subsidized those sales. We continue to support the Export-Import Bank. I voted for that, too.

In 1955, we passed oil import quotas, under Eisenhower, for all the oil boys. That was governmental action.

The Japanese watched us following the war and listened to our hooey about free trade. They said: "If those American politicians believe that, let them continue to believe it. We can dump everything we now produce, and we will take over the American market." They organized a Ministry of International Trade and Industry. It meets every Monday morning in the Iron and Steel Building. MITI and the Japanese Government orchestrate the commercial strategy of Japan, Inc., and they belly-laugh at our childlike faith in 18th century notions of free trade.

As a Governor, I knew how to develop an economy and use Government. I was tickled to death to do it and continue to do it. I doubt there is a Governor in America who does not have an office in Tokyo. The States solicit foreign industry. We know how to compete. We have offices in Brussels. We have offices in Dusseldorf. I have more West German industry in South Caroina than in all the other 49 States combined. We are out hustling. We are working. But up here in Washington we are blowing smoke with all of these economic shibboleths of protectionsim and free trade. There is no such animal. Do not worry about starting a trade war. It is already raging. Our lines have already been overrun. We are going the way of England. Let us admit it.

Mr. President, let us understand that we are not immoral in this country. The politicians will tell you that we are immoral, that we do not save and the Japanese do, so the Japanese are of greater moral fiber. Likewise, they say that America's industry ought to get off the golf course because America's industry is lazy. I say nonsense.

We are going to sober up this crowd here on this textile debate and let them really learn exactly what is going on with respect to the matter of America's alleged immorality.

The Japanese support savings in every way possible and penalize any kind of mortgages, loans or credit. You do not get the interest deduction for your mortgage in Japan. In fact, in Korea when you buy a home and get a mortgage then you have to chip in $2,000 to keep the kitty going for the next fellow to borrow. When you get your mortgage you also buy Korean bonds. They build savings accounts and funnel that capital into the Japan Development Bank, all controlled by MITI and the other commercial banks. They allocate their scarce capital. Of course, it is not scarce now. They have 25 percent of the financial holdings of the world. That is how they are out buying up America.

When my colleagues talk about the CBI amendment, I am for helping the Caribbean Basin nations. But we exempted textiles when we began the Caribbean Basin Initiative. But I tell you now that the Pacific rim nations are exploiting the tiny nations of the Caribbean Basin to transship Asian goods. It will be the biggest loophole you have ever seen, a shell game, and they will inundate us if we adopt the CBI amendment.

The Asian nations allocate their scarce capital. They provide the tax incentives. They establish Government-backed leasing companies. They control their domestic markets, Mr. President. They prevent price wars, and encourage domestic cartels.

We Americans have a little private program that runs around and says "crafted with pride in the U.S.A." You see it. Bob Hope is a spokesman. He says, "It matters to me, made in the

U.S.A." But we have to do that ourselves.

It convinced Sam Walton of Wal-Mart, one of the richest fellows in America and the finest businessman with Sam's Wholesale and Wal-Marts all over the country. He used to buy his merchandise out of Tokyo and Seoul. Now, Walton is supporting "crafted with pride in the U.S.A."

We are enlightening some business people around here. They have been waiting for the politicians to act.

Mr. President, we miss the point when we focus strictly on tariffs and quotas. The worst problem is nontariff barriers.

Japan threw out the import licenses. The MITI crowd does not give you an import license. The Japanese are against antitrust. They promote mergers. When we complain about the cartels, they said there are no cartels. They have an antitrust law, but they do not enforce it and they ensure their domestic producers a profit. They set different industrial standards.

If you follow a load of 1,000 Toyotas from Portland, OR—that is where they land them and put them on flatbeds and send them across the country—we will inspect 10 of those Toyotas and put them on the flatbeds by afternoon, and they are on their way to Charleston, SC, where we sell them.

If you put a Ford automobile on a dock in Tokyo, it takes the Japanese 4 months to inspect it and, if it passes inspection, they will change the specs on the next car so they can reject it. They say, "We are very sorry, but the specifications have changed now and you can't come in."

And it is not just Japan. I do not mean to single them out. I respect them. If you think 4 months is bad in Japan, it takes you a solid year in France to sell a 1988 Toyota. A 1988 Toyota has not yet been for sale in Paris, France. They have to wait until January 1, 1989, because the French take 1 year to inspect them.

These are the changes that our Texas A&M economics professor would ignore, though I know he knows these things. I am not enlightening him. He is standing up for the retailers and for their bigger profits.

Let me say something about those bigger profits. The New York Times inveighs against the textile bill. Retailers are naming that tune, because textile factories do not advertise in the New York Times, but retailers do. And they start off with the bogus argument that $4 million in campaign contributions seems to be all the jurstification Congress needs to pass a textile bill.

Mr. President, I speak in measured terms, because I respect our textile leaders. I have appointed many of them to the South Carolina Development Board. They have been on the leading edge of industrial development, not only in textiles but the entire economy. To name just one on the opposite side of the political fence, Roger Miliken, he gives to the colleges, he serves on the boards, he is active, he is dynamic, he is as competitive as anybody in Japan, Korea, anywhere in the world, and he is a great citizen. But he does not contribute to any Democrats. When I first ran for the Senate in 1966, I had been touted as the young great Governor and the new voice of the South. I had gotten a gold wristwatch from my textile friends and everything else. So my friend, Gordon McCain got together a fundraiser up near Flat Rock, NC, and we had all the leaders there, 38 of them. Do you know how much we raised? Thirty-five thousand dollars. A paltry $35,000 to run for the U.S. Senate.

It really put the fight in me. I had traveled around the clock, to industry after industry, from early morning to late at night. Many times, I canceled a Sunday afternoon and evening with my family and got on the plane and was in New York at midnight and at No. 1 Walnut Street, Irving Trust Co., with industry. I brought industry after industry to South Carolina. But I got peanuts in financial support for my political campaigns.

In contrast, the newspapers know that the retailers are their bread and butter, their most lucrative advertisers. So is anyone surprised that the Times opposes the textile bill?

Here is what the New York Times says; that we are "running full tilt and profits booming."

I have just received from the Department of Commerce, from the Office of Textiles, the July figures, and it is 80 percent of capacity. That is booming? I knew it had to be down. It is going down more and more every month. That is the most recent figure.

I came back from the Far East to find that the big Edisto mill had closed in Orangeburg. They had a good operation but they are out of business. Textiles are operating at 80 percent.

What about the price of imports versus domestic? In 1985, the domestic price of all apparel, according to Market Research Corp., was $17.61; the import price was $17.67. In 1986, the domestic price was $17.30; the import price was $17.44. In 1987, the domestic price of all apparel, Mr. President, was $17.87. The import price of all apparel was $18.09. That is from Market Research Corp.

We hear talk about textiles fattening their profits. What kind of nonsense is that? Last year, textile profits were up 3.8 percent. Yes, it was up 3.8 percent. We were glad for it. But overall for manufacturing profits were up 4.8 percent. That is last year. This year, textile profits are down 12 percent. We have 6.7 percent unemployment in textiles and 9.6 percent in the apparel industry.

The Senator said he wanted to talk on this amendment about jobs. Fine, I am giving you the true picture. We have lost 31,000 jobs already this year. We can see the trend. Inventories are up 6 percent; orders are down 7 percent. And imports have seized 55 percent of the market. Their market share is up. The London Economist Intelligence Unit predicts that, with imports growing at a 15-percent rate each year, by 1995 83 percent of all U.S. consumption in textiles and apparel will be represented by imports. And that is credible. They are not shilling for retailers. Editorially, the London Economist is the biggest free trade advocate there is.

How ironic, because Britain has been vanquished by free trade. The per capita income in Great Britain is down to $9,800. West Germany's is $18,400. The United States' is $18,600. And Japan's is $19,000.

The losers have outdistanced the conqueror in World War II. The Japanese richer than you and me. They have taken over the market share all around the world with their Government leading the way. They have won through government-controlled capitalism.

Mr. President, we all know of Japan's MITI. They will not call it that in Taiwan, but they have one. They have one in Korea. You know, monkey see, monkey do. And if you bring a country back from the devastation of World War II like Japan to become the leading financial power in the world, the richest people in the world, brother, you better stop, look, and listen. Do not give us this Economic 101 malarkey about free trade. You better sober up and find out what the international competition is all about. There is a MITI in Indonesia. There is a MITI in Thailand. The government-controlled capitalism of Asia is winning.

And I have talked to them. The Commerce Minister in Indoensia said, "Oh, no, we believe in free trade; free trade."

I said, "Come on. We can't even get a license to sell in your country. The Japanese built all the plants. It is a sweetheart deal. You don't even countenance licenses."

I said, "Incidentally, I hope to help you, because you do buy soybeans and wheat from us and I would certainly rather help you develop here in low-income Indonesia rather than to continue to fatten Japan or fatten the People's Republic of China, a Communist country."

I like capitalism. I want to favor capitalism. But now the Communists have gotten into it with their own MITI. They call it a Marxist government; to-

tally controlled. We are favoring slave labor.

And this administration, I will show you the letter from Mac Baldrige that you cannot bring a subsidy case against any of these Communist countries because we cannot prove the costs. I can get a bunch of lawyers around here and they will prove the cost of, let us say, polyester fiber in about 5 minutes. They can take the labor cost of Thailand next door in 10 minutes and add it together. We can prove it. They do not want to.

So we have to compete with Russia dumping textiles, the People's Republic of China dumping textiles.

Talking about protectionism, they say we have 1,500 regulations on textile imports. Nonsense. 1,500? Look at this book here. It is titled Foreign Regulations Affecting U.S. Textiles and Apparel Exports. It contains way more than 1,500 regulations; 15,000, more or less.

Everytime you repeal one category of regulations, they come around and put in another little blend and call it something different.

The question in this particular debate is not Smoot-Hawley or protectionism. It is whether we sober up in our national Government and understand what industrial competition is all about in this international economy.

Mr. President, I used to brag, and rightfully so, about our industry in South Carolina. But 6 or 7 years ago I started talking to executives of companies we brought into South Carolina. And, incidentally, they are mostly Republican; I am putting myself out of business.

Cumming Gear said, "Governor, we have to leave. Sorry. We are going down to Mexico. You know, we have been very productive here." We brought them from Stuttgart, Germany.

He said, "We can hire $1.85 an hour labor just across the line." They call it maquiladora, and it is a wonderful thing for American industry.

They use to have a thousand maquiladora plants. It is now near 2,000 plants; 5 General Motors; 5 GE's; RCA's biggest plant—before GE took it over down in Mexico.

But they take advantage of that industry and productivity and bring the products right back in tariff and quota free. I am not interested in tariffs and quotas. I know about no tariffs and no quotas.

And so to meet international competition. Pratt and Reed which has made pianos in Liberty, SC, they have now gone down to Mexico. I can give you a long list. We are soliciting new industries. We are getting in some from Japan and other places.

We have to move. We cannot sit here and listen to this forensic nonsense about free trade versus protectionism.

(Mr. SANFORD assumed the chair.)

Mr. HOLLINGS. By the year 2000, the Pacific Rim countries' GNP will outdistance that of the United States and the European Economic Community combined. Thailand has had 7 percent growth each year for almost 40 years.

The New York Times cannot see the forest for the trees. I am looking at the entire forest and the trends. Mr. President, let us go right down that trend one more time, for my distinguished colleague.

Textile and apparel employment, back in 1980, was 4 million. It is down now to 1,812,000. In 1982, we lost 157,000 jobs; in 1983, we lost only 5,000 textile jobs. In 1984, we picked up 26,000 and we had to listen to the argument in 1985 about how wonderful the industry was doing.

But then in 1985, after we passed the textile bill and it was vetoed, we learned that 102,000 textile and apparel jobs were lost in 1985.

In 1986, we only lost 5,000 jobs. In 1987, we picked up 18,000 and that is the figure they are citing in these editorials and this drumbeat of pellmell for hell, down the road to becoming a second-rate power. They use that figure when already in 1988 we have lost another 31,000 jobs. Textiles operate on a cyclical basis and we continue to lose more and more and we continue to go down.

So the question here is, yes, jobs; but the issue is also the survival of the industry, creating an environment in which it is worthwhile to invest.

Look, you have money. You have billions. The textile industry, yes, has put in $18.6 billion since 1980, over $2 billion a year. They did that in a crash program of modernization, computer controls, electronic controls, and otherwise. They cut back on employment. There is no question about that.

But they have now reached the point, seeing the important trends, where they question whether it is worthwhile to invest in a declining industry, in an industry targeted for extinction.

Mr. President, I ask unanimous consent to print in the RECORD a list of new textile and apparel exporters to the United States.

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

NEW SUPPLIERS

	1986	1987	Percent growth
Bulgaria	2.0	4.7	125
Burma	2.5	2.7	8
Cameroon	0.1	4.8	6,894
Cyprus	2.1	2.3	9.8
Ecuador	1.5	3.5	137
Fiji	.5	1.2	140
Guyana	2.1	2.6	20

NEW SUPPLIERS—Continued

	1986	1987	Percent growth
Iran	.9	1.3	43
Ivory Coast	1.9	10.3	431
Kenya	.9	1.3	43
Lesotho	.9	1.1	28
Madagascar	.01	3.0	51,023
Malawi	.1	4.2	3,664
Morocco	4.7	6.7	42
Nigeria	.5	17.5	3,548
St. Lucia	3.2	8.0	147
Swaziland	1.5	2.8	92
Tunisia	.4	5.7	1,412
U.A. Emirates	1.0	5.8	462
U.S.S.R	.383	2.4	6,161
Zimbabwe	3.3	10.4	212

Source: OTEXA, Major Shipper's Report, December 1987.

Mr. HOLLINGS. The entrance of the little countries is significant, because they are used as points of transshipment. It is a shell game aimed at inundating the U.S. market. I never heard of Malawi. But right in between Mozambique and Zimbabwe is Malawi. I had never heard of it until we got this list of new suppliers.

Let us just read, since they are talking about economics, the balance sheet. Let us assume that company A has 50 percent of a particular textile market and their market share is growing at 10 percent. Company B has only 20 percent of the market but their market share is growing at 40 percent. The overall market is growing at 30 percent.

Every time you double your market share you reduce by 20 to 30 percent your cost of production. Anybody investing in New York would immediately say: Look at company A. It has 50 percent and it is growing at 10 percent, which is more than the growth of all U.S. manufacturing, so that is a wonderful investment.

The truth of the matter is that company A is going to be bankrupt in about 6 or 7 years because company B is getting that market share, knows exactly what it is doing. It will continue to get that market share and take over entirely. They will have the lower cost production. They will have the quality product.

I am sick and tired of my colleagues telling me we ought to have a quality product in the United States. Our quality is better than anything imported from other countries. I can show it to you right now in textiles and apparel. In fact, it is quality and fashion and texture in advanced things like carpeting. We make a better carpet. We make it cheaper. But we cannot export them because of barriers abroad.

We are the best manufacturer. We have the best research centers. We make the best carpet in the world at the cheapest price, but we cannot sell it abroad. That, Senators, is what I am talking about.

Mr. GRAMM. That is what this amendment is about.

Mr. HOLLINGS. That is what I am talking about, not tariffs and quotas and not even reduce the barriers—I do not expect the U.S. Government to do that for me, but I do expect them to enforce the dumping laws. They trot out what they call the exporters sales price. In my opinion it is illegal. I do not have the money to bring the case again.

They will take the sales costs, all developmental costs, TV advertising and everything else, and say that was the domestic price. They do not do that in Europe.

They have sense in Europe. They have globalized quotas, exactly what we are asking for in this bill, and they reduced their deficit from $5 billion in 1980 down to $1 billion in 1988. They have enforced their global law.

I have tried it every way I can, but I cannot get our Government to enforce the law. I am going to do it the way the Europeans are doing it. Globalize the quotas; take care of the CBI. We give the initiative to the President of the United States. We tell the President, "You can go ahead and get anybody you want."

If I wanted to develop this hemisphere, I can tell you exactly what we should do. We are graduating 28,000 high school graduates in Panama in June with no place to work. And we are wondering why we are having troubles down there. It is not drugs. It is worse than drugs. Marxism is moving in. Thousands of those graduates went to Patrice Lumumba University in Moscow and have been doing it for years.

I went down to Latin America under Eisenhower with President Kubitschek, in Brazil, and Frondizi, in Argentina, and Ike had Operation Pan America. Jack Kennedy had the Alliance for Progress, and now we have CBI. We give it all a big title and forget it, sending money down there to the dictatorships. Let us tell the truth. The oligarchs intercept our money and they send it to bank accounts in Geneva and Miami. The rich get richer; the poor get poorer. And if I was in Nicaragua, I probably would be Ortega. You have got nothing to lose.

We have to develop a middle class, and this is where you start, right here, with this globalization. This bill will start a foreign policy this country can be proud of. Let us take the Latin American MBA's from Harvard and Yale and Austin, TX, and encourage them to legally set up businesses and then, Mr. President, on a globalized basis lets allocate them textile quotas. I want to take 5 percent of the textiles from the People's Republic of China. Ten percent of the textiles from Hong Kong. Let us say 20 percent of the shoes from Korea; 30 percent of the hand tools from Taiwan; 10 percent of the electronics from Japan. They are rich as can be. Richer than you and me. If I can reassign those quotas on a globalized basin down to the Western Hemisphere, I can build up a middle class and get free elections. We talk about freedom. We have to have freedom. You are not going to get any freedom without a middle class. I want to build up a middle class. I want to strengthen my hemisphere, but they will not let me do it because they give me that malarkey about Smoot-Hawley. Rotten history if I ever heard.

We ought to be proud of this bill. We can start something in this Senate. "Have the courage," says the New York Times. I have the courage. I hope they have the intellect to sober up and find out what the facts of life are. They sell these New York Times in downtown Hong Kong. I cannot sell any textiles.

We are losing industry after industry. I bought Elgin watches in South Carolina from Elgin, IL. They increased their productivity 35 percent, but they do not make Elgin watches in America. They have gone to Korea.

I can go down the list of industries. We are gradually losing machine tools, sporting goods, electronics, radios, TV's, power tools, because the industries Governor Sanford and I brought in, they are telling us they have to go to Mexico because we cannot beat that $1.85 an hour labor, that international competition. That is the only objection, frankly, to the minimum wage hike.

I would like to pay a minimum wage of $10 if we could afford it. It is a question of what you can afford. We are legislating double-breasted, parental leave, plant closing notification. I can make a good talk on any one of them.

It is our standard of living that we are talking about, not Smoot-Hawley. If we as politicians, Republican and Democrat, come here and say you have to have Social Security, you have to have unemployment compensation, you have to have a minimum wage, you have to have clean air, you have to have clean water, you have to have a safe working place, you have to have safe machinery, you have to have plant closing—just add on to it. We can keep adding on. Fine business. That raises the American standard.

But then the politicians give you this economic bunk at the other end of the line about Smoot-Hawley and say you need to compete with dollar-an-hour labor abroad.

I am ready to move to table this amendment. They are trying every angle in the world to make mischief.

They know good and well their use of procedure was wrong, their use of the Constitution was wrong, their use of the buzzword "work," their use of the buzzword "poor." Now they are going to say you really ought to remember free trade versus protectionism. They want everybody to say, "I'm a protectionist, put me down." But put Hamilton first. I am only No. 2. Alexander Hamilton built it and James Madison and Thomas Jefferson built it because they cosponsored tariffs. Put me down as No. 4. Lincoln too. Excuse me, put me down No. 5. Excuse me, Cordell Hull. I am down to No. 6. Dwight Eisenhower, with oil import quotas. I am down to No. 7. Old Dwight, he believed in protectionism. Golly, I am going to put myself out of business. I better stop talking. I yield the floor.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, the distinguished Senator from Texas [Mr. GRAMM] has a good deal to say about economics concerning textiles. There are a few facts I would like to bring out.

The opponents of the Textile and Apparel Trade Act that we are now considering circulated a document to Senate offices entitled "The State of the U.S. Textile and Apparel Industry." The information contained in the document is highly misleading and in some instances downright fictitious.

The opponents claim that production, capacity utilization, exports and employment all increased in 1987. This trend is continuing in 1988, they say, while the imports have declined more than 9 percent in the first 5 months of the year. That is fiction.

Now, what are the facts? Twenty-nine thousand jobs were lost in the textile and apparel industry during the 12-month period ending July 1988. Capacity utilization in the textile industry has dropped 5 percent since the first half of 1987. Textile profits have plummeted 12 percent in the first quarter of 1988, compared to the first quarter of 1987. New orders for textile mill products have fallen over 4.6 percent during the first 6 months of 1988. For broadwoven fabrics alone, new orders have dropped 57 percent.

Now, Mr. President, the opponents also claim that textile production increased 6 percent while import volume increased four-tenths of 1 percent. For the first 5 months of 1988, they say imports fell 8.2 percent.

Now, what are the facts? The facts are that the trade gap in textiles rose to $4 billion in 1987, up 12 percent from 1986. Real shipments of textiles rose only 1 percent in 1987 and are down 3 percent in 1988.

Now, the opponents claim that textile capacity utilization climbed to 92 percent, up from 88 percent.

What are the facts? Textile capacity utilization did climb in 1987 but only by 0.7 of 1 percent. It has tumbled 4 percent in 1988. Basic textile capacity utilization in June 1988 was under 87 percent.

The opponents claim that average manhours were up 5.2 percent.

What are the facts? For January to July 1988 average textile manhours worked were down 0.5 of 1 percent. For July alone, hours worked fell 3.4 percent from a year ago.

The opponents claim that textile employment rose 3 percent, for an increase of 21,000 jobs.

What are the facts? Textile employment dropped and this is a very important figure—8,000 jobs from November 1987 to June 1988. Combined textile and apparel employment dropped by 26,000 jobs during the same period.

Opponents claim that profits of textile companies increased 8.6 percent in 1987 compared to 1986.

What are the facts? Profits did increase in 1987 primarily as a result of downsizing. The last textile company in America will probably make a profit until it, too, is driven out of business by the flood of foreign imports. Textile profits have fallen 12 percent during the first quarter of 1988. I repeat, textile profits have fallen 12 percent during the first quarter of 1988 compared with the first quarter of 1987, and only 3.3 percent of the sales.

The opponents claim that apparel employment in 1987 remained at the 1.1 million level of 1986.

What are the facts? Twenty-seven thousand American apparel industry jobs have been lost in the past 12 months. U.S. apparel industry employment in July was at the lowest level since January 1946.

The opponents claim that merchandise exports increased 25 percent.

What are the facts? The apparel trade gap in 1987 was $20.8 billion, 18 percent higher than 1986. Increases in merchandise exports largely represent shipments of cut cloth for reimport under the 807 program, so these exports in fact create imports which represent lost job opportunities for American garment workers.

The opponents claim that personal consumption expenditures on clothing increased 5.6 percent on top of a 6.6-percent increase in 1986.

What are the facts? In real terms, personal consumption expenditures on clothing increased 1.8 percent, on top of a 7.1-percent increase in 1986. For the first quarter of 1988, real spending is down 1.1 percent and has declined for three consecutive quarters, a most unusual development.

Now, Mr. President, the distinguished Senator from Texas was talking about protectionism. He says not to apply this to any countries that are less protectionist than the United States.

Now, Mr. President, what does protection mean? Other countries have tariffs, quotas, which may be identified, but what about the hidden barriers and the nontariff barriers such as informal business cartels, such as product standards that exclude U.S. products, such as lack of antitrust laws allowing vertical integration and price fixing?

How would you handle these? What about the complicated distribution system like the Japanese use? Mr. President, there is no question about it. With the low wages overseas in many of these plants compared with the high wages we pay and also with governments subsidizing these companies—a lot of governments actually subsidize industries to manufacture goods to send here just to give the people work—is that fair, Mr. President?

We have come to a time when we want not free trade but fair trade. That is all we are asking. What some of the opponents of this bill want is complete free trade. How can you have complete free trade when other governments are subsidizing products sent here and when they are paying 50 cents to $3 or $4 an hour and we are paying $8 and $10 an hour? How can you compete under circumstances such as those?

We are not asking for protection. We are just asking for reasonable, fair trade. That is all we want and that is what we should have.

Countries may not be protectionist now, but what about the future? This amendment says not applying to any countries that are less protectionist than ours. That does not mean anything. The moment we take action they can take action, they can change the laws and they can claim they are making them less protectionist.

Who is going to decide whether they are less protectionist?

Mr. President, this amendment should be killed and I hope the Senate will see fit to kill it.

Mr. HOLLINGS. Mr. President, Senator ADAMS is ready to go with an amendment.

Mr. ADAMS. Mr. President, I have an amendment I am prepared to offer. It is my understanding that Senator GRAMM's amendment is still pending.

Mr. HOLLINGS. Let us yield at this time. The minority leader has not gotten back yet. I want to talk to him. Senator GRAMM has momentarily agreed that we could stack the vote maybe if there was to be one momentarily until about 2:30. If that is the case, maybe Senator FOWLER can go because I have to get Senator GRAMM back.

Mr. ADAMS. I am very willing and prepared, I say to the Senator, to proceed with the argument on my amendment. I just want to be certain that I am not, Mr. President, in any way interfering with Senator GRAMM's rights on his amendment.

Mr. HOLLINGS. Not at all.

The PRESIDING OFFICER. Is there objection? If not, it is so ordered.

Mr. ADAMS. Thank you very much, Mr. President.

I want to say first to my good friend from South Carolina that I have listened with great interest both as a Presiding Officer and on the floor to the debate on this bill. I think it is an important bill, and I think it is a very important debate.

Mr. President, in a few minutes I will offer an amendment at the appropriate time to strike the quota auctioning portion of this bill. I have filed this amendment. I know that it is well known to both the manager who is in favor of the bill and to the manager in opposition.

This amendment strikes the quota auctioning provision from the bill. Mr. President, I am concerned that many Members of the Senate do not even know what the quota auctioning section is because this amendment is directed toward a provision. The quota auctioning portion was not in the House bill as passed, was not in the Senate bill as it came from committee, and has come before the Senate for the first time during this debate. It is a very far-reaching and very difficult to administer provision.

It is very important to understand why it was included by Senator HOLLINGS in the bill and why the bill was called up under rule XIV as a separate standing bill rather than using the bill that came from the House or the bill that came from the committee, and as we all know the bill came from the committee without recommendation.

This has never been passed upon. It has never been reported by the full Senate from the Finance Committee and it is offered for one very simple reason: the Congressional Budget Office has found that the quota contained in this bill is a revenue loser. It is a revenue loser to the tune of $346 million in the first year of implementation. Being a revenue loser this provision in this bill, if it were taken up as it came out of the Senate committee without a quota auction, being a revenue loser would be subject to a point of order.

This quota auctioning provision in this bill, according to the Congressional Budget Office, would lose $346 million. In other words, if we just left the bill as it was, the original bill, with the global quota and with the provisions in it for limitation, it would lose $346 million in the first year of revenues that were included in the budget resolution. It will lose $451 million in the second year, acording to the Congressional Budget Office, $694 million in the third year, $966 million in the fourth year, and $1.3 billion in the fifth year.

In other words, we would not be receiving customs revenues that had been planned in the budget. In order to ensure that a point of order under

the budget would not lie against this bill, my good friend, Mr. HOLLINGS, who is very, very skilled in budgetary matters, and I know he is from long experience that I had in the House as chairman of the Budget Committee, and I have been an admirer of his in trying to keep down this congressional budget. He found it necessary in order to save this bill to impose a tax to offset the revenue loss in the first year. And I do not blame him for it. I am not critical of his motives or anything else, but the Members of the Senate need to understand that this is a budgetary quick fix in order to get by the concurrent budget resolution.

Since we are going to have this put into the law, if this bill passes, it is important that we examine the merits. That is what I am here to do this morning, and to enter into a debate with the chairman and with all others who wish to discuss quota auctions. But I made these preliminary remarks so that all of my colleagues understand that this quota auctioning provision which I am moving to strike was put in because this bill without it restricts imports, reduces revenues, and therefore would be violative of the budget process.

Mr. President, the truth is on quota auctioning—that is what I want to discuss now—does not improve the House or Senate committee's version. It makes both of those bills much worse bills. I am talking about the bill that came from the House over here and the bill that came out of the Senate Finance Committee. It places the cost of trade protection contained in this bill on the retailers and the importers who will be taxed to fund textile protection by bidding for import licenses. That is what you do under a quota auctioning system. You have to bid for import licensing.

This quota auctioning scheme, Mr. President, I will point out, is unworkable. It is anticompetitive. And it is unfair. The cost of such a quota auction far outweighs any perceived benefits it may offer. Moreover, Mr. President, since foreign governments will be able to continue their own system of allocation of quotas because under a quota system those who are sending have control and can apply a quota allocation system among their producers, manufacturers, and exporters. And the United States as the importing part of this quota system is now proposing that we not only have a tariff system where we charge license fees, but a portion will now be put up for auction.

This bill establishes for the first time a global quota, and it adds 1 percent. That 1 percent is less than the normal growth. That is why there is going to be a reduction in total amount of revenue collected. But the quota auctioning section does something else. It takes this global quota and then takes 20 percent on all of these various items coming in through all of these ports, coming through the port of the Senator from South Carolina, the Port of Charleston, and coming through the Port of Seattle. It is going to say that you are going to auction these licenses. It is kind of like, I say to my good friend from South Carolina, when they proposed to auction the slots out at the airports.

This is a scheme that becomes very complicated. Actually, with this particular system, we are going to have two sets of quota allocations, because I do not know what Japan and Korea and Taiwan and all these other people are going to do with these quota licenses that we are going to be putting up for auction over here. They may be saying to their people: "Well, only you people in our system can apply for these licenses"; or they may try to say, "If you have to pay more in the auction, we will do something else."

All I am pointing out is that we have agreements under the Multi-Fiber Agreement at the present time with 54 countries. Fifty-four countries will have to decide how they are going to handle this system.

In addition—and we have not discussed it at great length in this debate—where we are having a real problem in the Multi-Fiber Agreement is that a lot of other nations are coming into it, so we are beyond the ones that are under the agreement. We have other nations, either through triparty shipping or through their own textile interests, and these are the ones increasing the amount of textile flow into the United States.

I might state that I enjoyed very much the lengthy discussions this morning between the proponents and opponents of the bill on the textile industry. I will add this one note to it: The textile industry has always moved. As the Senator from South Carolina is well aware, it moved from London to Boston, to South Carolina, to Japan, to Korea, to Thailand, and I do not know where it is going next, but it keeps moving. It always has done this, so it will keep moving out into these other nations.

The reason I mention that in this debate is that we will have countries that have an experience with quotas and licenses and a system that may be able to deal with this quota auction we are going to hold. A lot of other countries will be coming into this, and I do not know how they will get into this quota auctioning system. They have to obtain some right from their country to send it.

One of the things that is going to happen in the United States is that this is going to create a bureaucratic nightmare of setting up an auction system.

Mr. President, I have been a Cabinet officer, and I have often said in little speeches around the country that hell on Earth is to be a Cabinet officer who has to administer the statutes that one has passed as a Congressman. There is only one thing really worse than that, and that is when Congress passes a statute and it is very general and then says that the Secretary shall pass regulations to implement the statute.

That is what we have done here. I do not blame the Senator from South Carolina and the others who drafted this bill for not putting into this legislation this quota auctioning system, because I do not know how you are going to create it.

What has been done is one of those awful things to a Cabinet officer which says—and this is on pages 15 and 16 of the bill:

> By no later than the date that is 60 days after the date of enactment of this act, the Secretary of the Treasury shall prescribe regulations under which auctions shall be conducted under paragraph 1, and the regulations shall provide for auctioning the quotas on a historical basis among retailers, importers, and manufacturers of textiles.

That would concern me if I were a Secretary. That means that if you were in and you had a license or a historical base, you had a right to sell that out to somebody actually in the game before anybody else is in the game of this auction.

This is the second part: "The transfer of import licenses among importers." So we are going to create a commodity market here. I understand that one already sort of exists upstairs in Hong Kong on the Australian market, where you go up a set of stairs and somebody says: "We will guarantee you under one of those quota auctions that we will speculate on what the price is going to be."

Let us say that you are dealing in shirt fronts. I do not know a lot about the textile business and I am not trying to be an expert in it. But I understand that you take parts of the garment and create them in one place and sell them some other place. We both have shirt fronts, so I will use that. Those shirt fronts are selling in the export-import market for $20 apiece. In other words, you are licensed, and after you have paid for it, it is going to be $20. You paid for the cost.

Now you are going to start an auction on these. You will have to have 100,000 shirt fronts in your manufacturing system over the next 12 months. If you and I are in the manufacturing business, we cannot possibly go month by month and set a price on our goods and try to figure the manufacturing sequence and have that price going on whatever the auction happens to be 2 months out or 3 months out or 5 months out. We know the cost is $20, but somebody may bid them up to $40 because they want to get into

the business; and a speculator will say to us, "I will see that you get your 100,000 shirt fronts at $30 apiece."

You will say, "That's $10 over what I am paying for them."

He says: "OK, you go gamble on them."

So you will have a market then, and somebody will make money on it, and that is fine. But there will be a side market that involves a fixed price.

This provision allows somebody who already has a license to get into it. So I do not know whether 20 percent is going to be the limit on this. If you get into a secondary market with the auction market, somebody else has a right to say: "I have 25,000 shirt fronts I can import under my historical basis, and I will let you have the 25,000, but I will charge you $24.50."

Again, I understand, and I do not want to draw these regulations, but somebody will have to say who gets in, how much they get in, and what the size of the market is.

Then, the final part of it becomes really difficult, because it says: "A means of ensuring that no person obtains undue market power in the markets of the United States through use of the auction import licenses."

Mr. President, I do not know all the things in the textile market or the commodity market in Chicago. I do know something about the timber market, and I can tell you that we have had a lot of regulations as to base amounts of logs that can come out of national forests. People get a base and they have a right to go in for so much. We have auctions then.

When you start fooling around with the auction system and say somebody has or has not cornered the market, you are in the antitrust field then. I do not know whether Treasury is capable of doing this. I can tell you, as a former Cabinet officer, that when you have one of these things and it involves three or four departments, you will try to get an inter-Cabinet group. An inter-Cabinet group, as the old sage says, is a camel with a horse put together by a committee.

Treasury will have to go to Justice and will have to say: "We can't let somebody corner this market and force out new people in the United States who want to get into the apparel business." We cannot let somebody corner a market in Hong Kong or wherever this thing starts on selling these quotas back and forth.

Then we will have to have some regulations on whether you prosecute somebody; and if you do prosecute them, how you do it.

The only way it can be done—again, I am not critical. I understand why you have this in here. But you will have to create a staff.

And they are going to have to be expert in category by category, whether it is poplin jackets or whether it is certain types of suit apparel or whether it is down jackets. It is going to have to go category by category in this auctioning program.

The distribution network is going to have to take this into account because this is going to be the price of their items.

I happen to know through Jim Whitaker who was one of the first on Mount Everest and does these down jackets, that they assemble them in Seattle but they assemble them in pieces. Some come in with the sleeves and some come in with the parts that are partially made.

In these categories you have to know whether somebody has cornered that market in the auction system, and then with this provision in here that says you have your base license in there I think those base license people can probably get into a market to say, "I can do better for you than the auction."

You see, I understand that an effort is made in this bill to just take a small piece, 20 percent, and that would be historic.

The way they do that in the log business, it is if you ship so much, say you are Weyerhaeuser and you had a base of this amount you are given that during the year. That is really kind of anticompetitive in and of itself because when you divide up the bases you freeze the people who are in the business, and anybody who is going to come into the business or wants to expand under this system is going to be in a mad rush to go out and get a quota, and those that cannot get a quota are going to have to go to those who have a base.

So this system of buying and selling and speculating, it is just inevitable. It is inevitable, Mr. President, that the largest and richest firms that have the market share are going to build on it at the expense of the smaller. I know the 20 percent was put in to make this a pilot program for a year. But by having both a bigger base and the right to go into a market and bid in an auction, if you have the base, and you have the size, you just simply can put anybody against you to the wall on trying to obtain the necessary things they need to manufacture.

That is what happened in the timber market and, incidentally, we had some foreign companies come in and go into those Forest Service auctions and bid up the price of what was being auctioned and so it just knocked out people who were in our supply system. Some tried to go in. They bid up the contracts and they met the price, and then you know what happened? The market went down for sales and people who had bought at these high rates in the auctions were left with products that they could not sell and everybody had to come back to the Congress and try to bail it out.

The only point I am trying to make in this is this is a very complicated thing that we are about to start and we are doing it in an hour's debate on the floor here and I just hope that my colleagues understand and will vote for my amendment when I offer it to really prevent chaos out there in this industry.

Anybody who is listening to this debate who is in the business and is a small firm and who receive little or no quota under a base, or those who want to expand next year, are going to look at this and say, "Am I going to be able to get enough product to expand?" And the industry has shifted, as the President knows, because he is from a State and is very experienced in this, that industry has shifted from a lot of bolt cloth production into very sophisticated production of sophisticated nylon and other products and in new types of weaving.

So you cannot depend that you are going to get this in a domestic market either. So we may be protecting a market and setting up an auction system where nobody is going to be able to get the supply at which point I am not quite certain what the consumer does because if this is a 1-year program, everybody better go out and buy quick to get through the year or figure that for the year it is going to be a tough year distributing. I do not blame them for just trying it a year. Again, I am not critical of that. It is to see how would things work. I just want to give a little fair warning to everybody in the business that if we go out there with this year, the way I have seen regulations work down there in other administrations, and I do not think this one is as good as some we have, I am not sure you can issue regulations in a year.

I remember regulations that we put in regarding access to subways and we were 3 years out and I was working mighty hard. I do not say I am the world's smartest fellow, but I am a hard worker, and I just could not get those things through. We had 60 days' notice, we had 90 days' notice, and then we had appeals to the courts and then we had court challenges and then we went back and we reissued and then we had a couple hearings up here because they did not like what we were doing, and I do not blame that they did not like what we were doing, but I am just telling you put this thing in effect 60 days after this bill goes into effect and I will be a monkey's uncle if in 6 months out during this year periods that there will be any regulations.

I just hope they do not put any criminal penalties in on anybody who has violated the regulations that they have not got.

So, we have this thing coming. I just want to be sure we all know this is a policy we really want.

You know the irony of this is that there is a group out in the country that is advocating using a quota auctioning system to shift from tariffs over to a system where maybe they auction all of these licenses as they came in.

In other words, there are people who say this would liberalize trade and put it in the free market and instead of the Government putting out regulations and tariffs, everybody gets together and they would auction off these systems. And that this would be a way to pay for trade protectionism.

But that is not advocated here.

This is a temporary system. There is no provision for continuing it beyond what is needed just for this quick fix.

So we not only have something that we cannot implement and we are creating uncertainty where I hope the result, Mr. President, is that a lot of mills and apparel people in the United States just pull back because of the uncertainty, because it sure hurt a lot of businesses in my State, not only those who are involved in the importation but those who are involved in the apparel business, and I think it would have a dramatic impact.

You know, I hope this quota auctioning system is not going to be called the Business Closing and Anticompetition Act of 1988 because the fact is that many little retail outlets and businesses are going to be faced with some panic bidding, some profiteering, and some predatory practices.

I have to say, Mr. President, that I do not have a great deal of confidence in these people in the financial markets who run these commodity trading speculative schemes and things go up and down. I do not have confidence in them, and I do not like the fact that we do not regulate them a lot more than we do at the present time, and we are creating a new one.

A final point is this, that we have a GATT system, we have a Multi-Fiber Agreement. We are going to try and renegotiate it, and you know this quota auctioning system would violate articles 2 and 7 of GATT. These two articles prohibit the imposition of any charges or taxes which amount to more than an incidental user fee.

Maybe you can say that somehow because we are auctioning these things and people are bidding and they are coming in at different prices it is not a tax, but it is really a tax.

You are going to pay. It is just kind of a lottery as to how much you are going to pay.

Now, those who have championed this auction system of liberalized trade as substituting for flat-rate Government tariffs, like Fred Bergston at the International Institute of Economics, identified the danger, Mr. President, of applying quota auctions unilaterally in the textile and apparel section. Because if you apply these in this fashion, as Mr. Bergston writes:

> A unilateral conversion would violate the terms of the bilateral agreements which call for the exporting country to administer the trade restraints. It could lead to calls for compensation for the affected exporting countries and cause some countries to question the viability of the MFA regime itself. To implement an auction system, the United States and other developed country signatories to the MFA would need to establish a benchmark for their total imports of MFA products based on the average volume level of the last 2 years of MFA-4.

Mr. President, this just means we are going to have to hire some more people, and we are going to have to go out and be certain that this benchmark is accurate and we are going to have to expand this scheme and then go to our bilateral trading partners and say to them, "Well, now, we are going to do this. What are you going to do about it?" And then they are going to ask for some kind of compensation.

Mr. President, what bothers me is the ones that we will be applying this to, the kind of compensation they are going to want from us is the worst kind to have. They are going to go after us in our high-paying jobs. They are going to go after us and say they want to have tariff compensation in other areas—chemicals, high-tech products, and so on.

Mr. President, implementing a radical change in the textile and apparel trade with auction quotas is not something that the Senate should do unilaterally. We need careful thought and debate and we should not do this—though I am not critical of my good friend for wanting to avoid a budget point of order—but we just cannot do this to avoid a budget point of order. This quota auctioning provision was not in the bill reported without recommendation by the Finance Committee. The Finance Committee, so far as I know, has not held any hearings on this and how the systems work. It is not included in the House-passed textile and apparel bill.

I have tried to point out that it would be a bureaucratic nightmare to administer. Its costs are going to outweigh its gains because an auction quota is going to go above the price now and it is going to create a secondary market. It would violate our international obligations. And I do not know what they are going to demand from us in return for doing this. We should not be doing all of this to get by our budget requirement.

The answer is we should not and I hope we do not. This provision on quota auctioning deserves our careful attention and scrutiny. Failure to examine it carefully now will mean that the Senate is going to have to vote up or down on a proposal within a proposal that will tax American business. It will cost us jobs, it is going to raise costs to consumers, and it is going to break our international obligations.

Mr. President, I would say to the chairman—I notice the majority leader is on the floor—I am prepared to lay down my amendment at this time. It is amendment numbered 2859.

It is my understanding, Mr. President, that there is a pending amendment. I do not wish to interfere unless I can obtain—and I would ask the majority leader if he would obtain a unanimous-consent agreement and I would lay down my amendment under that.

Without yielding the floor, I would like to ask the question of the majority leader.

Mr. BYRD. Mr. President, let me respond by saying that if there is no objection, I would like to set aside the Gramm amendment. Mr. HOLLINGS is going to offer a motion to table that amendment at some point. I understand Mr. GRAMM wishes to have 5 minutes prior to that tabling motion to comment further on the amendment. But if we could put that amendment over, say, until 2:30 and, in the meantime, take up the amendment by Mr. ADAMS, and if conversation runs its course on that and it is not 2:30, we will set that amendment aside and have another amendment called up and have the votes begin running at 2:30 bang, bang, bang.

The PRESIDING OFFICER. Is there objection?

Mr. EVANS. Mr. President, reserving the right to object. I think that sounds fine to me. It is my understanding that Senator PACKWOOD—we are all running into problems of markups which are occurring. There is an important markup in Foreign Relations on the South African bill which will reconvene at 2:15. I understand that the tax technical will reconvene at approximately the same time. Senator PACKWOOD hopes that at some time between now and then he could come over and lay down an amendment he has that is of importance to him on footwear. I suspect the debate on this amendment will conclude before 2 o'clock. I would hope so. I think it probably does make sense then to stack those votes one after the other.

Mr. BYRD. Very well.

Mr. President, I ask unanimous consent that the Gramm amendment be temporarily laid aside and that the vote on the tabling motion thereto occur at 2:30 p.m., with 10 minutes, to be equally divided, for further debate on that amendment to begin at 2:20 p.m.; that, in the meantime, Mr. ADAMS call up his amendment and, if an agreement is reached to vote on or in relation to that amendment, either on the amendment or a tabling

motion, if we could stack that one, or if there is a point of order.

Mr. HOLLINGS. Mr. President, I have talked with my distinguished colleague from Washington. I would be forced to make a point of order and then, if he moved to waive the Budget Act, I would have to move to table that. I would think that that would be the scenario.

Mr. ADAMS. I have discussed this with the floor manager. I did not know whether he wished to move or table or whether he wished to raise a point of order.

Mr. HOLLINGS. I would raise a point of order.

Mr. ADAMS. Then I will offer my amendment, I say to the majority leader, and the point of order will then be raised, and then we will dispose of that.

Mr. BYRD. Very well. If we could have that vote or votes on or in relation to the Adams amendment, a point of order, et cetera, follow immediately on the vote on the tabling of the Gramm amendment, we would have some stacked votes. Is that agreeable with the manager?

Mr. HOLLINGS. Yes.

Mr. BYRD. Very well. If this is entered, then the Senator from Washington may call up his amendment.

The PRESIDING OFFICER. Is there objection? If not, it is so ordered.

AMENDMENT NO. 2859

(Purpose: to strike quota auctioning program from S. 2662

Mr. ADAMS. Mr. President, I call up amendment No. 2859 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Washington [Mr. ADAMS] proposes an amendment numbered 2859.

On page 14, beginning with line 22, strike out all through line 6 on page 17;

On page 17, line 7, strike out "SEC. 9" and insert in lieu thereof "SEC. 8"; and

On page 20, line 19, strike out "SEC. 10" and insert in lieu thereof "SEC. 9".

The PRESIDING OFFICER. The Senator from Washington.

Mr. ADAMS. Mr. President, I would state with regard to this amendment that it is to strike the sections involving the quota auctioning system within the bill. This amendment would place the bill back into the form that has been debated in the House and has been debated in the Senate Finance Committee. I have discussed this with the manager of the bill, the distinguished Senator from South Carolina. I understand that, if he does not have these provisions in this bill, it can be subject to a potential point of order. I hope that there will not be a point of order raised, that we will strike this. This is a very, very bad section.

If it does remain in the bill, the bill has problems way beyond those that have been discussed in the regular course of action on this textile bill. It breeds a whole new system of auctioning, a whole new bureaucracy, and will violate our international agreements.

Mr. President, I yield the floor.

Mr. HOLLINGS. Mr. President, the temptation is to characterize my distinguished friend's presentation as akin to the octopus's defense. When you do not have merits, the facts, or the law—like the octopus in the dark of water—you squirt out your ink and sneak away. And then I kept listening to my distinguished colleague and remembered he became famous for having recognized that when President Carter created his malaise.

President Carter went up to the top of the mountain and found the body politic in malaise. And my distinguished colleague commented against that malaise, at the time, in a very wise fashion. I am rather nonplussed, then, to watch him creating a quota malaise here on the floor, saying it has never been discussed by the Finance Committee—bosh.

It is in the 1979 Trade Act, passed by the Finance Committee, signed into law. Quota auctions have been authorized by three readings in the House, three readings in the Senate, signed by the President and on the book today.

Let us not say that this is a quick fix. On the contrary, it is a very deliberate and absolute fix, and it had to be checked through all the way around before we put it in.

It was checked through with the Parliamentarians in both Houses. I have discussed this already with the chairman of the Ways and Means Committee as well as the committee members over here on Finance, Chairman BENTSEN and the others. It has been explained to all and has been explained to me. I am not yet an expert on quota auctioning, but I know it is not complex.

They auction timber stump out in the State of Washington. We can go back to PHIL GRAMM, his mineral and oil leases; they auction them in Texas. They have a weekly auction at the Treasury Department of Treasury securities. But if you let my friend from Washington describe it, you cannot get there from here and you are going to start the Going Out of Business Act. I do not know who all is going to get put in jail. We had better deputize a posse to get all these criminals in Hong Kong and in New Zealand and Australia where they have auctions, or in the Treasury Department, where they will have them this week. They have auctions. It is not all that complicated.

Right to the point, yes, when we put in the original bill that we had in both Houses, the question was not raised—I thought it would be—on the House side. They have a rule.

The Senator is the former chairman of the Budget Committee. They do not make a point of order on the budget. You just get a rule and that waives the budget under the interpretation of the House. We have different rules for the budget, membership committees and everything else, on the House side. So they did not need a raising of revenues.

This Senator was not going to bring in a revenue question unless I was forced to do it. But, thereafter, when it came over on that rule and not complying with the budget, then it has been a moving target. I have looked at it. Article 2 has to do with tariffs, not any auction quotas.

Article 8 under GATT has to do with custom feeds, not with auction quotas. We have been through GATT. This is not a quick fix.

Oh, he does not criticize me. He knows why I did it. He would not object to my doing it, but there was a quick fix and there is a tremendous bunch of confusion and discombobulation.

Not so. Not so at all.

No, sir, we studied this one, and we have the up-to-date figure from CBO: $480 million. That is why later, at an appropriate time, I would raise that point under section 311(a) of the Budget Act. Because there, the former chairman of the Budget Committee knows better than I, it is going to knock out $480 million. Then you have to replace it with $480 million. He has not done that. He just put in the amendment. He forces me to raise the point of order.

I do not know whether he moved to waive the Budget Act or not. I would expect the point of order would be sustained and we have had to study this out. We did not go into it helter skelter.

Incidentally, when I say "studied it out," we had to reconcile and get all the textile and apparel people together. As the distinguished Presiding Officer knows better than any, the former Governor of North Carolina, you have got to get the apparel people, you have got to get the fiber people, you have got to get the woolens, you have got to get man-made fibers, cottons, the cotton farmers; you have got to get everybody together and it is not easy.

Northern and Southern people have different policies and whatnot.

So to reconcile it all the way across the board and have it agreed to, you do not find but a couple of these amendments allied to this particular situation.

I understand what is behind my distinguished friend from Washington. But the fact of the matter is that we passed it into law. It has been debated

in the Finance and Ways and Means Committees for over 10 years, and at one time one of the principal opponents today, was then the principal proponent. He talks about Treasury like it would be a stranger.

There has been a book already mentioned. The name, Fred Bergsten, of the Institute for International Economics, "Auction Quotas and United States Trade Policy"; an entire booklet. Mr. Bergsten has appeared and testified in favor of auction quotas and he treats with all the different ramifications and says we are frittering away a fortune. We are frittering away a fortune, and he has measured it: 20 percent.

If I needed more than $500 million, I would have put 30 percent. If I needed less, I would have put 10 percent. It is not a quick fix. It is measured, studied through, authorized by law, in conformance with our bilaterals, in conformance with GATT, in conformance with everything. Because we certainly were not going to give the President of the United States a clear legal authority to veto.

And, of course, he had not. No one suggested repealing that section. The President signed it in 1979. It is in the law books today, giving the President authority under the Trade Act of 1979 to institute import auctions.

So I do not know what the disposition of my colleague is. There is no one I have greater respect for. He has had tremendous experience and, as I say, has led the way for budgetary responsibility in the national Government over the many, many years and he knows better than any. I would be derelict if I did not raise that point, but I do not want to raise that point if there is further discussion.

I yield the floor at this time.

Mr. ADAMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. ADAMS. Mr. President, I ask unanimous consent that the amendment be in order notwithstanding the fact it amends the bill in more than one place.

The PRESIDING OFFICER. Is there objection?

Mr. HOLLINGS. I have no objection to that.

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

Mr. EVANS addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. EVANS. Mr. President, I listened with great interest to my colleague from Washington who I thought in a very effective way pointed out the difficulties in carrying out this particular portion of the act. Let me speak more broadly to the inequities of this whole concept to begin with. This gets right to the heart of the textile bill we are debating.

First, I might say to my colleague from South Carolina, apparently he believes, and we have not yet seen a specific letter from the Budget Committee as to the estimated budgetary impact of this particular provision, that apparently 20 percent utilization of an auction quota would bring about half a billion dollars.

Mr. President, maybe what we should do, if this is really such a marvelous thing to accomplish, is not just start with 20 percent, but go to 100 percent, and instead of half a billion dollars, we would get $2.5 billion and we would have $2 billion left over to reduce the Federal deficit, which I am certain my colleague from South Carolina, with his sponsorship of the Gramm-Rudman-Hollings bill, would believe would be an important and good thing to do.

If it is good for 20 percent of the quota, why is it not good for 100 percent of the quota and let us get some real benefit out of this in terms of reducing the Federal budget deficit?

Mr. President, it is not good for 100 percent of the quota; it is not good for 2 percent of the quota; it just simply is not good at all.

Let me start at the beginning. There is nothing that is a clearer evidence of the end results of tampering with markets than what has happened with this quota auction.

The same thing happens in New York City with the New York City cabbies. I do not think there are very many people who think that a New York City cabby has a splendid occupation that brings that cabby enormous income. But there is a limit on how many cabs there can be in New York City and, as a result of that limit, they have put them in short supply and short supply leads to an excess of demand over supply and that raises the price. As a result, the last time I checked, to get a medallion in order to run a cab in New York City costs something over $100,000. One cab. That is the result of tampering with the market.

We had what was called a voluntary restraint agreement with the Japanese on automobile imports. I spoke yesterday of the end result of that kind of artificial limiting of a market. The end result being an extraordinary cost to American consumers which went into the pockets not just of American automobile companies but Japanese automobile companies as well. They did not suffer under the voluntary restraint agreement. They made extra money at the cost of the American consumer. All that happened was that prices went up as the demand for those particular automobiles exceeded the supply.

Mr. President, this proposal in the bill is evil either way you cut it. Maybe it will raise the money the Senator from South Carolina suggests, but we do not know that. All we have is an estimate of the Budget Committee as to what will happen under this quota auction. It depends on the desires and future as made out by the various manufacturers here and abroad.

If it does not raise the money, then we face an additional deficit because it is very clear what the cost of this bill will be. That we know and know in some detail. That cost, of course, comes from the fact that at current tariffs on imported materials we are going to decrease the amount of those imports and, in doing so, decrease the revenue that comes from tariffs.

So we know the cost of the bill, but we do not know the revenue. Even if it works out that the revenue is there and that this really brings in the kind of money the Senator talks about, it clearly raises the cost of goods and it raises the cost of goods not in a miniscule way or a minor way, but in some of the auctions can raise it in a major way. Let me describe in rough terms what this means on certain items.

Last year, one of the hot items in the United States was cotton trousers. Cotton trousers are subject to a certain quota. There was more demand than there was supply, and so the quota price went up as various manufacturers vied with each other to get the ability to manufacture cotton trousers to serve an increasing market in the United States.

At one time that quota, particularly in the Hong Kong market, was over $8 per garment. That still does not sound like very much when you are talking to a consumer in the United States and the price they paid for a pair of cotton trousers. But the price to the manufacturer at that time was $7. The quota cost more than the value of the product itself. We ended up more than doubling the base price of that article of clothing and, of course, that doubling then gets added to by the percentages that each successive person in the chain adds to a price until it gets to the retail department counter and customers have the first crack at it. It potentially doubles the price that that garment might otherwise have cost.

The real evil of an auction system is that it is just simply reflective of what road we have started down with the excessive number of multifiber and bilateral agreements and the excessive protectionism that is already applied to the textile and apparel industry in the United States.

Briefly, Mr. President, just to follow through on some of the remarks my colleague from Washington made, if we proceed, in spite of the economic insanity of it all, with going down the road of limiting, limiting and in doing so raising prices, raising prices through these auction quotas, does

the bill itself provide for a responsible way to institute those auction quotas?

In the first place, it sets a 20-percent limit or minimum both by volume and by value. There is no way until the volume comes along that the Secretray can know the values of those imports, and they are going to have to go substantially beyond that to ensure that they do not violate these provisions of law which we have set, both value and volume.

Is there any study the Senator from South Carolina or anyone else can point to that tells us through any kind of a responsible analysis or study what the economic consequences of such an auction would be, either to consumers, to manufacturers, to retailers or to any other element of this industry in the United States? Have those studies been undertaken? Are there clear and definitive results that tell us what will happen? I have not seen one, and I doubt that anyone can produce one.

Interestingly enough, Mr. President, the imposition of this particular auction section has the result—I am sure it was inadvertent but nonetheless the result—of eliminating at least 20 percent of the effectiveness of the so-called Daschle amendment, because if these quota auctions are to be distributed on an historical basis—I presume historical means along the same lines or in the same arenas that they have been in the past, and if that is the case those countries do not have to line up to buy agricultural products from the United States if in fact those quota auctions will be distributed on an historical basis.

Finally, Mr. President, this bill is a long way from passing and an even further distance from being accepted by the President, and so whenever it is accepted, if it is, and if it ever becomes law, there will be less than 3 months to implement the regulations for a horrendously complicated issue such as this. I cannot think of any better way to guarantee chaos in the industry and cost to the American consumer than to mandate this going into effect in such an irresponsibly short period of time.

Mr. President, I hope that our colleagues will recognize the inequities, not just the inequities of this particular provision of law and that it reflects so closely the bad features of this country attempting to unilaterally limit the kinds of imports to such a degree that we end up paying more for quota auction than we do for the price of the goods themselves. Something is wrong with our system when that is the end result.

Mr. DANFORTH. Mr. President, I just had the opportunity of having lunch with members of the Kansas City Chamber of Commerce. The Kansas City Chamber of Commerce is looking at the possibility of creating a world trade center for the purpose of promoting exports of American goods and services. How foreign this textile quota legislation now before us is compared to the can-do concept of the Kansas City Chamber of Commerce.

Within the last week or so I was in Caruthersville, MO, down in the bootheel of our State. They are in the process of building a new port authority on the Mississippi River. The people of southeast Missouri see exports as a key to generating new jobs and new economic growth in the region. How different this textile quota legislation now before us is from the concept behind the port authority in Caruthersville, MO.

A few weeks ago the President of the United States signed into law the trade bill which took years of hard work to achieve. A key objective of that legislation was to increase exports and make America more competitive in international markets. When we passed that legislation, we said in effect that America was not going to go the route of protectionism; that we can compete with anyone in the world provided the opportunities are there and that the rules are enforced.

The omnibus trade bill was designed to enforce the rules of international trade. How different this textile quota legislation now before us is from that landmark measure. Instead of enforcing existing rules and agreements in international trade, the textile quota bill now before us specifically violates all kinds of trade agreements.

And so, Mr. President, I rise today in opposition to S. 2662, the Textile and Apparel Trade Enforcement Act of 1988. This bill is an ill-conceived attempt to protect some at the expense of many, and it deserves to be defeated once and for all.

The important issue here is not whether we should protect the American textile industry. Indeed, few can deny that the industry has been severely challenged in recent years by low-priced imports. The real issue is whether the protection should be provided through a negotiated system of import restraints and effective enforcement of our trade laws, or through unilateral congressional imposition of quotas that violate our trade agreements and threaten the livelihood of Americans whose jobs depend on exports.

The textile and apparel industry is and will continue to be one of the most heavily protected industries in the United States. In addition to tariffs which are six times higher on average than those for other manufacturing sectors, the textile and apparel industry has long enjoyed and extensive web of negotiated protection. The industry has enjoyed increasingly restrictive quota protection for more than 25 years. In 1986, the Multi-Fiber Arrangement, MFA, was renewed for 5 years and extended to products not covered by previous agreements. This international agreement is complemented by 43 bilateral agreements with our supplier nations. In the case of our largest suppliers, these accords include strict ceilings on the average annual growth in imports. Overall, more than 90 percent of our low-priced textile and apparel imports are controlled by quotas.

I have always supported the MFA and have, at the request of the industry, written to the administration on numerous occasions to encourage both a firm stance during renegotiation of our bilateral agreements and strict enforcement of laws against unfairly subsidized textile and apparel imports.

Still, the industry believes it needs more protection. So be it. But a quota bill such as this is not the right way to secure that protection. While this latest version of the textile bill is somewhat less objectionable than the previous version considered by Congress in 1985, it remains fundamentally flawed in several ways. Its adoption could have devastating consequences on a number of fronts.

The bill, expanded now to cover Canada and the European Community, would lay waste to our negotiated commitments. It would violate the MFA by unilaterally imposing global restrictions on all products, and would force the abrogation of our bilateral agreements. In addition, it would violate the GATT escape clause by effectively granting permanent protection to a vast array of products.

Enactment of the textile bill would also damage our credibility in the multilateral trade negotations currently underway in Geneva, and it would seriously undercut our efforts to secure a more fair and open trading system from American exports.

S. 2662 does provide for some compensation to our trading partners in exchange for the establishment of the quotas. But this compensation provision would barely offset a fraction of the bill's impact on our trading partners, many of whom have stated clearly that they would retaliate if the bill were enacted. Retaliation would likely be directed at competitive American exports such as farm commodities, chemicals, aircraft, and other machinery. This would have a devastating impact on my State, where one out of nine manufacturing jobs and one-third of total farm income depend on exports.

In an attempt to respond to concerns about possible retaliation against U.S. agricultural exports, proponents of the bill added a provision that would require the Department of Commerce to give preferential textile quota shares to countries that increase their purchases of American farm products. This measure is billed as an incen-

tive—in the form of an expanded textile quota—to buy more American agricultural commodities. But I do not believe that this proposal would achieve what it is supposedly designed to do. Instead, it is more likely to result in retaliation from those countries that will necessarily face quota cutbacks in order to offset increased quota shares awarded to others. Even those countries that might "gain" from enhanced quota levels would still likely receive shares below the levels entitled to them under existing agreements.

Despite the addition of the so-called Daschle provision, many major farm groups continue to oppose the textile bill, including: American Farm Bureau Federation, National Grange, American Soybean Association, National Association of Wheat Growers, Millers' National Federation, North American Export Grain Association, National Soybean Processors Association, National Turkey Federation, Agricultural Trade Council, and United Fresh Fruit and Vegetable Association.

The farm groups alone in opposing the bill. Other opponents include: American Business Conference, National Retail Merchants Association, American Retail Federation, Computer and Business Equipment Manufacturers Association, American Association of Exporters and Imports, and the May Company. The list goes on and on.

The textile bill is also a revenue loser. To offset this fact, the revised version of the legislation includes a provision to establish a pilot quota auctioning program during the 1989 calendar year. The President already has the authority under current law to establish a quota auction program if he deems it appropriate. Mandating this type of arrangement, even on a trial basis, would be unwise for several reasons. Its execution would be a bureaucratic nightmare, and it could result in predatory practices, excessive market concentration and chaotic shifts in supply. For precisely these reasons, the conferees on the omnibus trade bill rejected a similar pilot program, agreeing instead to add auctioned quotas to the list of the President's remedy options under section 201.

Finally, the textile bill would carry a hefty price tag for American consumers. The President's Council of Economic Advisers estimates that the bill would raise consumer costs between $25 billion and $37 billion over a 5-year period. The burden of this bill would be especially heavy on low- and middle-income consumers.

I am especially sorry to see that the domestic footwear industry decided to hitch its wagon to this protectionist legislation. No one knows better than I do that the dramatic increase of footwear imports in recent years has had a devastating impact on domestic production and employment in this important sector. I have watched footwear-related employment in my State decline percipitously—dropping 25 percent between 1980 and 1986 alone—while imports have grown to capture more than 80 percent of domestic market share.

I have long been at the forefront of efforts to help the footwear industry regain its ability to compete with foreign suppliers. In 1984, the domestic shoe industry sought relief under section 201 of the Trade Act of 1974. When their request was turned down by the International Trade Commission [ITC], I succeeded in changing the law—by liberalizing the rules under which injury from imports is determined—to give the industry another chance. The case was refiled at the beginning of 1985, and the ITC subsequently issued a unanimous finding in favor of the industry and recommended that the President grant the industry import quotas for 5 years. I testified before the ITC on behalf of the shoe industry twice. Unfortunately, in the summer of 1985, the President rejected the ITC's recommendation. This decision had major implications: It told our domestic industries that playing by the rules wasn't worth it anymore. The shoe industry followed the basic legal remedies available through our trade laws, doggedly pursued a very compelling case—and still came up short. This decision essentially gutted section 201, thereby destroying the only effective mechanism Congress had for deflecting protectionist pressure from politically powerful sectors.

As a result of this misguided decision, revitalizing section 201 became a top priority in our efforts on the omnibus trade bill. I believe that in this regard, we have succeeded handsomely. The new law emphasizes positive adjustment to changed competitive circumstances and increases the likelihood that the President will provide temporary relief to those industries and workers truly in need. Under the statute, domestic industries seeking relief from imports will be required to show serious injury and demonstrate that they would become competitive if relief were granted. If the ITC agrees with the industry's case, the President will be required to take all appropriate and feasible action—in the form of trade or adjustment measures—that would facilitate this adjustment, unless he determines that the costs would outweigh the economic and social benefits of relief. The compromise on section 201 carefully balances a stronger certainty of relief with greater Presidential discretion to determine the form of relief. I firmly believe that if the shoe industry were to refile its case under the overhauled section 201 statute, they would finally secure the relief they have long been denied.

The textile bill is protectionism at its worst. It runs directly counter to the concept of reciprocity which we just overwhelmingly endorsed in the new trade bill. That legislation, which is now the law of the land, emphasizes enforcement of our trade agreements. But the textile bill would have us violate those agreements. Thanks to the trade bill, we have a revitalized section 201 process and stronger antidumping and countervailing duty laws on the books. But the textile bill ignores the existence of these important laws. The textile bill would impose excessive costs on many—in the form of lost exports, lost jobs in export sectors, exorbitant consumer costs and lost opportunities to create a more open international trading system—for the sake of protecting a few.

Congress has an important role to play in strengthening U.S. trade policy, and I believe we exercised that right responsibly when we finally adopted the omnibus trade bill earlier this summer. The textile quota bill is the first trade-related measure we have considered since the omnibus trade bill became law. Adoption of this ill-conceived textile legislation would completely undermine our efforts to create a coherent, aggressive trade policy based on reciprocity. Major successes such as the omnibus trade bill don't come along every day. We should not throw it all away by adopting a protectionist quota bill before we even begin to enjoy the fruits of our efforts.

Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

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

The PRESIDING OFFICER. Senator ADAMS' amendment is the pending business until 2:20.

Mr. PACKWOOD. Mr. President, I think this has been agreed to. I ask unanimous consent to set aside the pending business so that I might call up an amendment related to footwear.

The PRESIDING OFFICER. Is there objection?

Mr. HEFLIN. We have no objection.

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

AMENDMENT NO. 2861

(Purpose: To exempt athletic footwear from the footwear quota)

Mr. PACKWOOD. Mr. President, I call up Amendment No. 2861.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Oregon (Mr. PACKWOOD) proposes an amendment numbered 2861.

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

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

The amendment is as follows:

At the oppropriate place add the following:

SEC. . EXEMPTION OF ATHLETIC FOOTWEAR FROM QUOTA.

(a) IN GENERAL.—Notwithstanding any other provision of this Act, any provision of this Act (other than an amendment made by this Act to another Act) which imposes a limitation on the quantity of footwear that may be entered shall not apply with respect to athletic footwear.

(b) DEFINITIONS.—For purposes of this section—

(1) The term "athletic footwear" means—

(A) nonrubber footwear of special construction for specific sports, including baseball, softball, football, soccer, golf, track and field, skating, wrestling, boxing, weightlifting, gymnastics, cycling, bobsledding, parachuting, or skiing, and

(B) nonrubber footwear not dedicated to a specific sport that is designed and construed for—

(i) playing tennis, basketball, racquetball, volleyball, handball, squash, or any other court game, or

(ii) physical conditioning activities including, but not limited to, running, jogging, training, or aerobics,

whether or not used for such purposes.

(2) The term "entered" means entered, or withdrawn from warehouse, for consumption in the customs territory of the United States.

Mr. PACKWOOD. Mr. President, this bill has been referred to as the textile protection bill, and indeed it is that. But there is a significant section in it relating to footwear. It has an anomalous provision. There are two kinds of footwear in the athletic shoe business—rubber footwear and nonrubber footwear. Rubber footwear is normally a cheaper shoe—a thong, a sandal, perhaps a rubber bottom with a canvas top. It usually has a lower-end sale price and is a relatively flimsy shoe. There is some domestic manufacture of rubber footwear in this country.

The bill does not put any limitation on the imports of rubber footwear.

So if the argument of the sponsor is correct that this bill is designed to protect domestic employment, it does not protect the domestic employment of the rubber footwear industry.

The other athletic shoe, the nonrubber, is basically the kind we see now in most of the stores. They usually have a rubber bottom and a leather top or leather and vinyl top and are more expensive. It is the shoe that has grown the fastest in the last few years. It has become stylish. It has become a booming business.

Two of the leading companies in the United States in this nonrubber athletic footwear business are headquartered in Oregon. One is Nike, which is well-known throughout the world, and the other is Avia. Both are high-caliber, high-class companies. However, almost all of the nonrubber footwear sold in the United States is manufactured overseas. For all practical purposes, there is no domestic manufacturer of nonrubber footwear.

The estimates are that somewhere between 1 percent and 3 percent of the nonrubber athletic shoes sold in this country are made domestically, and they are not manufactured from scratch. It is an assembly of imported components. So, from a manufacturing standpoint, for all practical purposes, there is no domestic industry.

If the argument is made that tariffs and quotas protect jobs in the United States, there are not jobs to be protected in the manufacture of these products. There is in the distribution part. Avia and Nike, to use the two examples headquartered in Oregon, have immense operations in this country. I do not mean the kind of coolie labor referred to, people sitting at machines, paid 25 cents an hour.

Nike has over 2,500 employees in this country, and many are in Memphis, where there is a distribution point for the entire United States. Avia has more employees in the United States engaged in advertising, distribution, sales, and all the things that go with the distribution of such a product, than all the employees involved in the manufacture of these shoes in the United States by all the other companies that make them.

So there is nothing to be gained, in terms of the protection of jobs in the United States, by putting a limit on the import of this nonrubber athletic footwear—no jobs. But this bill not only puts a limit; it does not even have a 1-percent increase. It puts a flat limit and says what was imported last year is the limit.

What happens? We have seen this with the Japanese cars and restraints on cars. You are importer of these shoes and you look at the market and think it is increasing 2, 3, 4, or 5 percent a year. But you are suddenly limited to the number of shoes that can come into this country as to what was brought in last year.

As this market grows at 4 or 5 percent a year, what are you going to do? Which shoes will you bring in? If you brought in a hundred shoes and if now there is a market for 105 or 110, which ones will you bring in? You will bring in the ones on which you make the greatest profit. As with automobiles, those are the higher-priced shoes.

When we put the restraints on Japanese cars in 1981, most of us can remember when you could buy a Honda, Datsun, or Toyota for $5,000 or $6,000, but as soon as we put the restraints on the Japanese, they got rid of that line. What you buy now are Hondas or Toyotas or other Japanese cars that cost $10,000, $15,000, $20,000, or $25,000, which, ironically, has left a major market for Hyundai, which has cars for $5,000, $6,000, or $7,000, because they are not subject to those restraints.

Talk about a tax on consumers: This is a back-to-school tax.

I do not know how many parents in this country have to go through two, three, or four pairs of this footwear every year. Junior wears them morning, noon, and night, practically goes to bed with them. They wear out fast, you buy another pair. There is not a mother in this country who does not shop for the best value she can get when she buys these Keds, as the Chair and I used to call them. The cost goes up.

We will not be protecting a single American job. All we will succeed in doing is driving up the cost of this particular kind of shoe that is not made in the United States.

Mr. President, I have spent a considerable amount of time in the last year working with the Government of Korea on the issue of french fries. Oregon exports lots of french fries, but we had been unsuccessful in being allowed into the Korean market and wanted to be in it prior to the Olympics. We have successfully concluded an agreement. Those going to the Olympics will be eating a fair amount of Oregon french fries. If I meet with the Korean Ambassador, I will say: "I want to thank you very much. You helped out my State and my companies making french fries. I appreciate your dropping your unfair trade barrier on french fries."

Then I have to say: "By the way, Mr. Ambassador, I apologize for our putting up the unfair barrier on the shoes you make under the Nike label, under the Avia label, and send to our country. We are going to put up a barrier even though we will not protect a single American job."

That puts me in an untenable position when I am trying to argue the interests of companies in my State.

I can tell you this: We talk about high-value companies, being on the cutting edge of technology. Go through one of these Nike or Avia plants and take a look at the design or how rapidly they lay out new shoes. That is the kind of industry we want to be attracting to this country and to keep in this country; not low-end, sweatshop labor, but high-end thinking, imaginative, creative design, sales and distribution.

I helped open the new Nike distribution plant in Oregon, and it is as fascinating a plant as you will see in this country. I want to keep those companies headquartered in Oregon. I want to make sure we do not have this back-to-school tax that will penalize every parent of every child from 4 to 18 to 22 in this country who wears these shoes and goes through two, three, four, or five pairs every year.

Let me close by saying this: We are not going to protect any American job by putting a limit on the import of nonrubber athletic footwear. There is not a single manufacturer of that kind of footwear that is asking for this protection. The textile industry is asking for the protection. Nike and Avia are not asking for this protection. So no jobs are to be saved.

Two, once we put the limit on and say 100 is the limit, that is all you can ever import, there is no question but what the cost is going to go up as the market demand goes up, and they will send the higher end shoes and the higher end shoes that cost a little bit more money and cost a little bit more money.

And last, Mr. President, when any of us are trying to argue with countries overseas, whether it is Korea in French fries or Korea in insurance, as we argue with Korea in insurance, or Japan in beef or the European Common Market in citrus, it makes it very difficult and embarrassing for us to argue about free trade or freer trade or getting rid of unfair trade barriers, reciprocity, or pull down the barriers on both sides for the benefit of the consumers on both sides when we then turn around and say but we do not mean nonrubber athletic shoes; on those we are going to put up a barrier to no end, to benefit no one in this country, tax the consumers, hamstring America's most competitive countries in this business, the Avias and the Nikes of the world and achieve absolutely nothing in terms of the protection of anything in the country.

So, Mr. President, of all the amendments we have had so far I would encourage the Senate to adopt this amendment, which absolutely guarantees that shoe prices will remain as low as possible and absolutely guarantees that there will not be a single job lost in the country if the amendment is adopted.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. HEFLIN. Mr. President, I rise to support this bill. I vigorously supported textile legislation 2 years ago when it was brought to the Senate floor for a vote and I have not changed my position on this legislation. In fact, I see more reason to support this bill now than I did 2 years ago.

Sometimes I think people relate the word "textile" to the big mills, but in almost every State in the Nation there are cut-and-sew operations which are part of the textile and apparel industry. Some of these operations employ 50 people; others employ 100 or 150 people. These small textile and apparel plants are really the backbone of the economy for small cities and for rural America.

I have seen, by going into these plants, the way the average textile and apparel worker works. Most of these companies have had the foresight to put their workers on an incentive plan, compensating them on a piece-by-piece basis and if you are a U.S. Senator, a politician who goes into the textile mill or the apparel plant, you find that these workers will smile at you, they are glad to see you, but they do not really want to take the time away from making that extra piece to shake your hand. They are interested in greater productivity because it means more dollars to them. I doubt if there is any industry in the world where you can find a greater incentive to increase production than there is in today's American textile and apparel industry.

This incentive basis of compensation has created in these workers the knowledge that "If I work harder I will make more money," but then all of a sudden, they realize that "Regardless of how hard I work, how many hours I put in, how many pieces I sew, my job is vanishing, vanishing because of wages as low as 25 cents an hour in some countries, vanishing because of unfair trade."

I am reminded of a story of a lady who got on an airplane in Dallas, TX, coming to Washington, DC. She had to go through Atlanta. Most of us who travel in the South figure that if you are going to heaven or hell you still have to go through Atlanta. Anyway, this woman was about 65 years of age and she sat down next to a gentleman who was about 70 years of age. They began to talk. Their conversation was quite animated. She found out that he was going to Washington, DC, also and when they changed planes in Atlanta, they sat down and had a cup of coffee together. Then they got onto another plane, sat together, came on up to Washington, DC, got to be quite friendly and as they were nearing Washington, about to land at National Airport, she patted him on the leg and said, "You remind me of my third husband."

"Oh," he said "is that right?" He says, "How many times have you been married?" And she said, "Twice."

Now, I would say that woman had great expectations of what might occur and just imagine how this woman's excitement and enthusiasm would be replaced by a feeling of despondency if that man had replied "Oh I hate to tell you but I am already married."

Well, the American textile workers feel that despondency after working hard, increasing their productivity and then being told, "I hate to tell you but your job has been taken by unfair trade."

I think this story sort of illustrates the rise and fall of hopes which has been experienced by the American worker. I think that the American textile worker, the American apparel worker, has great expectations as he puts in the extra energy and spends the extra time to do a competent job.

(Mr. DASCHLE assumed the chair.)

Mr. HEFLIN. Mr. President, when it comes right down to it, our workers are losing their jobs because of the tremendous difference in the wages they are paid compared to the wages paid to workers in certain other countries. In Hong Kong textile workers are paid $1.40 an hour. In South Korea, they are paid $1.53 an hour. In India, they are paid 40 cents an hour and in Bangladesh, they are paid 25 cents an hour.

Mr. President, we talk about the minimun wage which currently stands at $3.35 an hour in our country. But how does that compare with 25 cents an hour?

In considering this issue, it also occurs to me that we have tied in tandem two industries, the apparel and the apparel-related textile industry and the footwear industry when actually, these two industries should be evaluated separately in order to discover the damage which has been done to each industry and in order to forecast the futures of each of them.

With respect the domestic footwear market, we have now reached a point where 82 percent of the shoes sold in the United States are produced in foreign countries. Yet we have taken no action to help this industry.

Now, if it the import penetration level rises to 92 percent, do we take no action? If it rises to 99 percent do we take no action?

With respect to the domestic textile and apparel market, the import penetration level has now reached 54 percent. If it to be 64 percent, do we sit back and do nothing? If it to be 74 percent, do we sit back and do nothing? Or do we just say we'll let those industries vanish, let them vanish just like that lady's idea of a third husband might vanish when she found out that man was married."

And this is a trend that is developing. I do not think you can point to past history but you can point to the future, and basically it comes down to what do the workers in certain countries make.

So I think you have to look at this situation in terms of the direction our textile apparel and footwear industries are heading. If the footwear industry is any indication, and I fear it is, then we are in real trouble.

At some time, we have to take action and I think the time has come. This is a reasonable bill, a bill which should be adopted, should be signed, and in the event that the President does not sign it, should become law by overriding the veto.

So I think you have to look and see that imports from these and other

low-wage countries, imports which are often produced in working conditions that would be considered illegal in this country, with workers being paid what might even be considered to be slave wages, are a continual threat to the jobs of productive American workers trying to make a living.

It is a reasonable bill which has been carefully drafted and revised. It contains provisions which would develop increased incentives for other countries to increase their purchase of U.S. agricultural products. To me, it is a bill which has set forth a good policy relative to agriculture.

So I hope that the Members of the U.S. Senate will consider this—consider the footwear industry, its history and the similar history which is developing with respect to textiles and apparel. Does there have to be a calamity or a depression before we take some action to save these industries? I hope not because American industries and American workers cannot wait that long for our Government to demand fair trade. Free trade is important but so is fair trade. So let us sound a voice that will be heard around the world—a voice which will let our competitors know that we will settle for nothing less than fair trade nothing less than our country deserves.

Mr. President, year after year, the declining health of our Nation's textile and apparel industry has been discussed on the Senate floor. In 1986, both Houses of Congress saw the wisdom of passing legislation which would slow down the give-away of our domestic textile and apparel market. Unfortunately, the President vetoed that bill, setting the stage for another year of record-breaking imports of textiles and apparel into our country.

Every time we come to the floor about this issue, the figures are more startling, the statistics more appalling and the damage done to our domestic industry more severe. For the past 6 years, the average annual textile import growth rate has been 17 percent per year. This growth rate has resulted in an import penetration level of 54 percent for apparel and apparel-related textiles while import penetration in the U.S. footwear market has now reached 82 percent.

If imports continue to grow at this rate, there could be little or nothing left of our domestic textile and apparel industry the next time we come to the floor to discuss this issue. It is clear that unless import growth is reduced to our market growth rate, the domestic industry and its workers will continue to be injured.

This bill calls for a global quota system that would hold imports of textiles and apparel to their record-shattering 1987 levels, with a 1-percent annual increase. Despite some recent improvement, the long-term trend in world fiber demand is one of slower growth. In developed countries as a whole, the annual growth rate during the last 10 years has been less than 1 percent; in developing countries, it has barely kept pace with population growth and in the last few years has fallen below it. When you consider that this dramatic acceleration of import growth—almost 20 percent a year—is being thrust into an American textile and apparel market whose growth has risen less than 1 percent annually, it is no wonder that the industry's health is declining.

Mr. President, the American textile and apparel industry is the world leader in productivity and efficiency. Nobody makes textiles faster and better than we do, largely because of our industry's long-term commitment to modernization. Since 1980, the industry has invested $17 billion in modernization, an average of $2 billion per year. During that same period of time, the industry has invested some $18.9 billion in new capital spending. Today, fully 70 percent of American textile facilities were installed within the past 10 years.

In addition to efficient facilities, the textile industry employs some of our country's most efficient workers. The average increased productivity of the textile worker for the past 10 years has been 4.6 percent compared to the national average of only 2.7 percent.

Despite the fact that the American textile and apparel industry has invested billions to modernize and improve productivity, it still cannot compete with foreign producers who pay their workers well below the U.S. minimum wage.

As many of my colleagues know, some 350,000 textile and apparel jobs have been lost since 1980. Despite these tremendous cuts in employment, our Nation's textile and apparel industry still manages to employ 2 million people and registers as the largest manufacturing employer of women and minorities in our country. I do not need to tell my colleagues how valuable these jobs are to the 2 million people who hold them, to the families they support, and to our Nation's economy.

Mr. President, we cannot allow this industry to suffer further before we take some action and this bill will enable us to address this problem in a responsible manner. It does not discriminate against any particular country, it grants the administration full flexibility within the global limits, it is consistent with the GATT, and there is no rollback of trade.

The bill also contains an important provision providing preferential treatment in the allocation of the 1-percent annual increase in imports to those nations that increase their purchases of agricultural products from the United States. After years of other countries keeping their markets tightly closed to U.S. products and agricultural goods while they flood our market with their textiles and apparel, I think it is high time we use access to our market, the largest market in the world, as an incentive to other countries to open their markets to our products.

Mr. President, the time has come for our Government to slow the relentless flood of imports which threatens an efficient, productive industry and its 2 million productive workers. I urge my colleagues to support this bill and our domestic textile and apparel industry.

Thank you, Mr. President.

Mr. SANFORD addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. BYRD. Mr. President, will the distinguished Senator from North Carolina yield to me?

Mr. SANFORD. Certainly.

Mr. BYRD. Mr. President, I ask unanimous consent that the vote that was to occur at 2:30 today occur at 3:15 p.m. today.

This would mean that the 20 minutes—and I would like to change that from 3:15 to 3:20.

Mr. PACKWOOD. Mr. President, I do not object, but I thought there was 10 minutes of debate at 2:20 prior to the 2:30 vote.

Mr. BYRD. No, that was 20 minutes' debate. Was that not 10 and 10?

Mr. PACKWOOD. It was 5. You would want to set that at 10 to 3 if you were going to vote at 3 o'clock.

Mr. BYRD. Twenty minutes equally divided is what I was thinking.

Mr. PACKWOOD. I have no objection to setting the vote at any time you want to set it, but to just set that 10 minutes ahead of time because I believe the proponents wanted to talk for 5 minutes.

Mr. BYRD. I wanted to do the same thing, but I am under the impression that it was 20 minutes instead of 10.

The PRESIDING OFFICER. The record shows that there is 10 minutes of debate ordered on the amendment set aside, 10 minutes in total.

Mr. BYRD. All right. That I ask unanimous consent that the vote that was to occur at 2:30 begin running at 3:10, and that the 10 minutes for debate, equally divided, begin at 3 o'clock.

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

Mr. BYRD. Mr. President, when Mr. SANFORD and Mr. PACKWOOD finish discussing this amendment, it is my hope that we could get up the Treasury-Post Office appropriation conference report and hopefully dispose of that without a rollcall vote. Mr. DECONCINI and Mr. DOMENICI are ready to do that. They felt they could have a short debate and we could dispose of that, unless a Senator wants a rollcall vote.

I am not trying to delay the distinguished managers on this bill.

I ask unanimous consent that the time that is consumed on that Treasury-Post Office conference report come out of the 30 hours on this bill.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

Mr. BYRD. Mr. President, I thank all Senators.

Mr. SANFORD. Mr. President, I have remarks I would like to make about the textile aspects of the bill generally and I will do that before the final vote, but the distinguished Senator from Oregon has raised an issue I would like to address now. The Senator from Oregon's remarks regarding the production of athletic shoes in this country has compelled me to raise some additional points. Primarily, I am compelled to question the Senator's assertion that there is no domestic production of nonrubber athletic footwear and that no U.S. jobs would be affected if athletic footwear were eliminated from this bill. There is indeed a large manufacturer of leather, nonrubber athletic shoes, as well as rubber shoes, in North Carolina, one whose name the Senator and I will both remember from years past, that is the Converse Corp. They have 2,000 employees in Lumberton, NC, making 35,000 to 40,000 shoes a day, many of them athletic leather, nonrubber shoes.

In addition to that, I am told that there are some 8,000 to 9,000 producers of athletic footwear in the United States from Pennsylvania to Florida to Georgia and to Maine. Certainly Converse is an important corporate citizen of North Carolina.

Mr. PACKWOOD. Could I ask the Senator a question, because I think we might be laboring under a misimpression.

Mr. SANFORD. Certainly.

Mr. PACKWOOD. As I understand it, the Converse shoe, of which I still have some old ones around and wear from time to time, is not a nonrubber shoe. It is classified as rubber footwear, am I correct?

Mr. SANFORD. Converse makes both rubber and nonrubber footwear in North Carolina. Some of their shoes are classified as rubber footwear, but others including leather upper and some nylon shoes, are classified as nonrubber footwear. They make shoes competitive with Nike.

Mr. PACKWOOD. I thank the Senator.

Mr. SANFORD. I would assume that Nike and others would have some options under the present legislation, since it is my understanding that while the quotas are global quotas, the President has an opportunity to allocate those quotas differently if the President so desires or as manufacturing shifts location. I think the reason that quotas for shoes were frozen as distinguished from the textiles where there is a provision of 1 percent a year increase is because almost all shoes now are indeed foreign made. And, if there is to be any advance in footwear productivity at all, it almost has to be in the some 17 percent that is left to the United States. Foreign imports take up 83 percent of the domestic shoe market, and that, perhaps, was the committee's thinking in not providing for an increase. But no company is absolutely frozen because the President does have authority to shift within the global quotas.

Mr. President, I will address other aspects of the bill later, but I did want the record to show that there is an important, although dwindling, segment of the manufacture of athletic shoes, nonrubber, in the United States and especially in North Carolina.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. Mr. President, in listening to the distinguished Senator from Alabama speak some time ago, he talked about the wages in Hong Kong in the textile factories and how could we compete against those wages, and I will give a couple of examples of how we can compete in other industries and do compete in other industries against comparable wages in similar industries.

Come with me to Mentor-Graphics in Beaver, OR, just outside of Portland, a company that did not exist before 1979. It was formed in 1980. It did not make any sales, as I recall, until late 1980 or 1981. In its first year it may have had sales of, I will take a guess, $10 to $15 million, none of them overseas.

What the company makes are what we call CAD/CAM machines, computer-assisted design, and what they enable a company to do, instead of making a model of a product and test it, is to, in essence, make the models on a computer and test it on the computer so that you do not have to go through the labor of remodeling and remodeling and testing and retesting.

This company is in the electronics business and clearly there are electronics industries in Malaysia and Bangladesh—unless they are under water now—and certainly Japan and Korea, that pay their laborers comparable wages to what is paid in the textile industry. Yet this company in Oregon, as I recall now, has sales last year of over $800 million. I may be even under on that figure. I might be talking about the year 1986 rather than 1987. Over half of their sales are overseas; 50 percent of their gross, overseas sales, on a product manufactured in Oregon.

When I asked them how can you compete against these wages of 25 cents an hour or $1.25 or $2.10, they say wages are not the critical factor in our worldwide competition; it is being 3 months, 6 months, 1 year if possible in this business, ahead of the competition in design, in thinking, in creativity.

Or, come with me to Bend, OR, to a company called Advanced Power Technology. Here I will have to describe in lay terms what it is they do because it is a complex type of equipment, using silicon, fashioning the silicon into, for a lack of a better term, a switch that switches electricity.

As we are all aware, when a motor starts, there is a surge of electricity and then it steps back. Where you see this in tremendous quantities is in electric utilities, where you have tremendous surges of electricity, one way or the other. And the quicker that you can switch the electricity, the more money you can save, so that you are not wasting electricity.

It has been within the last year. They had been going for 3 years without any sales nor did they plan to have any sales for 3 years. They found some venture capital. And what they have invented is literally in the electric switching business, a better mousetrap.

If the existing switch, the state of the art, on the market 2 years ago would switch a thousand volts in a second, this switch will switch a million volts in a hundredth of a second.

I cannot remember, I think I have the nationalities mixed up, but it was either a French or German president of the company and if it was a French president, it was a German chief of engineering or vice versa. And I said how on earth did you get the money to put this company together and how could you go for 3 years and know when at the end of the 3 years you put together what you knew you could put together you would still have the market for it?

They said, well, to begin with, there are only three or four companies in the world that make this. We are all familiar with each other and the work each other does and we knew if we could put this switch together that we are designing we would, indeed, have a leap on the market and would be able to make sales and profits and we just had the confidence we can do it. We were able to attract the investors that gave us the money to do this.

Then I said to them: Why on earth, out of curiosity, have you located in Bend, OR? It is in one of the beautiful towns in Oregon. It would remind you of Denver a century ago, high mountains along one side of town and plains in the other direction. But it is 135 miles from Portland. It is not on any water, in terms of waterborne commerce. It has a good airport.

But you would think to yourself not only have they chosen not to locate in

Portland, which is the hub of Oregon in the sense of commerce, they have gone 135 miles away, but how could a company like this afford to locate in the United States? It is a highly technical company making something that could just as well be made in Singapore, Korea, or Pakistan.

The president said to me, again, the principal costs that we face are not labor costs. You see that machine right there? And he points to a little machine about this size, maybe 18 inches by 18 inches. And he said, what do you think that costs? He said, well, that costs about $300,000. I said, what is the useful life of it? He said, well, if you mean how long could you physically use it, he kind of shrugged and said, 15 years, perhaps; but if, he said, if you mean how long is the actual life of it in the business we are in; 3 or 4 years. He said that machine costs $300,000 to $400,000 whether you buy or use it in Singapore or Bend, OR. We do not save any money going to Singapore to manufacture a product which, very frankly, the initial sales of which would be in the United States and Western Europe.

He said, we could have located anyplace and our costs would be relatively stable. We chose to locate in Bend, OR, because we like the climate, we like the people, they were receptive and we can compete worldwide from a relatively modest size town in central Oregon, all over the world.

So, when the stories are presented about we cannot compete in this country, we are being driven out by coolie labor in Asiatic countries who will work under the most slaving of conditions, 8, 10, 12 hours a day, 60 hours a week, Mr. President, it just is not true.

Oregon has become, in the last 10 years, the eighth largest center of electronic manufacturing in the United States for a State that, in terms of population, does not rank in the top 8, 10, 15, 20, or even 25 in this country. And it is not only domestic investment. We have Japanese companies there, NEC recently located there. We have a number of Japanese companies manufacturing there.

Mr. President, it can be done. If you are willing to say to yourself: Where is the world going to be in 5, 10, 15, or 20 years? What are the coming products?

I was fascinated with a trade conference I was at in Williamsburg 2 years ago. There was a particular representative there, an American, who represented some Japanese interests. One of the companies he represented was a company that was in the steel and the auto business. He did not say which combine but if it is steel and autos it can only be one of four combines in Japan.

He said he had been to their company meeting about 3 months earlier in which they were deciding where they were going to be in the year 2000 and he said it was a fascinating process. This was then 13 years out they were talking about.

He said, one, in the year 2000 they plan to manufacture all of their cars for the northern American market in the United States. They had not yet decided whether they would manufacture in the United States for markets in Europe or elsewhere, but for the north American market which is their biggest market, bigger than Japan, they would manufacture all of their cars here.

Why? Why come here and manufacture if there is cheap labor in Korea? Korea makes a good car. They make a Hyundai. India is making cars. Why not go there? And they said no, we have discovered the American worker is as good as any other worker. We have discovered the bulk of the market is in the United States. We have discovered if we make a good car in the United States it is cheaper and better for us to make it where we are going to sell it. So they make it here, despite differences in wages. But I was even more intrigued with the fact that the company had decided by the year 2000 to get out of the steel business.

I said: "You mean they are going to let it go to Brazil, India, or someplace else?" In this area they cannot compete because of wages.

They said: "No, they think steel is a declining business that has no significant future, and they want to be out of it."

I said: "Are they getting out of materials altogether?

They said: "No, they are not getting out of materials. They are going to go into ceramics."

I kind of laughed and said: "You mean flower pots?"

He said: "No, they mean ceramic engines instead of steel engines. They think that is where the cutting edge of technology is going to be."

I tell this story only to relate it to the story I read in the Financial Times, the London publication, just 2 days ago. In the middle of the paper there is a story on the Rolls Royce, and it says, "Rolls Royce Looking Toward Ceramics." They were not talking about Rolls Royce cars. They were talking about the aircraft engines that Rolls Royce makes and the tremendous temperatures and thrust they are trying to develop and the requirements aircraft manufacturers are putting on the engine manufacturers to make the engines more efficient, run at higher temperatures, to be able to withstand higher temperatures, deliver more thrust and have less weight. Rolls Royce thinks they can do it with ceramics. They think it is 10 or 15 years out, but they are going to move in that direction.

Mr. President, that is the kind of thinking this country needs. Instead of thinking how can we save a relatively low-wage job in an old industry that we have been trying to protect for the better part of two centuries, is that not something we can do better, think better, create better, sell better than anyone else in the world and do it in this country? And the answer is yes, yes, yes. We prove it every day around this country. We prove it, as a matter of fact, in the State of the principal sponsor of this bill. His State has one of the best research triangles in the electronics industry in the country, both South Carolina and North Carolina.

It can be done anyplace, if you believe it. There is no limit to what we can do in this country if we believe it. But if we wring our hands and say Portland, OR, cannot compete with Pusan, Korea; Bend, OR, cannot compete with Seoul—I suppose Koreans must have this problem because they pay, comparatively speaking, in Asia better wages than some of the other lesser-developed countries. I suppose they say in Korea, "Oh, dear, we can't compete with Bangladesh; we can't compete with Pakistan."

I will close with a story. In fact, it comes from the same town, Bend, OR. It has to be 10 years ago now.

A young fellow decided that he wanted to build a museum in Bend. Bend is 145 miles from Portland. It is a desert country; mountains on one side, desert on the other; relatively dry climate. When he talked to me about it initially, I said I think of Picassos and Monets. He said, "No, I don't mean art museums in that sense. I mean basically a desert museum. Something in harmony with the land." It is called the High Desert Museum.

No one thought he could do it. This kid was 25 years of age at the time. The first thing he had to do was convince the local newspaper and then convince the local establishment of the metropolitan area of Bend, which probably was in the area of 50,000, 60,000 that he could do it. He had to make them believe it. Then he went throughout the State of Oregon and convinced basically the establishment of Oregon that this can be done, that they ought to put money into it, and he could build this museum.

By gosh, he built it. I have visited it three or four times in the past few years. It is a wonderful high desert museum, well put together, intelligently managed. It is drawing tremendous crowds and is a success.

The day I recall so well is when I was privileged to participate in the dedication of the museum. A young fellow, a kid named Kerr, last name Kerr, was the principal speaker, and he told of how he got the idea, sold it to the townspeople, then to the State and here is the museum. He closed using a wonderful expression. He said:

"If you think you can or if you think you can't, you're right."

That ought to be the attitude about industry in this country. If you think you can, we will succeed. For all of the complaints about the education system in this country, it is pretty good. It is better than most. We have an immense access to capital and an ability to amass it. We have a sensational transportation system. We have management experience. In some areas, the Japanese have beaten us recently, but it turns out we have caught up. We learned from some of the mistakes of ours and learned from some successes of theirs. We can do it, but if you think you cannot, if you think, "Oh, I can't compete; the taxes in the State are too high; I can't get along with the unions; I am having a terrible time in transportation; the wages are awful; I just can't compete with Korea," in all likelihood you cannot. In that case, your problem is not Korea; your problem is probably Canton, OH, or Sandusky, Portland, OR, Beaverton or Bend, someplace where there is somebody who thinks they can.

This bill apparently is going to pass, I hope by a margin not big enough to override a Presidential veto because he will veto the bill, and I hope we can sustain it. If this is the harboring of an attitude in America of we cannot, then that is a self-fulfilling prophecy and, indeed, we will not. Given that attitude and the subsequent actions, one day we will not be significant and we will not be a major factor in this world in commerce or the military or in any other area, but it will not be because Korea beat us or Japan beat us. It will be because we beat us. Pogo once said, we have met the enemy; he is us. And maybe. We and only we can succeed in beating ourselves, but if we believe we can, then there is not anybody in this world who can beat us.

Mr. COHEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine.

Mr. COHEN. Mr. President, I was delighted to hear the very inspirational message of my friend from Oregon. It was almost a throwback of Knute Rockne or perhaps a variation of "The Little Train That Could." But the notion somehow a malaise has permeated through the manufacturing industry in this country I think is simply not borne out either by the facts or by the political implications that occurred back in the 1976 through 1980 period.

I can point to a number of companies, one in my own State of Maine, a little company that thought it could. It modernized and produced a slipper sock. They tried to export it to Japan and Japan said, "No, you can't bring it in here." There was a company who felt they could, they tried and they could not.

So I think we can find company after company that you could demonstrate had that kind of inspirational message and wanted to go out and compete against those foreign competitors. They could not because they were not allowed to ship into their countries. Mr. President, today, I rise in strong support of S. 2662, the Textile, Apparel and Footwear Trade Act of 1988. This legislation is designed to ensure effective enforcement of existing U.S. laws and international agreements relating to the trade of textiles and apparel. In addition, this measure provides needed and justified relief to the beleaguered American footwear industry so that it may continue to modernize and streamline its operations.

Mr. President, this legislation would not be necessary if the administration and the agencies responsible for the monitoring and enforcement of laws already on the books were properly carrying out their duties. And despite what appears to be a belated recognition on the part of the administration that it can no longer be a passive player in the trade arena, considerable real damage has already occurred to the textile, apparel and footwear industries, thereby necessitating this legislation.

Since 1973, international trade in textile and apparel products has been guided by the multifiber arrangement [MFA], which allows for negotiated country-by-country quotas among the major textile producing nations. Since its inception, the MFA has evolved into a framework for negotiation bilateral restraint agreements.

A basic premise of the MFA allows each signator to provide for the orderly and nondisruptive growth of imports of textile and apparel products. I emphasize the word orderly, because the effect of imports upon the U.S. textile and apparel sector since 1980 has been anything but orderly. For example, since 1980, imports of textile and apparel products have grown at an annual rate of 18 percent—far greater than the orderly marketing objectives of the MFA, and far in excess of the 1-percent annual average growth rate of the U.S. market demand during that same period. In the past 6 years, apparel imports have more than doubled, reaching a level greater than 50 percent of our market last year.

One important aspect of the MFA is the right of each signator to call for consultations on limits for additional categories if export surges threaten the country with market disruption. The number of calls made by the United States this year is expected to reach a record level. Given the fact that U.S. imports of textile and apparel products have grown enormously in recent years, while, at the same time, the domestic industry has experienced such a dramatic decline, it has become apparent that the current trading framework is simply not working.

As a result of this explosion of foreign textile and apparel products into the U.S. market, the U.S. trade deficit in this category alone grew to $25 billion last year, or over 15 percent of our worldwide merchandise trade deficit. Because of the dramatic increase in imports of textile, fiber and apparel products, the American textile sector is experiencing intolerable market disruption, numerous plant closings, over 300,000 jobs lost in the past 5 years, and significantly reduced production despite investing nearly $7 billion for capital improvements since 1980. It is time to call a halt to this situation before even further damage is inflicted upon our textile and apparel industry.

In my own State of Maine, the textile, apparel and wool industries rank with footwear, another industry beleaguered by imports, among the largest employers. There are approximately 15,000 people directly employed by these industries whose jobs are in jeopardy if reasonable limits on imports are not imposed. Recently, a major, old line manufacturer of sweaters in central Maine announced the closing of its plant, throwing some 200 people out of work. The primary factor in these closings was the dramatic increase in imports from the low-wage Pacific Rim countries.

Since my distinguished colleagues from South Carolina have already detailed the textile and apparel provisions of this legislation, I will not repeat them. However, as the cochairman of the Senate footwear caucus, I would like to make a few observations concerning the footwear provisions contained in this bill.

Year after year, we come before this body saying: "Provide some measure of relief from the flood-tide of foreign imports coming into this country and putting our people out of work." Back in 1981, we started debating this issue. There was 50 percent import market share at that point. Then it went up to 60, 70, and now the latest figure is 82 percent of the market is occupied by our foreign competition. Eighty-two percent.

During just the last 4 years, we have lost one shoe plant every single week. One plant has closed down every week for the past 4 years. We have lost thousands of jobs. The unemployment rate in the shoe industry is now 13.2 percent, about double of what the unemployment rate is in other manufacturing industries. We have been reduced to producing about 222 million pairs of shoes. Foreign imports are almost 1 billion.

In Maine, some 6,000 people have lost their jobs since 1981, and it has become rather commonplace to read in the newspapers that another shoe factory has shut down.

In 1986, five Maine shoe plants ceased operation last year, four more closed.

Now, there is a provision in our trade laws which was designed specifically to provide relief in a situation where an entire industry is in danger of being completely wiped out and overwhelmed. It is section 201 of the Trade Act. This section of the Trade Act applies to us. It also applies to every other trading partner of ours. No country is willing or eager to see an entire industry wiped out, and that was the purpose of section 201 of the Trade Act.

The shoe industry tried to comply with the law. They said, "Give us relief. Let us make our case." They spent thousands upon thousands of dollars putting the case together to show that a floodtide of shoes coming into the country was destroying the industry. Three years ago, under this particular section of the law, section 201, they made their case. They made their case against overwhelming opposition from their foreign competitors before the International Trade Commission. The ITC ruled unanimously and when was the last time you heard about a unanimous ruling coming out of the ITC? Rare yet, the ITC ruled that under section 201, the shoe industry was entitled to relief, and they proposed a series of measures designed to provide some measure of relief and, indeed, protection to the domestic shoe industry.

Unfortunately, President Reagan chose to ignore and, in fact, reject flatly the ITC's recommendation. Now, my colleague, JACK DANFORTH, the distinguished former chairman of the Trade Subcommittee, put it rather bluntly back in 1985. Senator DANFORTH said,

> The President's decision makes a mockery of U.S. trade law. The law is now a dead letter. The President has said that playing by the rules is for suckers. If the shoe industry cannot secure relief under section 201, then no industry—I repeat, no industry—can expect any help from section 201.

We have made some modest changes to section 201 in the Omnibus Trade Act that was recently passed, but I doubt very much whether it can provide significant relief. Therefore, I have been left with no alternative but to support legislation that would essentially implement exactly what the ITC proposed 3 years ago. The legislation before the Chamber embodies the main tenets of the ITC's decision. Specifically, it would set a global import quota for nonrubber footwear at the record-setting level of 937 million pairs established in 1986, the highest ever in the history of the country. It would provide that 18 percent of those 937 million pairs be reserved for imported shoes with a customs value of $2.50 or less to ensure the continued availability of low priced footwear for moderate income Americans. It would also grant authority to the President to reduce duties on all nonrubber footwear up to 10 percent over a 5-year period to compensate those countries which are negatively impacted by this global quota.

Now, my friend from Oregon indicated that none of the domestic footwear manufacturers supported this particular measure. Converse in North Carolina is very supportive of the legislation before us. Etonic, Saucony in Maine, Tretorn, New Balance, down in Florida we have Joy, Suave, Gator, Carter Rubber in Pennsylvania.

I make one final point before closing, Mr. President. I find it intriguing that on the one hand, we are now objecting to legislation providing some measure of protection. Give us 18 percent of the market. We have already given up 82 percent, and we are being charged with being protectionist or negative or suffering from economic malaise.

I noticed in looking at the reports from other countries that France has now decided to restrict shoe imports into their country. Korea and Taiwan now supply 10 percent of that shoe market. France has decided 10 percent is enough. No more. The British have also come to a similar conclusion. South Korea and Taiwanese shoes are now flooding their market. South Korea grabbed 12.7 percent of the Italian shoe market in 1987, Taiwan had 10.8 percent. Italy, France, and Britain have said, "Enough." We are now up to 82 percent import penetration and still there is resistance coming against any protection for this harried, harassed, and endangered industry.

Mr. President, we must commit ourselves to the development and implementation of rational controls over our economic borders which will provide our domestic industries a fair opportunity to compete. Let us serve notice to our trading partners that we will not continue to be the world's only free trader in this increasingly hostile world trading environment, nor will we continue to serve as the dumping ground for the excess production of our trading partners.

Mr. President, I hope we have an overwhelming rejection of the Packwood amendment. Nine hundred thirty-seven million pairs of foreign produced shoes coming into this country should be more than sufficient to take care of those other countries. I will at the appropriate time, if one is not made, move to table the Packwood amendment.

I thank the Chair.

TREASURY, POSTAL SERVICE, EXECUTIVE OFFICE OF THE PRESIDENT, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, FISCAL YEAR 1989—CONFERENCE REPORT

Mr. BYRD. Mr. President, is there a conference report at the desk on the Treasury-Post Office appropriations bill?

The PRESIDING OFFICER. The majority leader is correct.

Mr. BYRD. I call up that conference report and I ask unanimous consent that time on the conference report be limited to 25 minutes equally divided between Mr. DECONCINI and Mr. DOMENICI, and that the time be charged against the time under cloture on the textile bill.

The PRESIDING OFFICER. Is there an objection? Hearing none, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4775) making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1989, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their repective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of September 7, 1988.)

The PRESIDING OFFICER. The Senator from Arizona.

Mr. DECONCINI. I thank the Chair and I thank the majority and minority leaders for permitting us to move ahead on this conference report.

Mr. President, as chairman of the Subcommittee on Treasury, Postal Service, and General Government, I hope that my colleagues in the Senate will agree with me that this conference report should be passed overwhelmingly and promptly. Yesterday, the House of Representatives approved the conference report by a landslide vote of 371 to 30. I hope that the Senate will follow suit with an overwhelming vote in support of this bill.

Mr. President, the conference report is the product of a very, very tough conference with the House. The Senate-passed bill contained 155 amendments to the House-passed bill, so our differences were many and oftentimes contentious. The committee of conference met formally for two long and arduous sessions, plus one final meeting to iron out some very

important lingering differences before the conference report could be put to bed. Frankly, there were moments when I was not sure that we would ultimately reach an agreement, but with the steadfast support of my distinguished ranking member, Mr. DOMENICI of New Mexico, and his willingness to stay there hours upon hours and always willing to meet again to formulate a strong position for the Senate. And I thank Chairman ROYBAL on the House side, who agreed to some concessions as we agreed to concessions, and we were able to bring the conference report to the Senate in what I consider very good shape.

Mr. President, the conference report calls for a total of $16.019 billion, which is $94 million below the House bill and $102 million over the Senate bill—about a split between the two bills.

Mr. President, I am proud of the fact that despite significant differences between the House and Senate, both in terms of dollars and issues, this conference report protects the overwhelming majority of Senate interests and is under our revised 302(b) allocations for both budget authority and outlays.

Also, the conference report is $143.8 million below the President's budget estimates for fiscal year 1989, and I have no reason to believe that the President will not sign this bill. He has not said that he will sign it, but there is no indication from OMB or anybody that I have talked to, or that my staff has talked to who say this bill will not be signed. I think my ranking member, Senator DOMENICI, may be able to address this in more detail.

I want to go over just a few of the highlights of the conference report.

First, the conference agreed on a total appropriation for the Internal Revenue Service of $5,194,880,000. This amount is $136,000,000 over the Senate-passed bill, but $104,845,000 below the House-passed bill. We reached this compromise funding level for IRS after very vigorous and often heated debate with the House and after the personal intervention of the former Secretary of the Treasury, James Baker.

I want to pay a compliment to Mr. Baker for his involvement in this effort. He was there to talk to this Senator, and I know he talked to my colleague from New Mexico on numerous occasions. He gave us his bottom lines, compromise lines, and though we did not quite make the point that he wanted we were within $5 million of what he felt was most reasonable. I think it is a good funding level for the IRS. It will allow the agency to continue its ongoing revenue raising activities and begin the process of improving both taxpayer service and agency data processing capabilities.

Second, I am pleased that we were able to preserve the President's budget request and the Senate-passed funding level for the Customs Service's air drug interdiction program. The Customs Service is making major strides toward bringing high technology systems into the war on drugs and will be able to continue its lead role in air interdiction next year.

Third, the conferees agreed to bolster the Federal Law Enforcement Training Center [FLETC] and to begin its first phase of improving its facilities at Glynco, GA, and Marana, AZ. Also, thanks to Senator DOMENICI's tremendous leadership, the Center will be opening a new advanced training center at Artesia, NM, during fiscal year 1989. These facilities are crucial as we embark upon a second major omnibus drug bill in the last 3 years.

Fourth, although I would have liked to have provided more money, we were able to provide additional funding to Customs for its commercial operations and to enhance staffing at critical jobs on the commercial side of Customs.

This is a side that is often forgotten about. It plays a major role in our trade policy and has been short of funding for a long, long time. It is particularly important as we begin to implement the new trade bill and trade agreements with our trading partners.

Fifth, we were able to maintain the Postal Service revenue forgone program in the face of administration opposition to this vital program. This will allow all nonprofit and other mailers to do their important jobs with the knowledge that rates should remain relatively stable for the balance of fiscal year 1989.

And, finally, I am pleased to say that despite very rigid budget constraints, we were able to provide a second phase of funding to improve southwest border facilities in Texas, New Mexico, Arizona, and California.

If any of my colleagues want to be embarrassed, they should go down to the southwest border between Mexico and the United States and look at some of the particular facilities that are there. This is not a good image for the United States nor does it help us to improve relations with our good neighbors to the south. We made a major stride last year and are able to continue it with funding this year for the border projects. These projects are vitally important in fostering better trade relations with Mexico; in providing secure law enforcement facilities for our drug interdiction officers; and in enhancing the total infrastructure of our southwest border ports of entry from Brownsville, TX, to San Ysidro, CA.

Mr. President, I want to conclude my remarks by paying tribute to my distinguished ranking member, PETE DOMENICI. He is a pleasure to work with. He is most professional. He is willing to work hard. His staff member Rebecca Davies, likewise is always there, and is willing to spend those hours, as is my staff member, Bob Mills. They have put in a great deal of time on this effort.

I think much credit should also go to the minority leader, and demonstrates that when it comes to getting something done out here on the floor of the Senate and in conference the bipartisan approach is really the answer to accomplishment.

So I thank very, very much Senator DOMENICI.

Mr. President, I ask unanimous consent that a table entitled Budgetary Impact of Conference Report on H.R. 4775 be printed in the RECORD at this point.

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

BUDGETARY IMPACT OF CONFERENCE REPORT ON H.R. 4775 PREPARED BY THE CONGRESSIONAL BUDGET OFFICE PURSUANT TO SEC. 308(a), PUBLIC LAW 93–344, AS AMENDED

[In millions of dollars]

	Budget authority		Outlays	
	Committee allocation	Amount in bill	Committee allocation	Amount in bill
Comparison of amounts in the bill with the Committee allocation to its subcommittees of amounts in the First Concurrent Resolution for 1989: Subcommittee on Treasury Postal Service	15,700	15,577	15,649	[1] 15,525
Projections of outlays associated with budget authority recommended in the bill:				
1989				[2] 14,127
1990				[2] 1,316
1991				136
1992				17
1993 and future years				6
Financial assistance to State and local governments for 1989 in the bill				
	Direct loans		Loan guarantees	
Credit authority estimates, fiscal year 1989				

[1] Includes outlays from prior-year budget authority.
[2] Excludes outlays from prior-year budget authority.
Note.—Reflects scorekeeping adjustment for IRS.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I rise in support of the conference agreement on H.R. 4775, the fiscal year 1989 Treasury, Postal Service, and General Government Appropriations Act, and I urge its adoption.

As I mentioned on the floor when the Senate considered this measure, a regular Treasury appropriations bill has not been enacted into law since fiscal year 1980. For the past 8 fiscal years, funding for the programs and activities included in this bill has been provided for by a continuing appropriations resolution. It is indeed an achievement that we present the con-

ference report on this appropriations bill today. The House has approved it. With the final clearance of the Senate, the bill will be sent to the President for signature.

This bill is an example of the significant progress made by the Appropriations Committee this year in its goal to send 13 separate appropriation measures to the White House. Two of the 13 regular fiscal year 1989 appropriations bills have already been signed into law. This is 1 of 3 appropriations bill conference reports filed before the August recess. The eight remaining bills were passed by the Senate prior to the recess and are now awaiting conference committee action. The Appropriations Committee is making every effort to complete action on these measures to avoid an end of the year continuing appropriations measure. I commend Chairman STENNIS and the committee's ranking Republican member, Senator HATFIELD, for their leadership. We are well on our way to completing action on appropriations prior to the start of the fiscal year.

This conference report on the fiscal year 1989 Treasury, Postal Service, and General Government Appropriations Act provides a total of $16,019,910,000 in new budget authority; total fiscal year 1989 outlays from this new budget authority and prior-year funding actions are estimated to be $15,909,758,000. Discretionary funding provided by this conference report totals $8,785,618,000 in budget authority and $7,167,497,000 in outlays. These amounts, together with outlays from prior-year spending actions, are below the subcommittee's 302(b) discretionary spending allocations.

We had some difficult issues in conference and I commend both Chairman DECONCINI and Chairman ROYBAL on this conference result. I believe that given the differences between the House and Senate and the budget constraints we faced, this is an extremely good bill.

The largest funding difference between the House and Senate bills was the fiscal year 1989 appropriation level for the Internal Revenue Service. The President requested total IRS funding of $5,299,725,000 for fiscal year 1989, $241 million above the fiscal year 1988 funding level. The House bill contained this requested funding increase for IRS activities; the Senate bill did not, basically because the fiscal year 1989 budget resolution the Congress adopted did not assume this additional funding. I might point out that the increase requested by the President for IRS activities for fiscal year 1989 contained no revenue enhancement initiatives. The $241 million increase requested involved $90 million to annualize fiscal year 1988 IRS activities; $140 million for additional automated data processing investments; and $14 million for tax fraud and problem resolution. Given the fact that IRS funding alone represents nearly 60 percent of the total discretionary spending provided by this bill, there was simply no way the conference committee could provide the total funding increase for the IRS requested by the President, provide adequate funding for other programs, and stay within the subcommittee's total spending allocations. The conferees agreed to provide an additional $136 million above the fiscal year 1988 funding level for IRS activities in fiscal year 1989. Although less than the amount desired, this increase is sufficient to enable the IRS to maintain its revenue enhancement and taxpayer service responsibilities in the coming fiscal year.

Also included in this conference report is a 4.1-percent pay increase for civilian employees effective January 1, 1989. Excluded from this pay increase are legislative, executive, and judicial branch employees making $82,500 or above; this includes Members of the Congress, judges, Cabinet officers, Assistant Secretaries, and other high-level employees. The Senate bill included a provision providing for a 4.0 civilian, increase excluding only Members of the Congress; the House bill authorized a 4.0-pay raise capped at level V of the executive schedule. The 4.1-pay increase agreed to by the conferees is the same as that included in the Defense authorization bill for military employees. This bill does not provide for a military pay increase; however, in the event that the military pay increase is not provided for by separate authorization, the level of pay increase for the military is tied to that provided for civilian employees.

Although not as high as the amounts originally contained in the Senate bill, this conference report contains increased fiscal year 1989 funding for the law enforcement activities of the U.S. Treasury Department, many of which are vital to our war against illegal drugs. These include the U.S. Customs Service; the Bureau of Alcohol, Tobacco, and Firearms; the Federal Law Enforcement Training Center; and the Secret Service.

I am pleased with this conference result, Mr. President. It is one my colleagues should support. It is a well-crafted bill which adheres to the funding constraints imposed on it and I urge its adoption.

Mr. President, I want to thank the distinguished chairman, my colleague from Arizona, Senator DECONCINI, for all of his efforts with reference to this bill, H.R. 4775, the Treasury, Postal Service, and General Government Appropriations Act for 1989. I also want to thank the majority staff and the minority staff for their diligent work.

I think my friend and colleague from Arizona has expressed the difficulties that we had in this bill. I would just like to pass a few remarks on to the Senate with reference to the nature and kind of historic significance of this bill.

First of all, I think our distinguished majority leader will be pleased. We have not had a Treasury, Postal Service, General Government appropriations bill since fiscal year 1980. That means every year we have been unable to pass this as a freestanding measure for one reason or another.

I think he would agree with the Senator from New Mexico. It is our goal consistent with the accepted practices that we have 13 freestanding appropriations bills. This should be one of them.

Every year since fiscal year 1980, we have had to take this bill which is anywhere from $10 to $16 billion covering a very, very broad spectrum of activities of our Federal Government, from the U.S. Treasury Department, including the U.S. Customs Service and the IRS, to the General Services Administration and OPM and many other functions of Government in between. We have had to include the funding for all these in one big continuing appropriations resolution.

I am very hopeful that even though this bill is not exactly what the President asked—and it would be a rare achievement if an appropriations bill would be exactly what the President asked for, be it in pay for employees, or be it in how many particular IRS agents we should have and how much we should spend for each program and activity. It seems to me that we should have some degree of autonomy, some degree of independence, and then be able to work something out with the executive. I am very hopeful that in looking at the President's proposals and then doing what we thought best, that we came out somewhere in divergence but not so much so that he would not be able to sign this bill. I do not have any assurance that he will, but neither do I have any indication that it has a veto message, implied or otherwise, against it.

If it does get signed, as I indicated, it will really be historic because then we will have good management and a good process for the first time in 8 years with reference to these very, very difficult areas, from the postal subsidy that we have to provide for because those charitable organizations and other preferred mailers that use our U.S. mail get a rate that is lower than others—we have to pay for that out of the treasury—to general Government activities which are in this bill including the Treasury Department. I would close with just a brief comment about our Federal employees, both civilian and military.

First of all, this conference agreement does not authorize a pay increase for the military. What we have

done—and I am very pleased that the President of the United States has indicated his support—is that we indicated that both military and civilian should get the same pay raise this year and we have provided for a 4.1 percent for all, except those who are members of the legislative branch—that is, the Members of the Senate and the Members of the House—those employees of the Federal Government who make more than $82,500, Cabinet members, and judges and others. They will not get the increase. All others will get 4.1 percent. I think that is beginning to play a little catch-up with reference to the pay parity with the private sector, for which we aspire for our civilian and military personnel.

This particular bill, as I indicated, does not authorize a pay raise for the military, but if we do not get a bill through that raises the pay for the military, theirs will be 4.1 percent also, as military pay is tied to the 4.1 percent civilians will receive under this bill.

Likewise, we are all aware that the Internal Revenue Service is engaged in a modernization process, not only with reference to new equipment, but also, they are turning a substantial part of their effort toward serving people and being responsive to people's needs, as compared with a major process of enforcement which they have been undergoing for years.

New money was sought for the Internal Revenue Service for enforcement and for serving the public, and we were not able to fund it as high as the President sought, but we gave them a rather substantial increase—over 50 percent of what was requested—$136 million in new dollars over fiscal year 1988. We are very pleased that even with that, we were able to fund most of the projects that the Senate sought and most of those that the House sought.

Mr. President, I hope that the Senate will give this conference report a resounding vote of confidence and that we can have the President of the United States sign it into law, so that we will get back into a cycle of better management by passing a full year appropriation bill for these many important programs and activities of the Federal Government that serve the people of the United States.

I close by thanking the distinguished senior Senator from Arizona [Mr. DECONCINI] and his staff and my staff for all the hours that went into this bill.

The Senate should know that our 13 subcommittees and the chairmen and the ranking members spent a lot of time with their staffs. At times, it is fun and enjoyable; at others, it is plain hard work. We have had our share of both, and I am pleased to have been part of it.

Mr. CHILES. Mr. President, Senate Budget Committee scoring of conference report on the Treasury/Postal appropriations bill for fiscal year 1989, as reported by the Committee of Conference, shows that the bill is under its revised 302(b) budget authority and outlay targets. I commend the chairman of the Appropriations Subcommittee on Treasury, Postal Service, and General Government, Senator DECONCINI, and the ranking member of the subcommittee, Senator DOMENICI, for their successful effort in keeping the spending levels for programs within the subcommittee's jurisdiction under the 302(b) budget allocation.

Mr. President, I have a table from the Budget Committee showing the official scoring of conference report and I ask unanimous consent that it be printed in the RECORD.

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

SENATE BUDGET COMMITTEE SCORING OF H.R. 4775

TREASURY-POSTAL—SPENDING TOTALS (CONFERENCE REPORT)

[In billions of dollars]

	Fiscal year 1989	
	Budget authority	Outlays
302(b) BILL SUMMARY		
H.R. 4775, Conference Report (new BA and outlays)	16.0	14.1
Enacted to date		1.8
Adjustment to conform mandatory programs to resolution assumptions	+0.1	+0.1
Scorekeeping adjustments: Adjustment for IRS	−0.4	−0.4
Bill total	15.7	15.6
Subcommittee 302(b) allocation	15.7	15.6
Difference	−(1)	−(1)
Bill total above (+) or below (−):		
President's request	−0.1	−0.1
House-passed bill	−0.2	−0.2
Senate-passed bill	+0.1	+0.1
SUMMIT CAP SUMMARY		
Defense (050) spending in bill	+(1)	−(1)
Allocation under defense cap		−0.1
Difference	+(1)	+(1)
Domestic discretionary spending in bill	8.3	8.2
Allocation under domestic cap	8.2	8.2
Difference	+0.1	+0.1

[1] Less than $50 million.

Note.—Details may not add to totals due to rounding.
Source: Senate Budget Committee Staff.

Mr. DECONCINI. Mr. President, I yield back the time, and I urge that the Senate adopt the conference report.

The PRESIDING OFFICER. If all time is yielded back, the question is on agreeing to the conference report.

The conference report was agreed to.

Mr. DECONCINI. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

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

The motion to lay on the table was agreed to.

Mr. DECONCINI. Mr. President, I ask unanimous consent that the Senate concur en bloc in the House amendments to the Senate amendments that remain in disagreement.

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

The House amendments to the Senate amendments remaining in disagreement are as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 2 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

For necessary expenses of the Federal Law Enforcement Training Center, as a Bureau of the Department of the Treasury, including purchase (not to exceed fifteen for police-type use) and hire of passenger motor vehicles; for expenses for student athletic and related activities; uniforms without regard to the general purchase price limitation for the current fiscal year; the conducting of and participating in firearms matches and presentation of awards; for public awareness and enhancing community support of law enforcement training; not to exceed $5,000 for official reception and representation expenses; room and board for student interns; and services as authorized by 5 U.S.C. 3109: *Provided*, That the Center is authorized the acceptance of gifts: *Provided further*, That funds appropriated in this account shall be available for State and local government law enforcement training on a space-available basis; training of foreign law enforcement officials on a space-available basis with reimbursement of actual costs to this appropriation; training or private sector security officials on a space-available basis with reimbursement of actual costs to this appropriation; travel expenses of non-Federal personnel to attend State and local course development meetings at the Center: *Provided further*, That the Federal Law Enforcement Training Center shall hire up to and maintain an average of not less than 425 direct full-time equivalent positions for fiscal year 1989; $34,664,000: *Provided further*, That none of the funds appropriated under this heading shall be used to reduce the level of advanced training or other training activities of the Federal Law Enforcement Training Center at Marana, Arizona.

ACQUISITION, CONSTRUCTION, IMPROVEMENTS, AND RELATED EXPENSES

For acquisition, construction, improvements, and related expenses (to include design, equipment, furnishings, and other such costs) for the Federal Law Enforcement Training Center, $20,000,000 to remain available until expended: *Provided*, That of this amount, $7,000,000 shall remain available for the acquisition, renovation, and adaptation of the former Artesia Christian College campus in Artesia, New Mexico, as a facility of the Federal Law Enforcement Training Center: *Provided further*, That $13,000,000 shall be available for the first phase of implementation of the Master Plan for the expansion of the Federal Law Enforcement Training Center at Glynco, Georgia, and for on-going maintenance, facility improvements, and related equipment: *Provided further*, That the Master Plan for the Federal Law Enforcement Training Center shall make provision for construction of an advanced firearms training range for participating agencies with specialized firearms training requirements.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 25 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum inserted by said amendment, insert: *$1,932,441,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 35 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum inserted by said amendment, insert: $39,640,000, of which not to exceed $1,000,000 may be available for a consolidated Federal budget and financial information system to improve the management of Executive agencies, and

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 39 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

EXPENSES OF MANAGEMENT IMPROVEMENT

For expenses necessary to provide a comprehensive office automation system, including equipment and software, for the Office of Management and Budget, $1,000,000, to remain available until expended.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 41 to the aforesaid bill, and concur therein with an amendment as follows:

Strike out the matter stricken by said amendment, and insert:

ADVISORY COMMITTEE ON FEDERAL PAY

SALARIES AND EXPENSES

For necessary expenses of the Advisory Committee on Federal Pay, established by 5 U.S.C. 5306; $205,000: *Provided*, That the annual report of the Advisory Committee on Federal Pay shall be submitted to the Appropriations Committees of the House and Senate and other appropriate Committees of the Congress at the same time the report is submitted to the President.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 42 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum inserted by said amendment, insert: *$3,024,217,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 44 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum named in said amendment, insert: *$14,000,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 49 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum named in said amendment, insert: *$500,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 53 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum named in said amendment, insert: *$5,000,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 60 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

Capital Improvements of United States-Mexico Border Facilities, $42,150,000 as follows:

ARIZONA

Douglas, AZ: New facility/R&A/Safety, $820,700.

Lukeville, AZ: R&A/Safety, $229,100.

Naco, AZ: New facility/R&A/Safety, $320,900.

Nogales, AZ: Grande Ave./Morley Gate, New Station/R&A/Safety, $2,420,900. Mariposa, R&A, $746,800.

Sasabe, AZ: New facility/R&A/Safety, $355,300.

San Luis, AZ: R&A/Safety, $499,300.

CALIFORNIA

Andrade, CA: New station/R&A/Safety, $454,300.

Calexico, CA: New station/R&A/Safety, $4,830,900.

San Ysidro/Otay Mesa, CA: New facility/Otay Mesa, $721,700. Safety/San Ysidro/Otay Mesa, $2,673,900. R&A/Signs/Security/Commercial lot improvements, $4,956,200.

Tecate, CA: New station/R&A, $861,800.

NEW MEXICO

Antelope Wells, NM: Security/Housing, $158,500.

Columbus, NM: Security, $236,300.

Santa Teresa, NM: New station, $1,668,000.

TEXAS

Amastad Dam, TX: R&A, $83,400.

Brownsville, TX: Gateway Bridge, Security/R&A/Lane expansion/New Bridge, $5,783,000. B&M Bridge, Replace station, $1,794,300. Los Indios, Replace station, $105,700.

Del Rio, TX: Security/Lane expansion, $597,700.

Eagle Pass, TX: Security/R&A, $2,251,800.

El Paso, TX: Bridge of the Americas, Design/R&A/Import Lot Paving, $1,700,300. Paso del Norte, Extension/R&A, $639,400. Ysleta, Design/Construction, $1,501,200.

Fabens, TX: Site acquisition/Security, $444,800.

Falcon Dam, TX: R&A, $172,400.

Hidalgo, TX: Safety/Design/R&A, $617,200.

Laredo, TX: Juarez-Lincoln Bridge, site/Design/R&A, $1,668,000. New bridge, $278,000. Convent Street, Design upgrade, $1,473,400.

Presidio, TX: Security/Housing, $556,000.

Progresso, TX: Security/R&A, $222,400.

Roma, TX: Safety, $305,800.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 68 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum inserted by said amendment, insert: $130,000,000, of which $2,200,000 shall be made available for a grant to the Marine Biological Laboratory at Woods Hole, Massachusetts and of which $127,800,000 shall be available

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 72 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum inserted by said amendment, insert: $3,024,217,000

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 74 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum inserted by said amendment, insert: $10,800,000

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 75 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum inserted by said amendment, insert: $4,000,000

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 77 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum inserted by said amendment, insert: $31,875,000

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 80 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum inserted by said amendment, insert: $30,000,000

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 81 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

University of Texas at El Paso pursuant to 50 U.S.C. 98 a and g for a grant to study and facilitate the development, transfer, and installation of strategic materials technologies among American industries; $3,000,000;

University of Hawaii at Manoa pursuant to 50 U.S.C. 98a and 98g(a), for a grant to construct and equip a strategic materials research facility, $14,000,000;

Loyola College in Maryland pursuant to 50 U.S.C. 98a and 98g(a), for a grant to pay the Federal share of the cost of construction and equipment, including approaches and appurtenances and costs already incurred, of a Center for Advanced Information and Resource Management Studies, $3,000,000;

University of Idaho pursuant to 50 U.S.C. 98a and 98g(a), for a grant to construct and equip a Strategic Research and Environmental Laboratory, $3,000,000; and

University of Utah pursuant to 50 U.S.C. 98a and 98g(a)(2)(C) for a grant to pay the Federal share of the cost of construction and equipment for a Center for Biomedical Polymers, $7,000,000.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 88 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the section number named in said amendment, insert: *10*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 89 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

SEC. 11. Notwithstanding any other provision of law, the Administrator of General Services is hereafter authorized to transfer from the available resources of the Federal Buildings Fund, in accordance with such rules and procedures as may be established by the Office of Management and Budget and the Department of the Treasury, such amounts as are necessary to repay the principal amount of General Services Administration borrowings from the Federal Financ-

ing Bank when such borrowings are legal obligations of the Fund.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 90 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the section number named in said amendment, insert: *12*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 91 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the section number named in said amendment, insert: *13*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 92 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

SEC. 14. None of the funds appropriated by this Act may be obligated or expended in any way for the purpose of the sale, excessing, surplusing, or disposal of lands in the vicinity of Norfolk Lake, Arkansas, administered by the Corps of Engineers, Department of the Army, without the specific approval of the Congress.

SEC. 15. Notwithstanding any other provision of this Act the amount appropriated for "General Management and Administration, Salaries and Expenses" of the General Services Administration is $120,774,000 for fiscal year 1989.

SEC. 16. The Administrator of General Services shall transfer, without consideration, to the Secretary of the Army the approximately 24 acres located in Laurel, Maryland, and classified as surplus property under the title "FDA—Beltsville Research Facility". Such property shall be used in connection with the Maryland National Guard.

SEC. 17. The Secretary of the Interior, within 30 days of enactment of this Act shall designate a consolidated agency of no less than 400 people within the Department of the Interior for relocation to Avondale, Maryland. The Administrator of General Services shall relocate the designee to the Avondale facility no later than 90 days after the Administrator determines design and alteration of the facility is completed.

SEC. 18. Notwithstanding any other provision of this Act, no funds made available from the Federal Buildings Fund for new construction for fiscal year 1989 may be used to fund the St. Croix Federal Building, Courthouse located in the Virgin Islands.

SEC. 19. None of the funds appropriated by this or any other Act in any fiscal year may be obligated or expended in any way for the purpose of the sale, lease, rental, excessing, surplusing, or disposal of any portion of land identified as a portion of the Middle River Federal Depot located in Baltimore County, Maryland before October 1, 1989: Provided, That such land may be sold before that time if the General Services Administration enters into a mutually agreed upon sale agreement with the State of Maryland and/or Baltimore County, Maryland.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 93 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum inserted by said amendment, insert: $121,900,000, of which $125,000 shall be made available directly to the Forbes Library, Northampton, Massachusetts for such expenses as are necessary for the proper preservation, restoration, and display of the Presidential papers of Calvin Coolidge, and

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 98 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: not to exceed $1,000,000 may be made available for establishment of Federal health promotion and disease prevention programs for Federal employees;

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 100 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: not to exceed $500,000 may be made available for implementation of the Combined Federal Campaign in fiscal year 1989;

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 113 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the section number named in said amendment, insert: *519*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 116 to the aforesaid bill, and concur therein with an amendment as follows:

Strike out the matter stricken by said amendment, and insert:

SEC. 521. Not later than October 1, 1989, of the amounts obtained from the sale, transfer, or disposition of silver from the National Defense Stockpile, not less than $1,000,000 shall be obligated for a pilot project to upgrade cobalt deposited in the National Defense Stockpile to the highest purity levels required for critical military applications. The funds used in this section for upgrading shall not exceed $2,000,000.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 117 to the aforesaid bill, and concur therein with an amendment as follows:

Strike out the matter stricken by said amendment, and insert:

SEC. 522. The Administrator of General Services, under section 210(h) of the Federal Property and Administrative Services Act of 1949, as amended, may acquire, by means of a lease of up to 30 years duration, space for the United States Courts in Tacoma, Washington, at the site of Union Station, Tacoma, Washington.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 121 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the section number named in said amendment, insert: *526*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 122 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

SEC. 527. (a)(1) Notwithstanding any other provision of this Act, no department, agency, or instrumentality of the United States Government receiving appropriated funds under this Act for fiscal year 1989, shall, during fiscal year 1989, obligate and expend funds for consulting services involving management and professional services; special studies and analyses; technical assistance; and management review of program funded organizations; in excess of an amount equal to 85 percent of the amount obligated and expended by such department, agency, or instrumentality for such services during fiscal year 1987.

(2) The term "consulting services" shall be defined consistent with the provision of OMB Circular A-120 dated January 4, 1988.

(b) The Director of the Office of Management and Budget shall take such action as may be necessary, through budget instructions or otherwise, to direct each department, agency, and instrumentality of the United States to comply with the provisions of section 1114 of title 31, United States Code.

(c) All savings to any department, agency, or instrumentality which result from the application of subsection (a), shall be used for the 4.1 percent increase in rates of pay in such department, agency, or instrumentality made under this Act.

SEC. 528. Section 509 of this Act shall have no force or effect.

SEC. 529. The Office of Personnel Management may, during the fiscal year ending September 30, 1989, accept donations of supplies and equipment for the Federal Executive Institute for the enhancement of the morale and educational experience of attendees at the Institute.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 138 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

SEC. 620. (a)(1) Notwithstanding any other provision of law, in the case of fiscal year 1989, the overall percentage of the adjustment under section 5305 of title 5, United States Code, in the rates of pay under the General Schedule, and in the rates of pay under the other statutory pay systems (as defined by section 5301(c) of such title), shall be an increase of 4.1 percent.

(2) Each increase in a pay rate or schedule which takes effect pursuant to paragraph (1) shall, to the maximum extent practicable, be of the same percentage, and shall take effect as of the first day of the first applicable pay period commencing on or after January 1, 1989.

(b)(1) Notwithstanding any other provision of this Act or any other law, no adjustment in rates of pay under section 5305 of title 5, United States Code, which becomes effective on or after October 1, 1988, and before October 1, 1989, shall have the effect of increasing the rate of salary or basic pay for any office or position in the legislative, executive, or judicial branch or in the government of the District of Columbia—

(A) if the rate of salary or basic pay payable for that office or position as of September 30, 1988, was equal to or greater than the rate of basic pay then payable for level III of the Executive Schedule under section 5314 of title 5, United States Code; or

(B) to a rate exceeding the rate of basic pay payable for level III of the Executive Schedule under such section 5314 as of September 30, 1988, if, as of that date, the rate of salary or basic pay payable for that office or position was less than the rate of basic pay then payable for such level III.

(2) For purposes of paragraph (1), the rate of salary or basic pay payable as of September 30, 1988, for any office or position which

was not in existence on such date shall be deemed to be the rate of salary or basic pay payable to individuals in comparable offices or positions on such date, as determined under regulations prescribed—

(A) by the President, in the case of any office or position within the executive branch or in the government of the District of Columbia;

(B) jointly by the Speaker of the House of Representatives and the President pro tempore of the Senate, in the case of any office or position within the legislative branch; or

(C) by the Chief Justice of the United States, in the case of any office or position within the judicial branch.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 141 to the aforesaid bill, and concur therein with an amendment as follows:

Strike out the matter stricken by said amendment, and insert:

SEC. 621. Effective October 1, 1988, the Secretary shall sell, within fiscal year 1989, 2.5 million fine troy ounces of silver held by the Treasury subject to Sec. 624 of this Act.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 142 to the aforesaid bill, and concur therein with an amendment as follows:

Strike out the matter stricken by said amendment, and insert:

SEC. 622. Effective October 1, 1989, the Secretary shall sell, within fiscal year 1990, 2.5 million fine troy ounces of silver held by the Treasury subject to Sec. 624 of this Act.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 143 to the aforesaid bill, and concur therein with an amendment as follows:

Strike out the matter stricken by said amendment, and insert:

SEC. 623. Effective October 1, 1990, the Secretary shall sell, within fiscal year 1991, 2.5 million fine troy ounces of silver held by the Treasury subject to Sec. 624 of this Act.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 145 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the section number named in said amendment, insert: *625*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 146 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the section number named in said amendment, insert: *626*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 149 to the aforesaid bill, and concur therein with an amendment as follows:

Strike out the matter stricken by said amendment, and insert:

SEC. 628. (a) No department, agency, or instrumentality of the United States receiving appropriated funds under this Act for fiscal year 1989, or under any other Act appropriating funds for fiscal year 1989, shall obligate or expend any such funds, unless such department, agency, or instrumentality has in place, and will continue to administer in good faith, a written policy designed to ensure that all of its work places are free from the illegal use, possession, or distribution of controlled substances (as defined in the Controlled Substances Act) by the officers and employees of such department, agency, or instrumentality.

(b) No funds so appropriated to any such department, agency, or instrumentality shall be available for payment in connection with any grant, contract, or other agreement, unless the recipient of such grant, contractor, or party to such agreement, as the case may be, has in place and will continue to administer in good faith a written policy, adopted by such recipient, contractor, or party's board of directors or other governing authority, satisfactory to the head of the department, agency, or instrumentality making such payment, designed to ensure that all of the workplaces of such recipient, contractor, or party are free from the illegal use, possession, or distribution of controlled substances (as defined in the Controlled Substances Act) by the officers and employees of such recipient, contractor, or party.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 152 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

SEC. 629. (A) Section 5724(a) of title 5, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (1);

(2) by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following:

"(3) upon the separation of a career appointee (as defined in section 3132(a)(4) of this title), the travel expenses of that individual, the transportation expenses of the immediate family of such individual, and the expenses of moving (including transportating, packing, crating, temporarily storing, draying, and unpacking) the household goods of such individual and personal effects not in excess of 18,000 pounds net weight, to the place where the individual will reside within the Untied States, it territories or possessions, the Commonwealth of Puerto Rico, or the areas and installations in the Republic of Panama made available to the United States pursuant to the Panama Canal Treaty of 1977 and related agreements, as described in section 3(a) of the Panama Canal Act of 1979 (or, if the individual dies before the travel, transportation, and moving is completed, to the place where the family will reside) if such individual—

"(A) during the five years preceding eligibility to receive an annuity under subchapter III of chapter 83, or of chapter 84 of this title, and thereafter, has been transferred in the interest of the Government from one official station to another for permanent duty as a career appointee in the Senior Executive Service; and

"(B) is eligible to recieve an annuity upon such separation under the provisions of subchapter III of chapter 83 or chapter 84 of this title".

(b) The amendments made by subsection (a) shall be carried out by agencies by the use of funds appropriated or otherwise available for the administative expenses of each of such respective agencies. The amendments made by such subsection do not authorize the appropriation of funds in amounts exceeding the sums otherwise authorized to be appropriated for such agencies.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 153 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the section number named in said amendment, insert: *630*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 154 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the section number named in said amendment, insert: *631*

The PRESIDING OFFICER. The question is on concurring en bloc in the House amendments to the Senate amendments that remain in disagreement.

The amendments remaining in disagreement were agreed to.

Mr. DECONCINI. Mr. President, I move to reconsider the vote by which the amendments remaining in disagreement were agreed to.

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

The motion to lay on the table was agreed to.

Mr. DECONCINI. Mr. President, I thank the majority leader and both Senators from South Carolina for letting us do this.

Mr. BYRD. Mr. President, I thank the manager, Mr. DECONCINI, and the ranking manager, Mr. DOMENICI, for their work on this conference report and on the bill. It is the first time since 1980 that a separate bill on Treasury-Postal Service has been passed. Those Senators and the other Senators on the Appropriations Committee should be highly commended.

TEXTILE AND APPAREL TRADE ACT

The Senate continued with the consideration of S. 2662.

AMENDMENT NO. 2864

The PRESIDING OFFICER (Mr. SHELBY). The question is on agreeing to the Gramm amendment. Ten minutes remain for debate.

Mr. LEVIN. Mr. President, I support the philosophy underlying this amendment; that is, we should take into account how a country treats our exports when deciding how we are going to treat their exports.

The sponsor of the amendment claims that it will exempt from the bill's quotas the textile and footwear products of those countries who are "less protectionist" than the United States. But how would these "less protectionist" countries be identified? The President, in consultation with the Trade Representative, would compare the tariffs and quotas that a particular country imposes on our exports with the tariffs and quotas that we impose on that country's exports, and decide whether their tariffs and quotas are lower or higher than ours. If their tariffs and quotas are lower than ours, the textile and footwear quotas established by this bill would not apply to them.

The problem with this approach is that it ignores a whole host of protectionist policies which are neither tariffs nor quotas. In the U.S. Trade Representative's annual report on foreign trade barriers, unfair foreign trade practices are divided into 12 different categories. Tariffs and quotas are only two of them; the others include such things as restrictive licensing practices, restrictive use of standards, testing, and labeling requirements, "buy national" policies and closed bidding, service barriers, and investment barriers. And this is by no means an exhaustive list. The USTR report analyzes the trade practices of a number of countries whose nontariff, nonquota barriers are a more significant impediment to our goods than their tariffs and quotas.

Because this amendment ignores nontariff, nonquota trade barriers, it will be practically useless in determining which countries are "less protectionist" than the United States. The idea of reciprocity—treating other countries no better and no worse than they treat us—is an appealing one. But this amendment will not result in reciprocity, and therefore I cannot support it.

THE TIME IS LONG OVERDUE TO PASS THE TEXTILE AND APPAREL TRADE ACT

Mr. SANFORD. Mr. President, I rise today in strong support of S. 2662, the Textile and Apparel Trade Act. I am from the State with the largest number of textile and apparel workers. Over 350,000 men and women in my home State of North Carolina work in the fiber, textile and apparel business and I am proud of them. They have done a remarkable job of modernizing their industry and increasing their productivity in the face of a relentless surge of imports since 1980. These workers have fought to keep needed manufacturing jobs here at home in America. They have done an outstanding job, and I am proud to represent them in strong support for the bill now before the Senate.

But Mr. President, this is a bill that the American people, not just the textile and apparel workers of this country solidly support and it is high time that we pass it, and defend it against a misguided Presidential veto. In a survey recently conducted in eight States—none of which are textile producing States—over two-thirds of those surveyed indicated they support the bill presently before the Senate. And this expression of support comes from States such as Colorado, Florida, Iowa, Montana, Utah and others. It indicates that the American people are fed up with our weak trade policies and they want action now. It also shows that the American people are solidly behind the textile and apparel workers of this country. As one typical respondent said, "I'll gladly pay a penny more for a sock in order to assure jobs for my fellow workers."

BILL CRUCIAL FOR SAVING U.S. TEXTILE INDUSTRY

The unrestricted flow of imported textiles, apparel and footwear into the United States must be curtailed immediately, or one of this country's largest and most important manufacturing industries will be fatally damaged. Indeed, this bill is crucial to the lives and long-term economic stability of the over 2.2 million textile and apparel workers in America.

It is inaccurate to dismiss this legislation as protectionist. Unlike any other commodity or product, the United States has actively promoted, supported, and financed competition from abroad. It has been easy to get developing economies into the textile business. As national policy, we have helped and have opened our markets to them. No other industry has been sent abroad so readily by U.S. generosity, that has helped millions around the world survive. We do not complain about this, but it is unwarranted to say the regulation of this generosity is protectionism. Most foreign producers of textiles face costs far below those of American manufacturers, so they would be expected to sell their goods at prices well under that U.S. companies must charge. But the U.S. textile and apparel industry has not sat back and watched this tide of imports from low-wage countries simply wash over them. Rather, they have invested over $18.9 billion in new capital spending to modernize their plants and U.S. textile and apparel workers have the lowest work/time per product of any country in the world.

Despite these heroic efforts of our domestic workers, imports have captured huge portions of both the apparel and footwear markets in the United States. Some of those we have helped have become very wealthy. They continue to look to the United States with its generous trade policies. Most of the burden of providing the markets falls on us. We cannot let an uninhibited invasion of foreign textiles continue, as this industry is far too vital to the American economy. With 2.2 million workers and an annual payroll of $25 billion, the U.S. textile and apparel industry has more employees than our steel and auto industries combined, and serves as America's largest manufacturing employer of women and minorities. Can we afford to lose an industry that contributes $46 billion annually to the U.S. GNP, an industry which the Pentagon ranks second only to steel production in importance to national defense? Of course not, and it is crucial that this bill be passed in order to preserve our domestic textile and apparel industry.

IMPORTS HAVE TAKEN CONTROL OF OUR DOMESTIC TEXTILE MARKET

In the last 7 years, imports have taken unprecented shares of the American textile market. Since 1980, imports have nearly doubled their stake in the apparel and apparel fabric market, as they hold 55 percent of a market in which they controlled only 28 percent just 7 years ago. Equally as alarming is the fact that foreign-produced shoes account for 82 percent of the American footwear market, up from 50 percent in 1980. If these trends continue without restrictions, in just 5 years imports will control 90 percent of the apparel market, while American footwear manufacturers will be on the verge of extinction.

INDUSTRY UNEMPLOYMENT WELL ABOVE NATIONAL AVERAGE

What do these figures mean in terms of American jobs and plant closings? Since 1980, 1,000 domestic textile and apparel plants have closed, resulting in 350,000 lost jobs. Over the same span, 400 U.S. footwear plants have closed at a cost of another 70,000 jobs, representing a 37-percent decline in footwear industry employment levels. Unemployment in the industry is more than twice the national average. In States like North Carolina, these jobs are crucial. When these jobs are lost, they are often not replaced, or when they are, they are replaced by lower paying service sector jobs. Indeed, as the study prepared for the Joint Economic Committee states, "many observers believe that the accelaration—of the shift in employment from manufacturing to the service sector—has been largely attributable to the emergence of large trade deficits in manufactured goods." This shift from manufacturing jobs to service jobs is the hallmark of the Reagan administration. We simply must reverse this loss of good jobs. This is not a matter of protectionism. It is a matter of survival.

THE TEXTILE INDUSTRY NEEDS THIS BILL

Many opponents of this bill will argue that the textile industry is on the road to recovery, that profits are up, and that the industry no longer need this bill. Mr. President, nothing could be further from the truth. In the last 6 months alone, 16,000 textile and apparel jobs have been lost. In addition, for the first 4 months of 1988, apparel orders are down 5 percent, while textile orders are off 9 percent. Not surprisingly, absolute profits for the textile industry during the first quarter of 1988 fell 12 percent compared with the first quarter of 1987, a figure especially striking considering that the all-manufacturing profits average soared by 49 percent over the same period.

Moreover, the absolute size of the domestic textile industry has declined at the very time its home market has

been expanding. From 1982 to 1986, the U.S. market increased by 21 percent, or 6 billion square yards. But textile and apparel imports soared by almost 7 billion square yards during that time. Therefore, imports captured not only all of the market's growth, but also a considerable share of what domestic manufacturers used to produce. Consequently, the U.S. industry has been forced to shut down nearly 8 percent of its capacity, and unless action is taken to regulate the flow of textile imports, the U.S. industry could be destroyed entirely.

BILL WOULD SLOW EXPANSION OF IMPORTED TEXTILES

We can avoid this tragedy by passing S. 2662 into law. Contrary to popular belief, this legislation does not cut back textile imports, it just slows their expansion to 1 percent per year—the historic growth rate of the U.S. market. This is only fair. It gives imports the right to grow, but no faster than the domestic market has typically grown—not the right to capture an ever increasing share of our market until the United States no longer has any textile and apparel workers.

Import quotas would be established for each category of textile products from all sources, each being based on the level of imports in that category for the year 1986. Then each quota would grow by 1 percent per year, a yearly increase that actually exceeds the annual growth rate of 0.8 percent experienced by the U.S. textile market from 1973-85. The bill also limits nonrubber footwear from all sources in 1987 to the level of imports in 1986.

However, unlike many import quotas, this legislation allows for certain exceptions and types of compensation for special cases. The law would provide the administration the flexibility to decide which countries would have to limit their textile exports to the United States, and by how much, as long as the overall growth in imports does not exceed 1 percent. The President would be given the power to negotiate reductions in American textile and apparel tariffs to compensate for those countries affected, and to lower duties on footwear covered by the bill up to 10 percent over a 5-year period. Furthermore, foreign customers of U.S. agricultural products who increase their purchases would gain greater access to the American textile and apparel market, thereby stimulating the demand for U.S. farm products overseas at the same time.

BILL AIDS WOOL AND COTTON PRODUCING STATES AS WELL

The legislation will also substantially help American producers of wool and cotton, as the U.S. textile industry is the largest customer for domestic fabric materials. It is estimated that the bill would result in an 8-percent increase in U.S. wool production and a 2-percent rise in cotton production, thereby boosting an industry that provides 300,000 jobs nationally.

The fact that the bill will have such a dramatic effect on our wool-producing States such as Texas, North and South Dakota, Oklahoma, Montana, and Wyoming underscores the fact that this is a national bill, not just a textile State bill.

FEARS OF FOREIGN RETALIATION COMPLETELY UNFOUNDED

Critics of this legislation worry about retaliation from some of our foreign trading partners, fearing tough new barriers to U.S. exports to certain countries. That is what they said about the omnibus trade bill. These concerns are completely unjustified. First of all, the bill's constraints are not rollbacks or cuts into the amounts currently being exported to the United States; they simply limit the annual growth rate of imported textiles. Second, the quotas enacted by the bill are no more restrictive than those imposed by the European Economic Community on many categories of textile imports, against which little, or no, retaliation has occurred. Third, the bills plan to provide increased access to the U.S. textile market for countries increasing their American agricultural purchases encourages continued trade. Fourth, the provisions allowing affected nations to seek compensation for any losses they can demonstrate resulting from the bill further reduces the likelihood of retaliation. Finally, the European Economic Community will be especially reluctant to retaliate since they would be risking the $25.2 billion trade surplus with the United States that they currently control.

It should also be noted that S. 2662's quotas will not even out the long uneven trade balance of textiles from developing countries. Despite a 30-percent smaller population than the European Economic Community, the United States receives more than 2½ times the amount of apparel products exported from developing countries than the EEC, and 10 times as much as Japan is willing to buy for a population half as large as the United States.

THE AMERICAN PEOPLE FAVOR THE BILL, EVEN IF IT CAUSED HIGHER PRICES

The other concern being voiced by opponents to this legislation is that it will result in higher consumer prices for products restricted by the bill. In fact, it is mostly the retailer that benefits from the cost differences. A recent survey indicates that far more people support the bill than oppose it even if it means higher prices. In Iowa and Montana, for example, supporters outnumbered opponents by 50 percent.

Furthermore, the study provides a good indication of just how badly the public wants this legislation. The survey revealed that in all eight States, over 60 percent of the population thinks that U.S. trade laws regarding imports of foreign goods are not strict enough, including over two-thirds of the respondents in Florida, Nebraska, and Oklahoma. Not surprisingly then, when people were asked how they felt about a bill restricting the growth of textile imports, respondents overwhelmingly supported the idea, with more than twice as many people definitely favoring the bill as those opposing it in Colorado, Oklahoma, and Utah. And when the bill's provisions giving expanded U.S. textile market access to countries increasing their U.S. agricultural purchases were explained, the response was even more enthusiastic about the bill, with supporters outnumbering opponents by over 2 to 1 in all eight States, and 3 to 1 in Utah, Colorado, and Iowa. Finally, the majority of respondents in every State surveyed felt that fears of retaliation are unjustified. Results such as these typify national opinion about the textile bill, lending overwhelming support to the passage of such legislation.

TEXTILE BILL AVOIDS PROBLEMS OF PREVIOUS LEGISLATION

Yet, last year, despite pressure to pass textile import restrictions, a number of arguments were made to derail the bill's progress. But the Textile and Apparel Trade Act of 1987 corrects the main problems of last year's legislation. While that proposal discriminated by hitting just certain countries with import quotas, the new bill's global limit does not specify constraints for individual nations. The new legislation will also prevent trade retaliation by limiting, not cutting, textile imports, and by authorizing compensation for affected countries, two features not present in the previous bill.

Mr. President, the American textile, apparel and footwear workers have waited far too long for this legislation. They have done their part in addressing the trade deficit by consistently improving their productivity, efficiency and the level of their exports. Now it is time for the Congress to do its part to preserve this essential domestic industry. I strongly urge my colleagues not to turn their backs on our 2.2 million textile and apparel workers, and their families, and their communities. It is time to help these American workers and time to pass the Textile and Apparel Trade Act.

Thank you.

Mr. HOLLINGS. Mr. President, I have just been informed that Mr. GRAMM will not require that amount of time, and we are ready to move on.

What we would be prepared to do would be to move to table the Gramm amendment and ask for the yeas and nays; thereafter, on the Adams amendment, make our point of order under section 311 of the Budget Act; thereafter, on the Packwood shoe amend-

ment, move to table that and have the yeas and nays.

So, as soon as Senator GRAMM comes to the floor and yields back his time——

Mr. THURMOND. Mr. President, I am authorized, on his behalf, to yield back his time.

Mr. HOLLINGS. I yield back our time.

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

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

The yeas and nays were ordered.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. HOLLINGS. Mr. President, I think the yeas and nays have been ordered on the amendment.

The PRESIDING OFFICER. The question now occurs on the Hollings motion to table the amendment of the Senator from Texas.

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 Texas [Mr. BENTSEN], the Senator from Illinois [Mr. DIXON] and the Senator from Hawaii [Mr. MATSUNAGA] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Oregon [Mr. HATFIELD], the Senator from Indiana [Mr. QUAYLE] and the Senator from Vermont [Mr. STAFFORD] are necessarily absent.

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

The result was announced—yeas 68, nays 26, as follows:

[Rollcall Vote No. 320 Leg.]

YEAS—68

Baucus	Dole	Lautenberg
Biden	Exon	Leahy
Bond	Ford	Levin
Boren	Fowler	McClure
Bradley	Glenn	McConnell
Breaux	Gore	Melcher
Bumpers	Graham	Metzenbaum
Burdick	Harkin	Mikulski
Byrd	Hatch	Mitchell
Chiles	Heflin	Moynihan
Cochran	Heinz	Nunn
Cohen	Helms	Pell
Conrad	Hollings	Proxmire
Cranston	Inouye	Pryor
D'Amato	Johnston	Reid
Daschle	Kasten	Riegle
DeConcini	Kennedy	Rockefeller
Dodd	Kerry	Roth
Rudman	Simon	Trible
Sanford	Specter	Warner
Sarbanes	Stennis	Weicker
Sasser	Stevens	Wirth
Shelby	Thurmond	

NAYS—26

Adams	Garn	Murkowski
Armstrong	Gramm	Nickles
Bingaman	Grassley	Packwood
Boschwitz	Hecht	Pressler
Chafee	Humphrey	Simpson
Danforth	Karnes	Symms
Domenici	Kassebaum	Wallop
Durenberger	Lugar	Wilson
Evans	McCain	

NOT VOTING—6

Bentsen	Hatfield	Quayle
Dixon	Matsunaga	Stafford

So the motion to lay on the table the amendment (No. 2864) was agreed to.

Mr. HOLLINGS. Mr. President, I move to reconsider the vote by which the motion to lay on the table was agreed to.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senate is not in order. The Senator will suspend.

Mr. BYRD. Mr. President, I do not believe the Senators heard the Chair. If the Chair would speak louder and try to get order?

The PRESIDING OFFICER. I do not believe they heard me either. The Senate will be in order and Members will take their seats and clear the well.

Mr. BYRD. Mr. President, I do not believe it is the Chair's fault. I believe Members are just not paying any attention to what the Chair is saying. I will insist that there be order in the Senate.

The PRESIDING OFFICER. The Members of the Senate will take their seats and clear the aisles and clear the well. The majority leader is entitled to be heard.

Mr. BYRD. Mr. President, if the Senators would give the managers, now, their attention so that the managers could indicate what the next actions are to be, I will yield the floor.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, the next action would be a point of order relative to the Adams amendment under section 311(a) of the Budget Act, and if we do receive a favorable ruling on that point we would go to the Packwood amendment on shoes. Our colleague, the Senator from Maine, Senator MITCHELL, has been tied up in a Finance Committee meeting. He wanted to make his comments about it. The Senator said it would take about 10 minutes and he is momentarily going to get his material over here and we will talk, then, for 10 minutes and then, if it is agreeable with the distinguished Senator from Oregon, I would be prepared to move to table when no other Members want to speak.

Mr. PACKWOOD. As I indicated, I have nothing further to say on the amendment that I know of at the moment. I might have a minute or two to respond to Senator MITCHELL. I did not know anybody else wanted to talk about it.

AMENDMENT NO. 2859

Mr. HOLLINGS. Mr. President, on the Adams amendment, section 311(a) of the 1974 Budget Act prohibits consideration of legislation that would exceed the revenue floor. On that point of order, 311(a), I so make that point on the Adams amendment.

The PRESIDING OFFICER. The Senator from Washington.

Mr. ADAMS. Mr. President, before ruling, I understand the section 311 point that is made on this and, Mr. President, I will await the ruling of the Chair, but I want to state that if the Chair should so rule that this violates the Budget Act, it establishes the point that we have been trying to make, that the quota allocation system, I believe, is a very bad system and was not considered. But if it were not in this bill, and is not in this bill at some point, this bill does violate the Budget Act, and I certainly would not want to waive the Budget Act for this bill. Thank you, Mr. President.

The PRESIDING OFFICER. The adoption of the amendment and the enactment of the bill as thus amended would cause revenues to be less than the appropriate level of revenues set out in the budget resolution for fiscal year 1989. The point of order is well taken. The amendment falls.

Mr. HOLLINGS. I thank the Chair.

AMENDMENT NO. 2861

Then, Mr. President, the distinguished Senator from Maine momentarily needs about 2 minutes.

On that score I want to thank the Senator from Oregon for his wonderful lecture on the power of positive thinking, Norman Vincent Packwood. What we should all do in industry today, while we lose our shirts and go out of business, is look at the bright side of this destruction. Likewise, we were told yesterday that we ought to be happy about unemployment in the textile industry. Today, America's industry really needs psychoanalysis. If we could only think positively—man, they are thinking positively, they are leaving.

I had a talk early this morning relating fine industries that South Carolina had attracted from different sections of the country and the world. They are now departing for foreign shores. The competition internationally is orchestrated by the Governments of Japan and Korea, Indonesia, Thailand, Hong Kong, down the list. Government has moved in. It is governmental controlled capitalism.

People think capitalism means free markets. That day is long since past. The key element of comparative advantage, today, is Government. The Asian and European Governments are working for their industries. I do not bash Japan, I bash Washington. It does not work, does not protect, does not give us a chance to stay in this country and compete.

There is no question about U.S. industry's competitiveness.

Mr. PACKWOOD. I want to ask the majority leader a question.

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

The PRESIDING OFFICER. The Senate will be in order.

Mr. PACKWOOD. Mr. Leader, we had a number ask what your plans are tonight. There is no possibility of a time agreement. I should tell you that now, so I do not know if that affects your answer. But the Members are curious of what you have in mind.

Mr. BYRD. There is no possibility of a time agreement?

Mr. PACKWOOD. Not at the moment.

Mr. BYRD. Very well, we will be in a while.

Mr. PACKWOOD. Eight o'clock, 9 o'clock, 10 o'clock?

Mr. BYRD. A good while. At least to 9 o'clock.

Mr. PACKWOOD. Thank you, Mr. Leader. I wish I had not asked the question.

Mr. BYRD. If we are making good progress, we might be in until 10. If we are not making good progress, we might be in to 11.

Mr. President, I should not be facetious. The Senate will be in until 9 or 10 o'clock this evening, if not longer. I have no desire to stay longer but I hope that Senators will call up their amendments and let the Senate act on them. The manager, Mr. HOLLINGS, is prepared to discuss them and to move to table them if necessary.

I hope Senators will stay on the floor now, call up their amendments, if we can have votes, we can at least go to 9 or 10 o'clock.

The Senate will be back in tomorrow. We could go all night tonight and chew up the 30 hours by tomorrow afternoon, but I do not desire to do that. I do not say we will not but I have no present plans to do that.

Our problem is, on Monday there is a religious holiday and we are committed to have no votes before 6 o'clock on Monday so, if it is the desire of those who oppose this bill to carry it over until Monday, I suppose we can do that. I have not indicated that we will have a Saturday session. I do not intend to do that without sufficient notice to all Senators, so there will be no session this Saturday.

But this means that on Monday, if we have not finished this bill by the time we wind up tomorrow, which would be 6 o'clock, I suppose, we will be back on this bill Monday, and I would hope that Senators would be willing to call up their amendments and stack the votes until 6 o'clock Monday evening.

Meanwhile, I would be willing to have an agreement, if we could achieve one, that would see us work tomorrow and reach a time agreement for a final vote on this bill—and I have not cleared this with the manager, I am talking a little out of school—reach a final vote on this bill, say 6 o'clock Monday and go to the House bill without further debate and vote on the House bill, wind up the whole ball of yarn at around 6 or 7 o'clock Monday. And without having to come in early Monday and stay overly late tomorrow.

I have indicated what my plans are.

I would like for those who oppose the bill to be just as forthright as I have been and lay their cards on the table. What are their plans? Do they plan to filibuster the House bill? If they do I would like to know that.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. HECHT. Would the majority leader yield, please?

Mr. BYRD. Yes.

Mr. HECHT. To the distinguished majority leader, to have votes on Monday night at 6 o'clock is quite an inconvenience for those of us who wish to spend the Jewish holidays at our home city, and 6 o'clock is not sundown, when the end of the Jewish holiday is. So it is quite an inconvenience. If there is any way this could be put off until Tuesday, it would be very much appreciated by those of us who want to spend the Jewish holidays with our friends at home.

Mr. BYRD. I want to accommodate all Senators and that is the reason why we have agreed not to have any votes before 6 o'clock on Monday.

Is there an inclination on the part of those, to say we will give you an agreement and we will finish, say, 11 o'clock Tuesday morning with no filibuster on the House bill so that we can wrap up the whole package?

Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER (Mr. WIRTH). The Senator from Oregon.

Mr. BYRD. Mr. President, I yield to the Senator.

Mr. PACKWOOD. All I can tell you now is there is no possibility of an agreement right now. You want us to lay our cards on the table. I have no plans to filibuster. There may be one; there may not. I know at least on this side, we are not prepared to make an agreement now. You might as well go on that assumption, if you want to.

Mr. BYRD. Very well. Mr. President, I will return to the subject at 9 o'clock tonight, and we will see what the situation is then, and if there is no inclination to come to an agreement, then we may stay later. I have laid out what I am willing to do, with the concurrence of the manager, and what I think would be a reasonable way to approach this matter, to dispose of the House bill and get on to something else. But if we are going to have another filibuster on the House bill and that becomes obvious, then we will have to act in such situation accordingly.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine.

Mr. MITCHELL. Mr. President, I oppose the amendment of the Senator from Oregon because it would effectively delete the footwear provisions from this legislation. Although he says this amendment is intended to exempt only athletic footwear, it would have the effect of exempting all footwear imports from the bill.

By removing the so-called athletic footwear from the import limits included in the bill, the limit for all other footwear is in effect increased by the volume of athletic footwear imported.

That is, under his amendment, we would not count approximately 216 million pair of athletic footwear imported into this country as part of the 941 million pair limit on imports. That means imports of all other shoes can increase by another 216 million pair, or by 23 percent over current levels.

Thus, this amendment would permit the continued destruction of the domestic footwear manufacturing industry in the United States.

And for what purpose? The Senator from Oregon is understandably motivated by the concerns of two Oregon companies which import 100 percent of their athletic shoes sold in this country. One of those companies formerly had a plant in Maine employing approximately 1,000 people until a few years ago when they closed the plant and moved those jobs overseas.

The Senator from Oregon is concerned that if we freeze footwear imports at the enormous volume imported in 1986 that it will restrict supply at a cost of jobs for the two Oregon companies. I suggest that is not accurate.

First of all, there are already approximately 220 million pair of athletic footwear being imported annually into this country.

If this law were enacted last year, it would have had no effect on 1987 imports because less shoes were imported last year than in 1986. We have chosen the year in which imports were at their greatest level ever because of an unusual growth in demand.

In 1986, 941 million pair of shoes were imported. That is the maximum that would be permitted under this legislation. In contrast, last year 938

million shoes were imported. Thus, there would have been no effect on athletic footwear.

The concern of the Senator from Oregon—understandable concern—that jobs will be lost is also misplaced. All of the jobs that exist in the two Oregon companies he is worried about relate to distribution of imports, including jobs at the docks, in corporate headquarters, at distribution centers, and in retail stores.

Since this legislation would not reduce the level of imports, and would in fact permit imports to grow above last year's enormous levels, how can it result in a cost of jobs?

Indeed, the opposite is true. A study conducted by ICF, Inc., an international consulting firm in Washington, estimates that this legislation will create 152,000 jobs in the United States over the next 2 years. These jobs will put money into the hands of factory workers and turn them into consumers which will have a positive influence on the economy.

One of the more apparent problems with this amendment is that it attempts to create a definition of a type of footwear—that is, athletic footwear—that cannot be defined. The amendment would be unenforceable because the Customs Service cannot determine for what purpose a particular footwear article is used. Yet that would be required under the definition of "athletic footwear" in the amendment.

The difficulty of drawing a legal definition is reflected in the nature of the market where 80 percent of so-called athletic shoes are in fact never used for sports. Instead, they are used for casual wear.

Of course, that means shoes which could fall under the category athletic footwear compete directly against all casual footwear. So there is no market distinction which would justify the exclusion of athletic footwear under this legislation. Are boots used for hiking which can also be used for work athletic footwear? Are sandals used for walking on the beach athletic footwear?

There is no substantive basis for the exclusion of athletic footwear as proposed in this amendment. It is simply an accident of geography that two of the largest importers are based in Oregon.

Imports now claim an unprecedented 82 percent of the domestic footwear market. There is no major American industry which has been under greater assault from imports than the footwear manufacturing industry. Since 1981, the date on which the President was inaugurated, imports have skyrocketed from 365 million pair to almost 940 million pairs of imports annually. The share of the domestic market claimed by imports over that period has risen from 50 percent to 82 percent.

In the meantime, the domestic industry has shrunk by about 40 percent as hundreds of plants shut their doors sending more than 60,000 workers to the unemployment lines.

This kind of rapid retrenchment of a major industry in the face of aggressive export promotion in other nations is exactly the kind of situation that merits a period of relief under international trade rules. Under the GATT escape clause, when an industry has been injured due to a surge in imports, it is permissable for a nation to establish temporary import controls to enable the industry to get back on its feet.

That temporary relief from imports is a fundamental principle of international trade rules which Congress and American industry have relied upon in adopting trade liberalization agreements. Certainly, our trading partners have taken full advantage of the escape clause.

In this country, however, we have unilaterally forfeited our international rights. This administration has refused to defend the interests of our industries and its workers against the tidal wave growth of footwear imports.

In the most recent case in 1985, the International Trade Commission unanimously ruled that the domestic footwear manufacturing industry was severely injured as a result of rapidly increasing imports and was due some relief.

At that time, in 1985, imports had grown rapidly to claim 75 percent of the domestic market—up from 50 percent in 1981. Hundreds of plants were closing, throwing thousands of workers out of their jobs. The industry was in a turmoil as other importing nations closed their borders to footwear imports at the same time the exporting nations were increasing production capacity.

In spite of the clear use of injury to the American footwear industry, President Reagan rejected the unanimous recommendation for relief from the International Trade Commission.

That was the last of the four cases for relief filed by the industry over a 13-year period when the volume of imports more than tripled and the share of the domestic market doubled, from 41 to 82 percent.

The footwear industry played by the rules. It sought relief as provided under international law and was clearly recognized as injured. But this administration refused its effort for help from increasing imports.

The footwear provisions in this legislation have been made necessary by the refusal of the administration to exercise American rights to prevent the demise of the domestic footwear industry. Nevertheless, these provisions are in fact quite modest and represent far less restraint than recommended by the ITC.

This legislation should, in fact, have little impact on imports. It would permit imports to continue at their current extraordinarily high levels. In this legislation, we, in effect, cede fully 82 percent of the domestic market to imports, preserving the existing volume of sales. We simply say that imports will not grow beyond the level reached in 1986—938 million pairs of shoes.

In fact, if this legislation had been enacted last year, it would not have had any impact on footwear imports this year because the volume of imports—not the market share but the actual volume—actually declined last year as a result of falling demand.

By freezing the market at a certain volume of imports, we provide some assurance to the domestic industry that it will not continue to be decimated by imports. We provide a level of assurance that will enable it to go ahead and make the investment necessary to reclaim at least a portion of former production levels.

The limits in this bill are really quite modest. Remember in 1982, imports claimed 51 percent of the domestic market. By 1985, that share had risen to 75 percent. The International Trade Commission recommended bringing the import share back down to 62 percent. That would be approximately 710 million pairs in the current market.

But this legislation does not seek a rollback. It would simply preserve existing market share at 82 percent. That's 940 million pairs of imported shoes—one-third more shoe imports than recommended by the ITC.

What other industry would agree to give up so much of its market? What other industry would have to defend itself against an amendment of this type?

Another thing we do in this legislation is preserve existing levels of lower priced shoes by separating out this footwear for its own limits. This prevents importers from switching to higher priced footwear to obtain higher profit margins on their sales. It protects lower income consumers.

The reasonableness of this legislation should be contrasted to steps that have been taken in other countries to control imports. And, of course, this is a major part of our problem. Korea, Taiwan, Brazil, Italy, and other exporting nations must sell into the American market because every other major consuming—and most producing nations—have tight controls on footwear imports.

That is the root of the problem and it is continuing today. For example, in early July the European Economic Community imposed what it calls emergency restrictions on Taiwanese

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and Korean footwear exports to France. These 2-year quotas were imposed because imports from those two nations had claimed 17 percent of the domestic market.

Let me repeat that. In Europe when imports of shoes into those countries reached 17 percent, they imposed quotas. Here they are 82 percent and we have objections to any effort to protect our industry.

Well, the United States has no such limits, yet imports from those same two countries control more than 50 percent of our market.

Earlier this year, Italy won approval from the Economic Community for quotas that cut imports from Korea and Taiwan by 40 percent. The United Kingdom has also just recently asked for quota protection. Japan has the most restricted market with strict quota limits on total footwear imports. Brazil imposes a 100-percent surcharge on footwear imports, on top of a 70-percent import tariff. That applies, however, only to those few footwear imports which can first obtain an import license.

The United States has the most open footwear market in the world among major importing nations. Alone among the major industrialized nations, we impose no limits on the importation of shoes. The predictable effect has been the rapid destruction of the domestic footwear manufacturing industry at a cost of thousands of jobs to Korea, Taiwan, Italy, and other foreign countries—all of those countries which will not let American shoes into their markets.

Those footwear factories cannot be replaced and this legislation does not try to do that. It does not turn back the clock by requiring the footwear imports be rolled back to lower import levels. Instead, it would simply enable the industry to hold on to the markets it now has to prevent the virtual elimination of an important American industry.

I urge my colleagues to support the preservation of a domestic footwear manufacturing industry in the United States by opposing this amendment.

Mr. HELMS. Mr. President, we should not exempt nonrubber athletic footwear from this bill. Import penetration for nonrubber footwear is more than 82 percent. Approximately 60,000 American jobs have been lost and 400 factories closed as a result of footwear imports since 1980. In fact, 1,800 jobs have been lost so far this year.

As currently defined, nonrubber athletic footwear makes up 25 percent of all footwear imports. This amendment will define the term "athletic footwear" even more broadly.

I have heard from a number of people who do not favor any import relief for the domestic footwear industry. I simply cannot agree that we should sit here and take no action. Unless steps are taken to slow down the rate of footwear import growth, the footwear industry in this country may soon disappear.

The history of the athletic footwear industry demonstrates that current trade statutes do not provide adequate remedies for the injuries caused by imports. Congressional action is required, and this bill is a modest, necessary step. It will be grossly unfair to the more than 150,000 workers in the domestic athletic footwear manufacturing and supplier industry if this amendment is agreed to.

Finally, to dispel the notion that we have no nonrubber footwear production in this country, I would like to point out that in North Carolina—which is the 12th largest footwear producing State in the country—there are 10 facilities that manufacture nonrubber footwear. Those 10 facilities employ approximately 2,500 employees. That is compared to the 14 plants employing almost 6,000 workers that existed in North Carolina in 1981. Mr. President, I oppose this amendment because I do not want to see further unfair elimination of those jobs.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I am not too sure that all Members of the Senate understand that this textile bill contains a provision to protect footwear, shoes, and I am very pleased that the distinguished Senators from Maine have brought out this fact. In addition to the 300,000 or 350,000 jobs lost in the last 8 years in textiles, about 70,000 jobs have been lost in shoes. The industry remains in decline today. Domestic production was down nearly 6 percent in 1987 and down almost 8 percent in the first 5 months of 1988.

Now, I just want to say, though, that this provision calls for no rollback in shoes, in footwear, but it does apply in the future.

Now, when you talk about jobs, you might as well face it. From 1980 to 1986 alone—and this does not include the last 2 years—Arkansas lost 2,130 jobs, California lost 2,064 jobs, Florida lost 421 jobs, Georgia lost 686 jobs, Illinois lost 1,338 jobs, Indiana lost 190 jobs, Kentucky lost 1,831 jobs, Maine lost 7,062 jobs, Maryland lost 483 jobs, Massachusetts lost 7,195 jobs, Missouri lost 4,403 jobs, New Hampshire lost 4,160 jobs, New Jersey lost 134 jobs, New York lost 3,351 jobs, North Carolina lost 1,405 jobs, Ohio lost 2,263 jobs, Pennsylvania lost 4,382 jobs, Tennessee lost 7,833 jobs, and Texas lost 666 jobs. I want to call that to the attention of the Senator from Texas especially; Virginia lost 194 jobs, West Virginia lost 858 jobs, and Wisconsin lost 1,334 jobs.

That is from 1980 to 1986. And the last 2 years it has gone up. Now I understand we lost 70,000 jobs.

I hope the Members of the Senate will think about this when they go to vote on this bill. It is not the textile bill alone. It is the shoe bill too. These are jobs. These are jobs of American workers that we are just letting go overseas. It does not make sense. The idea of letting foreign imports control 82 percent of all the interest in the States in shoes, I am amazed that the business people in the shoe business have not come here and contacted and buttonholed every Senator in this body, and told them that 82 percent of the business in America is going abroad to other people taking jobs away from Americans.

Mr. President, this alone warrants passage of this bill besides, of course, the vast thousands and thousands of textile jobs that have been lost—350,000 in the last 8 years alone.

I want to repeat again that the Defense Department says that textiles rank second to steel in the matter of national defense. Are we going to run the risk of sending all of that abroad? If we have a war, what are we going to do? I ask the Senate to think soberly about this matter and vote against this amendment and vote against this bill.

Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. Mr. President, let me say a few words in rebuttal because I know a motion is going to be made to table my amendment.

One, I would trade straight across the board the unemployment level in my State for the unemployment level in the State of the senior Senator from South Carolina or North Carolina or Georgia, which are the three biggest textile States in the Union. Their unemployment levels are below that in my State. I would trade the unemployment level of my good friends from Maine, Senator MITCHELL, and Senator COHEN—their unemployment rate, as I recall, is 3.7-percent straight across the board—for my unemployment rate in Oregon. Maine is running about 40 percent below the national level on unemployment.

So it is amazing for all of these jobs we have lost overseas somehow that we have created in the last 6 years, 6 million new jobs in this country. We have an unemployment rate in this country of 5.5, 5.6, or 5.7 percent. All of Europe is running a higher unemployment rate than we are. Several of the Asiatic countries are running at higher unemployment.

Who on Earth are we employing? What are they doing? Where are these jobs coming from? It is not that they are all running overseas and there are

no jobs. There are good jobs here, and by and large better jobs than the jobs we are losing.

I realize that is not going to change any votes now. I think the votes on this bill are set. But we are not doing ourselves or the mothers that are trying to put their kids in sneakers or jobs in this country any favor if we defeat the amendment I have offered. One to three percent at the most of the consumption of nonrubber athletic footwear in this country is made in this country.

One to three percent. Of that 1 to 3 percent the bulk of it is assembly, not original manufacture. So all we are doing is guaranteeing higher prices to the woman, to the man that is trying to buy two, three, four, or five pairs of sneakers a year for their kids. We are not saving any jobs. Those jobs do not exist in this country.

Senator COHEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine.

Mr. COHEN. Mr. President, just a couple of comments in closing. It is interesting to cite the unemployment statistics of North Carolina, South Carolina, and Maine as an abstract proposition. I suppose you can always drown in a pool of water that has an average depth of 3 feet. The point is that while some areas in my State might have a very low unemployment rate, it does not at all indicate what kind of jobs those particular people are employed at but, second, it ignores the fact that the rate in some counties, particularly shoe-producing counties—Aroostook, 8.3; 8.7 in Franklin; Penobscot, 6; Piscataquis, 7.8, and on and on. The issue really here is whether or not we are going to allow foreign competition to totally destroy the last vestiges of the shoe manufacturing capacity in this country. Eighty-two percent ought to be enough for our foreign competition. Save just 18 percent for the American foot workers who want to continue to hold their jobs.

With that, Mr. President, I would move to table the amendment of the Senator from Oregon. I ask for the yeas and nays.

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

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Maine to lay on the table the amendment of the Senator from Oregon. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Texas [Mr. BENTSEN], the Senator from Illinois [Mr. DIXON], and the Senator from Hawaii [Mr. MATSUNAGA] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Oregon [Mr. HATFIELD], the Senator from Indiana [Mr. QUAYLE], and the Senator from Vermont [Mr. STAFFORD] are necessarily absent.

The PRESIDING OFFICER [Mr. LAUTENBERG]. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 66, nays 28, as follows:

[Rollcall Vote No. 321 Leg.]

YEAS—66

Biden	Gore	Mikulski
Bond	Graham	Mitchell
Boren	Harkin	Moynihan
Breaux	Hatch	Nunn
Bumpers	Heflin	Pell
Burdick	Heinz	Proxmire
Byrd	Helms	Pryor
Chiles	Hollings	Reid
Cochran	Humphrey	Riegle
Cohen	Inouye	Rockefeller
Conrad	Johnston	Rudman
Cranston	Kassebaum	Sanford
D'Amato	Kasten	Sarbanes
Danforth	Kennedy	Shelby
Daschle	Kerry	Simon
DeConcini	Lautenberg	Specter
Dodd	Leahy	Stennis
Dole	Levin	Thurmond
Exon	McClure	Trible
Ford	McConnell	Warner
Fowler	Melcher	Weicker
Glenn	Metzenbaum	Wirth

NAYS—28

Adams	Garn	Pressler
Armstrong	Gramm	Roth
Baucus	Grassley	Sasser
Bingaman	Hecht	Simpson
Boschwitz	Karnes	Stevens
Bradley	Lugar	Symms
Chafee	McCain	Wallop
Domenici	Murkowski	Wilson
Durenberger	Nickles	
Evans	Packwood	

NOT VOTING—6

Bentsen	Hatfield	Quayle
Dixon	Matsunaga	Stafford

So the motion to lay on the table the amendment (No. 2861) was agreed to.

Mr. COHEN. Mr. President, I move to reconsider the vote by which the motion to lay on the table was agreed to.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SHELBY. Mr. President, I rise today in support of S. 2662, the Textile and Apparel Trade Act. This bill would limit the growth in imported textiles and textile products to 1 percent a year. Domestic industries have been overwhelmed by import competition. Foreign producers now claim 55 percent of the U.S. apparel and apparel fabric market.

The Textile and Apparel Trade Act would contribute to a substantial reduction in the U.S. trade imbalance and provide a safe harbor for important industries to make further strides in their efforts to compete more effectively. Equally important, this bill will protect American jobs whose loss would have a devastating impact on the economies of many States including my own State of Alabama.

In Alabama, the textile and apparel industry is the largest employer in the State: 38,900 Alabamians work in the textile industry, 56,700 Alabamians work in the apparel industry, and, 5,229 Alabamians work in the cotton industry.

When we add all of these components of the textile industry together, we find that there are over 100,000 Alabamians employed in the textile industry—a $1.4-billion industry in my State.

The textile and apparel industry is the only area of manufacturing that is represented in every county of my State. Everything from synthetic fiber and yarn to dresses and suits is manufactured in the textile and apparel plants in my State.

Unfortunately, because of the vast quantities of imports of textiles and apparels, the textile industry in my State and throughout the country is at risk.

For example: between 1980 and 1986, Alabama lost 17,023 jobs due to plant closings and layoffs in the textile industry; since 1980, 300,000 textile and apparel jobs have been lost throughout the country; and, 750,000 job opportunities have been lost.

Recent Department of Commerce figures show that imports of textiles and apparel in 1987 reached a record $29 billion while exports totaled only $4 billion. In spite of the apparent slowdown in the growth of the overall U.S. trade deficit, the textile and apparel deficit rose 17 percent to a staggering $25 billion in 1987. Because $1 out of every $7 in the Nation's overall trade deficit is a textile and apparel dollar, it is not difficult to see how import relief for the textile and apparel industries under S. 2662 would substantially reduce the red ink in our Nation's balance of trade.

I believe in free trade like most Americans. But I also believe that American industries should have a level playing field on which to compete. That is not true today. It is particularly not true in the textile industries.

Many textile companies have invested millions of dollars to modernize their factories only to discover that they are still unable to compete with companies in countries where workers are not paid a decent wage and, in some instances, are paid as little as 16 cents per hour. Also, a lot of these countries have few laws, if any, governing workplace safety, child labor, or clean water and air.

I am encouraged, Mr. President, that our companies are working to modernize and improve themselves despite the

threat of injury due to the low wage and subsidized imports that they face in a global economy. We, in the Congress, must take effective steps to prevent our companies from being placed in a no-win situation, such as occurs here today.

Mr. President, we cannot allow our textile industry to be overwhelmed by import competition.

The textile and apparel industries contribute so much to the economic vitality of many communities across the Nation. For instance:

Two million Americans are employed by the textile and apparel industries with an annual payroll of $25 billion.

Textile industries are among the largest employers of women and minorities in the United States.

Textile industries have a greater work force than the steel and auto industries combined.

Textile industries contribute $46 billion to the U.S. gross national product.

Every 100 jobs in the textile industry create 67 other jobs.

Another example of this: of these 100 jobs, 45 of the jobs are created in wholesale and retail trade businesses; 7 of these jobs are created in transportation; 3 of these jobs are created in financial services; 3 of these jobs are created in construction-related jobs; 3 of these jobs are created in repair work jobs; 3 of these jobs are created in public administration; and, last, 3 of these jobs are created for miscellaneous services.

Passage of this bill today, Mr. President, I believe has great significance. Without this legislation, industries vital to the economic health of many American communities will face serious economic harm because the rules of competition are not the same for all players.

We have an opportunity here in the Senate today on this bill to do something about these rules and to save American jobs and let American industries compete fairly. I urge that we move quickly to enact the Textile and Apparel Trade Act.

Mr. President, I commend my colleague from South Carolina, the chairman of the Commerce Committee, who has taken so much of his time and has been so steadfast in pushing this legislation and working hard.

I also commend his colleague from South Carolina, Senator THURMOND, for also putting his shoulder to the wheel and staying with it.

I believe this is good legislation. I urge my colleagues to join in supporting it.

I yield back the remainder of my time.

ORDER OF PROCEDURE

Mr. JOHNSTON, Mr. President, I will shortly call up the fiscal year 1989 Interior conference report. This conference report for the Department of the Interior and related agencies contains funding recommendations in the bill which total $9.878 billion in net budget authority, which is $10 billion less than the subcommittee's revised allocation in accordance with——

Mr. BYRD. Will the distinguished Senator yield?

Mr. JOHNSTON. Yes.

Mr. BYRD. Mr. President, under cloture that would require unanimous consent.

I ask unanimous consent that when the conference report is called up on the Interior appropriations bill, hopefully shortly, that there be 10 minutes——

Mr. JOHNSTON, Mr. President, I think 10 minutes would be adequate. Senator McCLURE is not at this moment on the floor. I would want him to agree to that. I am sure Senator DOLE would as well.

Mr. DOLE. Twenty minutes equally divided.

Mr. BYRD. Twenty minutes equally divided to be controlled by Mr. JOHNSTON and Mr. McCLURE and that the time be charged against the now pending bill.

I withdraw the last clause of my request anent the time being charged against the textile bill.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. Mr. President, I withhold the request for now.

AMENDMENT NO. 2885

Mr. GRAHAM. Mr. President, I call up amendment No. 2885.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

At the end of the bill add the following new section: "All countries identified under the Caribbean Basin Initiative are exempted from the provisions of this act."

Mr. GRAHAM. Mr. President, this Congress, in 1983, passed the Caribbean Basin Initiative. That initiative, which had a 12-year life expectancy, was designed to promote expanded economic activity within Central America and the Caribbean and between the United States and our neighbors to the South. This legislation represented a strong statement of the United States awareness of the importance of a strong, free enterprise economic system to support the emerging democracies in the Caribbean Basin.

Historically, the Caribbean-Central American countries have had uniquely close economic, political and cultural ties to the United States. We have increasingly come to understand that promoting prosperity in this region is in the economic, political, and security interests of the United States.

It is not necessary, Mr. President, on this bill today to have an extended discussion of the nature of that close relationship between the United States and the Caribbean basin, but let me mention a few dimensions.

One, we have a significant political stake in this region. By encouraging free economic systems, we are also making a fundamental contribution towards pluralistic democratic political institutions. We will strengthen our hemispheric influence and discourage the establishment of regimes which are antagonistic to United States interests, such as the Sandinista Government in Nicaragua.

Second, we have common enemies in this region. Already, the Soviet Union and its surrogates have made substantial inroads into the Caribbean basin. Cuba and Nicaragua stand as bastions of Soviet tyranny in our region.

We also have other adversaries in this region. One of those that we will spend a substantial amount of time discussing over the next few days is the common adversary of drugs. Unfortunately, this part of our hemisphere is not only an area for the production of drugs, but a major transshipment point between Latin America and the United States. If we are going to fundamentally attack the drug trafficking in the United States, we will do so through a collaboration, a partnership, a recognition of our mutuality of interest between the United States and the countries to the south.

Third, we have strong economic ties in this area—ties which are increasingly mutually beneficial. One of the observations that is made from people who return from this region is how dominant the U.S. stamp is. "Made in the USA" is not only a proud but a prevalent statement in the Caribbean and Central America.

This is a major area for United States' economic influence.

And finally, Mr. President, this is an area in which many of these countries shoulder some of the heaviest debt burdens in the world. Costa Rica has the second highest per capita debt in the world, with a debt of $1,685, closely followed by Jamaica with a per capita debt of $1,645, and Trinidad/Tobago, $1,166.

How are we going to expect these nations to be able to carry out their international responsibilities, Mr. President, unless we give them the opportunity to expand their economies, to have a level of prosperity which will support their domestic needs and meet their international obligations?

Mr. President, one of the goals of the Caribbean Basin Initiative as a means of achieving all of these important objectives between the Caribbean and the United States was to facilitate an expansion of what had historically been a narrow, in many cases, single-crop economy. We are making substantial progress in that direction. Not as much as we had hoped in 1983, but a sound beginning.

One of the areas in which that beginning has shown the greatest promise has been in textile and apparel, and this has been particularly true under the 807 program.

Mr. President, this is a program in which fabric which is produced in the United States, fabric which is cut in the United States, is then sent to the Caribbean and Central America, where it is assembled, and then returned to the United States.

Under that 807 program, for instance, in 1982, the Dominican Republic was sending to the United States $117 million. Three years later that increased to $290 million. Haiti, from $70 million to $118 million, just in the first 3 years of this program.

Three of the foremost participating countries in the 807 program, Mr. President, are countries from the Caribbean basin region. So this has had a significant positive contribution in broadening the economic base of these countries. And yet, because the economies of the Caribbean are so small, it does not represent any significant economic competition to the United States.

Total United States imports from the Caribbean Basin region have been less than three-tenths of 1 percent of United States gross national product. The CBI's share of apparel imports from all sources in the United States was less than 6 percent in 1987.

A congressional study on the implementation of CBI showed a minimal impact on United States industries and consumers. No United States industries claimed adverse effects from CBI imports.

Mr. President, I am concerned at the impact of this legislation on a region of such importance to the United States. This is a region in which the opportunity to use a large, unskilled but productive and hardworking work force in areas that will allow them to increase their economic opportunity is critically important to those countries and the United States. I would suggest that by providing this special treatment to the CBI, we would be faithful to our commitment made in 1983.

As I indicated, that was a 12-year commitment made in 1983. And so, between now and 1995, we will have to revisit the question of whether the United States wishes to continue this special economic relationship with the Caribbean and Central America. It is during this period that we will be able to closely follow the effects of giving to this region of the world an opportunity to establish a broader economic base; yes, including a broader economic base in the area of textiles and apparel.

I am concerned, Mr. President, about a particular provision of this bill, a provision that I hope to learn more about as this debate continues but one which would appear to say that if a country increases its quantity of purchases of American agricultural products, it will have preferential treatment in the regulations which will allocate the annual quota of textiles and apparel into the United States. That is a provision which will have the effect of encouraging other countries to purchase United States' agricultural products. That is a positive and laudable objective. But it is likely to have unintended adverse effects in the Caribbean for two reasons. One, this is a region which is relatively poor. Most of the countries in this region have a per capita income of less than $1,500. And, second, it is a region which already is importing substantial amounts of United States' agricultural product.

On a per capita basis, for instance, Trinidad and Tobago last year imported $74, per capita, of U.S. agricultural products; Jamaica, $45; the Dominican Republic, $24.

Comparing those figures from relatively poor countries in the Caribbean with France, less than $8; Germany, $17; even affluent Japan, $42, almost half what Trinidad and Tobago purchase from the United States on a per capita basis.

So, these have been good customers for American agricultural products. They are already purchasing at high levels, high levels by any objective standard and especially high levels based on their capacity.

Yet I fear that these are going to be the countries that are likely to be adversely affected, as the restricted quota is allocated to those countries in the Pacific rim and Europe which have the capacity, the capacity both because they are not purchasing that large a quantity of U.S. agricultural products today and the capacity because they have got the wealth, to take advantage of this special provision. Another reason, Mr. President, why I believe it would be appropriate to give special consideration from now until 1995 to the Caribbean Basin.

Mr. President, this is a very bad time for the United States to be considering this type of treatment of the Caribbean. We have over the past few years slapped this region with a number of economically insensitive actions.

In the area of sugar, we have drastically reduced the quota which had been available to the Caribbean and Central America until this year which, because of our own drought and other agricultural restrictions, we now have been able to increase that quota. But the sharp reduction which has been experienced over most of the decade of the 1980's has had a devastating effect on countries such as the Dominican Republic.

It is also an unfortunate time, Mr. President, because this is a period of great political significance to the Caribbean and Central America. Countries such as Jamaica, El Salvador, Guatemala, and the Dominican Republic are all entering their election season. They are going to be looking closely at U.S. actions in terms of what will be the policy of new governments in those important countries.

This is not the time we want to be sending another message of insensitivity and lack of concern. Rather, it is the time that we could send, through the amendment that I have offered, a clear message of friendship, that we care about them and their future. We understand that their future and our future are inexorably intertwined. We understand that they are a land of opportunity for their citizens and for ourselves. It is an opportunity that we can help to be realized.

Mr. President, we have an opportunity with this amendment today to send that positive message, a message which will have very substantial positive benefits to the United States in areas of security, in areas of political independence and democracy, in areas of our mutual concern with drug trafficking; and will do so at the most minimal economic costs and at potential long-term great economic benefit to the United States.

Thank you, Mr. President.

The PRESIDING OFFICER. The Senator from Louisiana.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS, FISCAL YEAR 1989—CONFERENCE REPORT

Mr. JOHNSTON. Mr. President, under cloture it is necessary to ask unanimous consent to bring up a conference report. We now have one on which there is no controversy. Our statements should be put into the RECORD and there should be no RECORD vote.

So, Mr. President, I ask unanimous consent that it be in order to submit a report on the committee of conference on H.R. 4867 and to ask for its immediate consideration.

Mr. BYRD. Mr. President, reserving the right to object, may we have a time limitation on that?

Mr. JOHNSTON. Mr. President, if I may say to the leader, I think we can do it faster without a time limitation because we have to put a time limitation on the other side, and we think we can do this within 5 minutes.

Mr. BYRD. Very well. Mr. President, I raise no objection conditioned upon that statement.

Mr. McCLURE. Mr. President, there is no objection on this side.

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

Mr. JOHNSTON. Mr. President, I submit a report of the committee of conference on H.R. 4867 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4867) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1989, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of August 10, 1988.)

Mr. JOHNSTON. Mr. President, this conference report is $10 million less than the subcommittee's revised allocation under section 302(b) in budget authority and $9 million below the 302(b) allocation in outlays.

It is, I believe, now noncontroversial.

Mr. President, I bring before the Senate the conference report on fiscal year 1989 appropriations for the Department of the Interior and related agencies. The funding recommendations in the bill total $9.878 billion in net budget authority, which is $10 million less than the subcommittee's revised allocation, in accordance with section 302(b) of the Budget Act, and $10.032 billion in net outlays, which is $9 million below our revised 302(b) allocation.

Mr. President, as many Senators know, this appropriations bill affects Americans in many different ways. This bill provides funding for the 341 units of the National Park System, 441 national wildlife refuges, 71 fish hatcheries, 156 national forest areas, and 270 million acres of public lands managed by the Bureau of Land Management. It is almost impossible to escape the benefits this bill brings to the American public—whether it be a visit to a national park, attendance at an art exhibit, hiking in a national forest, or a reduction in our collective vulnerability to foreign energy supplies. As a result of these wide-ranging impacts, the subcommittee receives funding requests for projects in all areas of the country. Fiscal constraints limit our ability to fund all of these requests, but the bottom line for this appropriations bill is that the benefits accrue to the country as a whole.

This year the conferees considered 204 Senate amendments and some 1,225 discrete items. The chairmen and ranking members on both sides reviewed these matters closely. I believe the agreements reached are fair, and address projects and funding priorities important to both the House and the Senate. The task was difficult, since our compromise 302(b) allocation—BA: $9.888 billion and BO: $10.041 billion—did not permit us to fund every item as fully as we would have liked.

Mr. President, some brief highlights of the conference agreement include:

First, $744.8 million for operation of the National Park System, which is only $1.2 million less than the Senate level;

Second, $206.6 million for land acquisition and $421.9 million for construction in our national parks, forests, and wildlife refuges, which are increases of $10.1 million and $48.9 million respectively over the Senate level;

Third, $2.243 billion for programs for native Americans conducted by the Bureau of Indian Affairs, the Indian Health Service, and the Department of Education, an increase of $29.4 million over the Senate level;

Fourth, $153.6 million for the people of the territories, an increase of $8.8 million over the Senate level; and

Fifth, $1.634 billion for energy programs, including $190 million for clean coal technology, $380.6 million for fossil energy, and $372.5 million for energy conservation. In addition, the conferees have included an advance appropriation of $575 million in fiscal year 1990 for a third competitive clean coal technology solicitation, as proposed by the Senate. These clean coal technologies can make important contributions to solving the acid rain and global warming problems which confront us.

Mr. President, the conferees were well aware of the strong interest on both sides in geosciences research and development. The final conference agreement includes a total of some $18.3 million for geosciences research; and the statement of the managers directs the Department of Energy to provide at least $5 million for "comprehensive, openly competed, cost-shared programs" involving geosciences research. These funds are open to competitive awards to individual universities, consortia of universities, and to other organizations; but I want to stress that we expect to see strong industrial participation in the selected proposals. Also, as a point of clarification, the Department is not to conduct a single competitive geosciences solicitation totaling $5 million, but rather, should conduct its geoscience research program within the discrete oil and gas line item research programs identified in the budget justifications. These individual contracts, to be awarded throughout the fiscal year, should, in any event, total no less than $5 million. The Department should report to the Committees on Appropriations regarding its fiscal year 1989 geosciences research plan as soon as it is developed.

Mr. President, I also want to take this opportunity to thank our ranking Republican member, Senator McCLURE, for his close attention and hard work in the development of this bill and the successful completion of the conference agreements which we are about to consider.

Mr. President, I believe this is a good and fair conference agreement, and I urge its adoption by the Senate. This will be yet another appropriations bill that the Congress can send to the President for his signature.

Mr. President, I request that the table providing a comparative statement of new budget authority and outlays for the fiscal year 1989 Interior appropriations bill be printed in the RECORD.

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

Comparative Statement of New Budget (Obligational) Authority

	New Budget Authority FY 89				Outlays New CBO Estimates FY 89			
	Budget Estimates	House Floor Action	Senate Floor Action	Conference Report	Budget Estimates	House Floor Action	Senate Floor Action	Conference Report
TITLE I - DEPARTMENT OF THE INTERIOR								
Bureau of Land Management								
Management of lands and resources	464,487,000	500,959,000	510,595,000	508,462,000	412,121,000	446,862,000	455,274,000	452,777,000
Construction and access	1,338,000	5,431,000	2,631,000	5,431,000	335,000	1,359,000	659,000	1,359,000
Payments in lieu of taxes	105,000,000	105,000,000	105,000,000	105,000,000	105,000,000	105,000,000	105,000,000	105,000,000
Land acquisition	100,000	11,640,000	12,020,000	12,290,000	50,000	5,820,000	6,010,000	6,145,000
Rescission	---	---	---	---	---	---	---	---
Oregon and California grant lands	57,434,000	61,445,000	59,141,000	60,000,000	42,501,000	45,469,000	43,764,000	44,400,000
Range improvements (indefinite)	8,506,000	8,506,000	8,506,000	8,506,000	5,376,000	5,376,000	5,376,000	5,376,000
Service charges, deposits & forfeitures (indefinite)	6,000,000	6,000,000	6,000,000	6,000,000	4,248,000	4,248,000	4,248,000	4,248,000
Miscellaneous trust funds (indefinite)	100,000	100,000	100,000	100,000	56,000	56,000	56,000	56,000
Total, Bureau of Land Management	642,965,000	699,081,000	703,993,000	705,789,000	569,687,000	614,190,000	620,387,000	619,361,000
United States Fish and Wildlife Service								
Resource management	331,863,000	350,251,000	360,654,000	360,688,000	265,490,000	280,760,000	289,082,000	289,110,000
Construction and anadromous fish	7,577,000	23,756,000	25,294,000	31,834,000	1,515,000	4,750,000	5,058,000	6,365,000
Migratory bird conservation account	---	---	---	---	---	---	---	---
Land acquisition	1,874,000	50,809,000	61,849,000	57,529,000	1,499,000	22,864,000	27,832,000	25,888,000
National Wildlife Refuge Fund	5,645,000	7,645,000	5,645,000	6,645,000	5,645,000	7,645,000	5,645,000	6,645,000
Total, United States Fish and Wildlife Service	346,959,000	432,461,000	453,442,000	456,696,000	274,149,000	316,019,000	327,617,000	328,008,000
National Park Service								
Operation of the national park system	733,768,000	742,181,000	746,024,000	744,835,000	550,326,000	559,510,000	562,392,000	561,500,000
Park receipts (indefinite)	---	---	---	---	---	---	---	---
National recreation and preservation	10,204,000	14,093,000	13,470,000	14,608,000	9,184,000	12,684,000	12,123,000	13,148,000
Historic preservation fund	---	30,000,000	30,250,000	30,500,000	---	15,450,000	15,579,000	15,708,000
Urban Park recreation fund (rescission)	---	---	---	---	---	---	---	---
Construction	15,003,000	131,809,000	119,072,000	159,108,000	2,250,000	19,767,000	17,857,000	23,861,000
Visitors facilities fund	---	---	---	---	---	---	---	---
(Liquidation of contract authority)	(31,000,000)	(47,000,000)	(47,000,000)	(47,000,000)	---	---	---	---
Land and water conservation fund (rescission of contract authority)	---	-30,000,000	-30,000,000	-30,000,000	---	---	---	---
Land acquisition and state assistance	15,779,000	62,206,000	64,961,000	72,609,000	12,623,000	21,773,000	22,737,000	25,414,000
John F. Kennedy Center for the Performing Arts	5,193,000	5,181,000	5,181,000	5,181,000	3,895,000	3,886,000	3,886,000	3,886,000
Illinois and Michigan Canal National Heritage Corridor Commission	---	250,000	---	250,000	---	125,000	---	125,000
American Revolution Bicentennial Administration	---	4,765,000	---	4,765,000	---	4,289,000	---	4,289,000
National Film Preservation Board	---	100,000	---	250,000	---	75,000	---	187,000
Jefferson National Expansion Memorial Commission	---	---	---	---	---	---	---	---
Total, National Park Service	779,947,000	960,585,000	948,958,000	1,002,106,000	578,278,000	637,559,000	634,574,000	648,118,000

Comparative Statement of New Budget (Obligational) Authority

	New Budget Authority FY 89				Outlays New CBO Estimates FY 89			
	Budget Estimates	House Floor Action	Senate Floor Action	Conference Report	Budget Estimates	House Floor Action	Senate Floor Action	Conference Report
Geological Survey								
Surveys, investigations, and research	425,003,000	448,056,000	448,045,000	451,506,000	403,753,000	425,653,000	425,643,000	428,930,000
Minerals Management Service								
Leasing and royalty management	171,317,000	170,009,000	171,847,000	170,744,000	111,356,000	110,506,000	111,701,000	110,984,000
Payments to States from receipts under Mineral Leasing	600,000	---	---	---	600,000	---	---	---
Total, Minerals Management Service	171,917,000	170,009,000	171,847,000	170,744,000	111,956,000	110,506,000	111,701,000	110,984,000
Bureau of Mines								
Mines and minerals	126,605,000	146,254,000	165,167,000	159,292,000	86,091,000	99,452,000	112,312,000	108,318,000
Office of Surface Mining Reclamation and Enforcement								
Regulation and technology	101,066,000	104,086,000	100,837,000	101,095,000	58,921,000	60,682,000	58,788,000	58,938,000
Abandoned mine reclamation fund (definite, trust fund)	159,094,000	191,154,000	201,328,000	193,160,000	44,069,000	52,950,000	55,768,000	53,505,000
Total, Office of Surface Mining Reclamation and Enforcement	260,160,000	295,240,000	302,165,000	294,255,000	102,990,000	113,632,000	114,556,000	112,443,000
Bureau of Indian Affairs								
Operation of Indian Programs	938,416,000	996,024,000	980,486,000	992,767,000	768,781,000	817,215,000	804,483,000	814,554,000
Construction	56,793,000	79,136,000	78,513,000	79,283,000	13,062,000	18,201,000	18,058,000	18,235,000
Road Construction	---	---	---	--	---	---	---	---
White Earth Trust Fund	---	---	---	--	---	---	---	---
Miscellaneous payments to Indians	13,955,000	13,952,000	13,955,000	13,952,000	12,727,000	12,724,000	12,727,000	12,724,000
Tribal trust funds	---	---	---	---	---	---	---	---
Revolving fund for loans (limitation on direct loans)	(13,000,000)	---	---	---	---	---	---	---
Indian loan guaranty and insurance fund	3,370,000	3,370,000	3,370,000	3,370,000	1,915,000	1,915,000	1,915,000	1,915,000
Indian loan guaranty and insurance fund (limitation on guaranteed loans)	(45,000,000)	---	---	---	---	---	---	---
Total, Bureau of Indian Affairs	1,012,534,000	1,092,482,000	1,076,324,000	1,089,372,000	796,485,000	850,055,000	837,183,000	847,428,000

Comparative Statement of New Budget (Obligational) Authority

	New Budget Authority FY 89				Outlays New CBO Estimates FY 89			
	Budget Estimates	House Floor Action	Senate Floor Action	Conference Report	Budget Estimates	House Floor Action	Senate Floor Action	Conference Report
Territorial and International Affairs								
Administration of territories	71,477,000	82,397,000	96,087,000	92,767,000	51,421,000	57,449,000	65,006,000	63,173,000
Trust Territory of the Pacific Islands	2,780,000	28,434,000	18,287,000	28,434,000	2,474,000	25,304,000	16,274,000	25,304,000
Compact of Free Association	34,935,000	36,160,000	30,360,000	32,360,000	34,935,000	32,893,000	30,360,000	32,360,000
Total, Territorial Affairs	109,192,000	146,991,000	144,734,000	153,561,000	88,830,000	115,646,000	111,640,000	120,837,000
Departmental Offices								
Office of the Secretary	51,681,000	49,580,000	48,809,000	49,067,000	43,929,000	42,143,000	41,488,000	41,707,000
Office of the Solicitor	25,325,000	24,686,000	24,686,000	24,686,000	22,793,000	22,218,000	22,218,000	22,218,000
Office of Inspector General	18,816,000	18,858,000	18,649,000	18,749,000	16,934,000	16,972,000	16,784,000	16,874,000
Construction Management	1,800,000	1,800,000	1,800,000	1,800,000	1,622,000	1,622,000	1,622,000	1,622,000
Total, Departmental Offices	97,622,000	94,924,000	93,944,000	94,302,000	85,278,000	82,955,000	82,112,000	82,421,000
Total, title I, Department of the Interior:								
New budget (obligational) authority (net)	3,972,904,000	4,486,083,000	4,508,619,000	4,577,623,000	3,097,497,000	3,365,667,000	3,377,725,000	3,406,848,000
Appropriations	(3,972,904,000)	(4,516,083,000)	(4,538,619,000)	(4,607,623,000)	(3,097,497,000)	(3,365,667,000)	(3,377,725,000)	(3,406,848,000)
Definite	(3,958,298,000)	(4,501,477,000)	(4,524,013,000)	(4,593,017,000)	(3,087,817,000)	(3,355,987,000)	(3,368,045,000)	(3,397,168,000)
Indefinite	(14,606,000)	(14,606,000)	(14,606,000)	(14,606,000)	(9,680,000)	(9,680,000)	(9,680,000)	(9,680,000)
Rescission	---	(-30,000,000)	(-30,000,000)	(-30,000,000)	---	---	---	---
(Liquidation of contract authority)	(31,000,000)	(47,000,000)	(47,000,000)	(47,000,000)	---	---	---	---
(Limitation on direct loans)	(13,000,000)	---	---	---	---	---	---	---
(Limitation on guaranteed loans)	(45,000,000)	---	---	---	---	---	---	---

Comparative Statement of New Budget (Obligational) Authority

	New Budget Authority FY 89				Outlays New CBO Estimates FY 89			
	Budget Estimates	House Floor Action	Senate Floor Action	Conference Report	Budget Estimates	House Floor Action	Senate Floor Action	Conference Report
TITLE II - RELATED AGENCIES								
DEPARTMENT OF AGRICULTURE								
Forest Service								
Forest research	129,279,000	139,865,000	132,599,000	137,867,000	97,347,000	105,318,000	99,808,000	103,773,000
State and private forestry	34,781,000	78,143,000	82,918,000	86,668,000	25,634,000	57,592,000	61,112,000	63,875,000
National forest system	1,159,655,000	1,309,244,000	1,329,018,000	1,329,488,000	1,005,421,000	1,151,740,000	1,168,884,000	1,169,292,000
Construction	203,974,000	216,542,000	225,997,000	225,518,000	118,917,000	126,244,000	131,756,000	131,477,000
Timber receipts transfer to General Fund (indefinite)	(-79,100,000)	(-79,100,000)	(79,100,000)	(-79,100,000)	---	---	---	---
Timber purchaser credits	(125,367,000)	(64,000,000)	(125,367,000)	(75,000,000)	---	---	---	---
Timber purchaser election (rescission)	---	---	---	---	---	---	---	---
Mount St. Helens (contract authority)	---	(5,333,000)	---	(5,333,000)	---	---	---	1,066,000
Land acquisition	3,900,000	42,245,000	57,734,000	64,205,000	3,510,000	16,898,000	23,094,000	25,682,000
Timber Roads, Purchaser Election, Forest Service (rescission)	---	---	-40,000,000	-40,000,000	---	---	---	---
Timber Salvage Sales	---	---	---	---	---	---	---	---
Tongass Timber Supply Fund	40,699,000	25,264,000	40,699,000	35,999,000	37,443,000	23,243,000	37,443,000	33,119,000
Operation and maintenance of recreation facilities	31,800,000	---	---	---	23,850,000	---	---	---
Acquisition of lands for national forests, special acts	966,000	966,000	966,000	966,000	814,000	814,000	814,000	814,000
Acquisition of lands to complete land exchanges (indefinite)	335,000	335,000	335,000	335,000	297,000	297,000	297,000	297,000
Range betterment fund (indefinite)	3,875,000	3,875,000	3,875,000	3,875,000	3,020,000	3,020,000	3,020,000	3,020,000
Miscellaneous trust funds	90,000	30,000	90,000	90,000	90,000	30,000	90,000	90,000
Total, Department of Agriculture	1,609,354,000	1,816,509,000	1,834,231,000	1,845,011,000	1,316,343,000	1,485,196,000	1,526,318,000	1,532,505,000

Comparative Statement of New Budget (Obligational) Authority

	New Budget Authority FY 89				Outlays New CBO Estimates FY 89			
	Budget Estimates	House Floor Action	Senate Floor Action	Conference Report	Budget Estimates	House Floor Action	Senate Floor Action	Conference Report
DEPARTMENT OF ENERGY								
Clean coal technology	---	---	---	---	---	---	---	---
Base program, FY 1989	525,000,000	100,000,000	525,000,000	190,000,000	52,500,000	52,500,000	52,500,000	15,500,000
Base program, FY 1990	---	(225,000,000)	(575,000,000)	(135,000,000)	---	---	---	---
Base program, FY 1991	---	(200,000,000)	---	(200,000,000)	---	---	---	---
Supplemental program, FY 1990	(575,000,000)	---	---	(575,000,000)	---	---	---	---
Supplemental program, FY 1991	(600,000,000)	---	---	---	---	---	---	---
Supplemental program, FY 1992	(600,000,000)	---	---	---	---	---	---	---
Fossil energy research and development	166,992,000	357,361,000	367,829,000	380,595,000	66,797,000	142,945,000	147,133,000	152,239,000
(By transfer)	---	---	---	---	---	---	---	---
Naval petroleum and oil shale reserves	185,071,000	185,071,000	185,071,000	185,071,000	101,789,000	101,789,000	101,789,000	101,789,000
Energy conservation	89,359,000	326,138,000	357,019,000	372,502,000	17,872,000	28,889,000	62,319,000	29,077,000
Economic regulation	20,772,000	21,010,000	21,372,000	21,372,000	13,086,000	13,236,000	13,464,000	13,464,000
Emergency preparedness	6,154,000	6,154,000	6,154,000	6,154,000	4,923,000	4,923,000	4,923,000	4,923,000
Strategic Petroleum Reserve	173,421,000	173,421,000	174,421,000	173,421,000	95,382,000	95,382,000	95,932,000	95,382,000
SPR petroleum	333,555,000	333,555,000	242,000,000	242,000,000	233,489,000	233,489,000	127,216,000	127,216,000
Energy Information Administration	62,856,000	62,856,000	63,156,000	62,856,000	40,856,000	40,856,000	41,051,000	40,856,000
Total, Department of Energy	1,563,180,000	1,565,566,000	1,942,022,000	1,633,971,000	626,694,000	714,009,000	646,327,000	580,446,000
DEPARTMENT OF HEALTH AND HUMAN SERVICES								
Health Resources and Services Administration								
Indian health services	986,772,000	1,016,667,000	1,014,536,000	1,020,106,000	769,682,000	793,000,000	791,337,000	795,682,000
Fiscal year 1990	(1,003,007,000)	---	---	---	---	---	---	---
Indian health facilities	---	64,050,000	50,185,000	61,668,000	---	16,012,000	12,546,000	15,417,000
Total, Department of Health and Human Services	986,772,000	1,080,717,000	1,064,721,000	1,081,774,000	769,682,000	809,012,000	803,883,000	811,099,000
DEPARTMENT OF EDUCATION								
Office of Elementary and Secondary Education								
Indian education	67,653,000	68,153,000	72,297,000	71,553,000	9,892,000	9,965,000	10,571,000	10,462,000

Comparative Statement of New Budget (Obligational) Authority

	New Budget Authority FY 89				Outlays New CBO Estimates FY 89			
	Budget Estimates	House Floor Action	Senate Floor Action	Conference Report	Budget Estimates	House Floor Action	Senate Floor Action	Conference Report
OTHER RELATED AGENCIES								
Navajo and Hopi Indian Relocation Commission								
Salaries and expenses	22,973,000	27,723,000	26,473,000	27,373,000	14,473,000	17,466,000	16,678,000	17,245,000
Institute of American Indian and Alaska Native Culture and Arts Development								
Salaries and expenses	2,467,000	3,094,000	2,849,000	3,094,000	2,220,000	2,784,000	2,564,000	2,784,000
Smithsonian Institution								
Salaries and expenses	216,214,000	209,266,000	208,734,000	211,240,000	190,917,000	184,781,000	184,311,000	186,524,000
Construction and improvements, National Zoological Park	5,305,000	5,305,000	5,305,000	5,305,000	2,387,000	2,387,000	2,387,000	2,387,000
Restoration and renovation of buildings	20,835,000	20,835,000	20,735,000	20,735,000	8,334,000	8,334,000	8,294,000	8,294,000
Construction	10,150,000	8,655,000	8,655,000	8,655,000	4,060,000	3,462,000	3,462,000	3,462,000
Subtotal	252,504,000	244,061,000	243,429,000	245,935,000	205,698,000	198,964,000	198,454,000	200,667,000
National Gallery of Art								
Salaries and expenses	38,543,000	37,831,000	38,543,000	37,981,000	33,031,000	32,421,000	33,032,000	32,550,000
Repair, restoration and renovation of buildings	1,000,000	500,000	1,000,000	750,000	240,000	120,000	240,000	180,000
Subtotal, National Gallery of Art	39,543,000	38,331,000	39,543,000	38,731,000	33,271,000	32,541,000	33,272,000	32,730,000
Woodrow Wilson International Center for Scholars								
Salaries and expenses	4,285,000	4,240,000	4,240,000	4,240,000	2,631,000	2,603,000	2,603,000	2,603,000
Endowment Challenge Fund	350,000	---	350,000	300,000	350,000	---	350,000	300,000
Total, Woodrow Wilson International Center for Scholars	4,635,000	4,240,000	4,590,000	4,540,000	2,981,000	2,603,000	2,953,000	2,903,000
Total, Smithsonian Institution	296,682,000	286,632,000	287,562,000	289,206,000	241,950,000	234,108,000	234,679,000	236,300,000

Comparative Statement of New Budget (Obligational) Authority

	New Budget Authority FY 89				Outlays New CBO Estimates FY 89			
	Budget Estimates	House Floor Action	Senate Floor Action	Conference Report	Budget Estimates	House Floor Action	Senate Floor Action	Conference Report
National Foundation on the Arts and the Humanities								
National Endowment for the Arts								
Grants and administration	140,531,000	141,800,000	141,431,000	141,890,000	---	---	---	---
Matching grants	27,200,000	27,200,000	27,200,000	27,200,000	---	---	---	---
Associated outlays	---	---	---	---	56,525,000	56,953,000	56,829,000	56,984,000
Total, National Endowment for the Arts	167,731,000	169,000,000	168,631,000	169,090,000	56,525,000	56,953,000	56,829,000	56,984,000
National Endowment for the Humanities								
Grants and administration	111,735,000	125,000,000	115,535,000	124,300,000	---	---	---	---
Matching grants	28,700,000	28,700,000	28,700,000	28,700,000	---	---	---	---
Associated outlays	---	---	---	---	64,741,000	70,856,000	66,493,000	70,533,000
Total, National Endowment for the Humanities	140,435,000	153,700,000	144,235,000	153,000,000	64,741,000	70,856,000	66,493,000	70,533,000
Institute of Museum Services								
Grants and administration	21,944,000	22,620,000	21,944,000	22,270,000	5,662,000	5,836,000	5,662,000	5,746,000
Total, National Foundation of the Arts and the Humanities	330,110,000	345,320,000	334,810,000	344,360,000	126,928,000	133,645,000	128,984,000	133,263,000
Commission of Fine Arts								
Salaries and expenses	451,000	475,000	475,000	475,000	413,000	435,000	435,000	435,000
National Capital Arts and Cultural Affairs								
Grants	---	5,000,000	5,000,000	5,000,000	---	5,000,000	5,000,000	5,000,000
Advisory Council on Historic Preservation								
Salaries and expenses	1,781,000	1,774,000	1,781,000	1,778,000	1,710,000	1,703,000	1,710,000	1,707,000

Comparative Statement of New Budget (Obligational) Authority

	New Budget Authority FY 89				Outlays New CBO Estimates FY 89			
	Budget Estimates	House Floor Action	Senate Floor Action	Conference Report	Budget Estimates	House Floor Action	Senate Floor Action	Conference Report
National Capital Planning Commission								
Salaries and expenses	2,962,000	2,962,000	2,962,000	2,962,000	2,725,000	2,725,000	2,725,000	2,725,000
Franklin Delano Roosevelt Memorial Commission								
Salaries and expenses	28,000	28,000	28,000	28,000	23,000	23,000	23,000	23,000
Pennsylvania Avenue Development Corporation								
Salaries and expenses	2,353,000	2,343,000	2,311,000	2,334,000	1,906,000	1,898,000	1,872,000	1,891,000
Public development	3,095,000	3,175,000	3,095,000	3,175,000	2,321,000	2,381,000	2,321,000	2,381,000
Total, Pennsylvania Avenue Development Corporation	5,448,000	5,518,000	5,406,000	5,509,000	4,227,000	4,279,000	4,193,000	4,272,000
United States Holocaust Memorial Council								
Holocaust Memorial Council	2,209,000	2,244,000	2,209,000	2,244,000	1,747,000	1,774,000	1,747,000	1,774,000
Total, title II, Related Agencies:								
New budget (obligational) authority	4,892,070,000	5,211,715,000	5,582,826,000	5,314,338,000	3,119,027,000	3,422,124,000	3,385,837,000	3,340,040,000
Appropriations	(4,892,070,000)	(5,211,715,000)	(5,622,826,000)	(5,354,338,000)	(3,119,027,000)	(3,422,124,000)	(3,385,837,000)	(3,338,974,000)
Definite	(4,887,860,000)	(5,207,505,000)	(5,618,616,000)	(5,350,128,000)	(3,115,710,000)	(3,418,807,000)	(3,382,520,000)	(3,335,657,000)
Indefinite	(4,210,000)	(4,210,000)	(4,210,000)	(4,210,000)	(3,317,000)	(3,317,000)	(3,317,000)	(3,317,000)
Rescission	---	---	(-40,000,000)	(-40,000,000)	---	---	---	---
(Timber receipt transfer to general fund)	-79,100,000	-79,100,000	79,100,000	-79,100,000	---	---	---	---
(By transfer)	---	---	---	---	---	---	---	---
RECAPITULATION								
Total, Department of the Interior and Related Agencies Appropriations:								
New budget (obligational) authority	8,864,974,000	9,697,798,000	10,091,445,000	9,891,961,000	6,216,524,000	6,787,791,000	6,763,562,000	6,746,888,000
Appropriations	(8,864,974,000)	(9,727,798,000)	(10,161,445,000)	(9,961,961,000)	(6,216,524,000)	(6,787,791,000)	(6,763,562,000)	(6,745,822,000)
Definite	(8,846,158,000)	(9,708,982,000)	(10,142,629,000)	(9,943,145,000)	(6,203,527,000)	(6,774,794,000)	(6,750,565,000)	(6,732,825,000)
Indefinite	(18,816,000)	(18,816,000)	(18,816,000)	(18,816,000)	(12,997,000)	(12,997,000)	(12,997,000)	(12,997,000)
Rescission	---	(-30,000,000)	(-70,000,000)	(-70,000,000)	---	---	---	---
(Liquidation of contract authority)	(31,000,000)	(52,333,000)	(47,000,000)	(52,333,000)	---	---	---	(1,066,000)
(Limitation on direct loans)	(13,000,000)	---	---	---	---	---	---	---
(Timber receipt transfer to general fund)	(-79,100,000)	(-79,100,000)	(79,100,000)	(-79,100,000)	---	---	---	---
(By transfer)	---	---	---	---	---	---	---	---

Comparative Statement of New Budget (Obligational) Authority

	New Budget Authority FY 89				Outlays New CBO Estimates FY 89			
	Budget Estimates	House Floor Action	Senate Floor Action	Conference Report	Budget Estimates	House Floor Action	Senate Floor Action	Conference Report
TITLE I -DEPARTMENT OF THE INTERIOR								
Bureau of Land Management	642,965,000	699,081,000	703,993,000	705,789,000	569,687,000	614,190,000	620,387,000	619,361,000
United States Fish and Wildlife Service	346,959,000	432,461,000	453,442,000	456,696,000	274,149,000	316,019,000	327,617,000	328,008,000
National Park Service	779,947,000	960,585,000	948,958,000	1,002,106,000	578,278,000	637,559,000	634,574,000	648,118,000
Geological Survey	425,003,000	448,056,000	448,045,000	451,506,000	403,753,000	425,653,000	425,643,000	428,930,000
Minerals Management Service	171,917,000	170,009,000	171,847,000	170,744,000	111,956,000	110,506,000	111,701,000	110,984,000
Bureau of Mines	126,605,000	146,254,000	165,167,000	159,292,000	86,091,000	99,452,000	112,312,000	108,318,000
Office of Surface Mining Reclamation and Enforcement	260,160,000	295,240,000	302,165,000	294,255,000	102,990,000	113,632,000	114,556,000	112,443,000
Bureau of Indian Affairs	1,012,534,000	1,092,482,000	1,076,324,000	1,089,372,000	796,485,000	850,055,000	837,183,000	847,428,000
Territorial and International Affairs	109,192,000	146,991,000	144,734,000	153,561,000	88,830,000	115,646,000	111,640,000	120,837,000
Secretarial Offices	97,622,000	94,924,000	93,944,000	94,302,000	85,278,000	82,955,000	82,112,000	82,421,000
Total, Title I - Department of the Interior	3,972,904,000	4,486,083,000	4,508,619,000	4,577,623,000	3,097,497,000	3,365,667,000	3,377,725,000	3,406,848,000
TITLE II - RELATED AGENCIES								
Forest Service	1,609,354,000	1,816,509,000	1,834,231,000	1,845,011,000	1,316,343,000	1,485,196,000	1,526,318,000	1,532,505,000
Department of Energy	1,563,180,000	1,565,566,000	1,942,022,000	1,633,971,000	626,694,000	714,009,000	646,327,000	580,446,000
Indian Health	986,772,000	1,080,717,000	1,064,721,000	1,081,774,000	769,682,000	809,012,000	803,883,000	811,099,000
Indian Education	67,653,000	68,153,000	72,297,000	71,553,000	9,892,000	9,965,000	10,571,000	10,462,000
Navajo and Hopi Indian Relocation Commission	22,973,000	27,723,000	26,473,000	27,373,000	14,473,000	17,466,000	16,678,000	17,245,000
Institute of American Indian and Alaska Native Culture and Arts Development	2,467,000	3,094,000	2,849,000	3,094,000	2,220,000	2,784,000	2,564,000	2,784,000
Smithsonian	252,504,000	244,061,000	243,429,000	245,935,000	205,698,000	198,964,000	198,454,000	200,667,000
National Gallery of Art	39,543,000	38,331,000	39,543,000	38,731,000	33,271,000	32,541,000	33,272,000	32,730,000
Woodrow Wilson International Center for Scholars	4,635,000	4,240,000	4,590,000	4,540,000	2,981,000	2,603,000	2,953,000	2,903,000
National Endowment for the Arts	167,731,000	169,000,000	168,631,000	169,090,000	56,525,000	56,953,000	56,829,000	56,984,000
National Endowment for the Humanities	140,435,000	153,700,000	144,235,000	153,000,000	64,741,000	70,856,000	66,493,000	70,533,000
Institute of Museum Services	21,944,000	22,620,000	21,944,000	22,270,000	5,662,000	5,836,000	5,662,000	5,746,000
Commission of Fine Arts	451,000	475,000	475,000	475,000	413,000	435,000	435,000	435,000
National Capital Arts and Cultural Affairs	---	5,000,000	5,000,000	5,000,000	---	5,000,000	5,000,000	5,000,000
Advisory Council on Historic Preservation	1,781,000	1,774,000	1,781,000	1,778,000	1,710,000	1,703,000	1,710,000	1,707,000
National Capital Planning Commission	2,962,000	2,962,000	2,962,000	2,962,000	2,725,000	2,725,000	2,725,000	2,725,000
Franklin Delano Roosevelt Memorial Commission	28,000	28,000	28,000	28,000	23,000	23,000	23,000	23,000
Pennsylvania Avenue Development Corporation	5,448,000	5,518,000	5,406,000	5,509,000	4,227,000	4,279,000	4,193,000	4,272,000
Federal Inspector for the Alaska Gas Pipeline	---	---	---	---	---	---	---	---
Holocaust Memorial Council	2,209,000	2,244,000	2,209,000	2,244,000	1,747,000	1,774,000	1,747,000	1,774,000
Total, Title II - Related Agencies	4,892,070,000	5,211,715,000	5,582,826,000	5,314,338,000	3,119,027,000	3,422,124,000	3,385,837,000	3,340,040,000
Grand total	8,864,974,000	9,697,798,000	10,091,445,000	9,891,961,000	6,216,524,000	6,787,791,000	6,763,562,000	6,746,888,000

Comparative Statement of New Budget (Obligational) Authority

	New Budget Authority FY 89				Outlays New CBO Estimates FY 89			
	Budget Estimates	House Floor Action	Senate Floor Action	Conference Report	Budget Estimates	House Floor Action	Senate Floor Action	Conference Report
CONGRESSIONAL BUDGET RECAP								
Scorekeeping adjustments:								
Indefinite appropriations (discretionary).....	-100,000	-100,000	-100,000	-100,000	---	---	---	---
Indefinite appropriations (mandatory).....	---	---	---	---	---	---	---	---
Outer Continental Shelf receipts.....	---	---	-70,000,000	---	---	---	-70,000,000	---
Miscellaneous payments to Indians.....	---	---	994,000	---	---	---	1,694,000	700,000
Operation of National Parks System.....	---	---	---	---	---	---	---	---
Forest Service construction contract authority....	---	---	---	---	---	---	---	---
Forest Service (permanent).....	---	8,581,000	29,706,000	25,706,000	---	5,941,000	21,316,000	18,316,000
Mount St. Helens contract authority.....	---	5,333,000	5,333,000	5,333,000	---	1,066,000	1,066,000	---
Energy Conservation.....	---	---	-45,424,000	-45,424,000	---	---	---	---
Geothermal resources development fund (Hulin well	---	---	4,400,000	---	---	---	4,400,000	---
Claims, judgments, and relief acts.....	---	---	6,000,000	---	---	---	6,000,000	---
Compact of free association (2% cut of object clas	---	---	-401,000	---	---	---	-401,000	---
2% cut, object classes 21,25,26,31.....	---	---	-42,261,000	---	---	---	-29,433,000	---
Mandatory adv. appropriations from prior years 1/.	---	---	---	---	---	---	---	---
Endowment challenge fund (permanent).....	60,000	60,000	60,000	60,000	60,000	60,000	60,000	60,000
Energy conservation.....	---	---	---	---	---	---	---	---
Total, adjustments.....	-40,000	13,874,000	-111,693,000	-14,425,000	60,000	7,067,000	-65,298,000	19,076,000
Total (including adjustments).....	8,864,934,000	9,711,672,000	9,979,752,000	9,877,536,000	9,482,187,000	10,060,461,000	9,963,867,000	10,031,567,000
Amounts in this bill.....	(8,864,974,000)	(9,697,798,000)	(10,091,445,000)	(9,891,961,000)	(6,216,524,000)	(6,787,791,000)	(6,763,562,000)	(6,746,888,000)
Scorekeeping adjustments.....	(-40,000)	(13,874,000)	(-111,693,000)	(-14,425,000)	(60,000)	(7,067,000)	(-65,298,000)	(19,076,000)
Prior year outlays associated with this bill.....	---	---	---	---	(3,265,603,000)	(3,265,603,000)	(3,265,603,000)	(3,265,603,000)
Total Summit mandatory and discretionary.....	8,864,934,000	9,711,672,000	9,979,752,000	9,877,536,000	9,482,187,000	10,060,461,000	9,963,867,000	10,031,567,000
Mandatory.....	(43,601,000)	(44,826,000)	(38,625,000)	(41,026,000)	(40,427,000)	(38,385,000)	(35,451,000)	(37,852,000)
Mandatory (prior year).....	---	---	---	---	(3,174,000)	(3,174,000)	(3,174,000)	(3,174,000)
Mandatory (total).....	(43,601,000)	(44,826,000)	(38,625,000)	(41,026,000)	(43,601,000)	(41,559,000)	(38,625,000)	(41,026,000)
Discretionary.....	(8,821,333,000)	(9,666,846,000)	(9,941,127,000)	(9,836,510,000)	(6,176,157,000)	(6,756,473,000)	(6,662,813,000)	(6,728,112,000)
Discretionary (prior year).....	---	---	---	---	(3,262,429,000)	(3,262,429,000)	(3,262,429,000)	(3,262,429,000)
Discretionary (total).....	(8,821,333,000)	(9,666,846,000)	(9,941,127,000)	(9,836,510,000)	(9,438,586,000)	(10,018,902,000)	(9,925,242,000)	(9,990,541,000)
Total Congressional mandatory and discretionary.....	8,864,934,000	9,711,672,000	9,979,752,000	9,877,536,000	9,482,187,000	10,060,461,000	9,963,867,000	10,031,567,000
Mandatory (total).....	(44,201,000)	(44,826,000)	(38,625,000)	(41,026,000)	(3,306,630,000)	(3,303,988,000)	(3,301,054,000)	(3,303,455,000)
(Mandatory new).....	(44,201,000)	(44,826,000)	(38,625,000)	(41,026,000)	(41,027,000)	(38,385,000)	(35,451,000)	(37,852,000)
(Prior year).....	---	---	---	---	(3,265,603,000)	(3,265,603,000)	(3,265,603,000)	(3,265,603,000)
Discretionary (new).....	(8,820,733,000)	(9,666,846,000)	(9,941,127,000)	(9,836,510,000)	(6,175,557,000)	(6,756,473,000)	(6,662,813,000)	(6,728,112,000)

1/ Endowment challenge fund for FY87 and FY88 $150,000

MEMORANDUM:

Comparative Statement of New Budget (Obligational) Authority

	New Budget Authority FY 89				Outlays New CBO Estimates FY 89			
	Budget Estimates	House Floor Action	Senate Floor Action	Conference Report	Budget Estimates	House Floor Action	Senate Floor Action	Conference Report
Bureau of Indian Affairs Credit Reform								
Indian direct loan subsidies	3,175,000	---	---	---	---	---	---	---
Indian guaranteed loan subsidies	11,250,000	---	---	---	---	---	---	---
Indian loan guarnty and insurance fund	-752,000	---	---	---	---	---	---	---
Total, Credit reform	13,673,000	---	---	---	---	---	---	---

Mr. JOHNSTON. In addition, I would offer that the following printing errors in the Statement of the Managers—House report 100-862—be noted:

First, on page 7, under amendment No. 1, $125,000 is for the San Pedro conservation area Arizona, not $215,000;

Second, on page 14, amendment No. 18 appropriates $744,835,000 for operation of the National Park System, not $74,835,000;

Third, on page 19, funds for Denali National Park, AK, are for a replacement hotel, not Southside;

Fourth, on page 27, definitions identified in section 11 apply to all sections 1 through 13;

Fifth, on page 45, amendment No. 100, the Senate proposed amount was $132,599,000, not $312,599,000;

Sixth, on page 48, under amendment No. 106, $13,000,000 is for forest fire protection, including $1,000,000 for additional fuels treatment, not $13,000,000 for additional fuels treatment. Also, an increase of $1,352,000 over the Senate amount is for soil, water, and air management. Beginning with $1,182,000 for land line location, the remainder of the changes are decreases;

Seventh, on page 66, under amendment No. 142, the new central science facility cost is $24,750,000, not $25,750,000; and

Eighth, on page 66, under amendment No. 148, $91,555,000 is appropriated for acquisition of petroleum beginning on October 1, 1989, not $91,550,000.

In addition to these printing errors, the Statement of the Managers should reflect the agreement reached to provide $165,000 for planning for facility development at Theodore Roosevelt National Park, ND.

I would also note that the bill contains an appropriation for reconstruction and restoration at Fort Abraham Lincoln at Mandan, ND, pursuant to the Historic Sites Act of 1935. I want to make it clear that expenditures under this provision are to be made in consultation and cooperation with the Fort Abraham Lincoln Foundation of Mandan. I had the opportunity to meet with officials from the foundation last month, and to view the progress that has already occurred at the fort. The foundation has done an excellent job.

I would further note that this bill contains funding for hospital improvements in American Samoa. The Statement of the Managers requires that funds "are to be made available only upon creation and implementation of an independent hospital authority." It is our intent that the American Samoa Government enact the legislation necessary to direct the establishment of the hospital authority, and provide assurances that it is committed to having an independent authority operating within a reasonable period of time, before the funds will be made available.

Mr. President, I want again, as is my habit and my deeply held feeling, to commend my dear friend from Idaho, the distinguished senior Senator, Senator McCLURE, who is not only able but very pleasant to work with.

Mr. McCLURE. Mr. President, I concur in the statement made by the Senator from Louisiana, and I very much appreciate the opportunity to work once again with him on a successful conclusion of this particular bill. He is great to work with.

Mr. President, the Senate Appropriations Committee reported this legislation on July 6, 1988 and the full Senate considered it on July 13, 1988. The conference on this bill was held on Tuesday, August 9, 1988.

Let me begin by complimenting the acting chairman and his staff for their hard work on this bill. Charlie Estes, Don Knowles, Sue Masica, and Shannon Skripka have all done an excellent job in a very difficult budget year.

I know the difficulties they have had in assembling a bill when the allocation for the subcommittee simply does not meet the requests of the Members. Unfortunately, it seems as if the farther along in the legislation process this bill moves, the more amendments it attracts.

As most of the Members know, the House subcommittee had a lower allocation than the Senate subcommittee. The final allocation given the subcommittee was a direct split between the initial House and Senate allocations. The Congressional Budget Office and the Senate Budget Committee indicate that the conference report before us today complies with the new allocation of $9.888 billion in budget authority and $10.041 billion in outlays.

While we have complied with this allocation, it is $412 million in budget authority below our current services base as calculated by the Congressional Budget Office.

Since the President's budget was released earlier this year, the subcommittee has received over 1,700 requests from nearly every Member of the Senate. These requests totaled over $2.0 billion. Simply put, our allocation did not allow us to fund all of our requests and we were forced to make reductions in conference to bring the bill into compliance with the final allocation. I regret we could not fill all of the requests but I hope Members who did not receive funds for projects they had requested will work with the subcommittee in future fiscal years.

Thank you, Mr. President.

Mr. President, the conference report accompanying the fiscal year 1989 Interior appropriations bill includes bill language relating to recreation residence fees on Forest Service land.

The intent of that provision is to prevent the Forest Service from attempting to collect any supplemental fees that it would otherwise be required to collect for the years 1987 and 1988. In addition, the new fees are to be implemented beginning January 1, 1989, be phased in only for those recreation residence permittees who elect to accept the new standard term permit as set forth in the new policy.

Is that the understanding of the Senator from Louisiana, the acting chairman?

Mr. JOHNSTON. Mr. President, the Senator from Idaho is correct. The provision relating to recreation residence fees settles a longstanding dispute between the Forest Service and permittees.

The language does not allow the Forest Service to collect any supplemental fees that would be otherwise required for the years 1987 and 1988. The language also allows that new fees will be implemented beginning January 1, 1989, and will be phased in only for those recreation residence permittees who elect to accept the new standard term permit as set forth in the new policy.

Mr. McCLURE. Mr. President, among the many provisions in this legislation is one designed to fulfill the United States' obligations to the people of Bikini Atoll in the Marshall Islands. There are several points I would like to clarify with respect to this provision if my colleague, Senator JOHNSTON, would agree to go through those with me.

Mr. JOHNSTON. By all means. Senator McCLURE and I have worked for many years on this issue, and it is important to specify the details of the agreement which has been worked out.

Mr. McCLURE. This provision would provide $90 million over a 5-year period for the cleanup and resettlement of Bikini. The appropriation is based on the full faith and credit commitment contained in section 103(1) of the Compact of Free Association Act, Public Law 99-239. Moreover, this appropriation is designed and intended to fulfill both the moral and legal commitment of the U.S. Government to the people of Bikini contained in section 103(1) of the Compact Act; in the lawsuit settlement agreement, *People of Bikini* v. *United States of America*, Civ. No. 84-0425 (D. Ha.) (March 13, 1985); and in article VI of the compact Section 177 Agreement.

The first point I would like to clarify is that the appropriation is a part of the final settlement of nuclear testing claims provided by section 177 of the compact. Section 177, and its subsidiary agreement, is intended by Congress, the U.S. Government, and the government of the Marshall Islands, to provide for the full and final settlement of all claims arising from the Nu-

clear Testing Program which the Government of the United States conducted in the northern Marshall Islands.

Mr. JOHNSTON. The Senator is correct. This is an important and fundamental point. Section 177 of the compact was intended to be, and remains, a full and final settlement of the nuclear testing claims. This appropriation is a part of that settlement. The reason that this portion of the settlement was not provided earlier, as described in article VI, section 1, of the Section 177 Agreement, is because this portion, which provides funding for the rehabilitation and resettlement of Bikini, could not be quantified due to the unavailability of reliable cost estimates. The work of the Bikini Atoll Rehabilitation Committee [BARC] has since provided the information needed to quantify the obligation of the United States Government to clean up and resettle Bikini. It was from the BARC information that this $90 million appropriation was developed.

Mr. McCLURE. I thank my colleague, and I believe he knows why I raise this point. He recalls that congressional intent in approving the compact, and specifically section 177, was that it would provide a final settlement of the nuclear testing claims. There are those who may incorrectly argue that this appropriation is made outside of the Section 177 Agreement and therefore Congress did not intend for section 177 to provide a final settlement. The opposite is true. The Congress continues to intend section 177 to be a full and final settlement. This appropriation was anticipated at the time the compact, including section 177, was approved by Congress. The United States and the Republic of the Marshall Islands, two sovereign entities, have reached an international agreement providing for espousal of all nuclear claims by the Marshall Islands. Congress, in turn, has approved that agreement, thereby accepting its responsibilities to the victims of U.S. nuclear testing in the Marshall Islands, and this provision fulfills our commitment to meet those responsibilities.

Mr. JOHNSTON. I thank my colleague, and would also add, as he knows, that the courts have been urged to assert jurisdiction and review claims covered by the Section 177 Agreement despite clear congressional intent to the contrary. Much has been made in the courts of floor statements by a former Member of the House of Representatives on this issue. However, such statements must be put into perspective. Those statements represent the view of one Member of Congress whose position was not accepted by Congress when it enacted the Compact Act. The intent of Congress is clear on its face in the statutory language of Public Law 99-239, section 103(g):

> It is the intention of the Congress of the United States that the provisions of section 177 of the Compact of Free Association and the Agreement between the Government of the United States and the Government of the Marshall Islands for the Implementation of Section 177 of the Compact * * * constitute a full and final settlement of all claims described in Articles X and XI of the Section 177 Agreement, and that any such claims be terminated and barred except insofar as provided for in the Section 177 Agreement.

I would further note that the language was specifically included in the statute to rebut any indication that enactment of the compact did not constitute a full and final settlement and a complete and absolute bar to either continued or further litigation. The analysis of the section set forth in the record at the time of passage is clear: "In light of the statement made by some more interested in protracted litigation than compensation for the victims of the testing program, both the Senate and House agreed that an explicit endorsement of the resolution was important. Additional ex gratia"—and I want to emphasize the words "ex gratia"—"assistance will be available in the future if circumstances warrant and this provision in no manner lessens the concern which we have for the population of the affected atolls. It is designed to prevent the Marshall Islands from becoming a tropical Bleak House." The language is absolutely clear and unambiguous. The attempts by some to weaken or alter the original language were rebuffed and specifically disclaimed. They attempted to undercut the language of section 177 and failed completely. Their language was not simply rejected by both the House and Senate, it was rejected with finality and extreme prejudice by the insertion of the statutory language which I have just quoted.

Mr. McCLURE. A second related point I would like to clarify is the situation in which the people of Bikini may seek relief from the courts for payment of the $90 million provided by this legislation. It must be clear that access to the courts, in this case, is not for review of nuclear testing claims, nor review of section 177, nor review of any matter other than the United States Government's failure to pay the people of Bikini the amounts specified in this legislation and at the times specified. This is in fulfillment of the settlement. No new jurisdiction is created over the claims settled.

Mr. JOHNSTON. The Senator is correct. A pledge of full faith and credit is attached to the funds provided by this provision. Accordingly, should the United States Government fail to provide these funds in the amounts and at the times specified in the legislation, then the people of Bikini would have a cause for action in the United States claims courts. Indeed, the U.S. courts already have jurisdiction to enforce other full faith and credit provisions of the compact. In a June 4, 1986 memorandum to the Assistant Secretary for Territorial and International Affairs, the Department of the Interior's Acting Associate Solicitor for General Law stated that Congress pledged full faith and credit in section 103(1) of the Compact Act, and that "the anticipated consequences of not funding the provision are that the United States could face and might well lose a lawsuit brought to enforce the provisions." Thus, this action is a part of, and is intended to further, the Section 177 Agreement, including the termination and barring of court proceedings under article XII. But, the full faith and credit payments made by this provision are a separate issue from the limitation of article XII of the Section 177 Agreement in that article XII would not bar an action to obtain full faith and credit payments provided by section 177 under this legislation.

Mr. McCLURE. A final point I would like to clarify is the use of the funds to be provided by this act. It is intended that these funds will be deposited in the existing resettlement trust fund—of approximately $20 million—and that the terms of that trust will be modified to provide that the corpus and income from the trust may be used for the rehabilitation and resettlement of Bikini Atoll, and that up to $2 million per year may be used for projects on Kili and Ejit.

Following rehabilitation and resettlement, these funds will no longer be available to Kili and Ejit, and any funds remaining in the trust, not identified for future needs, shall be deposited in the U.S. Treasury. It is anticipated that these future needs, to be described in a report by the Secretary of the Interior in consultation with the people of Bikini, will include: First, maintenance of the resettlement infrastructure until the Bikinians are prepared to assume that task; second, training the Bikinians for the operations and maintenance of the infrastructure; and third, continuing rehabilitation activities, if any. Thus, these funds are intended for use only to further rehabilitation and resettlement, except for limited use on Kili and Ejit. Once this objective is reasonably met, then all funds in the trust shall revert to the United States. The people of Bikini will then need to rely on other funds, such as the other $75 million provided pursuant to section 177, to meet their financial needs. In the context of the Section 177 Agreement the Bikinians will have accepted this trust arrangement as full and final discharge of all United States obligations arising from, or in any way related to, their relocation from Bikini during

and after the Nuclear Testing Program and no further appropriations will be required in order, finally, to have fulfilled the United States commitments to the Bikini people, except as provided for under article IX of the Section 177 Agreement.

Mr. JOHNSTON. The Senator is correct. It is the intent that these funds are to be used for the rehabilitation and resettlement of Bikini Atoll. Once that objective has been met, funds not needed for the specific needs identified in the report of the Secretary of the Interior shall be deposited in the U.S. Treasury. Following completion of rehabilitation and resettlement these funds are not to be used for operations on Kili or Ejit; the Bikinians have received other funds under the Section 177 Agreement which can be used to meet such operational and other needs. They are intended only for operations on Bikini directly associated with rehabilitation and resettlement as identified in the Secretary's report.

Moreover, it is expected that these funds will provide for rehabilitation and resettlement of Bikini Atoll. These funds are provided to the Bikinians so that they, and not the United States Government will be responsible for the management and the decisions involved in returning to their homeland. The Secretary of the Interior's report to Congress on future needs does not suggest that Congress would provide additional funds. It is the responsibility of the people of Bikini to wisely invest and expend these funds so that they meet the objectives of rehabilitation and resettlement and provide for limited future needs. The involvement of the Secretary of the Interior in the administration of these funds is ministerial, and is for the purpose of ensuring proper expenditure of the funds in accordance with the statutory purpose of the trust. All decisions and responsibilities for rehabilitation and resettlement of Bikini rests with the people of Bikini.

Mr. McCLURE. I thank the Senator. I am pleased that we have been able to reach agreement on this issue, which he and I have been working on for so many years. I am particularly pleased for the people of Bikini, to whom the United States has owed so much, and I am pleased that the United States has now met its responsibility to them.

Mr. JOHNSTON. I appreciate the Senator's remarks and his clarifying these important points. I, too, am pleased that the United States has met its obligations to the people of Bikini. The history of the relationship between the United States and Bikini has been troubled. Fortunately, the Compact of Free Association Act and the Section 177 Agreement have provided the framework with which to repair that relationship. The Bikinians have long been the victims of United States policy but now they have the means to return to their homeland, to regain control of their lives, and to live in diginity. The United States cannot alter the history of our relationship with the people of Bikini, but by meeting our final commitment to them through this provision, we can both now turn from the past and look toward the future.

Mr. CHILES. Mr. President, Senate Budget Committee scoring of the conference report on the Department of the Interior appropriations bill for fiscal year 1989, as reported by the committee of conference, shows that the bill is at its revised 302(b) budget authority and outlay targets. I commend the chairman of the Appropriations Subcommittee on the Interior, Senator BYRD, and the ranking member of the subcommittee, Senator McCLURE, for their successful effort in keeping the spending levels for programs within the subcommittee's jurisdiction at the 302(b) budget allocation.

Mr. President, I have a table from the Budget Committee showing the official scoring of the conference report and I ask unanimous consent that it be printed in the RECORD.

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

SENATE BUDGET COMMITTEE SCORING OF H.R. 4867—INTERIOR, SPENDING TOTALS (CONFERENCE REPORT)

[In billions of dollars]

	Fiscal year 1989	
	Budget authority	Outlays
302(b) BILL SUMMARY		
H.R. 4867, conference report (new budget authority and outlays)	9.4	6.7
Enacted to date	.5	3.3
Adjustment to conform mandatory programs to resolution assumptions	+(1)	+(1)
Scorekeeping adjustments		
Bill total	9.9	10.0
Subcommittee 302(b) allocation	9.9	10.0
Difference	−(1)	−(1)
Bill total above (+) or below (−):		
President's request	+.3	+.1
House-passed bill	+.2	−.1
SUMMIT CAP SUMMARY		
Domestic discretionary spending in bill	9.8	10.0
Allocation under domestic cap	9.8	10.0
Difference	−(1)	−(1)

1 Less than $50,000,000.

Note.—Details may not add to totals due to rounding.

Source: Prepared by Senate Budget Committee staff.

Mr. BRADLEY. Mr. President, I would like to engage the floor manager of the Interior appropriations bill, H.R. 4867, in a colloquy concerning the ability to use high priority wetland acquisition funds provided in this measure and funds provided pursuant to the Migratory Bird Conservation Act for the acquisition of Cedar Bonnet Island. The Senate bill had provided $1.1 million for acquisition of this area in the Edwin B. Forsythe National Wildlife Refuge. Unfortunately, that funding was deleted during the House-Senate conference.

I would like to make clear our intent that funds which are not earmarked, that is both the wetland money and migratory bird money, are available to acquire Cedar Bonnet Island under the terms of those authorizations. Consistent with that understanding, Edwin B. Forsythe National Wildlife Refuge will be eligible to compete for the $10 million in undesignated funds in this bill.

Mr. JOHNSTON. I share the Senator's interest in acquisition of Cedar Bonnet Island and wish it had been possible to retain that funding in the conference. It is correct that the $10 million in wetland acquisition funds is not earmarked. Therefore, I see no reason why Forsythe National Wildlife Refuge area would not be able to compete for those funds.

Mr. DECONCINI. Mr. President, motion pictures are a significant part of our Nation's historical and cultural heritage which uniquely reflect their time. Through the eyes of the filmmakers, we relive moments in history, gaining insight into the time depicted in the film. The motion picture is a significant art form worthy of recognition and protection. To this end, the Interior Appropriations bill contains language establishing a National Film Preservation Board within the Library of Congress to protect this art form from alteration.

As a member of the Interior Subcommittee and, coincidentally the chairman of the Senate Subcommittee on Patents, Copyrights, and Trademarks, I was very concerned about the inclusion of this provision in the Interior appropriations bill. It seems obvious to me that the proper forum for consideration of these issues is the subcommittees with jurisdiction over copyright in the House and Senate. Because I serve on both subcommittees, the subcommittee considering the legislation and the subcommittee that should have jurisdiction over the legislation, I believe that I was in an excellent position to affect the legislation. Along with my friend and colleague, Senator LEAHY of Vermont, who also sits on both subcommittees, I attempted to improve the legislation presented to us by the House.

Substantial changes were made in the legislation at every step of its consideration, including the House-Senate conference. At one time, the legislation would have created a wholly unprecedented and I think unworkable and unwise copyright infringement remedy for parties who were not copyright holders. Although the legislation was improved by the time it was considered by the conferees, major substantive changes were still necessary. I am still of the opinion that the legislation should not be included in the In-

terior appropriations bill. I believe that if the Congress is going to enact moral rights legislation, it should do it in a comprehensive and thoughtful manner. If I am chairman of the appropriate subcommittee in the 101st Congress, I intend to initiate such a thoughtful and thorough examination. However, because I was able to achieve substantial modifications of the National Film Preservation Act including sunsetting it after 3 years, I did not stand in the way of its adoption. In its present form, the National Film Preservation Act does little more than honor a small number of films as being culturally significant and require that a very few colorized films be labeled as such. Since the owners of colorized films are perfectly willing, if not eager to publicize the fact that these films are colorized, then this requirement is rather superfluous.

The bill provides for labeling requirements of films nominated for inclusion in a National Film Registry. With regard to films that are on the registry, a requirement is made that if they are materially altered, a specified label must be affixed to the film. With respect to such films aired for cable or broadcast television viewing, the appropriate label specified in the bill would be displayed.

I note that during consideration of this legislation in the House, a colloquy took place in which it was stated that the National Film Preservation Act requires that on the designated films, labels be placed at both the beginning and at the end of a colorized or materially altered film. In addition, it was stated that when such a label is shown, no other audio or video information be broadcast. There was no such agreement by the conferees for such a requirement. In fact, section 4 of the act defines the required label as appearing "immediately preceding the commencement of the film." I know of no reason why the plain language of the statute on this point should not be controlling.

Section 11(a)(5) of the bill provides a definition for the term "material alteration." The term is defined to mean colorizing or otherwise making fundamental changes in a film after it has been publicly released. The term does not apply to those changes made in accordance with "customary practices and standards and reasonable requirements of preparing a work for distribution or broadcast." By the inclusion of this language excepting these normal practices, the conferees intended to grandfather-in the standard procedures used to prepare a film for broadcast television, videocassette sale and rental, and cable viewing. For example, practices such as panning and scanning, time compression, time expansion, and customary editing to meet time formats are common in the preparation of films for broadcast television, videocassette sale and rental, and cable viewing. These practices, as well as editing designed to remove material that the broadcaster is concerned may offend community sensibilities such as nudity, profane language, and inappropriate and excessive violence are not intended to be "material alteration" under this definition.

When, in the broadcaster's opinion, in the course of preparing a film included in the National Film Registry for broadcast, it has been subjected to alteration that the broadcaster believes would constitute material alteration, the broadcaster may voluntarily place a label on the film without submitting to the regulatory process that would require such placement. In other words, if a broadcaster knows that he is going to have to put the label on a film, he can do so voluntarily without submitting the film to the Commission for an opinion.

Retail video dealers who receive copies of registry films from their distributors without the proper labeling may have no way of knowing if material alterations have occurred. Retail dealers also have no way of affixing the required label on the film itself and therefore the films would have to be labeled by the distributor. The retail video dealers should not be held liable under these circumstances.

The committee empowered the Librarian to appoint alternate members of the Board for those instances when a member of the Board is unable to fulfill his or her responsibilities to the Board. While we hope that Board members will have very few instances when they cannot attend Board meetings, it is the intent of the conferees that the alternates have similar expertise as the Board members that they replace. It is the conferees intent that the alternates have full voting rights.

The amendment provides that a National Film Board Collection of those films selected for inclusion in the National Film Registry will be created by the Librarian of Congress. The Librarian is entrusted with obtaining copies of the films from their owners by gift. The films are for archival purposes, so it is anticipated that the Librarian would obtain archival quality copies, and that he would use his expertise to properly preserve and maintain copies in a special collection in the Library of Congress. It is the understanding of the managers that the copies so received by the Librarian would become the property of the U.S. Government.

I understand that there is some misunderstanding about the intent and meaning of some of the provisions of the National Film Preservation Act. Because of the time pressures of the last days of the Congress before the Republican Convention recess, it was not possible for the conferees to agree to a detailed or specific conference report. I have attempted to explain my understanding of the legislation because it was important that certain modifications be made in the legislation in order for me to acquiesce to its enactment. It is my belief that the statutory language is clear and should be interpreted on its face.

Mr. JOHNSTON. I concur with the comments of the Senator from Arizona on the conference report and I appreciate his clarification of the agreement between the conferees.

Mr. JOHNSTON. Mr. President, I urge the adoption of the conference report.

The PRESIDING OFFICER. The question is on the adoption of the conference report.

The conference report was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The clerk will report the amendments in disagreement.

The assistant legislative clerk proceeded to read the amendments in disagreement as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 5 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum inserted by said amendment, insert: *$12,290,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 7 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: *$360,688,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 11 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum inserted by said amendment, insert: *$31,834,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 13 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: *": Provided*, That of the funds provided to the United States Fish and Wildlife Service under the heading "Construction and Anadromous Fish" in Public Law 100-71, $1,200,000 shall be expended for the lease or purchase of water rights, from willing sellers, for the benefit of Stillwater Wildlife Management Area, Nevada: *Provided further*, That the lease or purchase shall be carried out pursuant to the statutory and procedural requirements of the laws of the State of Nevada, and the Secretary shall proceed with any such lease or purchase pursuant to this appropriation if and only if the Secretary receives certification from the State of Nevada that the transfer of water rights and associated change of use for the beneficial use of Still-

water Wildlife Management Area is approved by the State of Nevada"

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 28 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum inserted by said amendment, insert: *$14,608,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 29 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum inserted by said amendment, insert: *$30,500,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 31 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum inserted by said amendment, insert: *$159,108,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 33 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum inserted by said amendment, insert: *$72,609,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 34 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: ": *Provided further*, That $3,000,000 of the funds made available herein shall be available for land acquisition at Congaree Swamp National Monument, South Carolina, subject to enactment of authorizing legislation: *Provided further*, That notwithstanding the provisions of Public Law 95-625, the Secretary may initiate condemnation with the consent of the owner of property, improved or unimproved, within the boundary or at a currently authorized administrative site of the New River Gorge National River, West Virginia."

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 38 to the aforesaid bill, and concur therein with an amendment as follows:

Strike out the matter stricken by said amendment, and insert:

NATIONAL FILM PRESERVATION BOARD

SALARIES AND EXPENSES

For necessary expenses of the National Film Preservation Board in the Library of Congress, $250,000: *Provided*, That the following may be cited as the "National Film Preservation Act of 1988":

The Congress finds that—

(1) motion pictures are an indigenous American art form that has been emulated throughout the world;

(2) certain motion pictures represent an enduring part of our Nation's historical and cultural heritage; and

(3) it is appropriate and necessary for the Federal Government to recognize motion pictures as a significant American art form deserving of protection.

SEC. 2. NATIONAL FILM REGISTRY.

The Librarian of Congress (hereafter in this Act referred to as the "Librarian") shall establish a National Film Registry pursuant to the provision of this Act, for the purpose of registering films that are culturally, historically, or aesthetically significant.

SEC. 3. DUTIES OF LIBRARIAN OF CONGRESS.

(1) POWERS—(1) The Librarian shall, after consultation with the Board established pursuant to section 8, and pursuant to the rulemaking procedures provided in subchapter II of chapter 5 of title 5, United States Code, known as the Administrative Procedures Act—

(A) establish criteria for guidelines pursuant to which such films may be included in the National Film Registry, except that no film shall be eligible for inclusion in the National Film Registry until 10 years after such film's first theatrical release;

(B) establish a procedure whereby the general public may make recommendations to the Board regarding the inclusion of films in such National Film Registry;

(C) establish general guidelines so that film owners and distributors are able to determine whether a version of a film registered on the National Film Registry which is in their possession has been materially altered.

(2) In addition, the Librarian shall—

(A) determine, from time to time, after consultation with the Board, which films satisfy the criteria developed pursuant to paragraph (1)(A) and qualify to be included in the National Film Registry, except that the Librarian shall not select more than 25 films per year for inclusion in such Registry;

(B) convene, from time to time, a panel of experts, as provided in subsection (b), solely to advise the Board on whether it is necessary to petition Congress to revise the definition of "material alteration";

(C) provide a seal to indicate that the film has been included in the National Film Registry as an enduring part of our national cultural heritage and such seal may then be used in the promotion of any version of such film that has not been materially altered; and

(D) have published in the Federal Register the name of each film that is selected for inclusion in the National Film Registry.

(3)(A) The Librarian shall submit annual reports to the appropriate Committees of the Congress listing films included on the National Film Registry and describing the criteria used in determining why specific films were included in the National Film Registry.

(B) The first such report shall be submitted within 12 months after the date of enactment of this Act.

(b) COMPOSITION OF PANEL.—The panel provided for in subsection (a)(2)(B) shall be chosen by the Librarian. It shall be comprised of four persons, one representative each from the Motion Picture Association of America and the National Association of Broadcasters, and one representative of the Directors Guild of America and one representative of the Screen Actors Guild of America. The Presidents of these four organizations shall recommend three nominees to serve on such panel.

(c) APPEALS TO THE LIBRARIAN.—(1) The owner, exhibitor, or distributor of a film may appeal to the Librarian—

(A) objecting to the Board's recommendation of such film for inclusion in the National Film Registry; or

(B) the determination that a version of a film which is included in the National Film Registry has been materially altered.

(2) The Librarian shall refer such appeals to the Board for its recommendation.

(c) REGISTRY COLLECTION.—The Librarian shall endeavor to obtain, by gift from the owner, an archival quality copy of an original version of each film included in the National Film Registry. All films so received by the Librarian shall be maintained in a special collection in the Library of Congress to be known as the "National Film Board Collection". The Librarian shall, by regulation, provide for reasonable access to films in such collection.

SEC. 4. LABELING REQUIREMENTS.

(a) LABEL REQUIRED.—Except as otherwise provided in this section, no person shall knowingly distribute or exhibit to the public a materially altered version of a film included in the National Film Registry unless the version is labeled as required by this section.

(b) EFFECTIVE DATE OF LABEL.—Except as provided in subsection (c), any labeling requirement established pursuant to this section shall be effective 45 days after publication in the Federal Register indicating that a film has been selected for inclusion in the National Film Registry.

(c) EXCEPTIONS.—With respect to films intended for home use through either retail purchase or rental, the provisions of subsection (b) shall apply, however no requirements imposed under this section shall apply to—

(1) a film which has been packaged for distribution prior to the effective date of such requirement with respect to such film, except that the provisions of this paragraph shall not apply in the packaging has been accelerated in contemplation of imposition of such requirement; or

(2) a retail distributor of films for home use, other than a manufacturer or packager, who has in good faith relied on compliance with the provisions of this Act by the manufacturer, wholesaler, or packager of a film.

(d) REQUIREMENTS OF THE LABEL.—(1)(A) A label for a materially altered version of a film, other than a colorized version, shall consist of a panel card immediately preceding the commencement of the film which bears the following statement:

"This is a materially altered version of the film originally marketed and distributed to the public. It has been altered without the participation of the principal director, screenwriter, and other creators of the original film.".

(B) Such a label shall appear in a conspicuous and legible type.

(2)(A) A label for a colorized version of a film shall consist of a panel card immediately preceding the commencement of the film which bears the following statement:

"This is a colorized version of a film originally marketed and distributed to the public in black and white. It has been altered without the participation of the principal director, screenwriter, and other creators of the original film."

(B) Such a label shall appear in a conspicuous and legible type.

(3)(A) A label for a film package of a materially altered film, other than a colorized version, shall consist of—

(i) an area of a rectangle on the front of the package which bears the following statement:

"This is a materially altered version of the film originally marketed and distributed to the public. It has been altered without the participation of the principal director, screenwriter, and other creators of the original film."; and

(ii) an area of a rectangle on the side of the package which bears the following statement:

"This is a materially altered version of the film originally marketed and distributed to the public. See front panel.".

(B) Such labels shall appear in a conspicuous and legible type in contrast by typography, layout, or color with other printed matter on the package.

(4)(A) A label for a film package of a colorized version of a film shall consist of—

(i) an area of a rectangle on the front of the package which bears the following statement:

"This is a colorized version of a film originally marketed and distributed to the public in black and white. It has been altered without the participation of the principal director, screenwriter, and other creators of the original film."; and

(ii) an area of a rectangle on the side of the package which bears the following statement:

"This is a colorized version of original work. See front panel.".

(B) Such labels shall appear in a conspicuous and legible type in contrast by typography, layout, or color with other printed matter on the package.

SEC. 5. MISUSE OF SEAL.

No person shall knowingly distribute or exhibit to the public a version of a film which bears a seal described by section 3(a)(2)(C) of this Act is such film—

(1) is not included in the National Film Registry; or

(2) is included in the National Film Registry, but such version has been materially altered.

SEC. 6. REMEDIES.

(a) JURISDICTION AND STANDING.—The several district courts of the United States shall have jurisdiction, for cause shown, to prevent and restrain violations of sections 4 and 5 of this Act upon the application of the Librarian to the Attorney General of the United States acting through the several United States Attorneys in their several districts.

(b) RELIEF.—(1) Except as provided in paragraph (2), relief shall be limited to the prospective inclusion or application of, or removal of, a label as appropriate.

(2) In the case in which the Librarian finds a pattern or practice of the willful violation of this Act, the United States District Courts may order civil fines of not more than $10,000 and appropriate injunctive relief.

SEC. 7. LIMITATIONS OF REMEDIES.

(a) The remedies provided in section 6 shall be the exclusive remedies under this Act or any other Federal or State law, regarding the use of a seal as described by section 3(a)(2)(C) or labeling of materially altered films.

(b) No remedies under section 6 of this title shall be available with respect to any film which is exempted from the labeling requirements of this Act pursuant to section 4(c).

SEC. 8. NATIONAL FILM PRESERVATION BOARD.

(a) NUMBER AND APPOINTMENT.—(1) The Librarian shall establish in the Library of Congress a National Film Preservation Board to be comprised of thirteen members, selected by the Librarian in accordance with the provisions of this paragraph. Each organization listed in subparagraphs (A) through (M) shall submit a list of not less than 3 qualified candidates to the Librarian. The Librarian shall appoint one member from each such list submitted by the following organizations, and shall designate from that list an alternate who may attend those meetings to which the individual appointed to the Board cannot attend:

(A) the Academy of Motion Picture Arts and Sciences;

(B) the Directors Guild of America;

(C) the Writers Guild of America;

(D) the National Society of Film Critics;

(E) the Society for Cinema Studies;

(F) the American Film Institute;

(G) the Department of Theatre, Film and Television, College of Fine Arts at the University of California, Los Angeles;

(H) the Department of Cinema Studies in the Graduate School of Arts and Science at New York University;

(I) the University Film and Video Association;

(J) the Motion Picture Association of America;

(K) the National Association of Broadcasters;

(L) the Association of Motion Picture and Television Producers; and

(M) the Screen Actors Guild of America.

(2) Before the Librarian selects nominees for such Board, such Librarian shall request that each of the entities listed in paragraph (1) who do not currently have a nominee on such Board nominate three individuals to serve on such Board. No individual may serve on the Board for more than one term and each entity shall be represented a comparable number of times.

(b) CHAIRPERSON.—The Librarian shall appoint one member to serve as Chairperson.

(c) TERM OF OFFICE.—(1) The term of each member of the Board shall be 3 years.

(2) A vacancy in the Board shall be filled in the manner prescribed by the Librarian, except that no entity listed in subsection (a) may have more than one nominee on the Board at any one time. Appointments may be made under this subsection without regard to section 5311(b) of title 5, United States Code. Any member appointed to fill a vacancy before the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term.

(d) QUORUM.—Seven members of the Board shall constitute a quorum but a lesser number may hold hearings.

(e) BASIC PAY.—Members of the Board shall serve without pay. While away from their homes or regular places of business in the performance of services for the Board, members of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as person employed intermittently in Government service are allowed expenses under section 5703 of title 5 of the United States Code.

(f) MEETINGS.—The Board shall meet at least twice each calendar year and the first such meeting shall be within 120 days after the effective date of this Act. Meetings shall be at the call of the chairperson or a majority of its members.

(g) CONFLICT OF INTERESTS.—The Librarian shall establish rules and procedures to address any potential conflict of interest between a member of the Board and responsibilities of the Board.

SEC. 9. STAFF OF BOARD; EXPERTS AND CONSULTANTS.

(a) STAFF.—The Chairperson of the Board may appoint and fix the pay of such personnel as the Chairperson considers appropriate.

(b) APPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—The staff of the Board may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid 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, except that no individual so appointed may receive pay in excess of the annual rate of basic pay payable for GS-16 of the General Schedule.

(c) EXPERTS AND CONSULTANTS.—The Chairperson of the Board may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum rate of basic pay payable for GS-15 of the General Schedule, and in no case may a Board member be paid as an expert or consultant.

SEC. 10. POWERS OF BOARD.

(a) IN GENERAL.—The Board may, for the purpose of carrying out its duties, hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Board considers appropriate. The Board shall review nominations for films submitted to it for inclusion in the National Film Registry and consult with the Librarian with respect to the inclusion in the Registry, and with respect to the powers defined in section 3.

(b) NOMINATION OF FILMS.—The Board shall consider, for inclusion in the National Film Registry, nominations submitted by representatives of the film industry, such as the guilds and societies representing actors, directors, screenwriters, producers, and film critics, film preservation organizations and representatives of academic institutions with film study programs. The Board shall not nominate more than 25 films a year for inclusion in the Registry.

SEC. 11. DEFINITIONS.

(a) DEFINITIONS FOR SECTIONS 1 THROUGH 13.—As used in sections 1 through 13:

(1) The term "Librarian" means the Librarian of Congress.

(2) The term "film" means a feature-length, theatrical motion picture after its first theatrical release.

(3) The term "film package" means the original box, carton or container of any kind in which a videotape or disc is offered for sale or rental.

(4) The term "Board" means the National Film Preservation Board.

(5) The term "material alteration" means to colorize or to make other fundamental post-production changes in a version of a film for marketing purposes but does not include changes made in accordance with customary practices and standards and reasonable requirements of preparing a work for distribution or broadcast.

(6) The term "to colorize" means to add color, by whatever means, to versions of motion pictures originally produced, marketed, or distributed in black and white.

(7) The term "colorization" means the process whereby a film is colorized.

(b) EXCLUSION FROM DEFINITION OF "MATERIAL ALTERATION".—Excluded from the definition of "material alteration" are practices such as the insertion of commercials and public service announcements for television broadcast.

SEC. 12. AUTHORIZATION OF APPROPRIATIONS.

To carry out the purposes of this Act, there are authorized to be appropriated to the Librarian of Congress, such sums as may be necessary to carry out the purposes of this Act, but in no fiscal year shall such sum exceed $250,000.

SEC. 13. EFFECTIVE DATE.

The provisions of this Act shall be effective for three years beginning on the date of enactment of this Act. The provisions of this Act shall not apply to any copy of a film materially altered prior to such effective date if such copy of such film is owned by an individual for his personal use, the inventory of the manufacturer or packager of a videocassette or already distributed to retail or wholesale distributors of videocassettes.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 39 to the aforesaid bill, and concur therein with an amendment as follows:

Strike out the matter stricken by said amendment, and insert:

"None of the funds in this Act may be used to issue a permit for seismic exploration of Big Cypress National Preserve, Florida, until and environmental impact statement has been completed: *Provided,* That such statement shall be completed within two years of the date of enactment of this Act."

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 40 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

"None of the funds provided in this Act shall be available for an appeal to the February 26, 1988, special rate pay approved by the Office of Personnel Management for the U.S. Park Police."

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 42 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

"The Director of the National Park Service shall administer a fellowship program, within available funds, to improve mutual understanding and cooperation between Service employees, and Members and Committees of Congress. The program is dedicated to the memory of Pietro Antonio (Tony) Bevinetto, and Service employees participating in the program shall be known as 'Bevinetto Fellows'."

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 43 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: "up to $500,000 for a 50 percent cost-shared scientific project for test and observation wells near Kohala, Hawaii: *Provided,* That upon enactment of this Act and hereafter, final costs related to the National Petroleum Reserve in Alaska may be paid from available prior year balances in this account, and $451,006,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 45 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum inserted by said amendment, insert: "$35,000 shall be used by the Secretary to enter into a cooperative agreement with the State of Louisiana to carry out or conduct audit activities on any lease or portion of a lease subject only to section 8(g) of the Outer Continental Shelf Lands Act of 1953, as amended (43 U.S.C. 1337(g)): *Provided,* That notwithstanding the provisions of section 201 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1731), sections 202 through 206 of that Act (30 U.S.C 1732-1736) shall apply to any lease or portion of a lease subject to section 8(g) of the Outer Continental Shelf Lands Act: *Provided further,* That for purposes of those provisions and for no other purposes, such lease or portion of a lease shall be regarded as within the coastal state or states entitled to receive revenues from it under section 8(g), and of which not less than $52,302,000"

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 53 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: ": *Provided further,* That the Secretary shall conduct a thorough accounting and reconciliation of the Abandoned Mine Reclamation Fund, under title IV of the Surface Mining Control and Reclamation Act of 1977, for the period from fiscal year 1977 through fiscal year 1988. This accounting and reconciliation shall determine, by State, the source of all contributions to the fund and shall denote all fund disbursements by purpose and fiscal year including letter of credit grants to States.

"Funds authorized as grants to states shall be reconciled according to:

"(1) the Surface Mining Control and Reclamation Act of 1977, including the 50 percent State share; and

"(2) the formula for allocation of the discretionary share as expressed by the Office of Surface Mining Reclamation and Enforcement during each relevant fiscal year under review.

"The findings of the Secretary shall be transmitted to the Committees on Appropriations by May 1, 1989. Such information shall not be used to amend or revise State allocations during fiscal year 1989"

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 59 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: ": *Provided further,* That notwithstanding any other provision of law, the amounts available for assistance to public schools under the Act of April 16, 1934 (48 Stat. 596), as amended (25 U.S.C. 452 et seq.), shall be distributed on the basis of the formula recommended by the Assistant Secretary—Indian Affairs in a letter to the Committees on Appropriations dated June 27, 1988, except that for the fiscal year ending September 30, 1989 the minimum weight factor shall be 1.1 rather than 1.3 and for the fiscal year ending September 30, 1990 the minimum weight factor shall be 1.2 rather than 1.3"

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 63 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum inserted by said amendment, insert: *$79,283,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 86 to the aforesaid bill, and concur therein with an amendment as follows:

Strike out the matter stricken by said amendment, and insert: ": *Provided,* That the National Park Service shall reissue a Notice of Proposed Rulemaking on the mandatory use of seatbelts while traveling on National Park Service roads within 30 days after the date of enactment of this Act"

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 89 to the aforesaid bill, and concur therein with an amendment as follows:

Strike out the matter stricken by said amendment, and insert:

"SEC. 107. None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to finance changing the name of the mountain located 63 degrees, 04 minutes, 15 seconds west, presently named and referred to as Mount McKinley: *Provided,* That no funds made available by this or any other Act shall be expended to exchange lands located within the boundaries of the Lake Mead National Recreation Area in Nevada in township 32 south, range 22 west, Mount Diablo Meridian."

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 92 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, and insert:

"SEC. 113. Notwithstanding any other provision of this Act, nothing in this Act shall be construed to prohibit the approval of permits for the acquisition of geologic and geophysical data in Outer Continental Shelf areas, except that exploratory drilling shall not be permitted by this provision in lands within the Eastern Gulf of Mexico Planning Area which lies south of 26 degrees North latitude and east of 86 degrees West longitude and for areas identified as the Northern California Planning Area and the Georges Bank-North Atlantic Planning Area out to 400 meters."

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 93 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, and insert:

SEC. 114. Notwithstanding any other provision of law, and subject to valid existing rights, the Secretary of the Interior shall transfer to the House Authority, Clark County, Nevada, without consideration, all rights, title, and interest of the United States, in and to the land described as township 21 south, range 60 east, Mount Diablo Meridian, section 24, north half southwest quarter, Clark County, Nevada, for use only as a mobile home park for low income senior citizens, reserving to the United States all minerals under applicable law and such regulations as the Secretary of the Interior may prescribe, and as required by the Act of August 30, 1890 (43 U.S.C. 945), a right-of-way thereon for ditches or canals constructed by the authority of the United States: *Provided,* That if such land ceases to be used as a mobile home park for low income senior citizens, all rights, title, and interest in and to such land shall revert to the United States.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 98 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

SEC. 117. Within currently available funds, the Secretary of the Interior is directed immediately to appoint and compensate an in-

dependent third party factfinder mutually agreed upon by the Secretary and the Governor of Louisiana, to make all appropriate factual findings relating to past drainage on State and Federal leases occurring along the boundary of the State of Louisiana and Federal waters. Such factual findings shall include:

(a) whether drainage of either United States or State hydrocarbons has occurred during the time period starting April 7, 1986 and ending on the date the factfinding proceeding is completed;

(b) the areas of reserviors from which the drainage occurred;

(c) the quantity of recoverable hydrocarbons, determined on a volumetric basis, originally in place within such areas or reservoirs prior to any production therefrom;

(d) the respective precentages of such recoverable hydrocarbons within the Federal and State portions of such areas or reservoirs;

(e) the total accumulated volume of any net drainage from each area or reservior, including the value thereof (together with a description of the method for determining such value) and all production costs incurred during that period;

(f) the net dollar impact to the United States, United States lessees, the State of Louisiana, and the State lessees that has resulted from any such drainage from each area or reservior;

(g) the proper allocation of production from each field from all time periods starting April 7, 1986; and

(h) the proper prospective allocation of production from the fields involved.

Within 180 days of the date of enactment of this Act, the third party factfinder shall submit a written report containing the factual findings to the Secretary, the Governor of Louisiana, and the Congressional Committees of jurisdiction. The Secretary shall then prepare a plan 60 days after receipt of the written report regarding options for the potential redistribution of royalty receipts, if warranted by the findings of this written report.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 103 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

The Secretary is directed to convey by quitclaim deed, without a requirement for reimbursement, all right, title, and interest of the United States in and to all improvements (1) situated on leased land as recorded in Docket 5191, pages 258-260, Maricopa County, Arizona, and (2) situated on leased land as recorded in Docket 4388, pages 452-455 and Docket 4673, pages 147-148, Maricopa County, Arizona.

The Secretary is further directed, concurrently with conveyances under this section, to relinquish, without a requirement for reimbursement, that certain lease dated October 13, 1962, as amended on May 15, 1963, and that certain related Memorandum of Understanding of like date therewith (collectively referred to herein as the "lease agreement"), which instruments cover and pertain to the real property located on the campus of Arizona State University in Tempe, Arizona: Provided, That the United States is hereby released from any and all liability arising from the future use of the facilities or lands affected by this Act: Provided further, That the Forest Service shall continue to occupy the facilities described herein, at no increased expense, until such time as replacement space which is determined to be comparable by the Forest Service is available: Provided further, That the Forest Service may not move from the facilities described herein unless the move is approved in advance by the House and Senate Committees on Appropriations in compliance with the reprogramming procedures contained in House Report 99-714.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 104 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum inserted by said amendment, insert: *$86,668,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 105 to the aforesaid bill, and concur therein with an amendment as follows:

Strike out the matter stricken by said amendment, and insert:

Provided further, That notwithstanding any other provision of law, a grant of $3,600,000 shall be provided to the Washington State Parks and Recreation Commission for construction of the Spokane River Centennial Trail, and a grant of $1,350,000 shall be provided to the County of Kootenai, Idaho, for construction of the Idaho Centennial Trail

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 106 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum inserted by said amendment, insert: *$1,329,488,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 107 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

: Provided, That appropriations in this account remaining unobligated at the end of the fiscal year 1988, both annual and two-year funds, and which would otherwise be returned to the General Fund of the Treasury, shall be merged with and made a part of the fiscal year 1989 National Forest System appropriation, and shall remain available for obligation until September 30, 1990: Provided further, That funds available for forest firefighting and emergency rehabilitation of National Forest System lands are available for liquidation of obligations made in preceding fiscal years

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 114 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum inserted by said amendment, insert: *$63,805,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 116 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

Notwithstanding any other provision of law or order based thereon, if requested by the Secretary of Agriculture, the Secretary of the Interior is authorized and directed to take such actions (including but not limited to the revocation of the Shay Creek withdrawal (Mount Diablo Meridian: T. 10N., R. 19E., Sec. 24 SE¼ NE¼, E½ SE¼, and SW¼ SE¼) under Public Land Order 2301 and the issuance of patents) as may be necessary to consummate the exchange within the Toiyabe National Forest in California of the Shay Creek parcel for private holdings of equal value.

The following may be cited as the "New Hampshire Forest Management Initiatives Act of 1988".

SEC. 1(a). For the protection and management of the timber resources and the scenic, natural, recreation and other resource values associated with certain forest lands in the State of New Hampshire, and in cooperation with State and private entities as provided herein, the Secretary of Agriculture (hereafter "Secretary") is authorized and directed to acquire by purchase, donation and otherwise, lands and interests therein now or formerly owned by Diamond International Corporation in the State of New Hampshire (hereafter "Diamond lands").

(b) The Diamond lands are generally depicted on maps dated July 1988 and entitled, "New Hampshire Forest Initiatives", which maps are on file with the Chief, Forest Service, Washington, D.C. The Secretary may correct technical and clerical errors on any map.

(c) Acquisitions made pursuant to this Act shall be commensurate with appropriated and donated funds and shall be completed by the Secretary notwithstanding any other provision or requirement of law or condition precedent. The Secretary may exclude from acquisition such rights-of-way, easements and other outstanding rights deemed unacceptable to the Secretary, and may also exclude from acquisition any small or isolated parcels which the Secretary deems are not manageable for Federal purposes. It is the intent of Congress that these acquisitions be completed prior to October 15, 1988.

SEC. 2(a). To the extent deemed practical by the Secretary in furtherance of this Act, the Secretary shall cooperate and assist ongoing and future initiatives by State and private organizations (hereafter "cooperating entity(ies)" to acquire the Diamond lands. Cooperating entities include, but are not limited to, the Society for the Protection of New Hampshire Forests, The Nature Conservancy, and the State of New Hampshire or instrumentality thereof.

(b) Any information provided the Secretary by any cooperating entity relating to the study and acquisition of lands shall be exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552).

SEC. 3. Subject to the availability of donated and appropriated funds, if by October 1, 1988, the Secretary or a cooperating entity has not acquired title or a land purchase option or contract to purchase the lands referenced in section 1, less any exclusions, the Secretary is directed to condemn such lands, or portions thereof, commensurate with available funds. Condemnation shall be as soon as possible after October 1, 1988, by a declaration of taking filed in accordance with the Act of February 26, 1931 (40 U.S.C. 258a, as amended). Nothing herein shall preclude filing of a condemnation action at any time if the Secretary deems further negotiations for the acquisition of the Diamond lands to be futile or if the condemnation is for the purpose of clearing title. No Congressional oversight or approval shall be required for the filing of a declaration of taking or any other aspect of the land acquisitions herein authorized, it being the intent of the Congress that the Diamond lands be acquired as soon as practicable.

SEC. 4. All lands acquired by the Secretary under authority of or pursuant to this Act

shall be administered under the Weeks Act of March 1, 1911 (36 Stat. 961, as amended). For lands acquired by the United States located outside of and not contiguous to national forest boundaries existing as of the date of this Act, the primary management emphasis shall be the sustained yield of forest products consistent with the traditional uses, including public access, and conservation of other resource values. Within two years from the date lands are acquired pursuant to this Act, the Secretary shall report to Congress with recommendations for the permanent administration and disposition of such Federally-owned lands.

SEC. 5. In furtherance of the public purposes associated with the present and future protection and management of the timber, scenic, natural, recreation and other resources of forest lands in New Hampshire, and for other similar purposes as may be authorized by Congress, the Secretary may enter into written cooperative agreements with States and their political subdivisions, and private organizations, for the study, acquisition, management and administration of forest lands. Such agreements may include provisions for limited financial assistance for such purposes.

SEC. 6. Of the amount provided herein, $5,250,000 shall be available from the Land and Water Conservation Fund, to remain available until expended, for the acquisition of lands and interests therein, and associated administrative costs.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 120 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

, and for sales preparation of timber sales to replace sales lost to fire or other causes, and sales preparation activities to replace sales inventory on the shelf for any national forest to a level sufficient to maintain new sales availability equal to a rolling five-year average of the total sales offerings, and for design, engineering, and supervision of construction of roads lost to fire or other causes associated with the timber sales programs described above

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 122 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

: Provided further, That moneys received from the timber salvage sales program in fiscal year 1989 shall be considered as money received for purposes of computing and distributing 25 per centum payments to local governments under 16 U.S.C. 500, as amended

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 127 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

Notwithstanding any other provision of law, the Secretary of the Treasury is directed to make available to the Secretary of Agriculture, to remain available until expended, all National Forest Fund timber receipts received by the Treasury during fiscal year 1988 from the harvesting of National Forest Timber in excess of $791,000,000, the 1988 National Forest Fund timber receipts contained in the President's Budget proposal for fiscal year 1989: Provided, That this estimate of 1988 receipts shall not be adjusted for the purposes of this section: Provided further, That such funds shall be made available during fiscal year 1989, and shall be in addition to any funds appropriated in this Act: Provided further, That this transaction will not affect, diminish, or otherwise alter the payments to be made in accordance with the provisions of the Act of May 23, 1908, as amended (16 U.S.C. 500) or the Act of July 10, 1930 (16 U.S.C. 577g): Provided further, That the funds associated with this section shall be scored in a manner consistent with the President's request for fiscal year 1989: Provided further, That funds made available to the Secretary of Agriculture pursuant to this section shall be used for the necessary expenses, including support costs of National Forest System programs as follows: 6 per centum for National Forest trail maintenance; 4 per centum for National Forest Trail construction; 20 per centum for wildlife and fish habitat management; 20 per centum for soil, water, and air management; 5 per centum for cultural resource management; 5 per centum for wilderness management; 10 per centum for reforestation; and 30 per centum for timber sales administration and management, including all timber support costs, for advanced preparation work for fiscal year 1990 and fiscal year 1991 timber sale offerings: Provided further, That not later than 30 days after the submission of the President's fiscal year 1990 budget, the Chief of the Forest Service shall provide a report to the House and Senate Committees on Appropriations on the final amount and distribution of funds made available under this section and shall include an assessment of National Forest resource outputs to be produced in fiscal year 1989, fiscal year 1990, and subsequent years, using funds made available under this section, and a comparison of the outputs achieved in fiscal year 1989 and proposed for fiscal year 1990, with the output levels for the program areas listed described in the Forest Service resource management plans in effect at the time of the report required by this section.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 130 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

Of the funds available to the Forest Service, $1,500 is available to the Chief of the Forest Service for official reception and representation expenses.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 131 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

For necessary expenses of, and associated with, Clean Coal Technology demonstrations pursuant to 42 U.S.C. 5901 et seq., $575,000,000 shall be made available on October 1, 1989, and shall remain available until expended: Provided, That projects selected pursuant to a general request for proposals issued pursuant to this appropriation shall demonstrate technologies capable of retrofitting or repowering existing facilities and shall be subject to all provisos contained under this head in Public Laws 99-190 and 100-202 as amended by this Act.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 132 to the aforesaid bill, and concur therein with an amendment as follows:

Strike out the matter stricken by said amendment, and insert:

The first paragraph under this head in Public Law 100-202 is amended by striking "and $525,000,000 are appropriated for the fiscal year beginning October 1, 1988" and inserting "$190,000,000 are appropriated for the fiscal year beginning October 1, 1988, and shall remain available until expended, $135,000,000 are appropriated for the fiscal year beginning October 1, 1989, and shall remain available until expended, and $200,000,000 are appropriated for the fiscal year beginning October 1, 1990": Provided, That outlays in fiscal year 1989 resulting from the use of funds appropriated under this head in Public Law 100-202, as amended by this Act, may not exceed $15,500,000: Provided further, That these actions are taken pursuant to section 202(b)(1) of Public Law 100-119 (2 U.S.C. 909).

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 136 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum inserted by said amendment, insert: *$380,595,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 137 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the second sum named in said amendment, insert: *$4,500,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 140 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum inserted by said amendment, insert: *$372,502,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 142 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum named in said amendment, insert: *$3,000,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 149 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

$62,856,000 of which $1,000,000 for computer operations shall remain available until September 30, 1990

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 150 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum inserted by said amendment, insert: *$1,020,106,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 153 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

: Provided further, That of funds appropriated in the fiscal year 1987 continuing resolution for the construction of detoxification facilities for Indian youth, not to exceed $600,000 shall be made available for planning and design of a youth alcohol and substance abuse treatment facility by the Inland Tribal Consortium, to be located in

the State of Washington: Provided further, That the Secretary of Health and Human Services may accept ownership of the buildings offered at no cost by the Gila River Indian Tribe for use solely as the Phoenix Area Regional Youth Treatment Center for Alcohol and Substance Abuse, and may use funds appropriated to the Indian Health Service in Public Law 99-591, to renovate the buildings for that purpose

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 156 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

, initially filed on or after December 22, 1987, whether or not such person is an Indian or Alaska Native or is served on a fee basis or under other circumstances as permitted by Federal law or regulations

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 157 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

and is further amended by adding after the word "agreement" and before the period the words ": Provided, That such employees shall be deemed to be acting within the scope of their employment in carrying out such contract or agreement when they are required, by reason of such employment, to perform medical, surgical, dental or related functions at a facility other than the facility operated pursuant to such contract or agreement, but only if such employees are not compensated for the performance of such functions by a person or entity other than such Indian tribe, tribal organization or Indian contractor"

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 165 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum inserted by said amendment, insert:

$3,094,000, for payment to the Institute of American Indian and Alaska Native Culture and Arts Development to carry out the provisions of Public Law 99-498, as amended (20 U.S.C. 56, Part A)

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 167 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum inserted by said amendment, insert: *$211,240,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 169 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum inserted by said amendment, insert:

$37,981,000, including $2,370,000 for the special exhibition program

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 172 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert;

PAYMENT TO ENDOWMENT CHALLENGE FUND

For payment to the Endowment Challenge Fund for the Woodrow Wilson International Center for Scholars, $300,000, to remain available until September 30, 1990: Provided, That such sums shall be transferred only to the extent matched on a three-to-one basis by private funds.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 173 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum inserted by said amendment, insert: *$141,890,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 191 to the aforesaid bill, and concur therein with an amendment as follows:

Strike out the matter stricken by said amendment, and insert:

SEC. 317. None of the funds in this Act may be used to plan, prepare, or offer for sale timber from trees classified as giant sequoia (sequoiadendron giganteum) which are located on National Forest System or Bureau of Land Management lands until an environmental assessment has been completed and the giant sequoia management implementation plan is approved. In any event, timber harvest within the identified groves only will be done to enhance and perpetuate giant sequoia. There will be no harvesting of giant sequoia specimen trees. Removal of hazard, insect, disease and fire killed giant sequoia other than specimen trees is permitted.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 193 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the section number named in said amendment, insert: *SEC. 318.*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 195 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

SEC. 319. Nothwithstanding any other provision of law, hereafter for the purposes of section 208 of title 18, United States Code, "particular matter", as applied to employees of the Department of the Interior and then Indian Health Service, shall mean "particular matter involving specific parties".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 196 to the aforesaid bill, and concur therein an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

SEC. 320. Notwithstanding any other provision of law, the Final Environmental Impact Statement issued by the USDA Forest Service concerning the Silver Complex Fire Recovery Project on the Siskiyou National Forest and the Record of Decision accompanying the Environmental Impact Statement shall not be subject to judicial review, and shall be subject only to one level of administrative appeal. Existing administrative appeals and appellant's Statement of Reasons shall be immediately transferred to the Chief of the Forest Service for decision. The Chief must render his decision not later than 30 days following enactment of this Act.

Any decision of a responsible Forest Service official to undertake a specific activity, including but not limited to the preparation, advertisement and sale of timber and the preparation, advertisement and contracting for the construction of related roads within the Silver Complex Fire Recovery Area, as designated on maps dated June 1988, and entitled "Silver Complex Fire Recovery Area", which maps are on file with the Chief, Forest Service, Washington, D.C., shall not be subject to administrative appeal or judicial review.

No funds made available to the Forest Service under this or any other Act may be expended to extend the Bald Mountain Road on the Siskiyou National Forest beyond S.W. ¼, N.E. ¼, of section 21, T. 36 S., R. 10 W., W.M.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 197 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

SEC. 321. To ensure adequate availability of timber from the Mapleton Ranger District of the Siuslaw National Forest until the final forest land and resource management plan pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, as amended (16 U.S.C. 1604) (is in effect, and not withstanding the injunction issued pursuant to the judgment in National Wildlife Federation, et al. v. United States Forest Service, et al. (592 F. Supp. 931 (D. Ore. 1984) as modified by 801 F.2d 360 (9th Cir. 1986)), the Secretary of Agriculture is authorized to offer up to 90 million board feet of net merchantable timber in fiscal year 1989 in the Mapleton Ranger District of the Siuslaw National Forest pursuant to the requirements of this section and until completion of the final forest plan. For purposes only of selling timber pursuant to this section (and activities related thereto), the Secretary shall utilize the Siuslaw National Forest draft land and resource management plan and accompanying draft environmental impact statement dated October 1, 1986 as if they were the final forest plan and environmental impact statement; Provided, That such statement, timber sales, roads and other associated activities, and their accompanying environmental assessments, prepared and offered pursuant to and consistent with such draft plan, for purposes only of this section, shall be treated as satisfying all requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, as amended (16 U.S.C. 1600 et seq.) and shall not be subject to administrative or judicial review for compliance with such Acts: Provided further, That nothing in this section shall affect any existing right of administrative or judicial review of such timber sales for compliance with other applicable laws: Provided further, That this provision does not in any manner represent a judgment upon the legal adequacy of the Siuslaw National Forest final plan and environmental impact statement.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 199 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

SEC. 322. Unobligated balances remaining from the Baca Geothermal Demonstration Powerplant Project may be used to clean out the Hulin Well in the State of Louisiana.

Resolved, That the House recede from its disagreement to the amendment of the

Senate numbered 202 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the section number named in said amendment, insert: *SEC. 323.*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 203 to the aforesaid bill, and concur therein with an amendment as follows:

SEC. 324. The Secretary of the Interior shall not recover or recoup any portion of late payment interest paid to the United States which is paid or distributed to any State or other recipient of Federal mineral lease revenues prior to September 30, 1989, except for amounts paid in connection with royalties or other revenues subsequently determined to be not owing to the United States.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the Senate concur en bloc with the amendments of the House to the amendments of the Senate.

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

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the amendments in disagreement were agreed to.

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

The motion to lay on the table was agreed to.

Mr. JOHNSTON. Mr. President, I thank all Senators and especially my colleague from Idaho and the distinguished Senator from Florida for letting me break in.

TEXTILE AND APPAREL TRADE ACT

The Senate continued with consideration of the bill.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

AMENDMENT NO. 2885

Mr. HOLLINGS. Mr. President, right to the point, there is a good deal of appreciation and understanding on the part of this Senator for my distinguished colleague from Florida. I am not late to the nay admitting the CBI—and I agree in almost every respect with what he said except for the fact that it is very misleading when he says carry out the commitment of 1983 to the CBI.

The truth of the matter is that is why I am not late to the nay. We had this particular debate back in 1982 and 1983. It was after Grenada that the President recommended his Caribbean Basin Initiative. We were talking about some policy. Every President comes with some new policy, whether it is Operation Pan America, the Alliance for Progress, and I can go right down the line, and now there is one that is called the Caribbean Basin Initiative. It is something that nettles this particular Senator that we really have not followed through with.

I know the intent of the distinguished colleague from Florida, Senator GRAHAM, is to follow through. But we debated that CBI measure and specifically included two items—textiles and shoes—as import sensitive. We knew what was impending and, unfortunately, it has happened.

Even with the restrictive nature of 807 category imports, it is now being abused in a terrible fashion. I will go into that in detail, but the point to be made and understood by our colleagues is that was not the commitment of CBI. I am committed to the CBI. I am committed to the 807 program, but we said, "Alright, let's give a little and see what happens."

On the CBI Program, I want to add that I have constantly tried to solve that Western Hemisphere problem. In fact, it nettles me that we can solve the problems of the People's Republic of China right now. We are over there like gangbusters. I wish I could get the investors down in the Dominican Republic, in Haiti, in Tobago, and all these other countries.

What we have here now is going out to the bigger, fatter, richer markets. Business is business. There is no more distinguished business leader than the Presiding Officer. Business is competitive. We have heard lectures about psychology and they ought to think they can a little while ago and other lectures—economically, they ought to be happy for unemployment and more political baloney than I have ever heard in this textile debate.

But they move with markets. People talk the different languages. You get interpreters. Money talks.

What really has happened is that they have boomed down there, but not to the benefit of the CBI along with the United States. The CBI Program envisioned under 807—because we had that part not on the CBI but under the 807 program that preceded CBI.

It was decided that we would use textile cloth from New Jersey and South Carolina. We would send it down there for the finished goods and then the tariff would only be on the enhanced value as it came back in.

But what has really happened is there was a little phrase—these business fellows know how to put it past us politicians. I did not realize it. But the cutting, they said, of other cloth could come in and be cut and sent out. We found out that is less than 5 percent. So the majority now is not American fabric. It is Asian fabric, and it is less than 5 percent.

So all they do is take the Asian fabric, bring it through for less than 5 percent enhanced value right into the United States to qualify and then bring it in and less than one-third is the wage rate down there on the enhanced value.

As we well know, they pay 35 cents an hour in Haiti, and I could go down a long list. At 35 cents an hour, you can see it makes for a terrific bargain for the Asian entrepreneurs, and they have the money in Japan. And so now it is booming.

Let me dwell on that particular point. The Dominican Republic, 175.2 to 379.9 million, a growth of 117 percent in that 3-year period.

Jamaica, up to 1987, which are the latest figures I could find, was an increase of 595 percent.

Costa Rica, 129 percent; Haiti, 60 percent; Honduras, 89 percent; Guatemala, 402 percent. And, in fact, they advertise. We had our own Government agencies paying South Carolina taxpayer money to tell everybody to go down there. We did not want that to happen, just locate down there. Coopers & Lybrand advertises, and this is a quote, "Labor rates ranging from 35 cents to a dollar an hour." Coopers & Lybrand were taking all their particular accounts and telling them to go ahead and move down there. And we had already started a hold under the 807 program. Now, under the amendment of the Senator from Florida, which I am required, of course, to move to table, which I regret having to do, it will just open up the darnedest shell game you have ever seen for Asians and the Far East. There is no question about it. They are coming in there with all these different categories, the 807 categories, over 100 different kinds and descriptions. I ask unanimous consent that we include that in the RECORD at this particular time.

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

	Category, and description	Conversion factor	Unit
	Made-Up and Miscellaneous Textiles		
360	Pillowcases	1.1	No
361	Sheets	6.2	No.
362	Bedspreads and quilts	6.9	No.
363	Terry and other pile towels	0.5	No.
369	Cotton manufactures nspf	4.6	Lb.
464	Blankets	1.3	Lb.
465	Floor coverings	0.1	Sft.
468	Wool manufactures nspf	2.0	Lb.
665	Floor coverings	0.1	Sft.
666	Other furnishings	7.8	Lb.
669	Man-made fiber manufactures, nspf.	7.8	Lb.
670	Flatgoods, handbags, and luggage.	2.0	Lb.
863	Towels	0.5	No.
870	Luggage	2.0	Lb.
871	Handbags and Flatgoods	2.0	Lb.
899	Other made-ups	6.0	Lb.
	Apparel		
239	Infants' wear, cotton and man-made.	3.4	Lb.
330	Handkerchiefs	1.7	Doz.
331	Gloves and mittens	3.5	Dpr.
332	Hosiery	4.6	Dpr.
333	M&B suit-type coats	36.2	Doz.
334	Other M&B coats	41.3	Doz.
335	W&G coats	41.3	Doz.
336	Dresses	45.3	Doz.
337	Playsuits, sunsuits, etc.	25.0	Doz.
338	M&B knit shirts	7.2	Doz.
339	W&G knit shirts and blouses	7.2	Doz.
340	M&B shirts, not knit	24.0	Doz.
341	W&G shirts and blouses, not knit.	14.5	Doz.
342	Skirts	17.8	Doz.
345	Sweaters	36.8	Doz.

	Category, and description	Conversion factor	Unit
347	M&B trousers, slacks and shorts.	17.8	Doz.
348	W&G trousers, slacks and shorts.	17.8	Doz.
349	Brassieres and body supporting garments.	4.8	Doz.
350	Dressing gowns, etc.	51.0	Doz.
351	Nightwear and pajamas	52.0	Doz.
352	Underwear	11.0	Doz.
353	M&B down-filled coats	41.3	Doz.
354	W&G down-filled coats	41.3	Doz.
355	M&B rubber/plastic coats	41.3	Doz.
356	WGI rubber/plastic coats	41.3	Doz.
359	Other cotton apparel	4.6	Lb.
371	Other apparel subject man-made fiber restraint.	17.8	Doz.
431	Gloves and mittens	2.1	Dpr.
432	Hosiery	2.8	Dpr.
433	M&B suit-type coats	36.0	Doz.
434	Other M&B coats	54.0	Doz.
435	W&G coats	54.0	Doz.
436	Dresses	49.2	Doz.
438	Knit shirts and blouses	15.0	Doz.
440	Shirts and blouses, not knit	24.0	Doz.
442	Skirts	18.0	Doz.
443	M&B suits	4.5	No.
444	W&G suits	4.5	No.
445	M&B sweaters	14.88	Doz.
446	W&G sweaters	14.88	Doz.
447	M&B trousers, slacks, and shorts.	18.0	Doz.
448	W&G trousers, slacks, and shorts.	18.0	Doz.
455	Rubber/plastic coats	54.0	Doz.
459	Other wool apparel	2.0	Lb.
630	Handkerchiefs	1.7	Doz.
631	Gloves and mittens	3.5	Dpr.
632	Hosiery	4.6	Dpr.
633	M&B suit-type coats	36.2	Doz.
634	Other M&B coats	41.3	Doz.
635	W&G coats	41.3	Doz.
636	Dresses	45.3	Doz.
637	Playsuits, sunsuits, etc.	21.3	Doz.
638	M&B knit shirts	18.0	Doz.
639	W&G knit shirts and blouses	15.0	Doz.
640	M&B shirts, not knit	24.0	Doz.
641	W&G shirts and blouses, not knit.	14.5	Doz.
642	Skirts	17.8	Doz.
643	M&B suits	4.5	No.
644	W&G suits	4.5	No.
645	M&B sweaters	36.8	Doz.
646	W&G sweaters	36.8	Doz.
647	M&B trousers, slacks and shorts.	17.8	Doz.
648	W&G trousers, slacks and shorts.	17.8	Doz.
649	Brassieres and body supporting garments.	4.8	Doz.
650	Dressing gowns, etc.	51.0	Doz.
651	Nightwear and pajamas	52.0	Doz.
652	Underwear	16.0	Doz.
653	M&B down-filled coats	41.3	Doz.
654	W&G down-filled coats	41.3	Doz.
655	M&B rubber/plastic coats	41.3	Doz.
656	WGI rubber/plastic coats	41.3	Doz.
659	Other man-made fiber apparel	7.8	Lb.
671	Other apparel subject to man-made fiber restraints.	17.8	Doz.
831	Gloves and mittens	3.5	Dpr.
832	Hosiery	4.6	Dpr.
833	M&B suit-type coats	36.2	Doz.
834	Other M&B coats and jackets	41.3	Doz.
835	W&G coats and jackets	41.3	Doz.
836	Dresses	45.3	Doz.
838	Knit shirts, blouses and tops	14.0	Doz.
840	Not knit shirts and blouses	20.0	Doz.
842	Skirts	17.8	Doz.
843	M&B suits	4.5	No.
844	W&G suits	4.5	No.
845	Sweaters of vegetable fibers	36.8	Doz.
846	Sweaters of silk	36.8	Doz.
847	Trousers, slacks, and shorts	17.8	Doz.
850	Robes and dressing gowns	51.0	Doz.
851	Nightwear and pajamas	52.0	Doz.
852	Underwear	13.5	Doz.
858	Neckwear	3.6	Lb.
859	Other apparel	6.8	Lb.

Mr. HOLLINGS. There are over 100, and some categories not including, of course, what they call basket amendments. Those include even further descriptions, so I would imagine it would allow over 150 different categories. Our friend from Texas has been referring all day in this debate to 1,500 categories of regulations. That is the competitive nature of textiles and apparel. Heavens above, if we have learned one thing, it is that if you pass a law or policy, they can change the category and go end around and do this and to that; they are so competitive, so cost conscious, so readily able to take advantage of any kind of break, and you do not blame business people. That is the free economy that we all hope for.

I heard in the debate a little bit earlier—I did not want to use up the time—that we have a lot of capital. There is a 7-to-1 advantage in capital in Japan, and they are looking to put money in everywhere. They bought up Los Angeles. They bought up Hawaii. They have bought the hotels and buildings in New York. They are buying up everything that you can think of. And of course if they can come into a place like Jamaica—I can show you one report where they come in just on the shirt factories down there where they advertise in their annual report that they have 300,000 dozen "and we are going for more."

The Asian development group, they come in there and they start with Asian money. They do not pay any pensions. I say to the Senator from Florida. They do not pay any unemployment insurance. There is no protection or anything for the workers. In fact, there are those who will argue that it is a momentary thing for the workers but not any real help. And when they get through, they will pick up and leave and that will be the end of that as they move from one of the 31 Caribbean nations, one to the other, taking advantage as they say of the proximity to the market and further inundate us.

Now, let us get back to the point. I do have that Afasia annual report, and it is very interesting because they report the Afasia group of companies. They have different ones down in Jamaica. They moved momentarily into Mauritius. For example, the Mauritian Woolen & Worsted Mills, Ltd.; the Alliance Knitters, Ltd.; Intarsia Knits; Maurice Knitters, Ltd.; United Knitters, Ltd.; Vogue Knitters, Ltd. We found in our textile studies that Mauritius exports more than they could possibly produce. And they are using many of those things to pass through in transshipments. We have asked our Commerce Department to look into that because we can tell exactly what is happening. But the Afasia group has 300,000 dozen shirts coming through the Jamaica plant on the page describing Jamaica, which you cannot, of course, duplicate in the RECORD. But under Jamaica—they call it East Oceans Textiles, Ltd.—the output is 300,000 dozen annually, and that is an increase from veritably nothing overnight and it will continue in all these other places.

Getting back to our CBI concern, I have always thought that we could develop the strength, the economies and the freedom, the security of the Western Hemisphere by developing a middle class. I have traveled some 30 years, trying to solicit business down in Latin America. It is not a new area to this particular Senator. He has the same zeal that the Senator from Florida has in concern over that area, because my Port of Charleston is 300 miles closer, Mr. President, to Caracas, Venezuela, than to New Orleans. As a result, we had trade missions that I headed up back 30 years ago traveling to these countries, and we built up quite a bit of port trade and quite a bit of development for the different companies expanding into the countries of Latin America.

But in 1980 Europe had a $5 billion deficit in the balance of trade, and we had a $4.7 billion deficit. The United States and Europe were about even. The Europeans globalized their quotas and enforced the law, and they have dropped from $5 billion down to a $1 billion deficit in the balance of textile and apparel trade. But in this allegedly most protected industry, we have gone from a $4.7 billion textile trade deficit in 1980 to $24.8 billion, almost $25 billion last year. We are five times the 1980 amount. That accounts for a $25 billion deficit in the balance of trade. And seeing that and understanding there is a better way, New Zealand and Australia are for globalization.

Then if you please, Mr. President, I found that the President of the United States was for globalization because he said in a letter to then Congressman Campbell, of South Carolina, who is now Governor of South Carolina, back in 1980, when he said he was going to relate the growth of imports to the American market, "We should explore the possibility of setting global quotas or guidelines."

Now, this Senator on the floor back 10 years ago resisted globalization on the premise that what we ought to do is enforce our antidumping laws and our subsidy laws, and we would not put the textile bill on the Carson City silver dollar. And I see the debate going on now with the Senator from Connecticut, Senator Ribicoff, who was recommending globalization, and Senator Russell Long, the chairman of the Finance Committee, who said he was tending in that direction. I have to now agree that they had vision and foresight. Senator Ribicoff and Senator Long, of Louisiana, were correct. And then it was picked up by President Reagan in the campaign, and he called for globalization.

And now that we have the bill on the floor for globalization, some want to bust a hole in it and permit a shell game run-around that you will never be able to administer, by exempting the CBI countries. Absolutely we cannot administer 807 now. They are going around and we are having a

very, very difficult time. Eighty-five percent 2 years ago represented the American fabric. It has dropped to less than 80 percent now. And it is a recent report. That is as of 1987. In 1988, they are now reporting that 50 percent of the CBI 807 is Asiatic fabric.

So it has just zoomed overnight. We have been pleading and corresponding with the administration, with the Special Trade Representative, the Commerce Department, the Customs boys. We would like to try to continue with section 807. This Senator put in a bill to repeal that if they do not particularly administer it, but Heavens above, let us not just up and say the CBI under the Senator from Florida's amendment is exempt so we can go completely through it.

I again emphasize the similar sentiment that he has. I do not understand where the Senator from Florida argues that this would have unintended results. I have just talked about unintended results under 807. We know it. His plea that it could have unintended results would be that countries are poor and other countries are rich, and thereby the rich countries would be favored.

We did not say rich countries. We said countries that favored American agriculture, and as the distinguished Senator from Florida said, and I tried to emphasize, Tobago, Haiti, and all had $45 per capita; the Dominican Republic, $24 per capita. I would agree with those figures and agree with that sentiment, and come with an absolute opposite conclusion: namely, they should be favored rather than having the unintended results.

They are buying our agricultural products. It is our hemisphere. It is close to Florida, South Carolina, and the United States. We have a vital interest of defending it. We are committed to the defense of the Caribbean.

This bill not only has the discretion, it has the guidance, given the administration, be it Republican or Democrat, to favor those CBI countries who purchase our agricultural products. That is what I want to do. I want to favor them.

I was in Indonesia recently and the Minister of Commerce was loaded for bear. They had a demonstration all arranged and everything against me. I think, after our conference, they called it off. I asked the head of the textile industry if they thought they might still have a protest against me. I said, "Please put it on quick, because I am going to have to leave to go back home, but if you can put on that demonstration I can get reelected. Let me get some cameramen. I do not have any with me, but I would sure like to have that big, old demonstration against me and my stand on textiles." But I said, before you do, do not cut off your nose to spite your face. I said Indonesia is an agricultural purchasing country from the United States. Indonesia is a growing country with a capitalist system. It is a government-controlled capitalist system, I hasten to add. It is government controlled. But they do have a constitution, they have freedom of religion, and they have one House of Parliament.

I called and talked to the Speaker and that Speaker of the Parliament is going to be talking at the invitation of our Speaker of the House of Representatives, Speaker WRIGHT. He is going to be visiting us this month, later on. I hope to bring him and at least introduce him to friends over here.

I said, "Wait a minute. We are terribly interested in the security of the Far East. We have a Philippine problem right now in Subic Bay and Clark Field. We have a problem up in Thailand. They are a front-line country. They have 400,000 refugees. They are holding the line for us with respect to Laos and the Vietnamese in there; the Khmer Rouge down in Cambodia. And we want to favor those countries that are capitalistic in going the way of freedom, building up their economies, and bringing a decent standard of living to their people."

I congratulated Suharto. I visited his home over 15 years ago. But to the Minister of Commerce I said, "If we go to war here, I do not think the People's Republic of China is going to be on my side. I don't think they are in any treaty, as you are." I said, "I think we can count on Indonesia, but we are not going to count on the People's Republic. I can tell you, any administration worth its salt should be favoring you."

I do not think if we are confronted in any fashion in our security that we are going to find a Hong Kong army and a Hong Kong navy. In fact, it is just a shipping dock for the People's Republic, and a bunch of fast-dealing entrepreneurs that move the world around. There is Canadian money, British money, American money, there is Dutch money. It is a big, big Ponzi game when they call it the country of Hong Kong. It is absolutely ridiculous. But I would like to take everything from Hong Kong and give it to the CBI. Let's offer such a bill. The Senator from Florida and I will cosponsor it. That is what we want to do: to help the CBI. Sober up this crowd around here who are being taken to the cleaners by the competitive businessman and we do not have enough sense as politicians to understand the competitiveness of business. I could go right on down the list.

I said why make Japan richer? They are richer than me, and I am having to pay for their defense. That is stupid enough now. I tell you right now while we have the time, if you want to know and want to marry two problems, let us marry that burden-sharing problem in Subic Bay and Clark Field and not be held up by the Philippines at this particular hour—billions of dollars they want when we gave them their freedom. We fought for it, gave it back to them, and now they want to hold us up.

Just move Subic and Clark out to Okinawa and say, you rich Japanese, I want you to build a base, own it. Now we are beginning to talk sense. We cannot let Japan in defense have an air force. We cannot let them have nuclear. We do not want them to have a large standing army. What do we want them to do? Let them buy up all of those expensive ships and patrol the Pacific from Okinawa down to the Antarctic. We have given them the Aegis carrier. We just had that with Senator BRADLEY's amendment. Let them have the sophisticated ships, bases, and put it there in Okinawa. We do not even need a treaty. If they do not like us and tell us to leave, we will leave.

You and I cannot afford the defense of the world. The new administration is not talking about it. They are talking about where you are forced to take the pledge of allegiance or you are going to have a gentle and kindly government. Man, come on. I hope this whole crowd rather than playing their pollstered brand of politics would get off of it and talk some of the issues that really confront us.

This textile bill locks in half the U.S. textile market to imports. Who ever heard of putting in legislation saying we are going to give half the business to people outside the country? I remember the day when if you put in a bill like that, 15 or 20 years ago, you would get run out of Congress. Now we do it in desperation and say we guarantee markets. To whom? To the rich countries.

We do not exempt Japan, Korea, Taiwan, Hong Kong—these big suppliers. We guarantee them a majority of the market, and they call it protectionism. It is protecting them, the importers, not the United States. We are being blamed for protectionism. Then we guarantee them the growth in domestic consumption, and we guarantee to the President complete discretion. He can take quotas away from France or Japan and give them to Trinidad, under this bill. It would be up to his discretion, working through the Secretary of Commerce, to administer it; and under his administration, he can do exactly what the Senator from Florida wants to do and what the Senator from South Carolina wants to do.

I want to build it down there. There is no use making the rich richer and building up the Marxist government in Russia. Here we would take away the quota we now have permitting the Soviets to dump on my home town dock, we could reallocate it to CBI nations.

We have to maintain this fundamental industry for the American economy. It is necessary for our national security. My senior colleague has put that in the RECORD, and I reaffirm it. We found that back 25 years ago and more, in 1961. President Kennedy held hearings and made the determination that textiles are essential to national security.

Under the amendment of the Senator from Florida, we would build a loophole big enough to drive vast new Asian trade. We cannot afford that.

I am glad we are making this record this afternoon. I say to the Senator from Florida that we would like it to go down there because they are buying our agricultural products, they are important to our security, and we are committed to their security, economically and militarily.

I yield the floor.

The PRESIDING OFFICER (Mr. FOWLER). The Senator from Florida.

Mr. GRAHAM. Mr. President, I appreciate the comments that have been made by the distinguished Senator from South Carolina, a very articulate and able adversary in any circumstance.

I recognize his long and genuine concern about hemispheric relations and the sincerity of his statements of interest in seeing how the United States and our neighbors in this hemisphere can build a stronger, long-term relationship. We disagree as to the opportunity to advance that cause today.

Mr. President, I make these few comments in closing, prior to the Senator from South Carolina offering a motion to table, as he has indicated.

The basic legislation that we are considering here today stands for the principle of increased Government participation in our economic life. That is a principle which concerns me, because I come from an economic philosophy which is premised on maximizing the ability of individuals to make judgments, maximizing the role of the marketplace in deciding where to allocate resource and capital, and to use Government only sparingly where it is necessary, in order to achieve order in that marketplace, and to redress some clearly seen social malady.

I recognize, however, that as we move into an increasingly international economic system, we are going to be calling upon Government to be involved in some different or some newly applied old patterns, because we are dealing with international economics, which means, essentially, interpolitical economics. Therefore, whatever we may feel about the ultimate wisdom of this bill that is before us and that we are debating, it is clearly appropriate in our current period of economic development.

The comments that have been made by the Senator from South Carolina raise some caution. The Senator from South Carolina has made a statement—I am not there to dispute it, but I am also not here to provide evidence to support it—that the administration is doing an inadequate job in enforcing the 807 Program. I have no evidence that that is the fact.

I have anecdotal experience which indicates that the 807 Program has been a very mutually beneficial one, which has allowed the protective capacity of the American textile industry and the desire of unskilled persons, now hoping to be better skilled persons, in the Caribbean and Central America to then use that American-produced fabric to produce apparel which will be sold to and worn by Americans. That has been a mutually beneficial relationship. If the circumstances is as the Senator from South Carolina states, I think it raises an appropriate cautionary flag on the general issue of involving the Government in excessive detail in our economic life.

Mr. President, I should like to speak specifically on another point that the Senator from South Carolina made, and that has to do with the agricultural provision.

As I stated in my opening remarks, the objectives of this are understandable and laudatory. The mechanics, I think, are subject to some scrutiny and legitimate concern for those who have a special interest in the relatively poor but high agricultural importing countries in the Caribbean and Central America.

Let me state the structure of this part of the bill as I see it, and if the Senator from South Carolina has further discussion or amplification of how he believes this section of the bill will function I think it would be constructive if he would add that.

I might say, collaterally, that while there is a committee report from the House on many of the provisions contained in this bill because this bill was heard by the House Ways and Means Committee and that committee submitted a report to the House, there was no committee report in the Senate because there was no committee consideration of this bill. Since there was no agricultural provision in the House bill we have no clear record of what was intended in this portion of the Senate bill.

But let me state what a reading would appear to give as its goal and as its implementation. The goal would seem to clearly be to encourage increased purchases of quantities of U.S. agriculture by those countries which have an interest in exporting to the United States their textile products.

The means of achieving that objective is to first provide that the Secretary of Commerce shall be given the authority to prescribe such regulations as may be necessary or appropriate for the efficient and fair administration of the provisions of this act.

The legislation goes on to say that those regulations may be prescribed only if such regulations ensure that, that is to say, that a prerequisite to adopting regulations by the Secretary is that they ensure that an amount of the limitation imposed by this section on the aggregate quantity of textile and textile products, et cetera, is allocated to such products of each country to which the total quantity of U.S. agricultural products exported on commercial terms during the calendar year preceding the applicable year exceeds the total quantity of U.S. agricultural products exported on commercial terms to such country during the agricultural year before the calendar year preceding the applicable year.

I believe that what that language says is that if you imported more U.S. agricultural products by quantity on commercial terms in year two than you did in year one that the rules for the administration of these textile quotas are required to take that into account in allocating that quantity on a country-by-country basis. If that is what appears to be the goal, the strategy for accomplishing the objective, I submit that my concern continues to be that it is going to have an adverse effect on these some two dozen countries which have two common characteristics. It is poverty. Most of these countries have a per capita income of less than $1,500. And, second, they already are importing on a per capita basis substantial amounts of American agricultural products, amounts that rival or exceed much wealthier countries in the Pacific and in Europe.

The consequence is that their margin for increased agricultural purchases from the United States is thus restricted. They already are big customers. They are poor. How much more are they going to be expected to do? And yet under the structure of this provision, it does not help you any that you are a good customer yesterday. You only get help if you are a better customer tomorrow.

I suggest that whatever happens to this legislation, that at some point this provision needs to be looked at in terms of what is going to be its practical impact on this particular group of countries which are especially important to us.

Mr. President, in closing, the Senator from South Carolina made a very strong historically insightful set of observations about countries in the Pacific rim. I think his comments could be characterized as saying we have done a lot of positive things for them and maybe they have not been as accommodating, as friendly as we would have thought they should have been in light of our course of conduct.

Mr. President, I point out that the countries we are talking about now in this amendment, the two dozen coun-

tries that are participants, signatories to the Caribbean Basin Initiative and would be given the special treatment of my amendment by being excluded from the quota of restrictions, these have been some of the most friendly countries to the United States.

I think if you would ask the U.S. Drug Enforcement Agency what is a country that would be a model of cooperation between the United States and that nation in our efforts to suppress international drug traffic they have told me that the Dominican Republic would be such a country. If you were to ask where in the troubled region of Central America has there been a country that has been a source of stability, of calm, of democracy, of an attempt to inculcate the very values that this country stands for, it would be Costa Rica.

Where is the largest cluster of democracies on a square mile basis in the world? It is in the eastern Caribbean. When into that cluster of democracies in the eastern Caribbean a Soviet-Cuban state was about to be established with a significant potential for military mischief in Grenada who were the people that asked the United States to join them in returning that nation to democracy? Those same nations, those same struggling small, poor, but proud countries of the eastern Caribbean. Those are the nations who have established a history of good friendship with the United States.

Just as you might say for those who have shown indifference to our prior actions, why should we go out of our way to show them additional support and assistance? For these countries that have had on the main a long, consistent, positive, and cooperative relationship with the United States, why should we not take this opportunity to show them an additional expression of our friendship, of our appreciation, of our recognition, of our mutuality of interest, and the sense of optimism of a better future which we can build together?

Mr. President, the amendment that we are debating today is not the end of the world for the Caribbean as the amendment that we debated a few days ago relative to ethanol, as the provisions that we debated over the past several years on sugar; none of these acts is in and of themselves, one single decision by this Senate, make a political or economic difference for those countries or our relationship.

But what we are doing is adding incrementally one by one a series of abuses to good friendship, a series of failure to appreciate mutual interests and another burden which I fear when that burden reaches too great a level may cause a fundamental turning in a region of the world in which the United States should have the happiest most peaceful and most prosperous mutual relationships with our neighbors in the Caribbean and Central America.

Thank you, Mr. President.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, to describe as an abuse of friendship a bill that, by design, could not penalize—there is no rollback—any neighbor or friend in the Caribbean; to describe as an abuse of friendship a bill that will reward those who buy our agricultural products, is absurd. And the Senator from Florida should know that.

He accurately described the Daschle amendment, but he came with the exact wrong conclusion. The Daschle amendment says you cannot retaliate. You do not have to favor. It does not require a penalty if you do not buy U.S. farm products, but it says you cannot retaliate. You must have at least the same amount, and whether you give them that particular business if they are buying our agricultural products, one shirt or 100,000 dozen shirts, under this globalization, it would be left to discretion.

So we are not penalizing anyone, but we can favor the smallest little country in the world that does not even buy U.S. agriculture.

We can do that. Let us say that a CBI country did not buy any agricultural products from us and that others, like Hong Kong, did not buy any from us. We can take all the Hong Kong quota and give it to a CBI country that does not buy any agriculture under this bill. I just want to be categorical so we understand it.

So do not misdescribe the result of this particular measure; namely, if you are a poor country you are going to be discriminated against. That is totally false. You are going to be favored; should be. We made that crystal clear. And if you do agriculture business with us, this bill says, yes, you have to get at least the same amount. You have to get at least the same amount under the globalization of the quota that you have had before.

So, once again, this is not any abuse of friendship, but the extended hand of friendship. What really happens under the Graham amendment is, once again, you open that loophole. If you go to Indonesia—our friends in this debate says Japan now has moved on into the steel business and Korea is building ships and they do not have any textiles. It is money.

In Indonesia, it is those Japanese-financed, built, operated, and profited textile plants. And then they went to Thailand and now they are down to Sri Lanka, India, and they keep moving to more countries. Now they have moved into Jamaica. They have the money.

What we know is what we are trying to do is save an industry. And time and again I have described that business formula whereby if you double your market share, you lessen the cost of production by 20 or 30 percent. The market share is the name of the game and we have less than half right now. Yes, other nation's will be more competitive. They will have less in the cost of production. They already do with respect to labor and our high standard of living in the United States of America.

So the foreign share will jump like it was described earlier on the previous amendment on shoes, where in 1982 it was only 50 percent; in 1988, in 6 years' time, it is 84 percent, which is the updated figure by the Department of Commerce. Eighty-four percent of all shoes purchased in the United States are represented by imports.

So that is what we are trying to do—keep from having that hole being opened and the shell game started.

We have millions going to CBI nation's today. The bill that we passed here with respect to aid to the Caribbean is over $217 million; $736 million just in the next year to Central America. You can go down the list. We are not disregarding these nations.

You and I are taxing our people now. People say no taxes, no taxes, no taxes. I do not know how you are going to pay for these things. We ought to pay for them. I support that. But do not act like, oh, well, they will find out that we are not true blue and the hand of friendship is gone, and if you pass this bill, it will be an abuse of friendship.

On the contrary. It is the hand of friendship.

Unless the Senator from Florida would like to respond, or anyone else, I am prepared to make my motion.

Mr. GRAHAM. Will the Senator yield for a question.

Mr. HOLLINGS. Yes.

Mr. GRAHAM. I am trying to understand the agricultural provision. My concern is that is appears as if it is going to operate in probably an unintended but real adverse manner relative to countries that have the two characteristics which most of the countries in the Caribbean have, which is poverty and an already high level of U.S. agricultural imports.

As I read on page 11, lines 6 through 12, it describes the rulemaking authority of the Secretary of Commerce. Then lines 13 through 15 state: "The regulations may be prescribed only if such regulations ensure that" which would seem to me to say that unless the Secretary of Commerce incorporates within his regulations an assurance that an amount of the limitation imposed by this section on the aggregate quantity of textiles and textile products is allocated to such products of each country to which the total quality of U.S. agricultural products

grows from year one greater in year two.

If that is not the way that section is intented to operate in order to create the incentive for countries to import more U.S. agriculture as an inducement to get a greater opportunity to export textiles into the United States, then I would like to be satisfied and my mind put at ease that the negative consequences that I foresee are not going to occur.

Mr. HOLLINGS. Most respectfully, I say to the Senator that he gives a very accurate description of that particular section and it says exactly what you have just said. They shall be favored. And that is the intent.

Now, you come with the other conclusion that since I am poor and others may increase, for example, their agriculture and since I am poor I have no chance to get any additional business. That is not true at all.

Mr. GRAHAM. Let us assume hypothetically that the 1 percent growth represented 100 units.

Mr. HOLLINGS. Well, we have 13.7 billion yards, so 137 million yards.

Mr. GRAHAM. 137 million units. A country like Germany only purchased last year $17.18 per capita of U.S. agriculture products. Germany is a relatively affluent nation. It has a substantial capacity, both in terms of its wealth and the low base from which it is starting to increase its purchase of U.S. agriculture products. Contrast, for instance, with Jamaica.

Mr. HOLLINGS. Wait a minute. Follow that through. If they do purchase more, they get bigger cuts. That is right. You and I agree on that.

Mr. GRAHAM. So we have this 137 million unit additive.

Mr. HOLLINGS. That is right. We have a total of 13.7 billion yards. It just says agriculture countries should not be rolled back. There is an absolute guarantee that if you are buying your agriculture products from the United States, there would be no roll back from where you are. But that does not include all countries.

And, as you indicate, Germany is diminishing. The fact of the matter is 20 percent of the world's wheat is now produced by the European Economic Community. And we can count, once they go in 1992 into their total common market, you can count on them working as a unit and I would not be able to sell, for example, my chickens in downtown Bonn Germany.

Mr. GRAHAM. That would seem to indicate that you do not think this provision is going to be much of an inducement to the Europeans.

Mr. HOLLINGS. I hope it is an inducement. But, no, they are playing hardball for the little bit of textiles. I do not think it will induce them, no.

Mr. GRAHAM. I am concerned that you are going to be successful, that they are going to do what this has as its objective and the consequence is that that 137 million additional units each year, the 1 percent growth, is going to end up being allocated to the affluent countries in Europe and the Pacific rim, both because they have the dollars to buy more products and they are not buying very many now, and that the countries such as Jamaica, which is already almost three times per capita what Germany is, is not going to be able to buy very many more agricultural products.

Mr. HOLLINGS. I say to the Senator his mistaken premise is that we only have a 137 million to deal. False. You have 13.7 billion yards to begin with. Then you look over the 13.7 billion yards and then you do find out West Germany is trading some agriculture with us. And, yes, we do hope they will increase it. And if they do increase it, they will be allocated, as you read very accurately, the Secretary of Commerce would assign them an additional quota of textile and apparel products.

But, on the other hand, we have those that not only do not buy but those who are diminishing their purchases.

I remember 5 and 6 years ago, you will find the People's Republic of China, they were buying most of their corn from us.

Last June, when we were in a similar debate, the People's Republic of China found corn elsewhere that was less, 18 cents a bushel less, than Nebraska corn. And they are importing less U.S. agricultural products. That is the design of Deng Xiaoping and his government in the People's Republic of China, that they not only take and produce all they can consume but they also become an exporting country. And they are becoming that.

So we are losing out there and we are losing in all of these other places. There is more than a sufficient amount to allocate down to the CBI.

We can easily take from every one of the Communist countries, do not buy any and take and list them down in the East European section and immediately allocate and probably treble or quadruple what we have got right now for the CBI. If I were President I would do it. And I think our President Reagan would do it, too. Because we could go over, you and I could see him even though we are Democrats, and I think he would listen to use and say I think that is a good idea.

Mr. GRAHAM. Well, Senator, you certainly have an enlightened concept of what is in our Nation's interests. I am concerned that the effect this legislation is going to impose, in terms of strictures imposed on the current economic realities, will make that an unlikely or unavailable option for the current or whatever future President has the responsibility for administering this act. At some point, whatever happens to this amendment, I would hope that the impact of this on this class of poor, high consuming U.S. agricultural countries, will be given some attention.

Mr. HOLLINGS. Well, that is what we intend to do and that is what it says and you have a mistaken assumption that somehow or other it is not going to work. We have looked it over very carefully and closely. If you buy more of our agriculture, you get more of our textile quotas, and if you buy any agriculture, you cannot get any less than you are receiving now; and there is more than enough in the $13.7 billion plus the increase of 1 percent over 137 million yards each year to distribute down to our particular friends in the CBI.

So we have a kitty sitting right there. We have a kitty sitting right there. I hope we can build up the agricultural products, but all of us in favor of American agriculture as well as textiles wanted to be sure that there was not any discrimination or retaliation against those people who were buying our wheat and buying our corn and grain.

If that is all then, Mr. President, I would move to table the amendment and ask for the yeas and nays.

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

The yeas and nays were ordered.

The PRESIDING OFFICER. There being no further debate, the question is on agreeing to the motion to lay on the table. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Texas [Mr. BENTSEN], the Senator from Illinois [Mr. DIXON], and the Senator from Hiawaii [Mr. MATSUNAGA] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Oregon [Mr. HATFIELD], the Senator from Nevada [Mr. HECHT], the Senator from Indiana [Mr. QUAYLE], and the Senator from Vermont [Mr. STAFFORD] are necessarily absent.

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

The result was announced—yeas 59, nays 34, as follows:

[Rollcall Vote No. 322 Leg.]

YEAS—59

Baucus	D'Amato	Hollings
Biden	Daschle	Inouye
Bond	DeConcini	Johnston
Boren	Exon	Kasten
Bradley	Ford	Kennedy
Breaux	Fowler	Lautenberg
Bumpers	Glenn	Levin
Burdick	Gore	McConnell
Byrd	Grassley	Melcher
Cochran	Hatch	Metzenbaum
Cohen	Heflin	Mikulski
Conrad	Heinz	Mitchell
Cranston	Helms	Moynihan

Nunn	Roth	Specter
Pell	Rudman	Stennis
Proxmire	Sanford	Thurmond
Pryor	Sarbanes	Trible
Reid	Sasser	Warner
Riegle	Shelby	Weicker
Rockefeller	Simon	

NAYS—34

Adams	Garn	Murkowski
Armstrong	Graham	Nickles
Bingaman	Gramm	Packwood
Boschwitz	Harkin	Pressler
Chafee	Humphrey	Simpson
Chiles	Karnes	Stevens
Danforth	Kassebaum	Symms
Dodd	Kerry	Wallop
Dole	Leahy	Wilson
Domenici	Lugar	Wirth
Durenberger	McCain	
Evans	McClure	

NOT VOTING—7

Bentsen	Hecht	Stafford
Dixon	Matsunaga	
Hatfield	Quayle	

So the motion to lay on the table amendment (No. 2885) was agreed to.

Mr. HOLLINGS. I move to reconsider the vote by which the motion to lay on the table was agreed to.

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

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, if there are no other amendments, it is time for third reading but I understand there are some other amendments. The Senate will be in until 10 o'clock or 11 tonight. I would suggest that Senators call up their amendments.

The PRESIDING OFFICER. Are there further amendments to the bill?

LABOR-MANAGEMENT DISPUTE BETWEEN THE CHICAGO AND NORTH WESTERN TRANSPORTATION CO. AND THE UNITED TRANSPORTATION UNION

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Joint Resolution 374, introduced earlier today by Senators SIMON, DIXON, GRASSLEY, and HARKIN. This has been cleared on both sides.

The PRESIDING OFFICER. The joint resolution will be stated by title.

The assistant legislative clerk read as follows:

A joint resolution (S.J. Res. 374) to provide for a settlement of the labor-management dispute between the Chicago and North Western Transportation Company and the United Transportation Union.

The PRESIDING OFFICER. Is there objection to the present consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. SIMON. Mr. President, I thank the majority leader, and I also express my thanks to Senator DOLE and to Senator HATCH and Senator KENNEDY.

This measure is cosponsored by Senators GRASSLEY, DIXON, and HARKIN. It imposes a settlement on the emergency board appointed by the President on the Chicago Northwestern strike. It is a settlement that is in agreement with similar agreements that have been worked out between labor and management.

It permits both sides to continue to negotiate and to modify this in any way, but it does not permit a breakdown of a major railroad that would have a massive impact on the economy of this Nation.

Mr. DIXON. Mr. President, September 8 is upon us. Tomorrow, the 35-day cooling off period for the Chicago and Northwestern strike will expire. Consequently, unless Congress acts, labor will walk out and the trains will no longer run, let alone run on time.

A strike would cause the disruption of freight traffic throughout the Midwest. A strike would cause the Northwestern Commuter Line to cease its services and thereby leave over 41,000 Chicago-area commuters with no way to get into work. In short, a strike would be devastating to the Chicago economy and the economy of the entire Midwest.

Negotiations have been going on for over 2 years and the two sides have not been able to reach an agreement. The provisions of the Railway Labor Act regarding a dispute of this kind are extraordinarily complicated and comprehensive. Both parties have made several appeals to the Railway Labor Board. When this process failed to help them reach an agreement, the President called together an emergency board—composed of rail experts—to look into the situation. The emergency board disclosed their findings and made recommendations earlier in the summer. However, even the board's recommendations failed to solve the dispute. Consequently, several temporary stays were granted to the two parties in hope that time would enable the CNW management and labor to reach an agreement; the last stay being the 35-day cooling off period granted by us in the Congress. Despite all of this extra time and expert advice, a strike still appears imminent—the parties still have not resolved their dispute. The only way left, therefore, to resolve this problem without a crippling, disruptive strike that would benefit no one, is for Congress to act.

I wish legislation was not necessary. I am very reluctant to interfere in the collective-bargaining process. But, I see no other alternative at this late date. As I said before, the consequences of a strike are just too devastating for it to be allowed to happen.

The precedent for Congress' actions in this sort of a situation is clear. We are not the experts and cannot pretend to know what would be the wisest resolution to the two parties' dispute. So, instead, as has been done in the past, we will implement the advice of the experts, the President's emergency board, in order to bring about a resolution and avert a strike. Again, I wish a legislative solution was not necessary, but, unfortunately, time has run out.

The junior Senator from Illinois, Senator SIMON, has provided excellent and judicious leadership on this very difficult issue. As a cosponsor of this resolution, I join him in urging its quick enactment. It is vitally needed and deserves the Senate's support.

Mr. GRASSLEY. Mr. President, today I join in cosponsoring this legislation to enact the President's emergency board's recommendations regarding the Chicago Northwestern labor dispute.

Thirty days ago, Congress extended a cooling off period to enable labor and management to further negotiate a possible settlement regarding this strike. At that time I stated:

It is a mistake to delay a resolution of the Chicago Northwestern crews dispute until September. We should address this issue now.

As you can see, 30 days later we are again faced with legislation regarding this dispute. It is my hope that Congress will act quickly on this legislation. The Chicago Northwestern supplies over 50 percent of the rail service for my State, and therefore a strike will be devastating to the movement and the shipment of farm products during the harvest season. We are in a crucial period for the movement of grain and it is important that these shipments continue.

The President's emergency board's recommendations are important, because these people have reviewed all of the important data to develop a fair and equitable solution to the problems faced by labor and management. It is clear that one side or the other, or perhaps both sides, will not be happy with all the recommendations. But because the two sides in this dispute could not come to an agreement it is essential to end this strike by implementing the President's emergency board's recommendations. Therefore, I join with my fellow Senators in cosponsoring this legislation. I urge my fellow colleagues to support this legislation.

Mr. PACKWOOD. Mr. President, as has been indicated, this has been cleared on our side.

I especially thank Senator GRASSLEY, who worked very hard on this matter. His interest was responsible for reaching this conclusion very rapidly.

The joint resolution was ordered to be engrossed for 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. 374

Whereas the labor dispute between the Chicago and NorthWestern Transportation Company, a common carrier by rail in interstate commerce, and certain of its employees represented by the United Transportation Union threatens to interrupt essential transportation services of the United States;

Whereas it is essential to the national interest, particularly in health and defense, that essential transportation services be maintained;

Whereas Congress finds that emergency measures are essential to maintaining the security and continuity of transportation services provided by the Chicago and NorthWestern Transportation Company;

Whereas the President, by Executive Order 12636 of April 20, 1988, and pursuant to the provisions of section 10 of the Railway Labor Act (45 U.S.C. 160), created Presidential Emergency Board 213 to investigate the dispute and report findings;

Whereas the recommendations of the Emergency Board 213 issued on July 1, 1988, have not resulted in a settlement of the dispute;

Whereas all the procedures provided under the Railway Labor Act for resolving the dispute have been exhausted and have not resulted in settlement of the dispute;

Whereas Congress, under the Commerce Clause of the Constitution, has the authority and responsibility to ensure the uninterrupted operation of essential transportation services; and

Whereas Congress has in the past enacted legislation for such purposes: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONDITIONS FOR RESOLVING DISPUTE.

The following conditions shall apply to the dispute referred to in Executive Order 12636 of April 20, 1988, between Chicago and NorthWestern Transportation Company, a common carrier by rail in interstate commerce, and certain of its employees represented by the United Transportation Union:

(1) The parties to such dispute shall take all necessary steps to restore or preserve the conditions out of which such dispute arose as such conditions existed before 12:01 a.m. on August 4, 1988, except as provided in paragraphs (2) and (3).

(2) The report and recommendations of the Emergency Board 213 shall be binding on the parties upon the enactment of this joint resolution and shall have the same effect as though arrived at by agreement of the parties under the Railway Labor Act (45 U.S.C. 151 et seq.), except that nothing in this joint resolution shall prevent a mutual written agreement to any terms and conditions different from those established by this joint resolution.

SEC. 2. ARBITRATION.

(a) UNRESOLVED ISSUES—If there are any unresolved issues as to the initial implementation of the report and recommendations or agreement under section 1(a)(2) after 10 days after the date of the enactment of this joint resolution, on request of either party the parties to the dispute shall enter into binding arbitration to provide for a resolution of such issues.

(b) APPOINTMENT OF ARBITRATION BOARD—The National Mediation Board established by section 4 of the Railway Labor Act (45 U.S.C. 154), shall appoint an arbitration board composed of three neutral members experienced in the resolution of railroad disputes to resolve the issues described in subsection (a).

(c) CONDUCT OF ARBITRATION BOARD.—Except as provided in this joint resolution, the arbitration required under this section shall be conducted in accordance with section 7 of the Railway Labor Act (45 U.S.C. 157).

(d) ENFORCEMENT AND REVIEW OF ARBITRATION AWARD.—The arbitration shall be enforceable and reviewable as if it were under section 9 of the Railway Labor Act (45 U.S.C. 159).

(e) JURISDICTION FOR JUDICIAL REVIEW OF ARBITRATION AWARD.—The United States Court for the Northern District of Illinois, Eastern Division, is designated as the court in which the award is to be filed and reviewed.

SEC. 3. TIME LIMIT FOR ARBITRATION.

Not later than 30 days after the date of the enactment of this joint resolution, the binding arbitration entered into pursuant to subsection (a) shall be completed.

Mr. SIMON. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

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

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that there now be a period for morning business not to extend beyond 7 o'clock p.m. and that Senators may speak during that period not to exceed 5 minutes each.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

BICENTENNIAL MINUTE

SEPTEMBER 1, 1983: DEATH OF HENRY M. JACKSON

Mr. DOLE. Mr. President, 5 years ago this month, on September 1, 1983, Senator Henry M. Jackson of Washington died at the age of 71. Born in Everett, WA, the son of Norwegian immigrants, he got his nickname, "Scoop," as a newsboy who delivered 74,880 copies of the Everett Daily Herald without a single customer complaint. He took a law degree at the University of Washington in 1935 and began his political career as prosecutor of Snohomish County. He immediately set about driving liquor and pinball machines out of the county, which earned him the title, "Soda Pop Jackson."

Jackson, a Democrat, was elected to the House in 1940. He moved to the Senate in 1953, where the length of his service—30 years—was matched by his influence. He served as chairman of the Energy and Natural Resources Committee, the Governmental Affairs Committee's Permanent Subcommittee on Investigation, and, at the time of his death, he was the ranking Democrat on the Armed Services Committee and a member of the Select Committee on Intelligence.

Even this impressive list of committee assignments, however, hardly conveys the extent of Henry Jackson's influence. Through his mastery of the ways of the Senate and the issues that concerned him, he became one of the most powerful and respected personages on Capitol Hill, an acknowledged authority on defense, energy, the environment, and related issues. National security was the area on which Senator Jackson left his strongest imprint. He once said that he regarded the Soviet Union "As an opportunistic burglar who walks down the corridors trying all the door handles to see which door is open." It was a conviction from which he never wavered.

At the time of his death, Henry Jackson had come to personify strength in national defense, wariness in dealing with the Soviet Union, and pragmatic approaches to domestic problems. On November 19, 1987, many of Scoop's friends gathered in the Russell Office Building for the dedication of a bronze portrait bust—a gift to the Senate from Mrs. Jackson and the Henry M. Jackson Foundation.

STATEMENT ON TRAGIC DEATHS IN PAKISTAN

AMBASSADOR RAPHEL AND GENERAL WASSOM

Mr. DOLE. Mr. President, it is appropriate that the Senate express its deep sadness over the recent tragic deaths of our Ambassador to Pakistan, Arnold Raphel; and our senior military representative there, Gen. Hubert Wassom.

The loss so far from our shores of these two outstanding public servants—one a diplomat, the other a soldier—reminds us again of the breadth of America's interests and responsibilities around the globe. Sadly, it brings home, too, the great sacrifices that Americans often must make, to advance our Nation's interests and the

cause of peace and freedom throughout the world.

We will miss the service of these outstanding men. And, through passage of this resolution, we send our deepest condolences to their grieving families.

PRESIDENT ZIA

At the same time, in a separate resolution, we also take note of the death, in the same air disaster, of Pakistan President Zia, and so many members of his government.

President Zia was a strong and determined leader of his nation; a key player in the south Asian region; a bulwark of support for the Afghan resistance; and a good friend of America.

We mourn his passing; we express our condolences to his family, and to the families of those who died with him; and we reconfirm our support for the Pakistan Government, as it moves toward greater democracy at home, and continues to stand firmly behind the cause of a free and independent Afghanistan.

MANASSAS NATIONAL BATTLEFIELD PARK AMENDMENTS—H.R. 4526

Mr. WARNER. Mr. President, I ask unanimous consent that the remarks I presented before the Committee on Energy and Natural Resources today on H.R. 4526, the Manassas National Battlefield Park Amendments, be printed in the RECORD at this point.

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

REMARKS BY SENATOR JOHN WARNER

Chairman Bumpers and members of the Committee, I sincerely appreciate your holding this important hearing so soon after the Senate has returned from the August recess.

The bill from the House of Representatives, which is the focus of this hearing, authorizes a "legislative taking" of the 542-acre William Center property adjacent to the Manassas National Battlefield Park.

I request that the Committee conduct a broader examination of this problem before finally deciding on the House recommendation of a "legislative taking" as the recommendation of this Committee to the Senate as the "solution" to controlling development pressures near this Park. It is imperative that this be done because the President has unequivocally indicated he would veto the House bill. A veto, while justified from the likely excessive cost to the taxpayer in the House bill, would be disastrous to the present and long-term historical interests of the Manassas National Battlefield Park.

Under the leadership of Congressman Wolf and other House members, their bill was given extensive consideration and was adopted with a strong vote. Nevertheless, the Senate is on notice it will be vetoed. Therefore, I urge the Committee to examine alternatives. I stand ready to work with members of the Committee, the professional staff, and other experts from the National Park Service and historic preservation groups to bring together the best technical minds to draft a bill, along the lines I outline today, for the Senate to consider.

To assist the Committee, I recite below an analysis of the House bill, the history and parameters of the Manassas Battlefield problem, and my own legislative recommendations.

Now is the time—today—for a reconciliation of views on this matter so that we can forge an equitable solution which protects the park and permits some economic development. Time is running out! Bulldozers are creating irreversible situations. A veto of the House Bill is a reality. Therefore, let us begin a process of compromising today.

LEGISLATIVE TAKING

A "legislative taking" as recommended by the House allows the government to take immediate control of the land upon enactment and compensate landowners at a later date. This rarely-used process was utilized most notably in 1978 for the Redwoods National Park in California. This case is a striking example of how the cost estimates which influenced Congressional action—the "legislative taking"—fell dramatically short of the ongoing costs still being borne today by federal taxpayers.

Given this precedent, I strongly urge the Senate to carefully weigh this case before subjecting the taxpayers with another excessive bill at a subsequent date. We cannot, in good conscience, allow the "legislative taking" process to become a routine means of federal land acquisition.

The Senate must fully assess the complex aspects of this Manassas situation and determine if a "legislative taking" of the William Center property is in the best interest of the federal taxpayer and the preservation of the Manassas National Battlefield Park.

There seems to me to be at least three essential requirements Congress must consider before exercising this extraordinary power of a legislative taking. In my view, only one has been established; the other two are undetermined because of the wide diversity of evidence available to date.

1. *Time urgency.*—This requirement is established. Unless Congress acts now the entire tract will be developed to a point where action by a subsequent Congress would be unlikely.

2. *Historical significance.*—Has the importance of the "entire" tract—I repeat "entire"—as intended to be acquired by the House bill, been established? While there appears to be a consensus of opinion on the historical significance of a portion of Stuart's Hill where General Robert E. Lee made his encampment during the Second Battle of Manassas, and on the northern portion of the property where General Longstreet began his attack, there remains a diversity of viewpoints among credible historians on the amount of acreage comprising this area. Secondly, there is extensive diversity among historians about the value of the balance of the property.

3. *Cost to taxpayers.*—These estimates are essential to a decision to exercise a "legislative taking." To date, I have received the widest possible range of opinions. A case can be argued for costs ranging from $15 million to $75 million to add the entire 542 acres to the Park. We must reach some conclusion on the eventual cost to the taxpayers.

It is my view that the Committee must reach definitive answers to both points 2 and 3 before further considering the extraordinary action of a "legislative taking."

As you know, the Department of Interior went on record in opposition to this bill before it was considered by the House of Representatives because of its expense and its precedent-setting land acquisition procedure. I am advised they will repeat this position today.

(See exhibit #1, Department of Interior statement.)

The Secretary has made it abundantly clear that he will recommend to the President that he veto a conference report which closely parallels the House Bill.

Unfortunately, since the House action, no movement towards a compromise has been achieved by the parties involved. This Senate hearing must provide the impetus for negotiation and compromise.

I am deeply concerned that unless the Senate fashions a compromise that can be supported by the President, the collective efforts of many to devise proper protections for the Park will have been in vain.

The earliest the Congress will be able to revisit this issue will be February or March 1989. Throughout this period construction can continue.

I believe a brief review of the legislative history on the issues involving the last Manassas Battlefield expansion bill (1980) will give a clearer understanding of the issues today.

Prior to 1979, the House of Representatives passed legislation five times to add contiguous properties of significant historical value to the Park. By inaction, the Senate blocked action each time.

Finally, in 1980, with the cooperation of the Virginia Congressional delegation, the Price William County Board of Supervisors, historic preservation groups and interested citizens, many of whom are here again today, I sponsored legislation, which became law, compromising the five years of controversy between the House and Senate. This legislation expanded the Park by 1500 acres, from 3000 acres to its present authorized total of 4,520 acres.

The 1980 legislation was an equitable compromise, which maximized historical and environmental considerations and minimized economic losses to the community and to private landowners. All parties involved considered this bill to be a final resolution of these long-standing controversies which would last for an indefinite period. But, of course, that was not to be for we are back before the Congress again with a controversy of equal or greater passion.

In performing its responsibilities, I urge this Committee to receive evidence from at least the following:

The National Park Service;

The State of Virginia;

The Prince William County Board of Supervisors;

The National Trust for Historic Preservation and other historians;

The U.S. Army Corps of Engineers; and,

Numerous interested citizens groups and individuals who own the properties in question and others expressing views on the ownership and development of property.

From the beginning, I have been sincerely searching for an equitable solution to this problem, one which will protect that portion of the property historians agree to be significant to the understanding of events involving the Second Battle of Manassas, and one which will allow for some mix of residential and office park development that always has been envisioned for this property and which is needed by the County. Such a solution would represent a substantial saving to the federal taxpayer in comparison to the House Bill.

When I recall the circumstances surrounding the proposals to expand the Manassas

Battlefield when I arrived in the Senate in 1979, the focus of attention was on the amount of property from the Brawner Farm tract immediately across Route 29 from the William Center property to be included in the Park.

Whether, prior to my involvement in this Park's expansion proposals it has been decided that the William Center tract was not as critical to the Park as other properties, or whether because of the County's long-standing places to retain this tract for commercial development, the legislative history reflects little or no mention of the historical importance of this property during the 1980 Senate Energy and Natural Resources Committee hearings.

This new-found recognition of a portion of the property aside, clearly what was understood by everyone involved with the Battlefield expansion during 1979 and 1980 was that the William Center property would be developed in some way that would be compatible with the historic interests of the Park.

The core issue today is the role of the federal government in a dispute which involves not only a federal interest—a national park—but a dispute which also involves a local government's land-use decisions and a state's right to plan, finance, and construct its highway system. The division of the traditional responsibilities of each—Federal, State, and local—must be borne in mind.

This problem involves—at least—five main interests—each of which must be weighed fairly.

First, the sovereign right of a state. The State of Virginia has jurisdiction over the roads in and around the Park, and is obligated, in some cases in conjunction with the Federal Government, County Government, to maintain and improve them.

Second, the Prince William County is an integral unit of government. It must be given a fair review of its decisions affecting its citizens, its tax base and obligation to provide basic, affordable services, and its plans for roads and economic development in the area.

Third, the historic and scenic integrity of the Manassas National Battlefield Park must be preserved. This is clearly a joint obligation of the executive and legislative branches of the Federal Government.

Fourth, the federal taxpayer. They are jointly represented by the Executive and Legislative branch of the Federal Government. We must clearly define the priority resource and transportation needs of the Park and match those needs to the federal government's ability to pay for them.

Fifth, the owners of the property who may exercise their rights within our American free enterprise system to purchase property and plan its development in accordance with federal, state and local regulations must be recognized and given fair and appropriate consideration.

The question before us today remains the density and composition of development now proposed, is compatibility of such a development with the Manassas National Battlefield Park. Couple this with the extent we believe a cost reasonable to the taxpayers and this constitutes the extent to which Congress should be involved.

It has been represented to me that when the Hazel/Peterson Company originally presented (April, 1986) plans to Prince William County to develop this property, the proposal specified that a portion be for single-family residences, a portion for townhouses, a portion for an office park and a small (120,000 square feet) community shopping area to accommodate the businesses and residences on the property. There was no large retail shopping mall proposed in this concept plan presented in April, 1986.

(See exhibit #2. Illustrative Concept Plan (Draft), April 1986.)

It was this concept that was presented to the National Park Service for comment on the relationship to and potential impact on the Battlefield.

(See exhibit #3. National Capital Planning Commission statement.)

It was this concept that was presented to the public for its review and comment. That public involvement, therefore, was extensive.

Consequently, it was this concept of development which was agreed to by the Park Service and interested citizens in the area.

It is this concept of development—residences, office park and minor retail—that I believe should now be the centerpiece for a compromise between the parties.

It is this concept of development, which does not permit a shopping mall, that is the foundation for my legislative proposal that I present today, and which I believe should be the foundation of any legislative proposal reported by this Committee.

I oppose the construction of the planned 1.2 million square foot shopping mall on the William Center tract because it would be imcompatible with the preservation of the historic and scenic integrity of the Manassas National Battlefield Park as envisioned in my 1980 legislation.

LEGISLATIVE COMPROMISE

While I agree there are merits to the House bill relating to transportation issues, which I have included in my proposal, we must be pragmatic and forge a solution that protects the Park and can eventually become law.

To ensure that development of the William Center keeps faith with representations made at this Committee's 1980 hearing and with concepts presented to the public and the National Park Service in April, 1986, my legislative proposal embodies four fundamental provisions.

1. The National Park Service will acquire through the "legislative taking" process, 136 acres representing Stuart's Hill where General Lee made his headquarters during the Second Battle of Manassas and a suitable buffer to be defined by the National Park Service along the northern portion of the property parallel to Route 29 representing a major portion of the formation of General Longstreet's troops for the Manassas National Battlefield Park.

I have selected this limited acreage because I am advised by historians that significant events important to the Second Battle of Manassas occurred on this portion of the William Center tract. I welcome comments from the historians who will testify later during the hearing on their views on this point to determine the accuracy and appropriateness of the 136 acre figure.

2. Development on the remaining portion of the property not acquired by the National Park Service will be compatible with the concept of development envisioned by Hazel/Peterson Company in the Illustrative Concept Plan (Draft), April 1986. It was this plan which was presented to the public and the National Park Service for comment during the public hearing process and which the public believed would occur on the property. This site plan showed an office park, residences and minor retail, but it did not depict the large shopping mall which has been the focus of so much controversy.

3. I concur with Section 4, part A and B, of H.R. 4526 relating to the transportation issues. This provision will accomplish the first comprehensive study of the transportation needs of the area concerning closing Route 29 and Route 234 through the Park and addressing the alternative transportation routes that will be needed.

4. My proposal further provides $11.9 million (new money) for the State of Virginia and Prince William County to proceed with the proposed construction of an interchange with Interstate 66 with reasonable access to the William Center tract. This interchange has been planned by the County for 14 years and it remains its Number One transportation priority.

The State of Virginia would ordinarily fund this interchange from its Interchange 4R funds from the Federal Highway Administration. Under existing law the financing of the project would be 90 percent federal and 10 percent state. The interchange is anticipated to cost $13.2 million; 90 percent of that amount is approximately $11.9 million.

I believe these four provisions should be the foundation of a legislative proposal to ensure the protection of the Manassas National Battlefield Park by including historically sensitive properties, conforming development on the remainder of the property with concepts presented during the public hearing/rezoning process, and requiring a comprehensive review of the transportation alternatives in the area.

In my opinion, these provisions reflect the views expressed by the public and the Park Service on the type of development they believed could be accommodated on the property.

These provisions recognize the economic interests of the County and the owners of the property.

These provisions provide for a reasonable amount of immediate protection for the Park by adding 136 acres upon enactment, and provide for future protections by limiting development and devising a comprehensive transportation plan for the area.

And, these provisions reduce the cost to the federal taxpayer.

A full "legislative taking" of the entire 542 acres of the William Center property requires a significant investment of federal dollars for one national park that has already received $6.8 million since 1980.

I am advised that estimates for acquisition of the William Center tract vary from $15 million to $75 million.

The price, to be determined by court settlement, could easily go higher. (See record of the recent purchase of the Brawner Farm under the 1980 Warner-Harris bill which was appraised at $812,000; however, a court awarded the landowners $4.2 million for 312 acres).

As I have said before on the Floor of the Senate, this single land acquisition could exceed annual funds appropriated by Congress for land acquisition by the National Park Service for the entire nationwide park system of 334 parks and sites. The FY 1989 Interior Appropriations conference report, which will soon be before the Senate, recommends $52.6 million for land acquisition for the entire national park system.

Lastly, we must consider the future. The 1980 legislation was thought to be the last "major" acquisition to the Manassas Park. If a legislative proposal, such as mine becomes law, once again further extending this national park into the heart of the eco-

nomic geographic base of Prince William County, we must ask ourselves is this the end? There remains considerable underdeveloped property in the immediate or adjacent areas. What obligation do we have to the Park, the County, the owners as to the future?

Mr. Chairman, and members of the Committee, I urge you to carefully consider the legislation proposal I have presented as a fair and equitable solution to this specific case of development pressures next to one of our nation's most treasured natural resources.

I also welcome the comments of witnesses who will follow me today. I continue to be open to suggestions on my proposal and I remain willing to explore other proposals to resolve this dispute.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

ANNUAL REPORT ON ACTIVITIES UNDER THE OCCUPATIONAL SAFETY AND HEALTH ACT—MESSAGE FROM THE PRESIDENT—PM 153

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Labor and Human Resources:

To the Congress of the United States:

In accordance with Section 26 of the Occupational Safety and Health Act of 1970 (Public Law 91-596; 29 U.S.C. 675), I transmit herewith the 1987 annual reports on activities under that law of the Department of Labor, of the Department of Health and Human Services, and of the Occupational Safety and Health Review Commission.

RONALD REAGAN.

THE WHITE HOUSE, *September 8, 1988.*

MESSAGES FROM THE HOUSE

At 10:40 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following joint resolution, without amendment:

S.J. Res. 295. Joint resolution to provide for the designation of September 15, 1988, as "National D.A.R.E. Day".

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4775) making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies, for the fiscal year September 30, 1989, and for other purposes; it has receded from its disagreement to the amendments of the Senate numbered 10, 11, 16, 31, 45, 46, 47, 62, 63, 71, 76, 85, and 102 to the bill, and agrees thereto, and it has receded from its disagreement to the amendments of the Senate numbered 2, 25, 35, 39, 41, 42, 44, 49, 53, 60, 68, 72, 74, 75, 77, 80, 81, 88, 89, 90, 91, 92, 93, 98, 100, 113, 116, 117, 121, 122, 138, 141, 142, 143, 145, 146, 149, 152, 153, and 154 to the bill, and agrees thereto, each with an amendment, in which it requests the concurrence of the Senate.

ENROLLED BILL SIGNED

At 1:25 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

S. 2560. An act to amend the Temporary Emergency Food Assistance Act of 1983 to require the Secretary of Agriculture to make available additional types of commodities, to improve child nutrition and food stamp programs, to provide other hunger relief, and for other purposes.

The enrolled bill had previously been signed on today, September 8, 1988, by the Acting President pro tempore (Mr. LEAHY).

At 2:25 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4867) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1989, and for other purposes; it has receded from its disagreement to the amendments of the Senate numbered 4, 10, 14, 21, 24, 27, 30, 35, 52, 58, 61, 76, 82, 83, 84, 94, 95, 118, 123, 124, 125, 128, 129, 134, 135, 148, 152, 154, 155, 158, 159, 166, and 182 to the bill; and it has receded from its disagreement to the amendments of the Senate numbered 5, 7, 11, 13, 28, 29, 31, 33, 34, 38, 39, 40, 42, 43, 45, 53, 59, 63, 86, 89, 92, 93, 98, 103, 104, 105, 106, 107, 114, 116, 120, 122, 127, 130, 131, 132, 136, 137, 140, 142, 149, 150, 153, 156, 157, 165, 167, 169, 172, 173, 191, 193, 195, 196, 197, 199, 202, and 203 to the bill, and agrees thereto, each with an amendment, in which it requests the concurrence of the Senate.

ENROLLED BILL SIGNED

Under the authority of the order of the Senate of February 3, 1987, the following enrolled bill was signed on September 7, 1988, during the recess of the Senate, by the Vice President:

H.R. 1158. An act to amend title VIII of the act commonly called the Civil Rights Act of 1986, to revise the procedures for the enforcement of fair housing, and for other purposes.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, September 8, 1988, he had presented to the President of the United States the following enrolled bill:

S. 2560. An act to amend the Temporary Emergency Food Assistance Act of 1983 to require the Secretary of Agriculture to make available additional types of commodities, to improve child nutrition and food stamp programs, to provide other hunger relief, and for other purposes.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-614. A joint resolution adopted by the Legislature of the State of California; to the Committee on Commerce, Science and Transportation.

"ASSEMBLY JOINT RESOLUTION NO. 76

"LEGISLATIVE COUNSEL'S DIGEST

"AJR 76, Sher. California's coastal management program.

"This measure would request the President of the United States and the Secretary of Commerce not to proceed with decertification of California's coastal management program, would urge the state and the secretary to enter into negotiations to resolve any dispute over California's approved coastal management program, and would request Congress to take action to encourage negotiation and to prevent the Department of Commerce from proceeding with decertification.

"Whereas, California's coastal resources are vital to the state's tourism and fishing industries, are a fundamental part of the state's ecology, and are enjoyed by the people of the state and the nation because of their scenic beauty and the recreational opportunities which they provide; and

"Whereas, The federal Coastal Zone Management Act of 1972 (CZMA) encourages states to adopt management programs for their coasts; and

"Whereas, Congress found in the CZMA that it is national policy to preserve, protect, develop, and where possible, to restore or enhance, the resources of the nation's coastal zone for this and succeeding generations; and

"Whereas, The CZMA also states that it is national policy to encourage and assist the states to exercise effectively their responsibilities in the coastal zone through the development and implementation of manage-

ment programs to achieve wise use of the land and water resources; and

"Whereas, Prior to enactment of the CZMA, the people of California recognized the need for coastal management through enactment of the McAteer-Petris Act in 1969 which established the San Francisco Bay Conservation and Development Commission, and by placing Proposition 20 on the ballot in 1972 to develop a coastal management plan; and

"Whereas, In November 1977, the National Oceanic and Atmosphere Administration (NOAA) approved California's coastal management program, finding that it met the goals and requirements of the CZMA; and

"Whereas, California's coastal management program has served the state well by planning and permitting needed development while protecting coastal resources which are vital to public recreation and the state's tourism and fishing industries; and

"Whereas, In its 1987 evaluation of the coastal management program, NOAA threatened to initiate decertification of the state's coastal management program; and

"Whereas, NOAA's evaluation attacks aspects of the state's program which it had previously approved and which had been affirmed by the court in American Petroleum Institute v. Knecht (609 F.2d 1306); and

"Whereas, The State of California has filed suit against NOAA, charging that NOAA's actions violate the terms of the CZMA, the federal Administrative Procedure Act, and the National Environmental Policy Act; and

"Whereas, The Secretary of Commerce has not halted the actions against the California coastal management program by agencies under the secretary's direction in spite of appeals by both of California's United States Senators and a bipartisan group of the state's Congressional Representatives; and

"Whereas, Decertification of California's coastal management program would deprive the state of authority over federal projects which affect the coast; and

"Whereas, Decertification would make California ineligible for annual federal grants of approximately $2 million which have assisted both state and local coastal planning and implementation; now, therefore, be it

"Resolved by the Assembly and the Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President of the United States and the Secretary of Commerce not to proceed with decertification of California's coastal management program; and be it further

"Resolved, That the Legislature urges the State of California and the Secretary of Commerce to enter immediately into meaningful negotiations to resolve any dispute over implementation of California's federally approved coastal management program as an alternative to pursuing decertification; and be it further

"Resolved, That the Legislature memorializes the Congress of the United States to take such action as is necessary to encourage negotiation and to prevent the Department of Commerce from proceeding with decertification; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Secretary of Commerce, to the Speaker of the House of Representatives, to the Majority Leader of the Senate, and to each Senator and Representative from California in the Congress of the United States."

POM-615. A resolution adopted by the City Council of Haines, Alaska strongly objecting to legislation on Tongass timber reform; to the Committee on Energy and Natural Resources.

POM-616. A joint resolution adopted by the Legislature of the State of California, to the Committee on Veterans Affairs.

"ASSEMBLY JOINT RESOLUTION NO. 60

"LEGISLATIVE COUNSEL'S DIGEST

"AJR 60, Hauser. Vietnam veterans centers.

"This measure would urge the President of the United States to support, and the Congress to enact, legislation to continue funding of Vietnam veterans centers in community locations to ensure that veterans receive needed assistance.

"Whereas, Approximately 7.5 million American men and women served the United States military during the Vietnam era, with 2.3 million providing Vietnam war zone service, and 906,000 Vietnam era veterans currently residing in the State of California; and

"Whereas, The legacy of combat and of a nation divided during the Vietnam conflict has left physical and emotional scars for the veterans and a continuing need for professional counseling and support; and

"Whereas, The United States Congress has established 18 Vietnam veterans centers in California communities which have provided effective readjustment counseling and other services to promote settlement of the psychological and social difficulties faced by Vietnam veterans since their military discharge; and

"Whereas, Federal statutes in effect in 1988 require the Veterans' Administration beginning October 1, 1988, to move the Vietnam veterans centers from community settings into Veterans' Administration medical facilities, thereby reducing the potential neighborhood outreach capabilities that promote easy access to services by the veteran population; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California strongly encourages the President to support, and the Congress to enact, legislation to continue funding of the Vietnam veterans centers in community locations to ensure that veterans receive assistance to meet the needs created while serving their country; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, to the Senate Armed Services and Veterans Committee, the Veteran's Administration, and to the chairperson of each committee of the Senate and House of Representatives for consideration of legislation."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LEAHY, from the Committee on Agriculture, Nutrition, and Forestry, without amendment:

S. 2641. A bill to authorize the Secretary of Agriculture and other agency heads to enter into agreements with foreign fire organizations for assistance in wildfire protection.

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. SYMMS:

S. 2759. A bill to amend title XVIII of the Social Security Act to eliminate the reimbursement differential between hospitals in different areas; to the Committee on Finance.

By Mr. METZENBAUM (for himself, Mr. HOLLINGS, and Mr. SANFORD):

S. 2760. A bill to ensure air safety to air passengers; to the Committee on Commerce, Science, and Transportation.

By Mr. HOLLINGS (for himself, Mr. KERRY, Mr. CRANSTON, Mr. INOUYE, Mr. ADAMS, Mr. EVANS, and Mr. WILSON):

S. 2761. A bill to authorize appropriations to carry out title III of the Marine Protection, Research, and Sanctuaries Act of 1972 during fiscal years 1989, 1990, 1991, and 1992, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. GORE:

S. 2762. A bill to establish a National Educational Software Corporation to promote the development and distribution of high-quality, interactive, and educationally useful computer software, and for other purposes; to the Committee on Governmental Affairs.

By Mr. PELL:

S. 2763. A bill entitled the "Prevention of Genocide Act of 1988"; read the first time.

By Mr. DOLE (for Mr. THURMOND (for himself and Mr. HOLLINGS)):

S. 2764. A bill to provide for a Health and Human Resources Center at Voorhees College in Denmark, SC; considered and passed.

By Mr. GLENN (for himself and Mr. SIMON):

S. 2765. A bill to protect the rights of persons to due process of law and equal protection of the laws in guardianship proceedings; to the Committee on the Judiciary.

By Mr. SIMON (for himself, Mr. DIXON and Mr. GRASSLEY):

S.J. Res. 374. Joint resolution to provide for a settlement of the labor-management dispute between the Chicago and North Western Transportation Company and the United Transportation Union; considered and passed.

By Mr. MOYNIHAN (for himself and Mr. D'AMATO):

S.J. Res. 375. Joint resolution designating October 22, 1988, as "National Chester F. Carlson 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. BYRD (for himself, Mr. DOLE, Mr. HUMPHREY, Mr. PELL, Mr. HELMS, and Mr. BOSCHWITZ):

S. Res. 467. Resolution to express the deep regret of the Senate regarding the deaths of Ambassador Arnold Lewis Raphel

and General Herbert Marion Wassom; considered and agreed to.

By Mr. BYRD (for himself, Mr. DOLE, Mr. STENNIS, Mr. HELMS, Mr. BOREN, Mr. HEFLIN, Mr. HUMPHREY, Mr. JOHNSTON, Mr. HECHT, Mr. SHELBY, Mr. SYMMS, Mr. MCCLURE, Mr. NICKLES, and Mr. BOND):

S. Res. 468. Resolution to express the deep regret of the Senate of the United States over the death of President Mohammad Zia ul-Haq of Pakistan; ordered held at the desk.

By Mr. FORD:

S. Con. Res. 141. Concurrent resolution authorizing the rotunda of the U.S. Capitol to be used on January 20, 1989, in connection with the proceedings and ceremonies for the inauguration of the President-elect and the Vice President-elect of the United States; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SYMMS:

S. 2759. A bill to amend title XVIII of the Social Security Act to eliminate mandated caps on physicians fees, and to eliminate the reimbursement differential between hospitals in different areas; to the Committee on Finance.

ELIMINATION OF LIMITATIONS ON PHYSICIANS CHARGES

Mr. SYMMS. Mr. President, today, I am pleased to introduce a bill designed to correct the gross inequity of the Medicare reimbursement rates for rural hospitals and referral centers, in addition to removing unnecessary Government intervention in the health care profession.

Our rural hospitals are in dire straits.

Over the past 8 years, 161 rural hospitals have closed their doors and approximately 600 additional rural hospitals are on the brink of bankruptcy.

The closing of rural hospitals is endangering the health and well being of millions of Americans. Following such closures, residents of communities in many parts of Idaho and other Western States must often travel in excess of 150 miles to seek even simple checkups.

The elderly are especially affected by the closures of rural health care providers. To illustrate this point, I ask unanimous consent that an article published by the National Center for Health Services Research be printed in the RECORD at this point.

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

RURAL HOSPITAL CLOSURE MAY HARM THE VERY OLD

The closure of rural hospitals combined with the trend to regionalize specialty hospital services may have implications for the very old in the Nation's rural areas, according to research sponsored by the National Center for Health Services Research and Health Care Technology Assessment (NCHSR). An analysis of distances traveled for hospital care by rural area residents in New York State showed that few residents 75 years of age and older went beyond the county line for care. Most were hospitalized locally. Only 18 percent crossed a county line to get care, compared with 31 percent of those younger than 75. Overall, 29 percent of the State's rural inhabitants went outside their home county for hospital care. In fact, almost two-thirds of this group went to urban medical centers.

The study also examined the impact of severity of illness on expected treatment costs for New York rural inhabitants who go to urban hospitals for care and those who use local facilities. An index based on Medicare's Diagnosis Related Group (DRG) patient classification system was employed. However, because of the difficulty of distinguishing severity of illness from intensity of patient resource use and medical practice patterns also captured by DRGs, a second index based on Disease Staging also was used. Because Disease Staging is clinically based, it categorizes patients only by severity of illness, thus avoiding the "confounding effects" of treatment-related information inherent in the DRG-based scheme. The resulting cost estimates were then compared. Use of either index showed that rural patients had higher costs in urban hospitals, but that the estimates varied according to the index employed. Using the DRG method, rural patients would cost 20 percent more to treat in urban hospitals than patients in local rural hospitals. In contrast, use of the Disease Staging method showed that rural patients would cost only 8 percent more in urban hospitals than those treated in local hospitals. According to author and former NCHSR researcher Christopher Hogan, Ph.D., the results suggest that resource intensity may be more important than severity of illness in explaining the high costs of treatment in urban hospitals.

However, after adjusting for the mix of patients across DRGs, Disease Staging showed that rural patients in New York's urban hospitals should cost between 2 and 3 percent more to treat than in the State's rural community hospitals. This is about the level of the current Medicare rural-urban hospital payment differential for New York. In other regions of the country, however, the rural-urban Medicare payment differential approaches 20 percent. According to Dr. Hogan, a similar analysis for such regions might shed light on the degree to which variations in the urban-rural Medicare differential are justified on severity of illness grounds. The study was based on discharges from short-term general hospitals in New York in 1983. Details are in an article, "Patterns of Travel for Rural Individuals Hospitalized in New York State: Relationships between Distance, Destination, and Casemix," published in the July 1988 issue of the *Journal of Rural Health*. Reprints are available from NCHSR.

Mr. SYMMS. Mr. President, the present Medicare payment system does not adequately account for the fact that small rural hospitals compete for the same doctors and nurses, buy from the same suppliers, and have other costs comparable to those paid by hospitals in metropolitan areas. In fact the rural/urban differential is entirely capricious, penalizing a hospital if it happens to be located in an area which is certainly in need of health care providers, but is termed "rural," when just across some imaginary line is a hospital with the same underlying costs, but receiving higher payments.

For example, Nampa, ID, 20 miles from Boise, ID, is considered rural. Boise is considered urban. Coeur d' Alene, ID, 45 miles from Spokane, WA, is considered rural. Spokane is considered urban. They all compete for the same doctors, the same nurses, the same supplies. It is in the same general inland empire region. It is very difficult for those rural hospitals to get payments, which are much less for the same medical treatments and procedures as the other hospital in the neighboring community.

Medicare payments have a particularly large impact on rural hospitals. Because most rural hospitals are small, they cannot adjust easily to fluctuations in inpatient admissions or case mix, whereas larger hospitals can average the fluctuations from year to year and over many cases. For small rural hospitals which tend to operate closer to the margins of their costs, and cannot take advantage of spreading Medicare losses across large numbers of patients, as done by large metropolitan hospitals, these fluctuations can be devastating financially. Because a large proportion of rural hospital patients are Medicare patients, rural health providers are doubly at risk when the prospective payment system fails to compensate them adequately for their special circumstances or when inequities in payment policies exist.

This legislation will also remove mandated caps on physicians' fees. Removal of such caps will help ensure access to care for Medicare patients while continuing to allow physicians to reduce their fees as necessary to accommodate the financial circumstances of elderly patients. In addition, this measure will effectively eliminate the current discriminatory distinction between participating and nonparticipating physicians which will, in turn, allow Medicare patients more options in seeking affordable health care.

Mr. President, I ask unanimous consent to have an editorial from the Idahonian/Daily News by Sandra Haarsager which addresses the Medicare reimbursement inequities printed in the RECORD along with the text of the bill.

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

[From the Idahonian Daily News, Aug. 3, 1988]

NEW MEDICARE RULES SNAG LOCAL HOSPITALS

[By Sandra Haarsager]

It's good that the federal government has taken steps to control once-skyrocketing Medicare costs.

But as frequently happens with distant bureaucratic decisions meant to control expenses, the bureaucracy has created a briar patch.

Caught in today's briar patch are the hospitals in Moscow and Pullman.

Both take care of Medicare patients, who constitute about half of Gritman's patients and about 20 percent of Pullman Memorial's patients. Both hospitals compete for personnel from roughly the same skilled labor pool, under roughly the same economic conditions and wage requirements currently existing on the Palouse.

But Medicare's masters at the Health Care Financing Administration (HCFA) have decided one hospital should be reimbursed for care based on a salary index that's 20 percent higher than the other.

That makes no sense, and is made even worse by the latest update of the rules to take effect Oct. 1.

The feds in their infinite wisdom say Pullman Memorial needs to pay its workers 99 percent of the national average and Gritman needs pay only 80 percent of the national average, but those numbers themselves are misleading.

First, the allowable figures are based on 1984 salary surveys. Is anybody around here making the same amount of money he or she made in 1984?

Second, Medicare has set up an artificial problem, by grouping Pullman's hospital with the Seattle and Spokane labor market costs while grouping Moscow with southern Idaho's historically low salaries.

In effect, they're telling Gritman it can get along on much less than its counterpart eight miles away, which isn't exactly flush itself.

Taken together, the new rules on reimbursement mean Gritman could be getting as much as 40 percent less to care for the typical Medicare patient than a hospital in Spokane.

And if there's that kind of problem here, it's certain to be repeated at rural hospitals elsewhere in the nation, especially those with high proportions of Medicare and Medicaid patients.

Granted, it's hard to generate sympathy for hospitals, especially after getting one of their bills with a list of charges longer than a small town's phonebook.

But in this case, local rural hospitals—especially ones like Gritman—are getting a bum deal.

And if they have to shift costs, it's their other patients who will be footing the bill.

S. 2759

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

SECTION 1. ELIMINATION OF LIMITATIONS ON PHYSICIAN CHARGES.

(a) ELIMINATION OF REASONABLE CHARGE LIMIT FOR PARTICIPATING PHYSICIANS.—

(1) IN GENERAL.—Section 1842(b)(3)(B)(ii) of the Social Security Act (42 U.S.C. 1395u(b)(3)(B)(ii)) is amended by striking "(I) the reasonable charge is the full charge for the service and (II)".

(2) TERMINATION OF PARTICIPATION AGREEMENTS.—Section 1842(h)(1) of such Act (42 U.S.C. 1395u(h)(1)) is amended by inserting "and ending before 1989" after "1984".

(b) ELIMINATION OF ACTUAL CHARGE LIMITS.—

(1) IN GENERAL.—Section 1842 of such Act (42 U.S.C. 1395u) is amended—

(A) by repealing subsections (j)(1), (l), and (m), and

(B) by striking paragraph (4) of subsection (j).

(2) CONFORMING AMENDMENTS.—

(A) Section 1842 (b)(3)(G) of such Act (42 U.S.C. 1395u(b)(3)(G)) is amended by inserting "ending before 1989" after "each year".

(B) Section 1842(b)(11) of such Act (42 U.S.C. 1395u(b)(11)) is amended by striking subparagraph (C).

(c) DETERMINATION OF REASONABLE CHARGE FOR PAYMENT TO PHYSICIANS.—Section 1842(b)(4) of such Act (42 U.S.C. 1395u(b)(4)) is amended by adding at the end the following new subparagraph:

"(G) Notwithstanding any other provision of this part, in determining the reasonable charge under paragraph (3) for physicians' services furnished on or after January 1, 1989, the Secretary shall determine such charge without regard to whether the physician was a participating or nonparticipating physician in any previous year.".

(d) EFFECTIVE DATE.—The amendments made by this section shall become effective with physician's services delivered on or after January 1, 1989.

SEC. 2. ELIMINATION OF SEPARATE AVERAGE STANDARDIZED AMOUNTS FOR HOSPITALS IN DIFFERENT AREAS.

(a) IN GENERAL.—Section 1886 of the Social Security Act (42 U.S.C. 1395ww) is amended by adding at the end the following new subsection:

"(i)(1)(A) On or before April 1, 1989, the Secretary and the Prospective Payment Assessment Commission established under subsection (e) (in this subsection referred to as the 'Commission') shall each submit to the Congress a report recommending a methodology that provides for the elimination of the system of determining separate average standardized amounts for subsection (d) hospitals (as defined in subsection (d)(1)(B)) located in large urban, other urban, or rural areas. The methodologies set forth in such reports shall provide for a graduated reduction of the differences in the average standardized amounts applicable to large urban, other urban, or rural area hospitals during the 36-month period beginning October 1, 1989 and shall provide for the complete elimination of such differences for discharges occurring on or after October 1, 1991. Such methodologies may provide for such changes to any of the adjustments, reductions, and special payments otherwise authorized or required by this section as the Secretary or the Commission determines to be necessary and appropriate to carry out the purposes of this subsection.

"(B) Not later than May 1, 1989, the Congressional Budget Office (in this subsection referred to as 'CBO') shall submit to the Congress an analysis of each of the reports submitted under subparagraph (A).

"(C) Not later than June 1, 1989, the Secretary shall promulgate proposed regulations to implement the recommendations of the Secretary under subparagraph (A) (including any recommended changes in the adjustments, reductions, and special payments otherwise authorized or required by this section).

"(D) Not later than August 30, 1989, the Secretary shall promulgate final regulations to implement the recommendations and changes described in subparagraph (C).

"(E) If the Congress does not enact legislation after the date of the enactment of this subsection and before October 1, 1989, with respect to the average standardized amounts applicable to large urban, other urban, or rural area hospitals, then, notwithstanding any other provision of this section, the average standardized amounts for such hospitals for discharges occurring on or after October 1, 1989, shall be determined in accordance with the final regulations promulgated under subparagraph (D).

"(2)(A) On or before April 1, 1990, the Secretary and the Commission shall each submit to the Congress a report specifying the manner in which the average standardized amounts determined under the regulations becoming effective in accordance with paragraph (1)(E) should be adjusted appropriately to reflect legitimate differences in the operating costs of inpatient hospital services (as defined in subsection (a)(4)) for different categories of subsection (d) hospitals.

"(B) Not later than May 1, 1990, CBO shall submit to the Congress an analysis of each of the reports submitted under subparagraph (A).

"(C) Not later than June 1, 1991, the Secretary shall promulgate proposed regulations to implement the recommendations of the Secretary under subparagraph (A).

"(D) Not later than August 30, 1991, the Secretary shall promulgate final regulations to implement the Secretary's recommendations under subparagraph (A).

"(E) If the Congress does not enact legislation after the date of the enactment of this subsection and before October 1, 1991, with respect to adjustments to the average standardized amounts applicable to large urban, other urban and rural area hospitals, then, notwithstanding any other provision of the section, the average standardized amounts for such hospitals for discharges occurring on or after October 1, 1991, shall be determined in accordance with the final regulations promulgated under paragraph (1)(D) and subparagraph (D) of this paragraph.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective on the date of enactment of this Act.

By Mr. METZENBAUM (for himself, Mr. HOLLINGS, and Mr. SANFORD):

S. 2760. A bill to ensure greater air safety to air passengers; to the Committee on Commerce, Science, and Transportation.

AIR SAFETY LEGISLATION

● Mr. METZENBAUM. Mr. President, I rise to offer legislation to help reduce the incidence of fires on commercial aircraft. This legislation, which would require all commercial airlines to equip their planes with crash resistant fuel systems, is desperately needed.

Just last week, we witnesed the crash of a Delta flight in Dallas, TX. Thirteen people lost their lives in the ensuing fire. While we still don't know the exact cause of the crash, we do know the devastation and loss of life caused by the postcrash fire.

Miraculously, the vast majority of passengers survived that Delta flight. But they were lucky. The truth is that not enough has been done to reduce the smoke and fire caused by airplane crashes. We can do more to protect airplane passengers from these dangers.

For over 40 years airline pilots have been calling for better antifire devices on planes. Let me quote from a New York Times article, dated November 5,

1947. At the time, airlines captains urged the adoption of "* * * approved type fuel cells which would be self-sealing, as in war planes, to prevent fires inflight and after even minor ground damage to planes."

It is now 1988—41 years later—and we still don't have self-sealing fuel lines in commercial aircraft. Military planes are so equipped—and apparently were so equipped in the 1940's—but not commercial airplanes which carry millions of passengers every year.

The bill I am introducing today will change this. The legislation is similar to the amendment which I offered back in October 1987, during consideration of the Airport and Airway Capacity Expansion Act. That amendment would have required the FAA to adopt proven technologies which would reduce fires on airplanes. Unfortunately, the conferees opted for a study instead.

We've studied this matter enough. We are talking about adopting available technologies.

We will no doubt hear cries about the costs associated with these safety improvements. But, Mr. President, we are talking about saving lives. Isn't it worth paying a few cents more for an airline ticket to have safer planes?

The FAA has taken its time but it has finally adopted flammability standards for the interior cabins of airplanes. This will be an important step toward reducing the dangers of fire onboard airplanes.

However, the FAA has dragged its feet on other critical fire safety matters. It hasn't done enough research on ways to lower the combustibility of airplane fuel. And it hasn't pushed the airlines to use crash resistant fuel tanks and fuel lines.

My bill would stop all the foot-dragging. It would require all new planes built after 1990 to be equipped with self-sealing fuel lines, crash resistant inner fuel tanks or other technologies to prevent the spraying of highly flammable fuel. For planes that are already operating, the Secretary of Transportation would determine technologically feasible ways to retrofit them to reduce the incidence of fires. Finally, it would provide the FAA with funds to do developmental research on such fuel-related measures as antimisting kerosene to help localize fires.

Mr. President, I want to emphasize the point about retrofitting existing planes. Airplanes are used for a long time. Indeed, that Delta jet which crashed last week was built in the early 1970's. We must ensure that similar planes—the ones flying today—are made safer.

I'm not an engineer. My bill will leave it to the experts at the Federal Aviation Administration and the Department of Transportation to decide how to make airplanes more fire-resistant. But it will get the FAA moving.

We can't wait any longer. This legislation is supported by the Air Line Pilots Association, the Association of Flight Attendants, Consumers Union and the Aviation Consumer project. I urge my colleagues to join in cosponsoring this important airline safety measure. I ask unanimous consent that 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. 2760

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

CRASH-RESISTANT FUEL SYSTEMS

SECTION 1. In order to ensure greater air safety to passengers of air carriers, the Secretary of Transportation, within 120 days following the date of the enactment of this Act, shall issue such regulation or regulations as may be necessary to require each air carrier aircraft manufactured after January 1, 1990, to be equipped with crash-resistant inner fuel tanks, and breakaway, self-sealing fittings throughout the fuel system or other devices or means which will prevent the spraying or free flow of significant quantities of fuel after an air crash. Such regulation shall include a requirement that each air carrier aircraft manufactured on or before January 1, 1990, be retrofitted, in a technologically and appropriate manner as determined by the Secretary, so as to reduce the incidence of fire or explosion.

RESEARCH AND DEVELOPMENT

SEC. 2. The Secretary of Transportation, within 60 days following the date of the enactment of this Act, shall cause to be undertaken a program of research and development in the area of fuel additives with a view to achieving a reduction in rapid fuel dispersal and combustibility in connection with the crash of an air carrier. In carrying out such program, the Secretary shall commit such amounts as may be necessary for the research and development necessary for such a reduction.

AUTHORIZATION

SEC. 3. There is authorized to be appropriated such sum as may be necessary to carry out the provisions of this Act.●

By Mr. HOLLINGS (for himself, Mr. KERRY, Mr. CRANSTON, Mr. INOUYE, Mr. ADAMS, and Mr. EVANS):

S. 2761. A bill to authorize appropriations to carry out title III of the Marine Protection, Research, and Sanctuaries Act of 1972 during fiscal years 1989, 1990, 1991, and 1992, and for other purposes; referred to the Committee on Commerce, Science, and Transportation.

MARINE SANCTUARIES AUTHORIZATION ACT

Mr. HOLLINGS. Mr. President, today I am introducing legislation to reauthorize title III of the Marine Protection, Research, and Sanctuaries Act of 1972 [MPRSA], the National Oceanic and Atmospheric Administration's [NOAA] Marine Sanctuary Program. This legislation was enacted in response to growing concern over the degradation of marine habitats. Its primary purpose is to provide for the conservation and protection of nationally significant marine resources.

The legislation I am introducing has five main goals. First, it reauthorizes the program for 4 years. The National Marine Sanctuaries Program was last authorized in 1984. At that time, $3 million was authorized for fiscal year 1985, increasing to $3.9 million for fiscal year 1988. The bill I am introducing today authorizes $3 million for fiscal year 1989, escalating to $3.5 million for fiscal year 1990; $4 million for fiscal year 1991; and $4.5 million for fiscal year 1992.

Second, the bill addresses a problem related to NOAA's ability to recover financially for damages to sanctuary resources. In recent years, two accidents have caused significant damage to marine sanctuary resources. These events involved the grounding of a freighter in the Key Largo National Marine Sanctuary and the grounding and rupture of an oil tanker near the Farallones National Marine Sanctuary. Clearly, these events were catastrophic to the surrounding marine ecosystem. In both incidents, NOAA sued and collected large cash settlements for the damage done to the sanctuaries. However, since NOAA presently lacks the explicit authority to recover monetary damages for destruction done to sanctuary resources, the settlement moneys were returned to the Treasury. My legislation will permit funds that are collected for resource damages to be returned to NOAA for sanctuary restoration.

Third, this legislation will provide a system of special-use permits within marine sanctuaries. Historically, NOAA has initiated a policy of promoting multiple uses of sanctuaries—provided they are compatible with resource protection. Congress incorporated this multiple-use concept into the 1984 amendments. However, questions continue to arise concerning commercial activities within sanctuaries, especialy regarding NOAA's authority to grant concessions for such activities. The bill I am introducing today will provide a mechanism for controlling activities which cannot adequately be controlled under current sanctuary regulations.

Fourth, the bill will establish guidelines for enforcement within marine sanctuaries. This provision, similar to that used to protect other marine resources, is necessary to provide for a more uniform enforcement authority under statutes protecting living marine resources.

Finally, this legislation provides a specific schedule for the designation of three new sanctuaries. NOAA has been quite slow to designate new sanc-

tuaries. In fact, since our last review of the sanctuaries program in 1984, only one new sanctuary has been incorporated into the system. This bill sets specific dates by which time the Secretary of Commerce must issue notices of final designation for three sites—Cordell Banks, Monterey Bay, and the Western Washington Outer Coast. While I feel that it is unfortunate that we, in Congress, must legislate these designations, it is only way I know that we can move the program along.

In closing, let me emphasize that I believe this legislation is necessary to provide a renewed sense of direction in our National Marine Sanctuaries Program, particularly with respect to the long-term goal of establishing consistent authority in the conservation and protection of our nationally significant marine resources.

Mr. President, I ask unanimous consent that the full text of the bill I am introducing today be printed in the CONGRESSIONAL RECORD immediately following my statement.

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

S. 2761

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 "Marine Sanctuaries Authorization Act of 1988".

SEC. 2. The Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1431 et seq.) is amended—

(1) by redesignating sections 308 and 309 as sections 310 and 311, respectively; and

(2) in section 310, as so redesignated, by adding at the end the following:

"(5) $3,000,000 for fiscal year 1989.

"(6) $3,500,000 for fiscal year 1990.

"(7) $4,000,000 for fiscal year 1991.

"(8) $4,500,000 for fiscal year 1992.".

SPECIAL USE PERMITS

SEC. 3. (a) The Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1431 et seq.), as amended by this Act, is further amended by inserting immediately after section 307 the following new section:

"SEC. 308. SPECIAL USE PERMITS.

"(a) ISSUANCE OF PERMITS.—The Secretary may issue special use permits which authorize the conduct of specific activities in a national marine sanctuary if the Secretary determines such authorization is necessary—

"(1) to establish conditions of access to and use of any sanctuary resource; or

"(2) to promote public use and understanding of a sanctuary resource.

"(b) PERMIT TERMS.—A permit issued under this section—

"(1) shall authorize the conduct of an activity only if the activity is compatible with the purposes for which the sanctuary is designated and with protection of sanctuary resources;

"(2) shall not authorize the conduct of any activity for a period of more than 5 years unless renewed by the Secretary;

"(3) shall require that activities carried out under the permit be conducted in a manner that does not destroy, cause the loss of, or injure sanctuary resources; and

"(4) shall require the permittee to purchase and maintain comprehensive general liability insurance against claims arising out of activities conducted under the permit and to agree to hold the United States harmless against such claims.

"(c) FEES.—

"(1) ASSESSMENT AND COLLECTION.—The Secretary may assess and collect fees for the conduct of any activity under a permit issued under this section.

"(2) AMOUNT.—The amount of a fee under this subsection shall be equal to the sum of—

"(A) costs incurred, or expected to be incurred, by the Secretary in issuing the permit;

"(B) costs incurred, or expected to be incurred, by the Secretary as a direct result of the conduct of the activity for which the permit is issued, including costs of monitoring the conduct of the activity; and

"(C) an amount which represents the fair market value of the use of the sanctuary resource and a reasonable return to the United States Government.

"(3) USE OF FEES.—Amounts collected by the Secretary in the form of fees under this section may be used by the Secretary—

"(A) for issuing and administering permits under this section; and

"(B) for expenses of designating and managing national marine sanctuaries.

"(d) VIOLATIONS.—Upon violation of a term or condition of a permit issued under this section, the Secretary may—

"(1) suspend or revoke the permit without compensation to the permittee and without liability to the United States;

"(2) assess a civil penalty in accordance with section 307; or

"(3) both.

"(e) REPORTS.—Each person issued a permit under this section shall submit an annual report to the Secretary not later than December 31 of each year which describes activities conducted under that permit and revenues derived from such activities during the year.

"(f) FISHING.—Nothing in this section shall be considered to require a person to obtain a permit under this section for the conduct of any fishing activities in a national marine sanctuary.".

SANCTUARY RESOURCE DESTRUCTION, LOSS, OR INJURY

SEC. 4. The Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1431 et seq.), as amended by this Act, is further amended by adding at the end the following new section:

"SEC. 309. DESTRUCTION OR LOSS OF, OR INJURY TO, SANCTUARY RESOURCES.

"(a) LIABILITY.—

"(1) IN GENERAL.—Except as provided in paragraph (3), any person who destroys, causes the loss of, or injures any sanctuary resource is liable to the United States for response costs and damages resulting from such destruction, loss, or injury.

"(2) LIABILITY IN REM.—Any vessel used to destroy, cause the loss of, or injure any sanctuary resource shall be liable in rem to the United States for response costs and damages resulting from such destruction, loss, or injury.

"(3) DEFENSES.—A person is not liable under this subsection if that person can establish that—

"(A) the destruction or loss of, or injury to, a sanctuary resource was caused solely by an act of God, an act of war, or an act or omission of a third party, and that the person acted with due care;

"(B) the destruction, loss, or injury was caused by an activity authorized by Federal or State law; or

"(C) the destruction, loss, or injury was negligible.

"(b) RESPONSE ACTIONS AND DAMAGE ASSESSMENT.—

"(1) RESPONSE ACTIONS.—The Secretary may undertake all necessary actions to prevent or minimize the destruction or loss of, or injury to, sanctuary resources, or to minimize the imminent risk of such destruction, loss, or injury.

"(2) DAMAGE ASSESSMENT.—The Secretary shall assess damages to sanctuary resources in accordance with section 302(1).

"(c) CIVIL ACTIONS.—

"(1) RECOVERY OF RESPONSE COSTS AND DAMAGES.—The Secretary, acting as trustee for sanctuary resources on behalf of the United States, shall commence a civil action in the United States district court for the appropriate district against any person or vessel who may be liable under subsection (a) for response costs and damages.

"(2) VENUE.—Venue for an action under this section lies—

"(A) in any district in which the defendant resides or may be found;

"(B) in any district in which is located the defendant's principal place of business;

"(C) in the district nearest to the national marine sanctuary involved; and

"(D) in the case of an in rem action against a vessel, in any district having jurisdiction over the vessel.

"(d) USE OF RECOVERED AMOUNTS.—Amounts recovered by the Secretary under this section for response costs and damages and under section 307 for civil penalties shall be retained by the Secretary in the manner provided for in section 107(f)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607(f)(1)), and used as follows:

"(1) USE OF AMOUNTS RECOVERED UNDER THIS SECTION.—Amounts recovered under this section shall be used, in order of priority—

"(A) to finance response actions and damage assessments by the Secretary involving national marine sanctuaries;

"(B) to restore, replace, or acquire the equivalent of the sanctuary resources which were the subject of the action;

"(C) to manage and improve the national marine sanctuary within which are located the sanctuary resources which were the subject of the action; and

"(D) to manage and improve any other national marine sanctuary.

"(2) USE OF CIVIL PENALTIES.—Amounts recovered under section 307 in the form of civil penalties shall be used by the Secretary in accordance with section 307(e) and paragraph (1) (C) and (D) of this subsection.

"(3) FEDERAL-STATE COORDINATION.—Amounts recovered under this section with respect to sanctuary resources lying within the jurisdiction of a State shall be used under paragraphs (1) (B) and (C) in accordance with an agreement entered into by the Secretary and the Governor of that State.".

(b) Section 302 of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1432) is amended—

(1) by redesignating paragraphs (1) through (3) as paragraphs (2) through (4), respectively, and by redesignating paragraphs (4) and (5) as paragraphs (7) and (8) respectively;

(2) by inserting immediately before paragraph (2), as so redesignated, the following new paragraph:

"(1) 'damages' includes—

"(A) compensation for—

"(i)(I) the cost of replacing, restoring, or acquiring the equivalent of a sanctuary resource; and

"(II) the value of the lost use of a sanctuary resource pending its restoration, its replacement, or the acquisition of an equivalent sanctuary resource; or

"(ii) the value of a sanctuary resource if the sanctuary resource cannot be restored or replaced or if the equivalent of such resource cannot be acquired; and

"(B) the cost of damage assessments under section 309(b)(2);";

(3) in paragraph (2), as so redesignated, by striking "section 304(a)(1)(E)" and inserting in lieu thereof "section 304(a)(1)(C)(v)" and

(4) by inserting immediately after paragraph (4), as so redesignated, the following new paragraphs:

"(5) 'response costs' means the costs of actions taken by the Secretary to minimize destruction or loss of, or injury to, a sanctuary resource, or to minimize the imminent risks of such destruction, loss, or injury; and

"(6) 'sanctuary resource' means any living or nonliving resource of a national marine sanctuary that contributes to the conservation, recreational, ecological, historical, research, educational, or asthetic value of the sanctuary.".

(c) Section 309 of the Marine Protection, Research, and Sanctuaries Act of 1972, as added by this Act, shall apply to any amount in the form of damages received by the United States after the date of enactment of this Act for destruction or loss of, or injury to, a sanctuary resource as defined in section 302(6) of such act of 1972.

MARINE SANCTUARY ENFORCEMENT

SEC. 5. Section 307 of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1437) is amended to read as follows:

"SEC. 307. ENFORCEMENT.

"(a) IN GENERAL.—The Secretary shall conduct such enforcement activities as are necessary and reasonable to carry out this title.

"(b) POWERS OF AUTHORIZED OFFICERS.—Any person who is authorized to enforce this title may—

"(1) with or without a warrant or other process—

"(A) board, and search or inspect, any vessel that is subject to the provisions of this title;

"(B) seize any vessel (together with its equipment, stores, and cargo) used or employed in, or with respect to which it reasonably appears that such vessel was used or employed in, the violation of this title or any regulation or permit issued under this title;

"(C) seize wherever found any sanctuary resource taken or retained in violation of this title or any regulation or permit issued under this title; and

"(D) seize any evidence related to a violation of this title or of any regulation or permit issued under this title;

"(2) execute any warrant or other process issued by any court of competent jurisdiction; and

"(3) exercise any other lawful authority.

"(c) CIVIL PENALTIES.—

"(1) CIVIL PENALTY.—Any person subject to the jurisdiction of the United States who violates this title or any regulation or permit issued under this title shall be liable to the United States for a civil penalty of not more than $50,000 for each such violation, to be assessed by the Secretary. Each day of a continuing violation shall constitute a separate violation.

"(2) NOTICE.—No penalty shall be assessed under this subsection until after the person charged has been given notice and an opportunity for a hearing.

"(3) IN REM JURISDICTION.—A vessel used in violating this title or any regulation or permit issued under this title shall be liable in rem for any civil penalty assessed for such violation and may be proceeded against in any district court of the United States having jurisdiction.

"(4) REVIEW OF CIVIL PENALTY.—Any person against whom a civil penalty is assessed under this subsection may obtain review in the United States district court for the appropriate district by filing a complaint in such court not later than 30 days after the date of such order and simultaneously serving a copy of the complaint by certified mail on the Secretary, the Attorney General, and the appropriate United States attorney. Upon being served such a complaint, the Secretary shall promptly file in such court in accordance with section 2112 of title 28, United States Code, a certified copy of the record upon which the violation relating to such complaint was found or such penalty imposed. The findings and order of the Secretary shall be set aside by such court if they are not found to be supported by substantial evidence, as provided in section 706(2) of title 5, United States Code.

"(5) COLLECTION OF PENALTIES.—If any person fails to pay an assessment of a civil penalty under this section after it has become a final and unappealable order, or after the appropriate court has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General, who shall recover the amount assessed in any appropriate district court of the United States. In such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

"(6) COMPROMISE OR OTHER ACTION BY SECRETARY.—The Secretary may compromise, modify, or remit, with or without conditions, any civil penalty which is or may be imposed under this section.

"(d) FORFEITURE.—

"(1) IN GENERAL.—Any vessel (including its equipment, stores, and cargo) and any other item used, and any sanctuary resource taken or retained, in any manner, in connection with or as a result of any violation of this title or of any regulation or permit issued under this title shall be subject to forfeiture to the United States pursuant to a civil proceeding under this subsection.

"(2) APPLICATION OF THE CUSTOMS LAWS.—The Secretary may exercise the authority of any United States official granted by any relevant customs law relating to the seizure, forfeiture, condemnation, disposition, remission, and mitigation of property in enforcing this title.

"(3) DISPOSAL OF SANCTUARY RESOURCES.—Any sanctuary resource seized pursuant to this title may be disposed of pursuant to an order of the appropriate court, or, if perishable, in a manner prescribed by regulations issued by the Secretary. Any proceeds from the sale of such sanctuary resource shall for all purposes represent the sanctuary resource so disposed of in any subsequent legal proceedings.

"(4) PRESUMPTION.—For the purposes of this section, there is a rebuttable presumption that all sanctuary resources found on board a vessel that is seized in connection with a violation of this title or of any regulation or permit issued under this title were taken or retained in violation of this title or of a regulation or permit issued under this title.

"(e) PAYMENT OF STORAGE, CARE, AND OTHER COSTS.—

"(1) IN GENERAL.—Notwithstanding any other law, the Secretary may use amounts received under this section in connection with civil penalties, forfeitures of property, and liability for costs imposed under paragraph (2) to pay—

"(A) The reasonable and necessary costs incurred by the Secretary in providing temporary storage, care, and maintenance of any sanctuary resource or other property seized under this section pending disposition of any civil proceeding relating to any alleged violation with respect to which such sanctuary resource or other property was seized; and

"(B) A reward to any person who furnishes information leading to an assessment of a civil penalty, or to a forfeiture of property, for a violation of this title or of any regulation of permit issued under this title.

"(2) LIABILITY FOR COSTS.—Any person assessed a civil penalty for a violation of this title or of any regulation or permit issued under this title, and any claimant in a forfeiture action brought for such a violation, shall be liable for the reasonable costs incurred by the Secretary in storage, care, and maintenance of any sanctuary resource or other property seized in connection with the violation.

"(f) SUBPOENAS.—For the purposes of conducting any hearing under this section, the Secretary may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and may administer oaths. Witnesses summoned shall be paid the same fees and mileage that are paid to witnesses in the courts of the United States. In case of contempt or refusal to obey a subpoena served upon any person pursuant to this subsection, the district court of the United States for any district in which such person is found, resides, or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Secretary or to appear and produce documents before the Secretary, or both, and any failure to obey such order may be punished by such court as contempt.

"(g) JURISDICTION.—The district courts of the United States shall have jurisdiction to restrain a violation of this title and regulations and permits issued under this title, and to grant such other relief as may be appropriate.

"(h) USE OF RESOURCES OF STATE AND OTHER FEDERAL AGENCIES.—The Secretary shall, whenever appropriate, use by agreement the personnel, services, and facilities of State and other Federal departments, agencies, and instrumentalities, on a reimbursable or nonreimbursable basis, to carry out the Secretary's responsibilities under this section.

"(i) COAST GUARD AUTHORITY NOT LIMITED.—Nothing in this section shall be considered to limit the authority of the Coast Guard to enforce this or any other Federal law under section 89 of title 14, United States Code.

"(j) INJUNCTIVE RELIEF.— If the Secretary determines that there is an imminent risk of

destruction or loss of or injury to a sanctuary resource, or that there has been actual destruction or loss of, or injury to, a sanctuary resource which may give rise to liability under section 309, the Attorney General, upon request of the Secretary, shall seek to obtain such relief as may be necessary to abate such risk or actual destruction, loss, or injury, or to restore or replace the sanctuary resource, or both. The district courts of the United States shall have jurisdiction in such a case to order such relief as the public interest and the equities of the case may require.".

ACTIONS WITH RESPECT TO NEW SANCTUARIES

SEC. 6. (a) The Secretary of Commerce shall issue a notice of designation under section 304(b)(1) of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1434(b)(1))—

(1) with respect to the proposed Cordell Banks National Marine Sanctuary as generally described in the Federal Register notice of June 30, 1983, not later than December 31, 1988;

(2) with respect to the Monterey Bay National Marine Sanctuary as generally described in the Federal Register notice of December 31, 1979, not later than December 31, 1989; and

(3) with respect to the Western Washington Outer Coast National Marine Sanctuary as generally described in the Federal Register notice of August 4, 1983, not later than June 30, 1990.

(b) The Secretary of Commerce shall submit a prospectus under section 304(a)(1)(C) of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1434(a)(1)(C)) to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Merchant Marine and Fisheries of the House of Representatives with respect to the Northern Puget Sound National Marine Sanctuary, as generally described as the Washington State Nearshore area in the Federal Register notice of August 4, 1983, not later than March 31, 1991.

STUDY OF AREA FOR MARINE SANCTUARY DESIGNATION PURPOSES

SEC. 7. (a)(1) The Secretary of Commerce shall conduct a study of the area described in subsection (c) for purposes of making determinations and findings in accordance with section 303(a) of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1433(a)) regarding whether or not all or any part of such area is appropriate for designation as a national marine sanctuary in accordance with title III of that Act.

(2) Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives a report which sets forth the determinations and findings referred to in paragraph (1).

(b) If as a result of a study conducted pursuant to subsection (a) the Secretary makes the determinations and findings specified in section 303(a) of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1433(a)) with respect to all or any part of the area described in subsection (c), the Secretary, in accordance with the procedures for the designation of national marine sanctuaries set forth in section 304 of that Act (16 U.S.C. 1434), shall designate such area or parts of such area as a national marine sanctuary as the Secretary considers appropriate.

(c) The area referred to in subsections (a) and (b) is the portion of the marine environment off the coast of California commonly referred to as Santa Monica Bay, consisting of an area described generally as follows: Beginning at the point known as Point Dume near the western extent of Santa Monica Bay, proceed generally southeast along the shoreline to the point known as Point Vincente near the southern extent of Santa Monica Bay; then west to the 900 meter bathymetric contour; then generally northwest along the 900 meter bathymetric contour to a point due west of Point Dume; then east to Point Dume at the point of beginning.

(d) For the purposes of this section, the term "marine environment" has the meaning such term has in section 302(3) of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1432(3)).

Mr. KERRY. Mr. President, I rise today with my colleague Senator HOLLINGS to introduce legislation which will reauthorize title III of the Marine Protection, Research, and Sanctuaries Act of 1972 [MPRSA]; the Marine Sanctuary Program of the National Oceanic and Atmospheric Administration [NOAA]. Our Nation and in particular my home State of Massachusetts share a strong marine heritage. This legislation protects that heritage through sound marine resource management and additional protection provided under this act. The Nation's Marine Sanctuary Program has been successful in preserving and protecting significant ocean resources in the Atlantic and Pacific Oceans as well as the Gulf of Mexico.

Current marine sanctuary sites include unique coral reefs, large areas of threatened marine mammals and sea birds, and a shipwreck site of the Civil War ironclad, the U.S.S. *Monitor*. Seven sites have been designated as sanctuaries by the Secretary of Commerce since the U.S.S. *Monitor* sanctuary was first designated in 1975. Three additional sites are active candidates and are planned for designation as sanctuaries by 1991.

The legislation that we are introducing today is needed to strengthen title III of the MPRSA and extend the reauthorization for 4 years. In addition this bill provides that funds collected for sanctuary damage must be returned to NOAA for sanctuary restoration. It also allows for special use permits to be issued within the sanctuary system. These permits will allow both public and commercial activities to occur as long as they do not violate the resource protection and management in specific sanctuaries. Finally this legislation enhances law enforcement authority in marine sanctuaries to ensure the same protection for marine resources within the sanctuaries as we have for fishery conservation and marine mammal protection. This will allow NOAA to practice more uniform enforcement conduct.

The General Accounting Office evaluated NOAA's Marine Sanctuary Program in 1981 and concluded that the program was extremely important to marine resource management and conservation and should therefore be federally supported. In their study the General Accounting Office found that the program had specific authority to manage ecosystems through the sanctuary process. They showed the great benefits the program offered ocean resources by ensuring their long-term preservation. The report further highlighted the positive nature of public education about our valuable ocean resources as a result of the Sanctuary Program. This is a program which must continue to preserve our Nation's marine environment, including its historic marine sites. The legislation that Senator HOLLINGS and I are introducing today will meet this need.

By Mr. GORE:

S. 2762. A bill to establish a National Educational Software Corporation to promote the development and distribution of high-quality, interactive, and educationally useful computer software, and for other purposes; to the Committee on Governmental Affairs.

NATIONAL EDUCATIONAL SOFTWARE ACT

● Mr. GORE. Mr. President, I rise today to introduce the National Educational Software Act of 1988. Ensuring America's world leadership in advanced computer technology may well be the most important economic and technological challenge of the 21st century. I believe that high performance computing represents one of our best hopes to improve American competitiveness by restoring growth in productivity, and computer software is critical to our success.

In computer technology, the hardware in typically several years ahead of the software, and the software is often ahead of the policy. Just as it takes time for programmers to design applications for new machines, it takes time for policymakers to address the problems that new technology brings. We cannot afford to delay. We are dangerously behind, for example, in addressing the problems of software copyrights.

In the hearing I chaired last month, it became clear that we need to put resources into hardware, software, research and development, education, and the training of personnel. In the coming months, I plan to work with my colleagues to address these issues.

In the meantime, I have reintroduced legislation I authored in the 98th and 99th Congresses that focuses on educational software. Computers have spread throughout our school systems, and many of them make good teachers. But too often we have ignored this area of software development. If we are going to get this country moving in the next century, we will need to focus, on the next generation

and protect our intellectual market share—America's ability to train competitive thinkers. The National Educational Software Act would establish a public corporation to develop and distribute high quality, interactive, and useful educational software.

The legislation I have introduced today addresses one critical need in software development, and it provides a starting point for us. Members of Congress, industry, Federal agencies, software authors, and computer users should view this legislation as a vehicle for discussion and a launching point for comprehensive legislation addressing software problems. The advances in artificial intelligence and parallel processing, for example, point to our technological and intellectual expertise. But the Federal Government must address the problems of software copyright law, technology transfer, and long-term research and development. I will continue to work on this issue, and I plan to introduce comprehensive software legislation to address a wide range of software problems and ensure adequate investment in software development.

The National Educational Software Act is one of the first steps needed to ensure America's continued leadership in the information industry. I urge my colleagues to work with me in the coming months to address these pressing issues.

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. 2762

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

SHORT TITLE

SECTION 1. This Act may be cited as the "National Educational Software Act of 1988".

FINDINGS

SEC. 2. The Congress finds that—

(1) computers can play a valuable role in enhancing the quality of education in the Nation;

(2) high-quality, interactive, and educationally useful software is essential to enable the tremendous educational potential of computers to be realized;

(3) the vast majority of educationally oriented computer software now available is of less than adequate quality; and

(4) a national effort is needed to encourage the development of high-quality, interactive, educationally useful software for the schools of the Nation.

ESTABLISHMENT OF CORPORATION

SEC. 3. (a) There is established within the executive branch of the Federal Government a National Educational Software Corporation (hereafter in this Act referred to as the "Corporation").

(b) The Corporation shall be operated under the general direction and supervision of a board of directors which shall consist of—

(1) the Secretary of the Department of Education, the Director of the National Science Foundation, and the Director of the Office of Science and Technology Policy, or their designees; and

(2) twelve individuals appointed by the President with the advice and consent of the Senate as follows:

(A) four individuals shall be engaged in the teaching profession who, as a group, teach at elementary and secondary schools and institutions of higher education;

(B) three individuals shall be involved in the administration of educational institutions;

(C) three individuals shall be experts in the application of computer technology to education; and

(D) two individuals shall be experts in the venture financing of high technology companies.

(c) Except for the individuals specified in subsection (b)(1) of this section, no individual who is a full-time officer or employee of the Federal Government may be appointed to the board of directors of the Corporation. A vacancy in the board shall be filled in the manner in which the original appointment was made. Members of the board may be removed by the President for good cause.

(d)(1) Except as provided in paragraphs (2) and (3) of this subsection, those members of the board of directors appointed pursuant to subsection (b)(2) of this section shall be appointed for terms of six years.

(2) Of the members first appointed pursuant to such subsection—

(A) three shall be appointed for a term of six years;

(B) three shall be appointed for a term of five years;

(C) three shall be appointed for a term of four years; and

(D) three shall be appointed for a term of three years.

(3) Any member of the board of directors appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term. A member may serve after the expiration of his term until his successor has taken office.

(e) The President shall appoint the Chairman of the board of directors from among those members appointed pursuant to subsection (b)(2) of this section.

(f) The board of directors shall meet at the call of the Chairman or a majority of its members. Ten members of the board shall constitute a quorum. A majority vote of the board shall be necessary to approve the actions of the Corporation under this Act. Members of the board may vote by written proxy or written assignment of proxy.

(g) The board of directors shall appoint an executive director who shall be responsible for the management and administration of the Corporation.

(h) Members of the board of directors appointed by the President shall each be paid at a daily rate equal to the daily equivalent of the rate of basic pay payable for grade GS-18 of the General Schedule and shall be entitled to travel expenses and a per diem in lieu of subsistence in accordance with subchapter I of chapter 57 of title 5, United States Code.

(i) Members of the board of directors who are full-time officers or employees of the Federal Government shall receive no additional pay by reason of their service on the board.

PRINCIPAL FUNCTIONS OF THE CORPORATION

SEC. 4. Subject to the availability of appropriations therefor, the Corporation shall—

(1) develop corporation participation criteria for the selection of high-quality, interactive, and educationally useful computer software;

(2) secure investment capital for projects, selected by the Corporation as warranting its assistance, to develop such software;

(3) make appropriate and reasonable investments in projects for the development of such software, subject to the limitations contained in this Act;

(4) enter into contracts and make grants to assist in the development of such software; and

(5) engage in such other operations and activities as the board of directors determines to be necessary and appropriate to encourage the development and use of such software.

GENERAL AUTHORITIES OF THE CORPORATION

SEC. 5. In carrying out its functions under section 4, the Corporation is authorized—

(1) to adopt and use a corporate seal, which shall be judicially noticed;

(2) to sue and be sued in its corporate name;

(3) to adopt, amend, and repeal bylaws governing the conduct of its business and the performance of the powers and duties granted to or imposed upon it by law;

(4) to acquire, hold or dispose of, upon such terms and conditions as the Corporation may determine, any property, real, personal, or mixed, tangible or intangible, or any interest therein;

(5) to invest funds derived from fees and other revenues in obligations of the United States and to use the proceeds therefrom, including earnings and profits, as it shall deem appropriate;

(6) to indemnify directors, officers, employees, and agents of the Corporation for liabilities and expenses incurred in connection with their Corporation activities;

(7) to purchase, discount, rediscount, sell, and negotiate, with or without its endorsement or guaranty, and guarantee notes, participation certificates, and other evidence of indebtedness (provided that the Corporation shall not issue its own securities);

(8) to make and carry out such contracts and agreements as are necessary and advisable in the conduct of its business;

(9) to exercise the priority of the Government of the United States in collecting debts from bankrupt, insolvent, or decedents' estates;

(10) to determine the character of and the necessity for its obligations and expenditures, and the manner in which such obligations and expenditures shall be incurred, allowed, and paid, subject to provisions of law specifically applicable to Government corporations; and

(11) to take such actions as may be necessary or appropriate to carry out the powers herein or hereafter specifically conferred upon it.

PROVISIONS CONCERNING INVESTMENTS BY THE CORPORATION

SEC. 6. (a) Any investment made by the Corporation under section 4(3) in a project for the development of high-quality, interactive, and educationally useful software must be based on a finding by the board of directors that—

(1) the proceeds of the investment will be used only to cover the initial capital needs

of the project, except as otherwise specified in this Act;

(2) the project has a reasonable chance of success;

(3) the Corporation's investment is necessary to the success of the project because funding for the project is unavailable in the traditional or venture capital markets, or because funding has been offered on terms that would substantially hinder the success of the project; and

(4) there is a reasonable possibility that the Corporation will recoup at least its initial investment.

(b) No investment shall be made by the Corporation unless the board of directors determines that a reasonable, good faith effort has been made to secure a professional investor, in lieu of the Corporation, to make an adequate investment in the project, and that such effort was unsuccessful. Subject to the requirements of this Act, nothing shall prohibit the Corporation from making an investment in a project as a coventure with professional investors if the Corporation determines that such investment is appropriate to the success of the project.

(c) The Corporation shall not make any investment by which it exercises or has the power to exercise any voting rights under an equity security.

(d) For purposes of this section, the term "professional investor" means any bank, bank holding company, savings institution, trust company, insurance company, investment company registered under the Investment Company Act of 1940, pension or profit-sharing trust or other financial institution or institutional buyer, licensee under the Small Business Investment Act of 1958, or any person, partnership, or other entity of whose resources a substantial amount is dedicated to investing in securities or debt instruments and whose net worth exceeds $250,000.

AUTHORIZATION OF APPROPRIATIONS

SEC. 7. There is authorized to be appropriated to carry out this Act $15,000,000 for each of the fiscal years 1988, 1989, and 1990.●

By Mr. PELL:

S. 2763. A bill entitled the "Preventon of Genocide Act of 1988"; read the first time.

PREVENITON OF GENOCIDE ACT

Mr. PELL. Mr. President, on the Iraqi-Turkish border evidence of a crime of unthinkable proportions is emerging. For the second time in this century a brutal dictatorship is using deadly gas to exterminate a distinct ethnic minority. In this case the victims are the Kurdish minority of Iraq and the perpetrators are the Iraqi Army.

The Kurds are a distinct ethnic group, with an ancient history and rich culture, comprising some 20 million people. Although many have long aspired to an independent Kurdish homeland, the Kurds have the great misfortune to be divided among Iraq, Iran, Turkey, Syria, and the Soviet Union. It is hard to imagine a less agreeable set of masters.

While Iraq's treatment of its Kurdish minority has in the past been somewhat better than that of its neighbors, the condition of the Iraqi Kurds has in recent years taken a turn for the catastrophic. With the onset of the Iran-Iraq War, Kurdish insurgents in both countries saw an opportunity for greater autonomy, if not independence. In Iraq the Kurdish insurgency made great progress, taking effective control of much of the countryside in mountainous northeast Iraq.

However, with the tides of war changing in Iraq's favor early this year, the Iraqi Army launched a major offensive against the Kurds. The offensive was accompanied by the dynamiting of Kurdish villages throughout the region. Poisonous gas was used on the people. In March in the Kurdish town of Halabja, some 5,000 Kurdish civilians were gassed.

With the August 20 cease-fire in the Iran-Iraq War, the Iraqi Army has turned its firepower and its ample stocks of poison gas almost entirely against the Kurds. Refugee accounts provide incontrovertible evidence of massive use of poison gas. Because the region is closed to all foreign observers we can only speculate at the death toll, but it clearly is in the tens of thousands.

The campaign against the Kurdish people is continuing as we speak. There can be no doubt but that the Iraqi regime of Saddam Hussein intends this campaign to be a final solution to the Kurdish problem.

While a people are gassed, the world is largely silent. There are reasons for this: Iraq's great oil wealth, its military strength, a desire not to upset the delicate negotiations seeking an end to the Iran-Iraq War.

Silence, however, is complicity. A half century ago, the world was also silent as Hitler began a campaign that culminated in the near extermination of Europe's Jews. We cannot be silent to genocide again.

I am today introducing legislation that would cut off credits to Iraq, require the United States to vote against loans to Iraq in the international financial institutions, and prohibit the importation of Iraqi oil. These sanctions will continue as long as Iraq uses poisonous gas in violation of the 1925 Geneva protocols and as long as Iraq's campaign of genocide against the Kurdish people continues.

It is said we do not have much influence over Iraq. This may be true, but I believe we must use whatever means at our disposal to get their attention. The Iraqi regime is a vicious dictatorship toughened by years of conflict. Hand wringing alone will not change their course; immediate action is essential.

By Mr. GLENN (for himself and Mr. SIMON):

S. 2765. A bill to protect the rights of persons to due process of law and equal protection of the laws in guardianship proceedings; referred to the Committee on the Judiciary.

NATIONAL GUARDIANSHIP RIGHTS ACT

● Mr. GLENN. Mr. President, today, along with my colleague, Senator SIMON, I am introducing S. 2765, the National Guardianship Rights Act of 1988. This legislation is being introduced in the House of Representatives by Chairman CLAUDE PEPPER of the House Select Committee on Aging's Subcommittee on Health and Long-Term Care, who issued a report, "Abuses in Guardianship of the Elderly and Infirm: A National Disgrace." This report and the information compiled by the Associated Press' year-long investigation and special report, "Guardians of the Elderly: An Ailing System," make it clear that action is needed to reform the process by which guardians are appointed and to monitor the activities of guardians on behalf of their wards. Guardianships are handled by the States, usually through the probate courts, but it has become apparent that there is an important role for the Federal Government to play by ensuring minimum standards in all guardianship systems.

It is estimated that from 300,000 to over 500,000 elderly and disabled people are under guardianship, which means that their legal rights, possessions and decisionmaking power have been transferred to another person because a court has determined they are unable to handle their own affairs. Guardianship is an important protection for those who truly need assistance, but there is a growing concern about problems and abuses with our current guardianship systems. This concern is intensified given our aging population—particularly the "old-old" who are most likely to be frail, widowed, institutionalized and in need of some assistance. The National Guardianship Rights Act of 1988 addresses many of the problems that have been documented, including the following:

Lack of notification to an individual that someone is petitioning the court to have a guardian appointed for that individual;

Use of advanced age as significant criteria for a finding of incapacity and issuance of a guardianship order;

Lack of consideration of medical evidence in determining incapacity;

No requirement that an alleged incapacitated individual be present when a guardianship proceeding takes place;

No standards for becoming a guardian; and

Lack of oversight of the actions taken by guardians.

Our legislation establishes Federal requirements so that all States must provide due process protections in guardianship proceedings, in accordance with the 14th amendment to the U.S. Constitution; and it establishes rights regarding the appointment of

competent and trained guardians and regarding reconsiderations of determinations of incapacity. States would be required to demonstrate compliance with this act by submitting a State implementation plan to the Attorney General not less than once every 2 years. Failure to comply substantially with any provision of this act would result in a withholding of Federal payments to the State.

Guardianship is an important issue—one that is tied to our concern about long-term care for our growing elderly population, particularly the very old. Many of these people may need some assistance, not because they are old but because they are in very poor physical or mental health. However, their civil liberties should not be taken from them without very good justification and without due process. And when a guardian is appointed, there should be an assurance that this person is highly qualified and that their actions will be monitored to ensure that they are in the best interests of the person they have been appointed to protect. The National Guardianship Rights Act of 1988, legislation which sets Federal standards for the States to follow, addresses these important issues, and I look forward to its passage by the Congress.●

By Mr. MOYNIHAN (for himself and Mr. D'AMATO):

S.J. Res. 375. Joint resolution designating October 22, 1988, as "National Chester F. Carlson Recognition Day"; to the Committee on the Judiciary.

NATIONAL CHESTER F. CARLSON RECOGNITION DAY

● Mr. MOYNIHAN. Mr. President, I rise today to introduce a joint resolution designating October 22, 1988, as National Chester F. Carlson Recognition Day. Fifty years ago on that date, Carlson, an unknown patent attorney, discovered xerography, a revolutionary new way to copy documents. It was a dry, clean, and relatively inexpensive process, destined to play an instrumental role in the information age.

The genius and curiosity of Chester Carlson is rare. Xerography represented a dramatic breakthrough in the fields of physics, chemistry, and engineering. Two years after its discovery, the first office copier as we know it was on the market. Carlson's determination and relentless experimentation earned him a total of 34 U.S. patents, 28 of which related to xerography.

As the grandson of Swedish immigrants, Carlson overcame poverty to obtain a degree in physics and law. His hard work and innovation resulted in a multimillion dollar fortune in patent royalties. But as a man of principles and generosity, he donated most of his wealth in support of world peace, the United Nations, the civil rights movement, and many colleges and universities.

On October 22, 1988, we will salute both his genius and philanthropy. Chester Carlson is a true hero in this country's history. Perhaps, by recognizing his contributions on this day, we will inspire more inventors and philanthropists.●

ADDITIONAL COSPONSORS

S. 1382

At the request of Mr. METZENBAUM, the name of the Senator from Washington [Mr. ADAMS] was added as a cosponsor of S. 1382, a bill to amend the National Energy Conservation Policy Act to improve the Federal Energy Management Program, and for other purposes.

S. 1738

At the request of Mr. WILSON, the names of the Senator from Missouri [Mr. DANFORTH], the Senator from Indiana [Mr. LUGAR], the Senator from Kansas [Mrs. KASSEBAUM], and the Senator from Arizona [Mr. MCCAIN] were added as cosponsors of S. 1738, a bill to make long-term care insurance available to civilian Federal employees, and for other purposes.

S. 1897

At the request of Mr. THURMOND, the name of the Senator from Maine [Mr. COHEN] was added as a cosponsor of S. 1897, a bill to recognize the organization known as the National Association of State Directors of Veterans' Affairs, Incorporated.

S. 2170

At the request of Mr. GRAHAM, the name of the Senator from Iowa [Mr. HARKIN] was added as a cosponsor of S. 2170, a bill to support democracy and respect for human rights in Haiti.

S. 2199

At the request of Mr. CHAFEE, the name of the Senator from Oregon [Mr. PACKWOOD] was added as a cosponsor of S. 2199, a bill to amend the Land and Water Conservation Act and the National Historic Preservation Act, to establish the American Heritage Trust, for purposes of enhancing the protection of the Nation's natural, historical, cultural, and recreational heritage, and for other purposes.

S. 2345

At the request of Mr. WEICKER, the names of the Senator from Washington [Mr. ADAMS], the Senator from Alaska [Mr. STEVENS], and the Senator from Maryland [Ms. MIKULSKI] were added as cosponsors of S. 2345, a bill to establish a clear and comprehensive prohibition of discrimination on the basis of handicap.

S. 2395

At the request of Mr. BREAUX, his name was added as a cosponsor of S. 2395, a bill to facilitate access to space, and for other purposes.

S. 2450

At the request of Mr. CHILES, the name of the Senator from California [Mr. WILSON] was added as a cosponsor of S. 2450, a bill to provide Federal financial assistance to facilitate the establishment of volunteer programs in American schools.

S. 2461

At the request of Mr. MOYNIHAN, the name of the Senator from Rhode Island [Mr. CHAFEE] was added as a cosponsor of S. 2461, a bill to amend part E of title IV of the Social Security Act to extend and make necessary improvements in the independent living program under such part, and for other purposes.

S. 2501

At the request of Mr. WILSON, the name of the Senator from Arizona [Mr. MCCAIN], and the Senator from Illinois [Mr. SIMON] were added as a cosponsor of S. 2501, a bill to amend the Internal Revenue Code of 1986 to allow periods of out-of-residence care to qualify for the principal residence use requirements of the one-time capital gain exclusion for taxpayers who have attained age 55.

S. 2630

At the request of Mr. WILSON, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of S. 2630, a bill to correct the unfair treatment by the tax laws of the United States of citizens performing jury duty.

S. 2633

At the request of Mr. HATCH, the name of the Senator from Nevada [Mr. REID] was added as a cosponsor of S. 2633, a bill to provide jurisdiction and procedures for claims by individuals for injuries or death due to exposure to radiation from nuclear testing.

S. 2641

At the request of Mr. MELCHER, the name of the Senator from Wyoming [Mr. SIMPSON], the Senator from Wyoming [Mr. WALLOP], the Senator from Idaho [Mr. SYMMS], the Senator from Idaho [Mr. MCCLURE], and the Senator from Montana [Mr. BAUCUS] were added as cosponsors of S. 2641, a bill to authorize the Secretary of Agriculture and other agency heads to enter into agreements with foreign fire organizations for assistance in wildlife protection.

S. 2707

At the request of Mr. SYMMS, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 2707, a bill to provide for the transfer of certain monkeys to the animal sanctuary known as Primarily Primates, Incorporated.

S. 2733

At the request of Mr. THURMOND, the name of the Senator from Kansas [Mrs. KASSEBAUM] was added as a cosponsor of S. 2733, a bill to amend title 18, United States Code to prohibit any person who is being compensated for lobbying the Federal Government

from being paid on a contingency fee basis.

S. 2734

At the request of Mr. THURMOND, the names of the Senator from Alaska [Mr. STEVENS], the Senator from Maryland [Mr. SARBANES], and the Senator from Vermont [Mr. LEAHY] were added as cosponsors of S. 2734, a bill to require the construction of a memorial on Federal land in the District of Columbia or its environs to honor members of the Armed Forces who served in World War II and to commemorate U.S. participation in that conflict.

S. 2756

At the request of Mr. CRANSTON, the names of the Senator from Texas [Mr. BENTSEN] and the Senator from New York [Mr. MOYNIHAN] were added as cosponsors of S. 2756, a bill entitled the "Anti-Apartheid Act Amendments of 1988."

SENATE JOINT RESOLUTION 149

At the request of Mr. HELMS, the name of the Senator from Oklahoma [Mr. NICKLES] was added as a cosponsor of Senate Joint Resolution 149, joint resolution to designate the period commencing on June 21, 1989, and ending on June 28, 1989, as "Food Science and Technology Week."

SENATE JOINT RESOLUTION 181

At the request of Mr. WILSON, the names of the Senator from Georgia [Mr. FOWLER], the Senator from Georgia [Mr. NUNN], the Senator from Alaska [Mr. STEVENS], the Senator from Wisconsin [Mr. KASTEN], and the Senator from Connecticut [Mr. DODD] were added as cosponsors of Senate Joint Resolution 181, joint resolution designating the week beginning February 1, 1988, as "National VITA Week."

SENATE JOINT RESOLUTION 182

At the request of Mr. THURMOND, the name of the Senator from Missouri [Mr. DANFORTH] was added as a cosponsor of Senate Joint Resolution 182, joint resolution to authorize the National Committee of American Airmen Rescued by General Mihailovich to erect a monument to General Draza Mihailovich in Washington, District of Columbia, or its environs, in recognition of the role he played in saving the lives of more than 500 United States airmen in Yugoslavia during World War II.

SENATE JOINT RESOLUTION 309

At the request of Mr. WILSON, the names of the Senator from Washington [Mr. ADAMS], the Senator from Oklahoma [Mr. BOREN], and the Senator from Arizona [Mr. DECONCINI] were added as cosponsors of Senate Joint Resolution 309, joint resolution designating the month of May as "National Asparagus Month."

At the request of Mr. WILSON, the name of the Senator from Maryland [Mr. SARBANES] was withdrawn as a cosponsor of Senate Joint Resolution 309, supra.

SENATE JOINT RESOLUTION 337

At the request of Mr. COCHRAN, the names of the Senator from Missouri [Mr. BOND], and the Senator from North Carolina [Mr. HELMS] were added as cosponsors of Senate Joint Resolution 337, joint resolution acknowledging the sacrifices that military families have made on behalf of the Nation and designating November 21, 1988, as "National Military Families Recognition Day."

SENATE JOINT RESOLUTION 360

At the request of Mr. BOND, the name of the Senator from Missouri [Mr. DANFORTH] was added as a cosponsor of Senate Joint Resolution 360, joint resolution to designate February 12, 1989, as "World Marriage Day."

SENATE JOINT RESOLUTION 361

At the request of Mr. PELL, the names of the Senator from Indiana [Mr. QUAYLE], the Senator from Washington [Mr. ADAMS], the Senator from Florida [Mr. CHILES], the Senator from Louisiana [Mr. BREAUX], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Delaware [Mr. BIDEN], the Senator from New Hampshire [Mr. HUMPHREY], the Senator from Delaware [Mr. ROTH], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Ohio [Mr. METZENBAUM], the Senator from Ohio [Mr. GLENN], and the Senator from Connecticut [Mr. WEICKER] were added as cosponsors of Senate Joint Resolution 361, joint resolution designating the week of September 25, 1988, as "Religious Freedom Week."

SENATE JOINT RESOLUTION 364

At the request of Mr. HELMS, the names of the Senator from Florida [Mr. CHILES], the Senator from Colorado [Mr. WIRTH], the Senator from Ohio [Mr. GLENN], the Senator from Mississippi [Mr. COCHRAN], and the Senator from Oklahoma [Mr. NICKLES] were added as cosponsors of Senate Joint Resolution 364, joint resolution to designate the week of October 2 through October 8, 1988, as "National Paralysis Awareness Week."

SENATE JOINT RESOLUTION 365

At the request of Mr. GARN, the name of Senator from South Dakota [Mr. PRESSLER] was added as a cosponsor of Senate Joint Resolution 365, joint resolution to designate January 28, 1989, as "National Challenger Center Day" to honor the crew of the space shuttle Challenger.

SENATE CONCURRENT RESOLUTION 127

At the request of Mr. WILSON, the name of the Senator from South Carolina [Mr. THURMOND] was added as a cosponsor of Senate Concurrent Resolution 127, concurrent resolution expressing the sense of the Congress concerning support for amateur radio and amateur radio frequency allocations vital for public safety purposes.

SENATE CONCURRENT RESOLUTION 141—AUTHORIZING THE ROTUNDA OF THE UNITED STATES CAPITOL TO BE USED ON JANUARY 20, 1989

Mr. FORD submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 141

Resolved by the Senate (the House of Representatives concurring), That the Rotunda of the United States Capitol is hereby authorized to be used on January 20, 1989, by the Joint Congressional Committee on Inaugural Ceremonies in connection with the proceedings and ceremonies conducted for the inauguration of the President-elect and the Vice President-elect of the United States. Such Committee is authorized to utilize appropriate equipment and the services of appropriate personnel of departments and agencies of the Federal Government, under arrangements between such Committee and the heads of such departments and agencies, in connection with such proceedings and ceremonies.

SENATE RESOLUTION 467—REGARDING THE DEATHS OF AMBASSADOR ARNOLD LEWIS RAPHEL AND GENERAL HERBERT MARION WASSOM

Mr. BYRD (for himself, Mr. DOLE, Mr. HUMPHREY, Mr. PELL, Mr. HELMS, and Mr. BOSCHWITZ) submitted the following resolution; which was considered and agreed to:

S. RES. 467

Whereas the Senate of the United States has learned with profound sorrow and deep regret of the tragic deaths of the United States Ambassador to Pakistan, Arnold Lewis Raphel, and the Chief United States Defense Representative to Pakistan, Brigadier General Herbert Marion Wassom; and

Whereas Ambassador Raphel's career in the United States Foreign Service spanned more than two decades during which he distinguished himself as an expert on the Middle East and South Asia; and

Whereas General Wassom served more than twenty-six years of active duty in the United States Army and was decorated for his valor with the Legion of Merit with Oak Leaf Cluster, the Bronze Star with two Oak Leaf Clusters and the Defense Meritorious Service Medal; and

Whereas the presence of Ambassador Raphel and General Wassom in Islamabad served to strengthen the important bond of friendship between the governments of the United States and Pakistan; and

Whereas Ambassador Raphel and General Wassom were tragically killed while actively promoting the long-standing commitment of the United States to the security and independence of Pakistan; and

Whereas Ambassador Raphel was the sixth United States Ambassador to be killed while courageously serving this nation overseas; and

Whereas the untimely deaths of Ambassador Raphel and General Wassom on August 17, 1988, are a tragedy for the United States Foreign Service, the United States Army, and the American people.

Therefore be it resolved that: The United States Senate expresses its deep sympathies to the families of Ambassador Arnold Lewis Raphel and Brigadier General Herbert Marion Wassom who were killed while serving this nation with courage and dedication.

SENATE RESOLUTION 468—RELATIVE TO THE DEATH OF PRESIDENT MOHAMMAD ZIA UL-HAQ OF PAKISTAN

Mr. BYRD (for himself, Mr. DOLE, Mr. STENNIS, Mr. HELMS, Mr. BOREN, Mr. HEFLIN, Mr. HUMPHREY, Mr. JOHNSTON, Mr. HECHT, Mr. SHELBY, Mr. SYMMS, Mr. MCCLURE, Mr. NICKLES, and Mr. BOND) submitted the following resolution; which was ordered held at the desk.

S. RES. 468

Whereas, the Senate of the United States has learned with profound sorrow and deep regret of the tragic death of President Mohammad Zia ul-Haq of Pakistan; and

Whereas, President Zia has been a true friend of the United States and a stalwart defender of Pakistan's sovereignty and independence; and

Whereas, President Zia has earned the respect of the people of the United States for his historic leadership in the struggle of the Afghan people for freedom and for harboring more than four million Afghan refugees who fled the brutal Soviet occupation of Afghanistan; and

Whereas, President Zia's willingness to confront the Soviet Union helped make possible an historic Soviet commitment to withdraw all forces from Afghanistan; and

Whereas, President Zia has undertaken a leading role in promoting regional stability; and

Whereas the untimely death of President Zia on August 17, 1988 is a great loss for the people of Pakistan and for the Afghan Resistance in their struggle for freedom:

Now, therefore, be it resolved, That the Senate—

(1) expresses its deep sympathies to the family of President Zia and to the people of Pakistan for their tragic loss; and

(2) expresses its deep sense of sorrow for the loss of President Zia's leadership, courage, and commitment to the sovereignty and independence of Pakistan; and

(3) reaffirms its longstanding bipartisan commitment to the security and independence of Pakistan; and

(4) welcomes the commitment of the Government of Pakistan under the leadership of President Ghulam Ishaq Khan to follow the constitutional process, to proceed with free and fair parliamentary elections scheduled for November 16, and to continue Pakistan's support for the Afghan refugees and the Resistance in their struggle for freedom in Afghanistan.

AMENDMENTS SUBMITTED

NURSE EDUCATION REAUTHORIZATION ACT

KENNEDY (AND HATCH) AMENDMENT NO. 2939

Mr. BYRD (for Mr. KENNEDY, for himself, and Mr. HATCH) proposed an amendment to the bill (S. 2231) to amend the Public Health Service Act to reauthorize nurse education programs established under title VIII of such act, and for other purposes; 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 "Nurse Education Reauthorization Act of 1988".

TITLE I—SPECIAL PROJECTS

SEC. 101. SPECIAL PROJECT GRANTS AND CONTRACTS.

(a) PURPOSES.—Section 820(a) of the Public Health Service Act (42 U.S.C. 296k(a)) is amended—

(1) in paragraph (1)—

(A) by striking out "and" at the end of subparagraph (E);

(B) by inserting "and" after the semicolon at the end of subparagraph (F); and

(C) by adding at the end thereof the following:

"(G) provide faculty development directed at improving the ability of faculty to facilitate retention of such individuals;";

(2) in paragraph (5), by striking out "and the need to promote preventive health care" and inserting in lieu thereof ", the need to promote preventive health care, and the need to promote occupational health care"; and

(3) by striking out paragraph (6) and inserting in lieu thereof the following new paragraph:

"(6) provide training and education—

"(A) to upgrade the skills of licensed vocational or practical nurses, nursing assistants, and other paraprofessional nursing personnel with priority given to rapid transition programs towards achievement of undergraduate nursing degrees; and

"(B) to develop curricula for the achievement of baccalaureate degrees in nursing or masters degrees in nursing by registered nurses or individuals with baccalaureate degrees in other fields;".

(b) AUTHORIZATION.—Section 820(d) of such Act is amended—

(1) in paragraph (1), by striking out the first sentence and inserting in lieu thereof the following new sentence: "For payments under grants and contracts under paragraphs (1) through (6) of subsection (a), there are authorized to be appropriated $15,000,000 for fiscal year 1989, $16,000,000 for fiscal year 1990, and $17,000,000 for fiscal year 1991."; and

(2) in paragraph (2), by striking out the first sentence and inserting in lieu thereof the following new sentence: "For payments under grants and contracts under paragraphs (7), (8), and (9) of subsection (a), there are authorized to be appropriated $4,200,000 in fiscal year 1989, $4,700,000 in fiscal year 1990, and $5,200,000 in fiscal year 1991.".

SEC. 102. ADVANCED NURSE EDUCATION.

(a) PURPOSES.—The last sentence of section 821(a) of the Public Health Service Act (42 U.S.C. 296l(a)) is amended—

(1) by striking out "priority in" and inserting in lieu thereof "priority to (A)"; and

(2) by inserting before the period at the end thereof the following: "and (B) programs with innovative curriculum that permit individuals with registered nursing degrees to rapidly achieve advanced degrees".

(b) AUTHORIZATION.—Subsection (b) of section 821 of such Act is amended to read as follows:

"(b) For payments under grants and contracts under this section, there are authorized to be appropriated $19,500,000 for fiscal year 1989, $20,500,000 for fiscal year 1990, and $21,500,000 for fiscal year 1991.".

SEC. 103. NURSE PRACTITIONER AND NURSE MIDWIFE PROGRAMS.

(a) TRAINING.—Section 822(a)(2)(B)(ii) of the Public Health Service Act (42 U.S.C. 296m(a)(2)(B)(ii)) is amended by striking out "less than eight" and inserting in lieu thereof "less than six full-time equivalent".

(b) TRAINEESHIPS.—Section 822(b)(3) of such Act is amended—

(1) by inserting "Indian Health Service or a Native Hawaiian health center" after "(designated under section 322)"; and

(2) by striking out "or in a public health care facility" and inserting in lieu thereof ", a public health care facility, a long-term care facility certified under title XVIII or XIX of the Social Security Act (42 U.S.C. 1395 et seq.), a migrant health center (as defined in section 329(a)(1)), or a community health center (as defined in section 330(a))".

(c) GUIDELINES.—Section 822(c) of such Act is amended by inserting "under subsection (a) or (b)" after "a program".

(d) AUTHORIZATION.—Subsection (d) of section 822 is amended to read as follows:

"(d) For payments under grants and contracts under subsections (a) through (c), there are authorized to be appropriated $19,000,000 for fiscal year 1989, $20,000,000 for fiscal year 1990, and $21,000,000 for fiscal year 1991.".

SEC. 104. NURSING SHORTAGE RELIEF PROGRAMS.

Part A of title VIII of the Public Health Service Act (42 U.S.C. 820 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 823. NURSING SHORTAGE RELIEF PROGRAMS.

"(a) LONG-TERM CARE NURSING PRACTICE DEMONSTRATION.—

"(1) IN GENERAL.—The Secretary shall make grants to or enter contracts with public and nonprofit private collegiate schools of nursing for projects to demonstrate and evaluate innovative nursing practice models with respect to the provision of long-term managed health care services and health care services in the home or the provision of health care services in long-term care facilities. Models demonstrated and evaluated with grants and contracts under this subsection shall be designed to increase the recruitment and retention of nurses to provide nursing care for individuals needing long-term care and to improve nursing care in home health care systems and nursing homes.

"(2) AUTHORIZATION.—For grants and contracts under this subsection, there are authorized to be appropriated $2,500,000 for fiscal year 1989, $3,000,000 for fiscal year 1990, and $3,500,000 for fiscal year 1991.

"(b) NURSE RECRUITMENT CENTERS.—

"(1) IN GENERAL.—The Secretary shall make grants to and enter into contracts with public and nonprofit private entities to develop, establish, and operate at least one and not more than five regional model professional nurse recruitment centers for the purpose of recruiting individuals to enter education programs to train professional nurses. In making grants and entering into contracts under this subsection, the Secretary shall ensure that centers developed, established, and operated under this subsection include centers in rural areas.

"(2) DUTIES.—Each center developed, established, or operated with a grant or a contract under this subsection shall—

"(A) conduct nursing recruitment programs directed towards—

"(i) individuals between the ages of 12 and 14 years of age;

"(ii) individuals who are enrolled in high schools;

"(iii) individuals enrolled in colleges and universities who have not declared a major field of study; and

"(iv) adults who are not in school and who may desire to enter nursing;

"(B) develop and compile resource materials concerning professional opportunities in nursing, and disseminate such materials to appropriate individuals and groups, such as community and professional organizations, hospitals, career and guidance counselors in educational institutions, and the print and broadcast media;

"(C) identify potential applicants for nursing education programs and provide information to such potential applicants on the role of the nurse and nursing education programs; and

"(D) promote collaboration among organizations and assist individuals and organizations to establish mentor relationships between professional nurses and potential applicants for nursing education programs.

"(3) AUTHORIZATION.—For grants and contracts under this subsection, there are authorized to be appropriated $2,500,000 for fiscal year 1989, $3,000,000 for fiscal year 1990, and $3,500,000 for fiscal year 1991.

"(c) APPLICATION REQUIREMENTS.—No grant may be made and no contract may be entered into under this section unless an application therefor is submitted to the Secretary at such time, in such form, and containing such information as the Secretary may prescribe.".

TITLE II—ASSISTANCE TO NURSING STUDENTS

SEC. 201. TRAINEESHIPS FOR ADVANCED EDUCATION OF PROFESSIONAL NURSES.

Section 830 of the Public Health Service Act (42 U.S.C. 297) is amended by striking out subsection (c) and inserting in lieu thereof the following new subsections:

"(c)(1) The Secretary may make grants to and enter into contracts with public and nonprofit schools of nursing and other public and nonprofit private entities to cover the cost of traineeships for nurses pursuing graduate degrees in other disciplines.

"(2) Payments under this subsection may be made in advance or by way of reimbursement, and at such intervals and on such conditions, as the Secretary finds necessary. Such payments may be used only for traineeships and shall be limited to such amounts as the Secretary finds necessary to cover the costs of tuition, fees, and other direct educational costs.

"(3) A traineeship funded under this subsection shall not be awarded unless the recipient enters into a commitment with the Secretary to provide full-time service with or without compensation, for a period equal to 1 month for each month for which the recipient receives such a traineeship, in—

"(A) a health manpower shortage area (designated under section 332);

"(B) a long-term care facility certified under title XVIII or XIX of the Social Security Act (42 U.S.C. 1395 et seq.);

"(C) a community health center (as defined in section 330(a));

"(D) a migrant health center (as defined in section 329(a)(1));

"(E) the Indian Health Service;

"(F) a Native Hawaiian health center; or

"(G) a public health care facility.

"(4)(A) If, for any reason, an individual who received a traineeship under paragraph (1) fails to complete a service obligation under paragraph (3), such individual shall be liable for the payment of an amount equal to the cost of tuition and other education expenses and other payments paid under the traineeship, plus interest at the maximum legal prevailing rate.

"(B) When an individual who received a traineeship is academically dismissed or voluntarily terminates academic training, such individual shall be liable for repayment to the Federal government for an amount equal to the cost of tuition and other educational expenses paid to or for such individual from Federal funds plus any other payments that were received under the traineeship.

"(C) Any amount that the United States is entitled to recover under subparagraph (A) or (B) shall, within the 3-year period beginning on the date the United States becomes entitled to recover such amount, be paid to the United States.

"(D) The Secretary shall by regulation provide for the waiver or suspension of any obligation under subparagraph (A) or (B) applicable to any individual whenever compliance by such individual is impossible or would involve extreme hardship to such individual and if enforcement of such obligation with respect to any individual would be against equity and good conscience.

"(d)(1) For the purposes of subsection (a), there are authorized to be appropriated $18,000,000 for fiscal year 1989, $19,000,000 for fiscal year 1990, and $20,000,000 for fiscal year 1991.

"(2) For the purposes of subsection (b), there are authorized to be appropriated $1,100,000 for each of the fiscal years 1989 through 1991.

"(3) For the purposes of subsection (c), there are authorized to be $1,000,000 for each of the fiscal years 1989 through 1991.".

SEC. 202. NURSE ANESTHETISTS.

Section 831 of the Public Health Service Act (42 U.S.C. 297-1) is amended—

(1) in subsection (b), by striking out the first sentence and inserting in lieu thereof the following new sentence: "The Secretary may make grants to public and private nonprofit institutions to cover the costs of projects to improve, plan, develop, and operate programs for the education of nurse anesthetists that are accredited by an entity or entities designated by the Secretary of Education."; and

(2) in subsection (c), by striking out the first sentence and inserting in lieu thereof the following new sentence: "For the purpose of making grants under this section, there are authorized to be appropriated $1,800,000 for each of the fiscal years 1989 through 1991.".

SEC. 203. TRAINEESHIPS FOR UNDERGRADUATE EDUCATION OF PROFESSIONAL NURSES.

Subpart I of part B of title VIII of the Public Health Service Act (42 U.S.C. 297 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 832. SCHOLARSHIPS FOR UNDERGRADUATE EDUCATION OF PROFESSIONAL NURSES.

"(a) IN GENERAL.—

"(1) GRANTS.—The Secretary may make grants to accredited public or nonprofit private schools of nursing for scholarships to be awarded by the school to full time undergraduate students thereof who are in financial need.

"(2) AMOUNT OF AWARD.—The total amounts of the scholarship award to a student for each year shall not exceed the cost of attendance (tuition and fees) for such year at the educational institution attended by the student (as determined by such educational institution).

"(3) PRIORITY.—Priority in the awarding of scholarships shall be given to individuals from disadvantaged backgrounds.

"(b) PAYMENTS.—Payments to institutions under this section may be made in advance or by way of reimbursement, and at such intervals and on such conditions, as the Secretary finds necessary. Such payments may be used only for scholarships and shall be limited to such amounts as the Secretary finds necessary to cover the costs of tuition and fees.

"(c) AUTHORIZATION.—For the purpose of making grants under this section, there are authorized to be appropriated $10,000,000 for fiscal year 1989, $11,000,000 for fiscal year 1990, and $12,000,000 for fiscal year 1991.".

SEC. 204. LOAN AGREEMENTS.

Section 835(c)(1) of the Public Health Service Act (42 U.S.C. 297a(c)(1)) is amended by adding at the end thereof the following new sentence: "This subsection may not be construed to require such schools to reimburse the student loan program under this subpart for loans that became uncollectable prior to 1983.".

SEC. 205. LOAN PROVISIONS.

Section 836(b)(1)(C) of the Public Health Service Act (42 U.S.C. 297b(b)(1)(C)) is amended by striking out "of exceptional financial" and inserting in lieu thereof "in".

SEC. 206. DISTRIBUTION OF ASSETS FROM LOAN FUNDS.

Section 839 of the Public Health Service Act (42 U.S.C. 297c) is amended by striking out "1991" each place it appears in subsections (a) and (b) and inserting in lieu thereof "1994".

SEC. 207. NURSING SCHOLARSHIP AND LOAN DEMONSTRATION PROGRAM.

Part B of title VIII of the Public Health Service Act (42 U.S.C. 297 et seq.) is amended by adding at the end the following new subpart:

"Subpart III—Nursing Scholarship and Loan Demonstration Program

"SEC. 843. NURSING SCHOLARSHIP AND LOAN DEMONSTRATION PROGRAM.

"(a) IN GENERAL.—The Secretary may award scholarships and loans to full-time students enrolled in public or nonprofit private schools accredited for the training of professional nurses who have contracted with a health care facility described in subsection (g) to engage in full-time employment as a nurse for a period of time that is at least equal to the period of time during

which the student received scholarship and loan assistance under this section.

"(b) MAXIMUM AMOUNT OF ASSISTANCE.—The total amount of scholarships and loans provided to a student under this section shall not exceed 100 percent of the cost of tuition, reasonable living expenses, books, fees, and necessary transportation.

"(c) ELIGIBILITY.—A scholarship or loan may be awarded under this section to a student currently enrolled, or to a student who has been accepted to and plans to matriculate, in a nursing program described in subsection (a). Demonstration of need for financial assistance (as determined by the Secretary) shall be required for the award of scholarships and loans under this section. In the award of scholarships and loans under this section, preference shall be given to disadvantaged and minority students underrepresented in the nursing profession.

"(d) SPLIT OF SCHOLARSHIP AND LOAN.—Of the proportion of scholarship and loan awarded to a student under this section, not more than 75 percent shall be in the form of a loan.

"(e) INTEREST.—Loans awarded under this section shall bear interest on the unpaid balance of the loan, computed from the date the student completes the nursing program or from the date the student is no longer enrolled in the nursing program, at a rate of 5 percent per annum.

"(f) ADMINISTRATION.—The Secretary may prescribe such regulations as may be necessary to carry out the demonstration program authorized under this section. The Secretary shall require any student seeking a scholarship and loan award under this section to submit an application in such form as the Secretary may require.

"(g) REPAYMENT.—

"(1) IN GENERAL.—Any hospital, long-term care facility certified under title XVIII or XIX of the Social Security Act (42 U.S.C. 1395 et seq.), or other private nonprofit or public facility that has a contract described in subsection (a) may contract with the Secretary to repay on behalf of a nursing student up to 75 percent of the amount of principal and interest due on a loan awarded under this section.

"(2) LIABILITY OF STUDENTS.—If a student who has been awarded a loan under this section does not fulfill the contract with an eligible health care facility described in paragraph (1) to engage in full-time employment as a nurse for a period of time that is at least equal to the period of time during which the student received scholarship and loan assistance under this section, is dismissed for academic reasons, or voluntarily terminates academic training, the student shall be liable for repayment of an amount equal to 100 percent of the principal and interest due on the loan. Repayment of such amount shall begin not later than 6 months following the date the student completes the nursing program or the date the student is no longer enrolled in the nursing program. The period for repayment of such amount shall be determined by the Secretary, except that such period may not exceed 10 years.

"(3) LIABILITY OF HEALTH CARE FACILITIES.—If a health care facility with which a student has entered into a contract under this section does not fulfill the contract, the health care facility shall remain liable for repayment of an amount equal to 75 percent of the principal and interest due on the loan incurred by the student.

"(4) WAIVER OR SUSPENSIONS.—The Secretary shall by regulation provide for the waiver or suspension of any obligation of any student who has received a scholarship or loan under this section whenever compliance by such student is impossible or would involve extreme hardship to such student and if the enforcement of such obligation with respect to any student would be against equity and good conscience.

"(h) RURAL OR FRONTIER AREAS.—Of the amount made available for a fiscal year under subsection (i), not less than 35 percent of such amount shall be allotted for scholarships and loans for students who contract with health care facilities in rural or frontier areas.

"(i) AUTHORIZATION OF APPROPRIATIONS.—For scholarships and loans awarded under this section, there are authorized to be appropriated $2,000,000 for each of the fiscal years 1989 through 1991.".

TITLE III—GENERAL

SEC. 301. RENAMING OF NATIONAL ADVISORY COUNCIL ON NURSE TRAINING.

(a) IN GENERAL.—Section 851 of the Public Health Service Act (42 U.S.C. 298) is amended—

(1) in the section heading, by striking out "NATIONAL ADVISORY COUNCIL ON NURSE TRAINING" and inserting in lieu thereof "ADVISORY COUNCIL ON NURSES EDUCATION"; and

(2) in subsection (a), by striking out "National Advisory Council on Nurse Training" and inserting in lieu thereof "Advisory Council on Nurses Education".

(b) CONFORMING AMENDMENTS.—

(1) Section 820 of such Act (42 U.S.C. 296k) is amended by striking out "National Advisory Council on Nurse Training" each place it appears in subsections (b) and (c) and inserting in lieu thereof "Advisory Council on Nurses Education".

(2) Section 856(1) of such Act (42 U.S.C. 298b-3(1)) is amended by striking out "National Advisory Council on Nurse Training" and inserting in lieu thereof "Advisory Council on Nurses Education".

TEMPORARY EMERGENCY WILDFIRE SUPPRESSION ACT

MELCHER (AND OTHERS) AMENDMENT NO. 2940

Mr. BYRD (for Mr. MELCHER, for himself, Mr. BAUCUS, and Mr. WALLOP) proposed an amendment to the bill (S. 2641) to authorize the Secretary of Agriculture and other agency heads to enter into agreements with foreign fire organizations for assistance in wildfire protection, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

That this Act may be cited as the "Temporary Emergency Wildfire Suppression Act".

SEC. 2. DEFINITIONS.—As used in this Act—

(1) the term "fire organization" means any governmental, public, or private entity having wildfire protection resources;

(2) the term "wildfire protection resources" means personnel, supplies, equipment, and other resources required for wildfire presuppression and suppression activities; and

(3) the term "wildfire" means any forest or range fire.

SEC. 3. IMPLEMENTATION.—(a)(1) The Secretary of Agriculture or the Secretary of the Interior, in consultation with the Secretary of State, may enter into a reciprocal agreement with any foreign fire organization for mutual aid in furnishing wildfire protection resources for lands and other properties for which such Secretary or organization normally provides wildfire protection.

(2) Any agreement entered into under this subsection—

(A) shall include a waiver by each party to the agreement of all claims against every other party to the agreement for compensation for any loss, damage, personal injury, or death occurring in consequence of the performance of such agreement;

(B) shall include a provision to allow the termination of such agreement by any party thereto after reasonable notice; and

(C) may provide for the reimbursement of any party thereto for all or any part of the costs incurred by such party in furnishing wildfire protection resources for, or on behalf of, any other party thereto.

(b) In the absence of any agreement authorized under subsection (a), the Secretary of Agriculture or the Secretary of the Interior may—

(1) furnish emergency wildfire protection resources to any foreign nation when the furnishing of such resources is determined by such Secretary to be in the best interest of the United States, and

(2) accept emergency wildfire protection resources from any foreign fire organization when the acceptance of such resources is determined by such Secretary to be in the best interest of the United States.

(c) Notwithstanding the preceding provisions of this section, reimbursement may be provided for the costs incurred by the Government of Canada or a Canadian organization in furnishing wildfire protection resources to the Government of the United States under—

(1) the memorandum entitled "Memorandum of Understanding Between the United States Department of Agriculture and Environment and Canada on Cooperation in the Field of Forestry-Related Programs" dated June 25, 1982; and

(2) the arrangement entitled "Arrangement in the Form of an Exchange of Notes Between the Government of Canada and the Government of the United States of America" dated May 14, 1982.

(d) Any service performed by any employee of the United States under an agreement or otherwise under this Act shall constitute service rendered in the line of duty in such employment. The performance of such service by any other individual shall not make such individual an employee of the United States.

SEC. 4. FUNDS.—Funds available to the Secretary of Agriculture or the Secretary of the Interior for wildlife protection resources in connection with activities under the the jurisdiction of such Secretary may be used to carry out activities authorized under agreements or otherwise under this Act, or for reimbursements authorized under section 3(c): *Provided*, That no such funds may be expended for wildlife protection resources or personnel provided by a foreign fire organization unless the Secretary determines that no wildfire protection resources or personnel within the United States are reasonably available to provide wildfire protection.

SEC. 5. TERMINATION DATE.—The authority to enter into agreements under section 3(a), to furnish or accept emergency wildfire protection resources under section 3(b), or to incur obligations for reimbursement under section 3(c), shall terminate on December 31, 1988.

STAFFORD STUDENT LOAN DEFAULT PREVENTION AND MANAGEMENT ACT

PRESSLER AMENDMENT NO. 2941

(Ordered to lie on the table.)

Mr. PRESSLER submitted an amendment intended to be proposed by him to the bill (S. 2647) to amend the Higher Education Act of 1965 to reduce the default rate on student loans under that act, and for other purposes; as follows:

On page 137, between lines 3 and 4, insert the following new section:

SEC. 506. REALLOCATION OF RETURNED SEOG FUNDS TO INSTITUTIONS LOCATED IN NATURAL DISASTER AREAS.

Section 413D(e) of the Act is amended by adding at the end thereof the following: "In making such reallocations, the Secretary shall give a high priority to institutions located in areas which are designated to receive assistance because of the occurrence of a major natural disaster.".

On page 137, line 4, strike out "SEC. 507" and insert in lieu thereof "SEC. 508".

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be authorized to meet during the session of the Senate on Thursday, September 8, 1988, to consider S. 2651, a bill to implement the United States-Canada Free Trade Agreement.

The PRESIDING OFFICER. Without objection, it is ordered.

COMMITTEE ON THE JUDICIARY

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on September 8, 1988, to hold a Justice Department hearing on nominations.

The PRESIDING OFFICER. Without objection, it is ordered.

COMMITTEE ON ARMED SERVICES

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Thursday, September 8, in executive session to receive testimony on the investigation by the U.S.S. *Vincennes* and a demonstration at the Aegis Combat System Center, Wallops Island, VA.

The PRESIDING OFFICER. Without objection, it is ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate Thursday, September 8, 1988, to conduct hearings on community reinvestment, check cashing, lifeline and branch closing provisions of the House Banking bill, H.R. 5094.

The PRESIDING OFFICER. Without objection, it is ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, September 8, to hold a markup on S. 2756, South Africa Sanctions Legislation.

The PRESIDING OFFICER. Without objection, it is ordered.

ADDITIONAL STATEMENTS

IN PRAISE OF ASHLAND OIL'S DROPOUT PREVENTION ACTIVITIES

● Mr. McCONNELL. Mr. President, while I was in Kentucky during the August recess, some encouraging news regarding the future of our children came to my attention. I rise today to commend one of Kentucky's industrial leaders for its involvement in the fight to encourage children to complete their high school education. Although this corporation has long been distinguished for its service to the Commonwealth of Kentucky and the Nation as a whole, its latest educational media campaign is particularly noteworthy for its singular modesty. Mr. President, I rise in praise of Ashland Oil and its multimedia dropout prevention campaign.

Ashland Oil has spent millions of dollars in support of education, particularly in my own State of Kentucky and its sister State of West Virginia. Ashland Oil has now donated materials and services for a series of television, radio, newspaper, and magazine advertisements to heighten public awareness of the dropout problem. However, Ashland Oil's name will not appear in connection with these advertisements. Instead, the advertisements will be identified as public-service announcements from the Council for State Governments and the Advertising Council.

Although Ashland Oil's media campaign underlines the importance of education to parent and child alike, the campaign particularly targets the children themselves. In one commercial, a young mother describes the difficulty of finding a job when "neither my husband or me finished school." She promises things will be different for her son, that "he's gonna stay in high school if I have to tie him to his chair * * * I wish someone had done me that way."

The second commercial tells a story that is also, sadly, all too common. The story concerns a young man, Joey, whose car was the "most important thing in Joey's life." So much so, Joey "quit high school to get a job so he could have the 'hottest ride in town'." Now, the job long gone, "the car doesn't work anymore * * * and without a high school diploma, neither does Joey."

These two simple, powerful images convey the importance of staying in school to children—in language they can understand. And if this multimedia campaign persuades just one more child to complete his or her education, it will have been a success.

Although Ashland Oil donated all the materials and services for this campaign without associating its own name in connection, Ashland Oil's tireless efforts in support of excellence in education deserve our recognition. In no area, however, are the stakes higher, and the effort more important, than in dropout prevention. Far too may of our children fail to finish high school, much less enter higher education. And in today's ever more complex world, they are in imminent danger of being left behind—permanently.

The U.S. Department of Labor's Bureau of Labor Statistics recently reported some encouraging news: The educational level of the U.S. labor force as a whole continues to rise. However, the acute dropout problem in Kentucky suggests that this news needs to be viewed with some caution.

Presently, one out of every three Kentucky high school students drops out before completing school. Only 53 percent of Kentucky's population 25 and older have high school degrees. Not surprisingly, many of these people wind up on the welfare rolls. In Kentucky, only 2.3 percent of the fathers and 10.2 percent of the mothers on welfare are high school graduates.

Thus, though the proportion of workers without a high school diploma has declined sharply nationally, far too many without high school diploma subsist entirely on the public dole. While I believe we should make every effort to lift those on the welfare rolls back to productive participation in society, it is certainly no less important that we keep our youth off those rolls in the first place. Because dropout problem affects the future of not only the children involved, but the Nation as a whole, I would argue that dropout prevention is of paramount importance.

The continuing involvement of Ashland Oil in the fight against the dropout problem is welcome indeed. This problem is so severe that no single element of society is sufficient to combat it. The dropout problem will require the continuing involvement of industry leaders, like Ashland Oil, willing to invest in this Nation's future. It will also require the involvement of government, at the Federal, State, and local levels. But most importantly, it will require the active efforts of both

parents and children, through student groups, and parent organizations, such as the Parent Teacher Association.

The combined efforts of industry leaders, sustained involvement by parent organizations, and a concerted effort by government at all levels, can make all the difference in fighting the dropout problem. Mr. President, as a nation, we can do no less.

TRIBUTE TO BLUE CROSS AND BLUE SHIELD OF KANSAS CITY

● Mr. BOND. Mr. President, Blue Cross and Blue Shield is celebrating their 50th anniversary of delivering prepaid health insurance to the Kansas City area. "50 and Forward," their theme for this anniversary, is a reminder of the prepaid health insurance concept first introduced in 1938, and still in existence as one model to be used in maintaining affordable health costs both today and in the future.

In 1938, prepaid health insurance meant 30 days of hospitalization per year for covered employees of Wolferman's Bakeries and their dependents, all for a one-time enrollment fee of only $1, plus 75 cents per month. Blue Cross and Blue Shield of Kansas City continues to expand its services and products to meet the changing needs of their 850,000 members, who make up one half of the population of the greater metropolitan area. Blue Cross/Blue Shield employs approximately 850 Kansas Citians from Missouri and Kansas. They provide health care insurance through multiple products ranging from comprehensive/major medical to HMO coverage, and at the same time serve as the contractor for Medicare Part B claims processing for 30 counties in Missouri, as well as Johnson and Wyandotte County in Kansas.

Missouri is proud of Blue Cross and Blue Shield's contribution to our State and I offer my congratulations for their 50 years of service.●

TOUGH WORDS FROM A GOOD FRIEND

● Mr. LEVIN. Mr. President, the welfare and security of the nations of Central America and the United States are intricately interrelated. It is important that we understand the historic forces at work in the region, and recognize both the opportunities and dangers that lie ahead. Costa Rica's President Oscar Arias is an important friend of the United States, and a person whose counsel can help us achieve success in our relationships with the nations of the region, and avoid the mistakes that will endanger our interests.

In an article by Tad Szulc published in the August 28, 1988, Parade magazine, President Arias is quoted as saying "There are so many ways of obtaining the support, affection and gratitude of the people of Latin America through United States help and understanding, that I think you should concentrate on a dialog with us—not the use of force."

We should pay heed to his warnings, Mr. President, and we should listen to his wise counsel. In discussing the futility of the self-defeating Contra war, President Arias said "Nicaragua's leadership uses military pressure as an excuse not to negotiate, and they use the war as an excuse to justify the economic failure of the Marxist experiment in Nicaragua."

Mr. President, I hope my colleagues have the opportunity to read this article, and weigh these "tough words from a friend." I ask that the text of the article be printed in the RECORD.

The article follows:

TOUGH WORDS FROM A GOOD FRIEND

Be nice. Stop being the ugly American," President Oscar Arias Sánchez of Costa Rica told me amiably. I had asked him what he thought would be the most fruitful approach the United States could take to his crisis-ridden part of the world.

"There are so many ways of obtaining the support, affection and gratitude of the people of Latin America through U.S. help and understanding," he went on, "that I think you should concentrate on a dialog with us—not the use of force." It is urgent, Arias added, to do this as soon as possible to avoid new confrontations like those over Nicaragua or Panama. In both countries, Washington has tried military and economic pressures to achieve controversial goals.

He is upset, for example, over the way the Reagan Administration, earlier this year, went about trying to oust Gen. Manuel Antonio Noriega, the Panamanian strongman who was indicted by Florida grand juries on charges of trafficking in narcotics. And he was regretful that the U.S. killed his mediation efforts to persuade Noriega to depart quietly.

"I say publicly that I was not in agreement with economic sanctions against Panama to force Noriega out," Arias told me. "This is a way of making enemies in a country that, until now, has been a friend of the United States. When such great errors are committed, you must remember, it is easy to convert your best friends into your worst enemies. This can happen in Panama, if you do not act intelligently."

With the U.S. at a crossroads in its relations with Latin America and a new administration to be installed in Washington next January, I recently flew to San José, the volcano-ringed Costa Rican capital, to discuss with President Arias the future of relations in our hemisphere.

What Arias thinks—and what he represents—is extremely important to North Americans. In tiny Costa Rica, a peaceful republic with 2.7 million inhabitants, he presides over Latin America's most effective and prosperous democracy. Since winning the Nobel Peace Prize last year for his August 1987 plan to end the decade of fratricidal warfare tearing apart his Central American neighbors—and deeply involving the U.S.—the 46-year-old soft spoken Costa Rican lawyer has become one of the most respected voices in international diplomacy. His talents as an arbiter are in constant demand.

Relaxed, quick to smile but doggedly stubborn and brutally honest, Arias has been in office since May 1986. He is both a hell-raising politician and a man of great intelligence resources. He has a saturnine countenance, which he says comes from Indian blood "that almost all Costa Ricans have in their veins—a mixture of Spanish and Indian blood." He resembles somewhat Massachusetts Gov. Michael Dukakis, whom he met many years ago. The two men admire each other, and Arias told me, "We share the problem of lacking sufficient sense to humor and of being too serious and too intellectual in talking to our people, but we are both overcoming it."

As the only mediator acceptable to all sides in the Central American conflicts, Arias astounded Washington and most news analysts by bringing about in March the first extended cease-fire between the Marxist Sandinista regime in Nicaragua and the U.S.-backed rebels, the contras, and directing peace negotiations between the two hostile bands—an event that was unthinkable even a few months earlier. The talks were halted in mid-June because the Sandinistas and the contras could not agree on a political settlement, but full-fledged fighting did not resume. As a result of the Arias plan, Nicaragua battlefields were still silent this summer after seven years of war, except for scattered clashes, but the civil war next door in El Salvador between the U.S.-supported government and Marxist guerrillas went on unabated.

Nicaragua's fate remains important to the U.S. It was U.S. efforts to keep supporting the contras despite a Congressional ban that brought the Reagan Administration into scandal when it secretly and illegally sold arms to Iran in order to finance the contras with the profits. Arias does not believe that the Sandinistas can be dislodged through the contra war. "If this war continues," he told me, "it will be a prolonged war of many years that will get us nowhere. Nicaragua's leadership uses military pressure as an excuse not to negotiate, and they use the war as an excuse to justify the economic failure of the Marxist experiment in Nicaragua. So we must remove all these excuses and force them to democratize."

Arias and his fellow Costa Ricans are vigorously pro-United States—possibly more so than most other Latin Americans. But the president believes that speaking his mind, sometimes very critically, is an essential part of the friendship between the two countries.

Arias revealed his penchant for frank talk during our conversations at his quietly elegant family villa in the capital's affluent Rohrmoser suburb and in chats at his office in the government building known as "Presidential House" in another suburb.

Arias insisted that his peace plan was signed by the other four Central American presidents—of Nicaragua, Honduras, Guatemala and El Salvador—only when they understood that it was a "balanced proposal" designed "to advocate the interest of all the countries in the area—and not just to please, let us say, Washington, D.C." He has conveyed similar views in private meetings with President Reagan and other top U.S. officials and before a joint session of the U.S. Congress last autumn.

Arias' outspokenness has earned him respect in Washington. Last October, the Senate and the House of Representatives

passed resolutions congratulating him on the Nobel Peace Prize. And the Administration which often expresses resentment over his opposition to the Nicaraguan contras, recently paid Arias a high compliment by naming one of the U.S.'s most experienced diplomats, Deane R. Hinton, as ambassador to Costa Rica.

Though Arias criticizes certain U.S. actions, he also wastes no opportunity to lecture Nicaragua's leftist President Daniel Ortega Saavedra on what "real democracy" is, and the Sandinista chief listens attentively. Arias spoke in detail about his relationship with Ortega, whom the Reagan Administration regards as dangerous because of his ideological and military ties with Cuban President Fidel Castro. This regime took power in the 1979 revolution, and Ortega was elected in 1984 in a virtually one-man race.

"First," Arias said, "Costa Rica felt betrayed by the Sandinista revolution—betrayed and deceived—because nobody helped the Sandinistas more in their fight 10 years ago against the Somoza dictatorship than Costa Rica. Our national territory was used as an airport—as an aircraft carrier—for defeating Somoza. But we wanted a new Nicaragua, not a second Cuba.

"Dracula, the vampire, can be killed only with the Cross. In Nicaragua, democracy is the Cross," Arias said, an amused twinkle in his eye. "But I keep telling Oretega that he needs democracy in his revolution. I once said to him: 'You can call the regime you have anything you want—except a democracy, because there is no democracy without political pluralism, without free elections, without freedom of the press, without respect for individual liberties.' "

Ortega's reaction, Arias recalled, was surprising. He informed Arias that he could conceive of a system developing in Nicaragua along the lines of Mexico. There, the dominant political party—the Party of Revolutionary Institutions—has managed to win every presidential election in the last 60 years because of its total control over the country, but the people enjoy considerable freedom.

If permanent peace is achieved, Arias says, Nicaragua may have to evolve toward some form of democracy—and away from the Marxist-Leninist totalitarian model—because the peace plan, which Ortega signed, establishes democratization as crucial to an overall peace settlement. Arias told me that Ortega decided to sign the plan when he realized that all the other Central American presidents would do so, and the Sandinistas could not afford to be isolated in the eyes of the world in opposing a peaceful solution to the civil war. The Sandinistas know that failure of the peace plan, which bans military assistance to anti-government forces such as the contras and the leftist guerrillas in El Salvador, may well mean fresh U.S. funds for the contras—and more war for their devastated country.

Oscar Arias' success in launching his peace plan is based on his credibility as an independent-minded democratic leader and on the image of Costa Rica as a neutral and peaceful nation which, having abolished its armed forces following a civil war in 1948, has been able to harness all its resources for social and economic development. Costa Rica today enjoys the highest living standard in Latin America. There are pockets of poverty, but one sees no sickly, barefoot children in the villages and no beggars and almost no slums in the capital and provincial towns—in high contrast with the familiar sights of Third World misery elsewhere. The literacy rate stands at about 95 percent, and the mortality of children under the age of 5 is 23 per 1000 (in the U.S., the figure is 13, but it is 70 in Mexico, 87 in Brazil and 261 in Ethiopia). Arias' main goal during his term is to build enough low-cost housing so there would be "no Costa Rican without his own home."

Costa Rica was the first Latin American nation to abolish slavery (in 1813), the first to provide free and compulsory education (120 years ago), the first to abolish capital punishment (in 1882) and the first—and the only—to do away with its army. Women received the vote only in 1949, but when Arias was elected in 1986, he submitted to the national assembly legislation granting women absolute equality with men. President Arias' wife, Margarita Penon de Arias Sánchez, who has a degree in chemistry from New York's Vassar College, is deeply involved in politics and is very popular.

Costa Ricans have made their country what it is today. Its natural resources are limited, and it has no tradition of wealth, even as a Spanish colony. Yet they have almost entirely avoided violence, having suffered only one civil war in nearly a century.

"We are a nation of teachers and lawyers," Arias told me, "and we are a democratic welfare state, not a garrison state." Internal security is provided by the police, numbering less than 12,000 men. As Arias told the U.S. Congress, "In my homeland, you will not find a single tank, artillery piece, warship or military helicopter. In Costa Rica, we are not afraid of freedom." The democratic process has not been interrupted in 40 years, and Costa Rica is the only country in Central America with no leftist guerrillas or conspiracies.

Arias is continually criticized by the conservative press in Costa Rica. At one point, after complaining about it, he suddenly brightened. "Well, they can criticize me all they want," he said, "but they can't throw me out because they don't have an army. Besides," he joked, "I'm the one who made Costa Rica famous with my Nobel Prize—Americans no longer confuse Costa Rica with Puerto Rico."

In health care and education, democratic Costa Rica does as well or better for its people than Marxist-Leninist Cuba. Arias noted that Costa Rica has "the same social indicators today as Cuba, but without the *Paredón* [execution wall], without thousands and thousands of citizens in exile." This is another reason why Costa Rica is so important to the United States: It establishes the principle that small nations can grow in stability and freedom if given a chance by their own societies as well as the outside world.

The United States has shown that it appreciates Costa Rica as a democratic showcase and is prepared to support it in every way. With the national economy seriously damaged by the fall in the prices of coffee and bananas, its principal exports, the U.S. provided Costa Rica with $338 million in 1986 and 1987, making our assistance program there second only to Israel in per capita civilian grants and low-interest loans.

To the annoyance of the Reagan Administration, Arias forbade the use of a Costa Rican airport by the U.S. for secret deliveries of war supplies for the contras in Nicaragua, refused to allow the installation of a secret communications center to relay intelligence data to the rebels and expelled contra leaders from his country. There was enough wisdom in Washington to avoid any retaliation.

In dealing with the United States, Oscar Arias has the special advantage of understanding the gringos better than most Latin American leaders. His English is so fluent that he can deliver first-rate extemporaneous speeches at the drop of a sombrero. After receiving a degree in law and economics from the University of Costa Rica, he graduated from the University of Essex in England, then attended Boston University and Harvard. As minister of planning and economic policy (at age 31), he began building up his network of contacts and friendships in the United States, where he feels absolutely at home.

He told me how he forced his fellow Central American presidents to agree on his peace plan—at their meeting in Guatemala on Aug. 7, 1987—by keeping them in the conference room until 4 o'clock in the morning, fearing that a recess might interrupt the negotiations for good. He was inspired, he said, by the example of President Franklin D. Roosevelt, who would lock his aides in a room until they reached an agreement. (Arias read it in Roosevelt: The Lion and The Fox, a biography by James MacGregor Burns.)

Precisely because of his feeling of kinship with the U.S. Arias is troubled by the way Washington has been acting among its southern neighbors. In addition to the crises affecting Nicaragua and El Salvador, both caught up in full-fledged wars, Arias sees Panama as the latest—and unnecessary—flashpoint in U.S. policies.

With the security of the Panama Canal at stake, the U.S. faced a dilemma in Panama, and Arias has been fearful of the consequences.

"In Panama," Arias said, "the U.S. realized that the policy of force did not work. This preoccupies me, because I believe that the United States cannot afford to lose its credibility. And Costa Rica, as a defenseless country, needs for a friendly country—the United States—to be respected and to be trusted. If you lose credibility, we all lose it. If you say, 'I give you 48 hours to leave,' and a man like Noriega doesn't leave, and then you apply sanctions to a little country for disobeying you, then you're losing credibility. As it is, we missed a great opportunity when our mediation in Panama was made to fail."

As I was bidding him farewell, Arias put his hand on my arm. "Let me repeat," he said. "If I had to advise Washington on its policy in Latin America, I'd say, 'Please be nice—please stop being the ugly American.' "●

COSPONSORSHIP OF S. 1738

● Mr. McCAIN. Mr. President, today I join my colleague from California, Senator WILSON, as a cosponsor of S. 1738, legislation to make long-term care insurance available to Federal employees.

Mr. President, sooner or later, virtually every family in America will be confronted with a catastrophic illness. Whether it is a grandparent with Alzheimer's disease, a spouse hit by a stroke, a worker in the prime of life disabled by an accident, a relative stricken with cancer, or a child born with cerebral palsy—the expense for needed care could result in destroying, if not severely taxing, a family's finan-

cial security. Catastrophic illness seems to impact most dramatically on three groups: older Americans who face hospital bills which exceed their Medicare coverage; those who need expensive, long-term care services; and working Americans who lack adequate health insurance. Such an illness can require treatment or care so costly that many families can only pay by impoverishing themselves.

Earlier this year, this body adopted legislation addressing the first group—older Americans who face hospital bills which exceed their Medicare coverage. The Medicare Catastrophic Illness Coverage Act of 1988—which has now been signed into law. The legislation will provide for a cap in the out-of-pocket costs that a Medicare beneficiary can incur during a year for hospital and physician charges, and it provides coverage of out-of-pocket prescription drugs for the first time in Medicare's history. In addition, it allows elderly couples—faced with huge nursing home bills—to hang on to more of their resources before Medicaid kicks in, thus avoiding being reduced to poverty as a result of the magnitude of the expenses.

As I communicated with seniors in Arizona about the Medicare Catastrophic Illness Coverage Act I found that, by a 3-to-1 majority, seniors in my State felt that though some of the benefits in the bill would be nice, most of the benefits are not "truly catastrophic-related." What is more, most of the benefits are available through the private sector. In doing so, this legislation will significantly increase the premiums that many seniors are responsible for under the Medicare Program.

The resounding sentiment of Arizona's seniors seemed to be that they would have preferred that Congress address what they saw as the true catastrophic health need seniors face—protection from the financial ravages of long-term care expenses. They are willing to pay for the cost of a new program, but only if it provides coverage of those services which they feel they need. Needless to say, many seniors in my State are upset. They are deeply concerned that the Government has just established a new public program—which, for the most part, duplicates benefits that are currently available through the private sector. What they expected is that the Government would work to make sure that they were able to protect themselves from what is their true catastrophic concern—and not widely available through the private sector—protection from the enormous cost of long-term care services.

Due to a lack of affordable long-term care protection available in the private sector, most are unable to insure themselves and at the point that they need nursing-home services they have to pay for the services out of their pockets. That is, until they have exhausted their resources—at which time they become eligible for Medicaid benefits, or in Arizona's case, the counties—and soon to be AHCCCS. The result is that many end up impoverishing themselves and their spouses, prior to being eligible for public assistance. Included in the "Medicare Catastrophic Illness Protection Act" was a provision providing spouses with some measure of protection. This is, indeed, a true catastrophic benefit—and will be helpful to many Americans.

The numbers are alarming, and perhaps best tell the story.

Americans spend about $38 billion a year on nursing home care. Seventy percent of all single people admitted to a nursing home go broke within 3 months; close to 90 percent of single older Americans will be impoverished within a year; and 50 percent of all couples are impoverished within 6 months after one spouse is admitted.

Over 60 percent of American families have already had direct experience with the need for protection from long-term care expenses. Millions of Americans suffer from chronic conditions that limit their ability to function on their own. Some need help preparing meals. Others need assistance in feeding themselves, bathing, getting dressed, or just getting around. Most of the help they need is nonmedical—referred to as "custodial care." It is little wonder that the need for protection from the cost of such care is such a concern—with the cost of a year's nursing home stay ranging from $20,000 to $35,000. Many of the needed services can also be provided at home. Delivery of such services at home is often the less costly, and is better for the family and individual in need of care. But, like services provided in the nursing home, there really is not much protection available from the cost of these services—unless the individual is eligible for Medicaid, or AHCCCS as in Arizona's case.

It is my belief that Congress must work hard to tackle, in the upcoming session, the need to provide older Americans with protection from the expenses of long-term care services.

Given the need to exercise fiscal restraint—in light of the Federal budget deficits, and the increased financial burden that will be placed on Medicare beneficiaries as a result of the Medicare Catastrophic Illness Coverage Act—I believe the most responsible approach would be the development of a public/private partnership. Addressing the long-term care coverage issue requires the involvement of all segments of our society. We must develop a partnership—if you will—among individuals, families, private organizations and all levels of government.

Based on my discussions with Arizonans, I believe a responsible partnership approach to dealing with the need for enhanced long-term care coverage would consist of four parts.

First, the private and public sectors must work together to educate the American people, both current Medicare beneficiaries and working-age Americans, about the possibility that they may need long-term care services in the future and the importance of protecting themselves against the cost of such services.

Second, the Federal Government must create a more supportive tax environment for long-term care insurance contracts. In part, this would hopefully lead to more working Americans being able to select long-term care coverage as part of their health insurance package, provided in cooperation with their employer. In addition, it would permit retirees to roll-over part of their life insurance benefits into long-term care insurance coverage—which is probably more the need as one ages.

Third, that all levels of government and the private sector must work together to make it possible for the development of an extensive long-term care insurance market. Perhaps this could even include the development of an age-graded tax credit for those who are currently retired and opt to purchase long-term care insurance.

And, fourth, reform the Medicaid system so that the public sector can more effectively assist those with long-term care needs that are least able to afford the cost of protecting themselves.

Certainly, any approach with regard to providing long-term care coverage must include both services provided in nursing homes and those provided at home.

While we probably will not get there overnight, I believe that forging a private/public partnership approach to meeting the long-term care coverage needs of older Americans will assure greatest success.

This legislation, which I am cosponsoring today, S. 1738, is one step in that direction. It would permit Federal employees, who have reached the age of 50 and participated in the life insurance program [FEGLI] for 10 years, to convert their life insurance to long-term care insurance. Eligibility for participation would not be effected at all by the health status of the individual. The process of determining which company would actually offer the policy would be handled through a competitive bidding process. And, because there is a cost difference between life insurance and long-term care insurance, employees would have to pay a nominal premium in addition to what they already pay for their life insurance benefit.

I believe this legislation represents a responsible approach to providing access to long-term care protection for one group—Federal employees. For that, Senator WILSON and those at the Office of Personnel Management are to be commended.

But, Mr. President, we must not stop here. Building a comprehensive, responsible, approach to long-term care is like piecing together a puzzle. With a puzzle, each piece is an integral component—and without all the pieces, a puzzle is not complete. This legislation is one of the pieces to that puzzle.

Last year, I offered legislation designed to make it possible for workers to transfer their pension benefits from employer to employer as they change jobs. One of the important components of this legislation, S. 1349, the Pension Portability Act—and relevant to the attempt to develop a comprehensive long-term care policy—is a provision making it possible for individuals in the private sector to tap their pension benefits to help meet long-term care expenses. Mr. President, I believe this, too, is a piece to the puzzle.

Providing our Nation's citizens with protection from the financial ravages of a long-term care needs in a responsible way will only be accomplished as a result of a lot of individuals working together to creatively craft the various pieces to the puzzle. While there are obstacles, such as our Nation's budget deficits, I believe we can be successful.

This legislation, which I am cosponsoring today, is evidence of the fact that we can be successful. If enacted, this legislation will assist Federal employees in obtaining long-term care coverage. And, due to the large pool of individuals that will be participating, the cost to the individual will be lower under this approach than if they were to purchase the plan on the open market. The cost to the Federal Government will be negligible, because the Federal Government's role is not the funding of a new Government program. Its role will merely be that of coordinating, and overseeing, a new program. In my opinion, this proposal is a responsible piece to the puzzle, I am pleased to add my name to the list of those who have cosponsored this legislation.●

NOTICE OF DETERMINATION BY THE SELECT COMMITTEE ON ETHICS UNDER RULE 35, PARAGRAPH 4, PERMITTING ACCEPTANCE OF A GIFT OF EDUCATIONAL TRAVEL FROM A FOREIGN ORGANIZATION

● Mr. HEFLIN. Mr. President, it is required by paragraph 4 of rule 35 that I place in the CONGRESSIONAL RECORD notices of Senate employees who participate in programs, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization.

The select committee has received a request for a determination under rule 35, for Mr. W. Donald Campbell, a member of the staff of Senator CRANSTON, to participate in a program in West Germany sponsored by Haus Rissen International Institute for Politics and Economics, from August 14-24, 1988.

The committee has determined that participation by Mr. Campbell in the program in West Germany, at the expense of Haus Rissen, is in the interest of the Senate and the United States.

The select committee received a request for a determination under rule 35, for Mr. James C. Brenner, a member of the staff of Senator KERRY, who participated in a program in London, England, sponsored by the 21st Century Trust, from July 11-22, 1988.

The committee determined that participation by Mr. Brenner in the program in London, England, at the expense of the 21st Century Trust, was in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Mr. Mark Fowler, a member of the staff of Senator HEFLIN, to participate in a program in Hamburg, West Germany, sponsored by the Haus Rissen International Institute for Politics and Economics, from August 14-24, 1988.

The committee has determined that participation by Mr. Fowler in the program in West Germany, at the expense of the Haus Rissen International Institute for Politics and Economics, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Mr. Pat Windham, a member of the staff of Senator HOLLINGS, to participate in a program in Hamburg, West Germany, sponsored by the Haus Rissen International Institute for Politics and Economics, from August 14-24, 1988.

The committee has determined that participation by Mr. Windham in the program in West Germany, at the expense of the Haus Rissen International Institute for Politics and Economics, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Christine Williams, a member of the staff of Senator MITCHELL, to participate in a program in Toronto and Ottawa, Canada, sponsored by the Centre for Legislative Exchange, from September 7-10, 1988.

The committee has determined that participation by Ms. Williams in the program in Canada, at the expense of the Centre for Legislative Exchange, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for G. Lawrence Atkins and Laura A. Erbs, members of the staff of Senator HEINZ, to participate in a program in Toronto and Ottawa, Canada, sponsored by the Centre for Legislative Exchange, from September 7-10, 1988.

The committee has determined that participation by Mr. Atkins and Ms. Erbs in the program in Canada, at the expense of the Centre for Legislative Exchange, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Mr. Peter Lennon, a member of the staff of Senator STENNIS, to participate in a program in Japan, sponsored by the Japanese Government, from August 14-25, 1988.

The committee has determined that participation by Mr. Lennon in the program in Japan, at the expense of the Japanese Government, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Deborah Leavy and John Trasvina, members of the staff of Senator SIMON, to participate in a program in Japan sponsored by the Association for the Advancement of Human Rights, from August 15-19, 1988.

The committee has determined that participation by Ms. Leavy and Mr. Trasvina in the program in Japan, at the expense of the Association for the Advancement of Human Rights, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Abigail Lawlis Kuzma, a member of the staff of Senator HATCH, to participate in a program in Japan sponsored by the Association for the Advancement of Human Rights, from August 15-19, 1988.

The committee has determined that participation by Abigail Lawlis Kuzma in the program in Japan, at the expense of the Association for the Advancement of Human Rights, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Mr. John G. Behuncik, a member of the staff of Senator RUDMAN, to participate in a program in Turkey sponsored by the Turkish Foreign Policy Institute, from August 20-28, 1988.

The committee has determined that participation by Mr. Behuncik in the program in Turkey, at the expense of the Turkish Foreign Policy Institute,

is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Sarah Sewall, a member of the staff of Senator MITCHELL, to participate in a program in Japan sponsored by the Japanese Government, from August 14-25, 1988.

The committee has determined that participation by Ms. Sewall in the program in Japan, at the expense of the Japanese Government, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Judith Freedman, a member of the staff of Senator NUNN, to participate in a program in Japan sponsored by the Japanese Government, from August 14-25, 1988.

The committee has determined that participation by Ms. Freedman in the program in Japan, at the expense of the Japanese Government, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Dick D'Amato, a member of the staff of Senator BYRD, to participate in a program in Japan sponsored by the Japanese Government, from August 14-25, 1988.

The committee has determined that participation by Mr. D'Amato in the program in Japan, at the expense of the Japanese Government, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Harry Broadman, a member of the staff of Senator GLENN, to participate in a program in Japan sponsored by the Japanese Government, from August 14-25, 1988.

The committee has determined that participation by Mr. Broadman in the program in Japan, at the expense of the Japanese Government, is in the interest of the Senate and the United States.

The select committee has received a request for confirmations under rule 35, for Greg Schnake and Mark Scanlan, members of the staff of Senator DOLE, who participated in programs in Taipei, Taiwan, sponsored by the Tunghai and Tamkang Universities, respectively, from July 17-25, 1988.

The committee has determined that participation by Mr. Schnake and Mr. Scanlan in the programs in Taipei, Taiwan, at the expense of the Tunghai and Tamkang Universities, was in the interest of the Senate and the United States.●

A QUESTION OF POWER: JUDICIAL REVIEW OF CONGRESSIONAL RULES OF PROCEDURE

● Mr. MCCONNELL. Mr. President, I am including in the RECORD today a law review comment that I believe will be of academic interest to many in the congressional community. "A Question of Power: Judicial Review of Congressional Rules of Procedure" was written by Gregory F. Van Tatenhove, a third year student at the University of Kentucky College of Law.

First published in volume 76 of the Kentucky Law Journal, this work explores those instances when courts have been asked to review the internal rules of procedure by which the Senate and the House conduct its business. The comment also examines the relationship between separation of powers notions and the constitutional and historical framework upon which our rules are founded. The author concludes that an absence of jurisdictional power results in an extremely limited role for the judiciary in reviewing congressional rules of procedure.

Mr. President, the press of the legislative calendar gives us too little time to step back and consider matters that affect the balance of powers between the three branches of Government. But the importance of this inquiry cannot be overstated. In referring to separation of powers principles as the "absolutely central guarantee of a just government," Justice Scalia recently noted that "[w]ithout a secure structure of separated powers, our Bill of Rights would be worthless, as are the bills of rights of many nations of the world that have adopted, or even improved upon, the mere words of ours." *Morrison v. Olson*, 487 U.S. ——, ——, 56 U.S.L.W. 4835, 4847 (1988) (Scalia, J., dissenting).

With the words of Justice Scalia in mind, Mr. President, I commend the following commentary to the attention of my colleagues:

A QUESTION OF POWER: JUDICIAL REVIEW OF CONGRESSIONAL RULES OF PROCEDURE

James I spoke of the mystery of the King's power. The institutions of a secular, democratic government do not generally advertise themselves as mysteries. But they are. What they do, how they do it, or why it is necessary to do what they do is not always outwardly apparent. Their actual operation must be assessed, often in sheer wonder, before they are tinkered with, lest great expectations be not only defeated, but mocked by the achievement of their very antithesis.*

INTRODUCTION

To note that the Supreme Court has affirmed the authority of the judiciary to review, for constitutional compliance, the acts of the other branches of Government is to invoke an axiom tempered by a long history.[1] Equally axiomatic, however, is the observation that over 200 years of constitutional debate and scrutiny have failed to define precisely the scope of that review.[2] The debating halls are filled by those who would find in the Constitution a reserved and guarded role for the judiciary in voiding the acts of other branches,[3] as well as those who would find for the judiciary a broad mandate in the realm of constitutional interpretation.[4]

What continues to be at issue, therefore, is no less than a determination of the boundaries that mark the federal judicial power[5]—boundaries that cannot, of course, be considered in a vacuum. As Chief Justice Rehnquist has observed, "[t]he exercise of the judicial power also affects relationships between the co-equal arms of the National Government."[6] The result of our system of separate but equal governmental divisions is inherent tension.[7]

This commentary begins by recognizing that at few intersections is this inherent tension greater than at the point where the judicial branch is asked to review the rules of procedure by which the legislative branch conducts its business.[8] Part I discusses the nature of congressional rules of procedure by briefly exploring the constitutional and historical framework upon which these rules are founded. Part II surveys the judicial decisions written in response to a request to review the rules of Congress. Finally, Part III suggests that the judicial review of congressional rules of procedure should be exercised in only the most limited of circumstances. Indeed, focusing on arguments developed by former District of Columbia Circuit Court of Appeals Judge Robert Bork, this Comment concludes that an absence of jurisdictional power demands this result.[9]

I. "UNIFORMITY OF PROCEEDING": CONSTITUTIONAL AND HISTORICAL AUTHORITY FOR CONGRESSIONAL RULE-MAKING POWER

Article I, section 5, clause 2 of the Constitution states that "[e]ach House may determine the Rules of Its Proceedings." In addition, article I addresses a number of specific legislative procedures including quorums,[10] adjournments,[11] and roll calls.[12] Congress, therefore, has a body of rules consisting of those provisions specifically enumerated in the Constitution, as well as a set of standing rules adopted individually by the Senate[13] and the House of Representatives[14] pursuant to the authority of article I, section 5, clause 2. Furthermore, each chamber is governed by statutory provisions which have the force of congressional rules,[15] precedents of each chamber,[16] and informal practices and customs.[17]

The historical records of the constitutional convention indicate that the general grant of rule-making authority in article I, section 5, clause 2 generated no discussion.[18] Even the debate surrounding the enumerated provisions pertaining to quorums,[19] adjournments,[20] and roll calls[21] was brief and relatively uneventful.[22]

Clearly, the lack of attention the framers gave to the congressional rules provisions reflects the necessity of granting the legislative branch authority to fashion rules by which it can administer its constitutionally delegated powers.[23] In his landmark commentary, Justice Story observed the following:

No person can doubt the propriety of the provision authorizing each House to determine the rules of its own proceedings. If the power did not exist, it would be utterly impracticable to transact the business of the nation, either at all, or at least with decency, deliberation, and order. The humblest

Footnotes at end of article.

assembly of men is understood to possess this power, and it would be absurd to deprive the councils of the nation of a like authority.[24]

In recognizing congressional rule-making authority, the framers were doing nothing more than recognizing textually what was considered by many at the time to be an inherent ability.[25] The Constitution, therefore, recognizes that the legislative branch must have a near exclusive ability to determine its rules of procedure.[26]

These rules, which the Senate and the House adopted initially at the beginning of the first Congress,[27] were descendants of the rules that governed the English Parliament.[28] As noted in Holdsworth's history, they owed a great deal to the common law:

No doubt the procedural rules of the common law were gravely defective; but they had at least one merit—they discountenanced the very archaic legal ideas which so seriously hampered the representative assemblies of the continent. They were capable of a certain amount of development and adaptation; and the men who spent their lives working and developing them were the men who were best fitted to create a workable set of rules for the guidance of a representative assembly.[29]

Even today, the House turns to "general parliamentary law" for guidance in adopting its rules at the beginning of each Congress.[30]

Since the rules are not self-enforcing, each house of Congress has the authority to amend its rules unilaterally, as well as suspend, waive, or even ignore them altogether.[31] As one observer of the legislative process noted, "the legislative rules of Congress are essentially endogenous. . . . If these rules are enforced rigorously and consistently, it is only because Congress chooses to do so." [32]

II. "ALL MATTERS OF METHOD": THE JUDICIAL DEFINITION OF CONGRESSIONAL RULE-MAKING POWER

A. Ballin *to* Yellin: *Illusory Limits on the Judicial Power to Review Congressional Rules*

While the propriety of congressional rules had been challenged on earlier occasions,[33] the 1891 decision of *United States* v. *Ballin* [34] provided the Supreme Court with its first opportunity to articulate the scope of review applicable to congressional rules. The rule in controversy was House Rule XV which provided that the members present in the chamber but not voting would be "counted and announced in determining the presence of a quorum to do business." [35] Prior to the adoption of this rule in 1890, conventional wisdom held that the constitutional quorum requirement [36] could be satisfied only if a majority of members actually voted on the proposition before them. This meant that those opposed to a proposition could, even though present in the chamber, defeat a quorum by not voting.[37]

In this context, the importers Ballin, Joseph & Co. argued, in response to an unfavorable decision by the Board of United States General Appraisers, that an act imposing certain import duties was invalid since it was approved by less than a majority vote and, therefore, allegedly in the absence of a constitutional quorum.[38] Although addressing the alternative argument that the act should be given a different construction,[39] the Supreme Court found the question of whether the legislation was legally passed of greater importance.[40]

Writing for a unanimous Court, Justice Brewer noted that the judiciary had the power to consider whether a bill was validly enacted; [41] and, when the judiciary makes this determination, the entries in the House journal [42] "must be assumed to speak the truth." [43] After referring to the journal, the Court accepted as fact that when the vote occurred a majority of members were present in the chamber although less than a majority actually voted.[44] The Court was left to consider, therefore, whether Congress had properly exercised its rule-making authority in approving the Rule XV method of determining the constitutionally required quorum.[45]

The Court refused to overturn the rule stating that "[n]either do the advantages or disadvantages, the wisdom or folly, of such a rule present any matters for judicial consideration. With the courts the question is only one of power. The Constitution empowers each house to determine its rules of proceedings." [46] Despite its conclusive language, the Court was unwilling to concede final authority to the legislative branch:

[The House] may not by its rules ignore constitutional restraints or violate fundamental rights, and there should be a reasonable relation between the mode or method of proceeding established by the rule and the result which is sought to be attained. But within these limitations all matters of method are open to the determination of the house, and it is no impeachment of the rule to say that some other way would be better, more accurate or even more unjust. It is no objection to the validity of a rule that a different one has been prescribed and enforced for a length of time. The power to make rules is not one which once exercised is exhausted. It is a continuous power, always subject to be exercised by the house, and *within the limitations suggested,* absolute and beyond the challenge of any other body or tribunal.[47]

The standard announced in *Ballin,* therefore, recognized that Congress has the power to make its own procedural rules, but the courts have the power to determine whether they are constitutional. Rule XV was, in effect, reviewed by the Court and allowed to stand only after the Court was satisfied that it conformed to these criteria: (1) the rule complied with "constitutional restraints"; [48] (2) the rule violated no fundamental rights; [49] and (3) there was a "reasonable relationship between" the rule's method and "the result sought to be attained." [50] *Ballin,* far from carving out an area in which judicial review is strictly limited, established an expansive role for the Court in reviewing legislative rules of procedure. This proposition was supported and even expanded by the Court's decision in *United States* v. *Smith.*[51]

The rule at issue in *Smith* allowed for the reconsideration of a Senate vote on an executive branch nomination after notification of confirmation or rejection had been sent to the President.[52] The executive branch challenged this rule after the Senate adopted motions requesting President Hoover to return for reconsideration a confirmation resolution of one of his appointments to the Federal Power Commission.[53] The President refused this request,[54] and the Senate, despite the position of the executive branch, subsequently reconsidered and rejected the nomination.[55]

The Court admitted that "[t]he question primarily at issue relates to the construction of the applicable rules, not to their constitutionality." [56] Judicial review was predicated on the fact that "the construction to be given to the rules affects persons other than members of the Senate. . . ." [57] Despite its recognition that, "[i]n deciding the issue, [we] must give great weight to the Senate's present construction of its own rules," [58] the Court held that the history and the precedents of the Senate, both before and after the incident in question, supported an interpretation of the rules that precluded reconsideration of the appointment by the Senate.[59] In short, the Court substituted its interpretation of the Senate rules for that of the Senate.[60]

Seventeen years later, the scope of review delineated in *Ballin* and *Smith* allowed the Court to decide *Christoffel v. United States.*[61] The *Christoffel* Court faced a fact pattern that arose out of the rules of a House committee acting in an investigatory capacity,[62] not out of proceedings relating to floor debate.[63] Once again, the rule in controversy pertained to the method by which the committee determined a quorum.[64]

At the beginning of the committee session, a call of the roll indicated that a quorum was present.[65] Three hours later, the petitioner allegedly made perjurious statements [66] for which he was later convicted.[67] Evidence at trial suggested that less than a majority of the members were present when the statements were made. While agreeing "that the presence of a quorum was an indispensable part of the offense charged," the trial judge instructed the jury to find that a quorum existed as long as a majority of the committee was present at the beginning of the session.[68] Justice Murphy, writing for the majority, held that this instruction was improper—that a quorum consisting of a majority of the committee members had to exist at the time the statements were made for the committee to constitute a "competent tribunal" under the District of Columbia perjury statute.[69]

Justice Jackson, writing in dissent on behalf of Chief Jutice Vinson and Justice Reed, rejected the latitude taken by the majority.

[W]hat Congress may do by express rule it may also do by custom and practice. There is no requirement, constitutional or otherwise, that its body of parliamentary law must be recorded in order to be authoritative. In the absence of objection raised at the time, and in the absence of any showing of a rule, practice or custom to the contrary, this Court has the duty to presume that the conduct of a Congressional Committee, in its usual course of business, conforms to both the written and unwritten rules of the House which created it. "Each House may determine the Rules of its Proceedings. . . ." Art. I, §5, cl. 2. This Court accordingly can neither determine the rules for either House or Congress not require those rules to be expressed with any degree of explicitness other than that chosen by the respective Houses.

The House has adopted the rule and practice that a quorum once established is presumed to continue unless and until the point of no quorum is raised. By this decision, the Court, in effect, invalidates that rule despite the limitations consistently imposed upon court where such an issue is tendered.[70]

The holding of *Ballin,* when considered in light of *Smith* and *Christoffel,* makes it quite clear, however, that "the limitations consistently imposed" are largely without force. Although now nearly twenty-five years old, the Supreme Court's most recent discussion of the scope of review of congres-

sional rules,[71] *Yellin v. United States*,[72] continues to stand for this assertion.[73]

Like *Christoffel*, the controversy in *Yellin* centered around the application of a House committee rule[74] to a witness subpoenaed pursuant to a committee investigation. In reversing a contempt of Congress conviction, the majority held that the committee failed to follow its own rule relating to the interrogation of a witness in executive session and, thus, violated the witness' right, granted by the rule, to be questioned in private.[75] The logic of the majority holding was uncomplicated: "The Committee prepared the groundwork for prosecution in Yellin's case meticulously. It is not too exacting to require that the Committee be equally meticulous in obeying its own rules."[76]

As the dissent pointed out, however, this conclusion necessarily depends on the Court rejecting the interpretation of the rule Congress offered and concluding that the congressional committee had indeed failed to follow its own rule.[77] Citing the restrictive language of *Ballin*[78] and *Smith*,[79] Justice White wrote on behalf of the dissent that "[w]hile the testimony is reasonably clear as to the Committee's construction and application of its own rule, if there were any doubt about the matter it is not our place to resolve every doubt against the Committee."[80] Clearly, the distance that the dissenters were willing to wander into the procedural briar patch of the legislative branch was far shorter than that of the majority.[81]

Thus, while offering an obligatory nod to the merit of judicial restraint, the Supreme Court, without so much as a blush, has embraced an all-inclusive scope of review of congressional rules in a variety of contexts. In *Ballin*, the Court examined the constitutionality of a rule that construed the quorum requirement found in the text of the Constitution.[82] In *Smith*, the Court justified going one step further in reviewing the application of an admittedly constitutional rule by noting the effect application of the rule had on a private party.[83] *Christoffel* presented a similar factual scenario with the Court concluding that a facially constitutional rule was interpreted incorrectly.[84] Finally, *Yellin* illustrates once again the Court's willingness to review congressional rules for compliance when a private party is involved.[85]

Following the Supreme Court's lead, the more recent decisions by the lower federal courts[86] generally echo this reluctance to recognize a jurisdictional limitation.[87] In the final analysis, the courts more often than not have chosen to draw the boundaries of judicial review deep and wide rather than choosing a line of restraint.[88]

B. Vander Jagt to Kurtz: "Standing" in the Way of Judicial Power

The theme of the District of Columbia Circuit decisions involving review of congressional rules has been one of concern about the separation of powers problems raised by judicial consideration.[89] The opinions have most often given force to this concern by paying homage, albeit more and more sparingly, to the separation of powers concepts embodied in the political question doctine.[90] Nevertheless, these decisions continue to assert a far-ranging jurisdictional authority[91] to review Congress' in-house procedural rules.

The decision in *Vander Jagt, v. O'Neill*[92] presents the most complete expression of the D.C. Circuit's doctrine relating to judicial review of congressional rules. In *Vander Jagt*, a group of House members challenged the allocation of a disproportionate number of House committee seats to Democrats.[93] After noting that "[t]his circuit has previously expressed its reluctance to review congressional operating rules, though it has never denied its power to do so,"[94] the court examined at length the scope of review articulated in *Ballin* and *Smith*. The court then concluded "that Art. I simply means that neither we nor the Executive Branch may tell Congress what rules it must adopt. Article I does not alter our judicial responsibility to say what rules Congress may not adopt because of constitutional infirmity."[95] The court went on to admit candidly "that this raises some doubt about the intelligibility of the 'textually committed' aspect of the political question doctrine."[96] Indeed, the opinion lends support to the premise that the doctrine is only of academic interest, observing that it is "far more useful to examine 'case-by-case' whether [it] would be unwise to intrude in 'political' controversies."[97]

Significantly, the court did not find a threshold bar to justiciability in applying the standing doctrine[98] to the plaintiffs either in their capacity as members of Congress or in their capacity as private-party voters.[99] In his concurrence, Judge Bork argued against granting standing, stating that "[w]hether the requirement is rooted in Article III or in judicial prudence . . . the Supreme Court continues to regard the standing concept as informed by considerations of separation of powers."[100] The majority disagreed, choosing to grant standing to the plaintiffs and then dismissing the action in an exercise of the court's remedial discretion.[101]

First proposed by Judge Carl McGowan,[102] the remedial discretion doctrine was adopted by the D.C. Circuit in *Riegle v. Federal Open Market Committee*[103] as a way of "translating . . . separation-of-powers concerns into principled decision making. . . ."[104] In essence, the doctrine counsels the court to dismiss suits brought by legislators "[w]here a congressional plaintiff could obtain substantial relief from his fellow legislators through the enactment, repeal, or amendment of a statute. . . ."[105]

While concurring in the result, Judge Bork raised fundamental questions about the rationale used by the majority to dismiss the suit:

Political question, like standing, is a doctrine that raises a jurisdictional bar to judicial power, while remedial discretion, as described in Judge Gordon's opinion for the majority, raises no bar and grants the judiciary unfettered discretion to hear a case or not, depending on the attractiveness of the idea.

My colleagues' disinclination to rest this case upon a jurisdictional ground—whether that of standing or political question—rests squarely upon the erroneous notion, expressed in *Riegle* and reiterated today, that there must be judicial power in all cases and that doctrines must not be adopted which might frustrate that power.[106]

Arguably, the *Vander Jagt* approach of factoring-in the separation of powers restraints as part of a strict remedial discretion analysis, rather than a standing analysis, results in a very narrow judicial role when the plaintiff is a member of Congress.[107] Remedial discretion, however, as the name implies, provides not a jurisdictional mandate for the court but rather a choice. Furthermore, when the plaintiff is a private party, the separation of powers element of the remedial discretion doctrine is largely without force.[108]

In *Gregg v. Barrett*,[109] the court was presented with both congressional plaintiffs and private-party plaintiffs claiming that their first amendment rights were violated because the Congressional Record was not a verbatim transcript of congressional debate.[110] In dismissing the complaint as to the congressional plaintiffs, Judge Mikva invoked the remedial discretion doctrine, noting that the Congressmen could persuade their colleagues to enforce either existing rules or approve a resolution requiring a verbatim transcript.[111] The court, however, rejected the appellees' argument that the private parties' claim should be dismissed on grounds related to those articulated by the equitable discretion doctrine.[112] Indeed, the *Gregg* opinion noted that "an important reason to withhold equitable relief for congressional plaintiffs is the possibility that other, private plaintiffs may bring suit in a context less laden with separation-of-powers concerns."[113]

Gregg, therefore, consistent with the holding in *Riegle*,[114] recognized a clear role for the judiciary in examining congressional rules on behalf of private plaintiffs who qualify under the separation-of-powers-purged standing analysis. In the end, however, the *Gregg* court dismissed the private appellants' claim, concluding that there is "no first amendment right to receive a verbatim transcript of the proceedings of Congress."[115] Ironically, after embracing the jurisdictional authority to review House rules on behalf of a private party, Judge Mikva concluded the opinion by observing that "[n]otwithstanding the deference and esteem that is properly tendered to individual congressional actors, our deference and esteem for the institution as a whole and for the constitutional command that the institution be allowed to manage its own affairs precludes us from even attempting a diagnosis of the problem."[116]

The D.C. Circuit's most recent response to a request to review a rule of Congress is found in *Kurtz v. Baker*.[117] The appellant in *Kurtz* brought suit when the chaplains of the House and Senate, pursuant to congressional rules,[118] refused a request "to deliver secular remarks in both houses of Congress during the period each house reserves for morning prayer."[119] While the district court reached the merits of claim,[120] the circuit court concluded that the appellant failed to meet the article III standing requirements.[121]

As noted in Judge Ruth Ginsburg's dissent, the majority incorporates the separation of powers analysis into its doctrine of standing:

Although they acknowledge that Kurtz meets the core, injury-in-fact requirement, my colleagues nonetheless conclude that Kurtz lacks standing because he cannot show causation, *i.e.*, that his injury is "traceable to the chaplains' rejection of Kurtz' requests" for a guest speaker bid. The majority emphasizes that the chaplains lacked authority to grant Kurtz's requests in the face of the firm will of Congress, expressed in its internal rules, to open sessions with prayer; they then maintain, essentially, the Congress made and *only Congress* can unmake the rules determining that prayer will be the exclusive benediction upon the opening of legislative sessions. If this is indeed the pivotal point, then the majority—notwithstanding its use of a "standing" label—is deciding not *who* may sue, but an anterior question, *viz, what*

issues are legitimately open to third branch resolution.[122]

Notwithstanding the objections of Judge Ginsburg, this is precisely the function of the standing requirement [123]—to define the limits of the court's article III jurisdictional power.[124]

In general, therefore, the D.C. Circuit opinions recognize that the judiciary cannot review the procedural rules of the legislative branch without encountering a host of separation of powers problems.[125] Like the earlier decisions of the Supreme Court,[126] the court of appeals, until *Kurtz*, had refused to find that it lacked jurisdictional power. Instead, the court reserved the discretionary right to impose self-limitations on review. This analysis was accomplished either by pulling from the shelf the remedial discretion doctrine when presented with legislator plaintiffs or by using more traditional prudential limitations when asked by private-party plaintiffs to review the procedural rules of Congress.[127]

III. "TO SAY WHAT THE LAW IS": RECOGNIZING AN ABSENCE OF JUDICIAL POWER

Although rendered meaningless by nearly one hundred years of tolerance of judicial meddling in the realm of legislative procedure, the proper role of the judiciary in this area, or more accurately lack of role, was clearly stated by Justice Brewer in *U.S. v. Ballin:* [128] "With the courts the question is only one of power. The Constitution empowers each House to determine its rules and proceedings." [129] The decisions from *Ballin* to *Gregg v. Barrett* [130] have refused to accept this premise and have provided the rhetorical baggage that reduces it to insignificance.

For example, the court in *Vander Jagt v. O'Neill,*[131] ironically but justifiably citing *Ballin*, stated that "[c]ourts and commentators have long recognized that it is crucial to distinguish questions about whether judicial power exists, from questions about whether judicial power should be exercised." [132] This reasoning allowed the court to conclude:

[W]hile there are compelling prudential reasons why we should not interfere in the House's distribution of committee seats, it is nevertheless critical that we do not deny our jurisdiction over the claims in this case. As long as it is conceivable that the committee system could be manipulated beyond reason, we should not abandon our constitutional obligation—our duty and not simply our province—"to say what the law is." [133]

In retort, Judge Bork agreed with the mandate of *Marbury v. Madison* [134] but not with the result of the majority's analysis:

Of course, when a court finds a jurisdictional bar to its exercise of power, it does state what the law is. When, on the other hand, a court claims a discretion, whose contours are not suggested, to decide or not decide, the court refuses to say what the law is.[135]

Indeed, Chief Justice Marshall recognized in *Marbury* [136] that boundaries to judicial power do exist. He wrote that "[q]uestions in their nature political, or which are, by the constitution and laws, submitted to the executive, can never be made in this court." [137]

Separation of powers considerations,[138] given force in the doctrine of standing,[139] demand that the judiciary recognize once and for all an absence of power to review in every instance the procedural rules of Congress. A startling limitation on the court's ability to have the last word in the realm of constitutional interpretation? Not necessarily, for as Judge Bork has observed, "it is of course precisely the function of the Article III limitations on jurisdiction, through such doctrines as standing and political question, to ensure that nonfrivolous claims of unconstitutional action *will* go unreviewed by a court." [140]

Thus, in *Vander Jagt* the injury alleged—diminution of influence—defined the issue which the legislator plaintiffs successfully requested the court to examine.[141] A threshold separation of powers analysis, however, counsels against recognizing this as a judicially cognizable injury for the purpose of granting standing. Furthermore, in contrast to dynamics of the remedial discretion doctrine, standing, permeated by separation of powers concerns, has a similar jurisdictional effect when the plaintiff is a private party.[142] *Kurtz v. Baker,*[143] moreover, illustrates that even when a judicially cognizable injury is found, the separation-of-powers-aware standing test may foreclose jurisdiction.[144]

Assuming, arguendo, that a particular rule falls within the set of those questions effectively outside the reach of the judiciary does not necessarily require the conclusion that the rule is above scrutiny for constitutional compliance. To suggest that members of Congress could adopt rules in contravention of the Constitution ignores the fact that all public officers are required by article 6, clause 3 "to support this Constitution." [145] Of course, taken to its logical extreme this argument supports the clearly untenable view that by virtue of article 6, clause 3, all statutes should be given the unquestioned presumption of constitutionality.

The problem that judicial review of statutes does not present, however, is that of impermissible control by one branch over the internal procedures of another.[146] The importance of allowing the legislative branch to craft the procedural framework by which it conducts its business without intrusion from the other branches of government is not difficult to understand. If article I, section 5, clause 2 had granted to the executive or the judiciary the authority to impose procedural rules on Congress, it would have created not a check on power but rather a control of one branch by another. A similar spectre is presented by allowing an assertion of power by the judiciary, limited only by self-restraint, to impose its interpretation of those rules on Congress.[147]

The ability of Congress to interpret the Constitution has been the focus of recent scholarly debate.[148] The case for recognizing congressional competence to make final constitutional determinations about its rules is particularly compelling.[149] As Judge Bork noted, asserting judicial power to review procedural rules raises "the very real problem of a lack of judicial competence to arrange complex, organic, political processes within a legislature so that they work better." [150] Congress is in a much better position to gather the information necessary to make prudent determinations about the effect of adopting one application or interpretation of a procedural rule over another.[151]

A limited scope of judicial review allows a more fundamental protection to work in these cases as well—a protection which recognizes the dilemma inherent in a constitutional democracy: judicial review allows unelected judges to thwart the will of the majority.[152] Justice Scalia has noted that "[t]he degree to which the court become converted into political forums depends not merely upon what issues they are permitted to address, but also upon *when* and *or whose instance* they are permitted to address them." [153] Thus, if the doctrine of standing is understood to include a separation of powers element, according to Justice Scalia, it "restricts courts to their traditional undemocratic role of protecting individuals and minorities against impositions of the majority, and excludes them from the even more undemocratic role of prescribing how the other two branches should function in order to serve the interest *of the majority itself.*" [154] The democratic process, therefore, must be allowed to work.[155]

CONCLUSION

Professor Berle has suggested that once the Supreme Court has expanded its judicial power no room to retreat exists: "Power cast aside without provision for its further exercise almost invariably destroys the abdicating power holder—as, for example, Shakespeare's King Lear found out when he improvidently abandoned his power, and was promptly crushed." [156] It is far too dramatic to conclude, however, that judicial recognition of less power to review congressional rules of procedure results in an impermissable void or an abdication that damages the court.[157]

Indeed, correctly determining where the judicial review boundary ends simultaneously plots the line that marks the power of the legislative branch.[158] While the surveyor's tools must be carefully chosen, we should not hesitate to adjust the boundaries when required.

The doctrine of standing, then, necessarily informed by separation of powers considerations, should serve as the surveyor's transit in the field of congressional rules of procedure.[159] This analysis would result in the judiciary being denied emphatically the power to review, for either constitutionality [160] or compliance,[161] rules which affect purely internal functions of the Congress.[162] Even when congressional procedural rules reach out and directly affect third parties who are admittedly injured,[163] the court would be largely without power to review.[164]

While the weight of authority rejects this jurisdictional restraint, *Kurtz v. Baker* [165] has begun the process of redrawing the lines—a process the importance of which Judge Bork has long recognized: "Major alterations in the constitutional system can be accomplished through what seem to be minor adjustments in technical doctrine." [166] In the end, therefore, this "question of power" must be answered in favor of the legislative branch.—*Gregory Frederick Van Tatenhove***

FOOTNOTES

* Vander Jagt v. O'Neill, 699 F.2d 1166, 1182 (D.C. Cir.) (Bork, J., concurring) (quoting A. BICKEL, REFORM AND CONTINUITY 2 (1971)), *cert. denied*, 464 U.S. 823 (1983).

[1] Marbury v. Madison, 5 U.S. (1 Cranch) 137, 177 (1803) ("It is emphatically the province and duty of the judicial department to say what the law is.").

[2] *See, e.g.*, JUDICIAL REVIEW IN AMERICAN HISTORY: MAJOR HISTORICAL INTERPRETATIONS (K. Hall ed. 1987).

[3] *See, e.g.*, J. CHOPER, JUDICIAL REVIEW AND THE NATIONAL POLITICAL PROCESS 123 (1980) ("[The judiciary's] constitutional role is limited to protecting those individual rights that are unambiguously expressed or that at least may in some persuasive way fairly be found within the broad philosophical

confines of the basic charter."); L. HAND, THE BILL OF RIGHTS 15 (1958) ("[S]ince [the power of judicial review] is not a logical deduction from the structure of the Constitution but only a practical condition upon its successful operation, it need not be exercised whenever a court sees, or thinks that it sees, an invasion of the Constitution."); Kurland, *Toward a Political Supreme Court*, 37 U. CHI. L. REV. 19, 45 (1969) ("Essentially because [the Court's] most important function is antimajoritarian, it ought not to intervene to frustrate the will of the majority except where it is essential to its function as guardian of interests that would otherwise be unrepresented in the government. . . ."); Thayer, *The Origin and Scope of the American Doctrine of Constitutional Law*, 7 HARV. L. REV. 129, 135 (1893) ("In so far as legislative choice, ranging here unfettered, may select one form of action or another, the judges must not interfere, since *their* question is a naked judicial one." (emphasis in original)); Wechsler, *Toward Neutral Principles of Constitutional Law*, 73 HARV. L. REV. 1, 19 (1959) ("A principled [judicial] decision, . . . is one that rests on reasons with respect to all the issues in the case, reasons that in their generality and their neutrality transcend any immediate result that is involved.").

[4] *See, e.g.*, A. BICKEL, THE LEAST DANGEROUS BRANCH 25 (1962) ("[C]ourts have certain capacities for dealing with matters of principle that legislatures and executives do not possess."); W. DOUGLAS, THE COURT YEARS: 1939-1975 55 (1980).

Those who take the other view of the role of the Court are called the "activists"; and this was the label that the Harvard cabal used against Brennan, Black, Warren and myself. My view always has been that anyone whose life, liberty or property was threatened or impaired by any branch of government—whether the President or one of his agencies, or Congress, or the courts (or any counterpart in a state regime)—had a justiciable controversy and could properly repair to a judical tribunal for vindication of his rights.

Id.; Grey, Do We Have an Unwritten Constitution?, 27 STAN. L. REV. 703, 705 (1974-1975) ("It seems to me that courts do appropriately apply values not articulated in the constitutional text, and appropriately apply them in determining the constitutionality of legislation.").

[5] "The judicial Power of the United States, shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish." U.S. CONST. art. III, § 1. The boundaries of judicial review, however, necessarily include the limitations of art. III, § 2 which confine federal court jurisdiction to "cases" and "controversies." J. NOWAK, R. ROTUNDA & J. YOUNG, CONSTITUTIONAL LAW § 2.12(a) (1986); *see* Allen v. Wright, 468 U.S. 737, 750 (quoting *Vander Jagt*, 699 F.2d at 1178-79 (Bork, J., concurring)), *reh'g denied*, 468 U.S. 1250 (1984):

All of the doctrines that cluster about Article III—not only standing but mootness, ripeness, political question, and the like—relate in part, and in different though overlapping ways, to an idea, which is more than an intuition but less than a rigorous and explicit theory, about the constitutional and prudential limits to the powers of an unelected, unrepresentative judiciary in our kind of government.

[6] Valley Forge Christian College v. Americans United for Separation of Church and State, 454 U.S. 464, 473 (1982).

[7] Madison's commentary of 1788 continues to be relevant: Experience has instructed us that no skill in the science of government has yet been able to discriminate and define, with sufficient certainty, its three great provinces—the legislative, executive, and judiciary; or even the privileges and powers of the different legislative branches. Questions daily occur in the course of practice, which prove the obscurity which reigns in these subjects, and which puzzle the greatest adepts in political science.

THE FEDERALIST No. 37, at 242 (J. Madison) (E. Bourne ed. 1901). Note, however, that the judicial boundaries for Madison were much sharper than they are for the modern surveyor:

It is not unfrequently a question of real nicety in legislative bodies whether the operation of a particular measure will, or will not, extend beyond the legislative sphere. On the other side, the executive power being restrained within a narrower compass, and being more simple in its nature, and the judiciary being described by landmarks still less uncertain, projects of usurpation by either of these departments would immediately betray and defeat themselves.

Id. No. 48, at 340.

[8] For courts to reassign congressional committee seats would be no less intrusive than for Congress to enact a law forbidding the members of this court from conferring on the decision of cases or forbidding specified judges from sitting on cases of a particular type. If the courts would not accept such invasions of their sphere, they ought not attempt the invasion of Congress' sphere sought by appellants.

Vander Jagt, 699 F.2d at 1181-82 (Bork, J., concurring).

[9] "Questions of jurisdiction are questions of power, power not merely over the case at hand but power over issues and over other branches of government." Barnes v. Kline, 759 F.2d 21, 43 (D.C. Cir. 1985) (Bork, J., dissenting) (President Reagan's pocket veto of certain legislation challenged by 33 members of the House of Representatives and United States Senate), *vacated*, 107 S. Ct. 734 (1987).

[10] "[A] Majority of each [House] shall constitute a Quorum to do business. . . ." U.S. CONST. art. I, § 5, cl. 1.

[11] "[A] smaller number [than a Quorum] may adjourn from day to day. . . ." *Id.* "Neither House, during the Session of Congress, shall, without the consent of the other, adjourn for more than three days, nor to any other Place than that in which the two Houses shall be sitting." *Id.* at art. I, § 5, cl. 4.

[12] "[T]he Yeas and Nays of the Members of either House on any question shall, at the Desire of one fifth of those Present, be entered on the Journal," *Id.* at art. I, § 5, cl. 3; "[T]he Votes of both Houses shall be determined by Yeas and Nays, and the Names of the Persons voting for and against the Bill shall be entered on the Journal of each House respectively." *Id.* at art. I, § 7, cl. 2.

[13] The Senate Rules are catalogued in the SENATE MANUAL CONTAINING THE STANDING RULES, ORDERS, LAWS, AND RESOLUTIONS AFFECTING THE BUSINESS OF THE UNITED STATES SENATE, S. Doc. No. 98-1, 98th Cong., 2d Sess. (1984) [hereinafter SENATE MANUAL]. As a continuing body the Senate does not adopt new rules at the beginning of each Congress. *See* Senate Rule V: "The rules of the Senate shall continue from one Congress to the next Congress unless they are changed as provided in these rules." SENATE MANUAL, at 5.

[14] House rules are adopted at the beginning of each Congress by vote of the members and can be found in the CONSTITUTION, JEFFERSON'S MANUAL AND THE RULES OF THE HOUSE OF REPRESENTATIVES, H.R. Doc. No. 99-279, 99th Cong., 2d Sess. (1987) [hereinafter HOUSE RULES AND MANUAL]. Compiled by Thomas Jefferson when he was Vice-President, Jefferson's Manual was incorporated into the House Rules in 1837. Jefferson recognized that whether the rules be in all cases the most rational or not is really not of so great importance. It is much more material that there should be a rule to go by than what that rule is; that there may be a uniformity of proceeding in business not subject to the caprice of the speaker or the captiousness of the members. HOUSE RULES AND MANUAL, at 115-16.

[15] *See, e.g.*, Congressional Budget and Impoundment Control Act of 1974, Pub. L. No. 93-344, 88 Stat. 297 (1974); Legislative Reorganization Act of 1970, Pub. L. No. 91-510, 84 Stat. 1140 (1970); Legislative Reorganization Act of 1946, Pub. L. No. 99-601, 60 Stat. 812 (1946).

[16] Recent Senate precedents have been collected by parliamentarian emeritus Floyd M. Riddick in SENATE PROCEDURE PRECEDENTS AND PRACTICES, S. Doc. No. 97-2 (1981). The early precedents of the House are found in A. HINDS, HINDS' PRECEDENTS OF THE HOUSE OF REPRESENTATIVES (1907) and C. CANNON, CANNON'S PRECEDENTS OF THE HOUSE OF REPRESENTATIVES (1935). Recent House precedents have been compiled in DESCHLER'S PRECEDENTS OF THE UNITED STATES HOUSE OF REPRESENTATIVES.

[17] *See* W.J. OLESZEK, CONGRESSIONAL PROCEDURES AND THE POLICY PROCESS 11 (1984).

Congress is regulated not only by formal rules, but by informal ones that influence legislative procedure and members' behavior. . . .

Folkways . . . are unwritten norms of behavior that members are expected to observe. . . . Several of the more important are "legislative work" (members should concentrate on congressional duties and not be publicity seekers), "courtesy" (members should be solicitous toward their colleagues and avoid personal attacks on them), and "specialization" (members should master a few policy areas and not try to impress their colleagues as a "jack of all trades"). *Id.*

[18] *See* THE RECORDS OF THE FEDERAL CONVENTION OF 1787 180, 245-56 (M. Farrand ed. 1937) [hereinafter Farrand]; 1787 DRAFTING THE U.S. CONSTITUTION 672-75 (W. Benton ed. 1986) [hereinafter Benton]; C. WARREN, THE MAKING OF THE CONSTITUTION 412-26 (1973).

[19] *See* Farrand, *supra* note 18, at 180, 245-56, 305; Benton, *supra* note 18, at 667-72.

[20] Farrand, *supra* note 18, at 180, 258, 260-62; Benton, *supra* note 18, at 681-84; C. WARREN, *supra* note 18, at 426-28.

[21] Farrand, *supra* note 18, at 180, 254-56; Benton, *supra* note 18, at 675-80; C. WARREN, *supra* note 18, at 429-31.

[22] Although the journals kept by James Madison of Virginia and James McHenry of Maryland document slightly different chronologies, apparently most of the debate on art. I, § 5 took place on August 10 and 11, 1787. Benton, *supra* note 18, at 656-84.

[23] "All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and a House of Representatives." U.S. CONST. art. I, § 1.

[24] 1 J. STORY, COMMENTARIES ON THE CONSTITUTION OF THE UNITED STATES § 837 (1873).

[25] Thomas Jefferson illustrated this assumption in his comments on the Residence Bill of 1790:

Every man, and every body of men on earth, possesses the righ[t] of self-government: they receive it with their being from the hand of nature. Individuals exercise it by their single will: collections of men, by that of their majority; for the law of the *majority* is the natural law of every society of men. When a certain description of men are to transact together a particular business, the times and places of their meeting and separating depend on their own will; they make a part of the natural right of self-government. This, like all other natural rights, may be abridged or modified in it's [sic] exercise, by their own consent, or by the law of those who depute them, if they meet in the right of others: but so far as it is not abridged or modified, they retain it as a natural right, and may exercise it in what form they please, either exclusively by themselves, or in association with others, or by others altogether, as they shall agree.

2 THE FOUNDERS CONSTITUTION 300 (P.B. Kurland ed. 1987) (quoting Afrom 17 THE PAPERS OF THOMAS JEFFERSON 195 (J. Boyd ed. 1950)).

In the preface to his Manual of Parliamentary Practice, Jefferson notes that "[f]or some of the most familiar forms no written authority is or can be quoted, no writer have supposed it necessary to repeat what all were presumed to know." HOUSE RULES AND MANUAL, *supra* note 14, at 111-12 n.9. *Cf.* Wayman v. Southard, 23 U.S. (10 Wheat.) 1 (1825) (early discussion on the capacity of the judicial branch to determine its rules of proceeding).

[26] The Supreme Court has noted the following:

[W]hen the Framers intended to authorize either House of Congress to act alone and outside of its prescribed bicameral legislative role, they narrowly and precisely defined the procedure for such action.

Clearly, when the Draftsmen sought to confer special powers on one House, independent of the other House, or of the President, they did so in explicit, unambiguous terms.

One might also include another "exception" to the rule that congressional action having the force of law be subject to the bicameral requirement and the Presentment Clauses. Each House has the power to act alone in determining specified internal matters. Art. I, § 7, cls. 2, 3 and § 5, cl. 2. However, this "exception" only empowers Congress to bind itself and is noteworthy only insofar as it further indicates the Framers' intent that Congress not act in any legally binding manner outside a closely circumscribed legislative arena, except in specific and enumerated instances.

INS v. Chadha, 462 U.S. 919, 955 n.21 (1983).

[27] When the 30th of the 59 representatives elected to the First Congress reached New York on April 1, 1789, the assembled quorum promptly chose as Speaker of the House Frederick A. C. Muhlenberg of Pennsylvania. The next day Muhlenberg appointed a committee of 11 representatives to draw up the first rules of procedure, which the House adopted April 7. The first standing committee of the House—a seven-member Committee on Elections—was chosen April 13, and its report accepting the credentials of 49 members was approved April 18. By then, the House already was debating its first piece of legislation, a tariff bill.

CONGRESSIONAL QUARTERLY'S GUIDE TO CONGRESS 41 (3d ed. 1982). Courtesy, dignity and informality marked the proceedings of the Senate in the early days of the Republic. A body that on a chill morning might leave its seats to gather around the fireplace had no need for an elaborate system of procedure and rules. At the first session in 1789 the Senate adopted only 20 short rules, a number deemed sufficient to control the proceedings of a Senate no larger than some modern-day congressional committees.

Id. at 79; *see* 127 CONG. REC. S1284-95 (daily ed. Feb. 16, 1981) (statement of Sen. Byrd).

[28] Jefferson noted the relation of the parliamentary law to the early legislative procedure of Congress:

But to what system of rules is he to recur, as supplementary to those of the Senate? To this can be but one answer: To the system of regulations adopted for the government of some one of the parliamentary bodies within these States, or of that which has served as a prototype to most of them. This last is the model which we have all studied, while we are little acquainted with the modifications of it in our several States. It is deposited, too, in publications possessed by many, and open to all. Its rules are probably as wisely constructed for governing the debates of a deliberative body, and obtaining its true sense, as any which can become known to us; in the acquiescence of the Senate, hitherto, under the references to them, has given them the sanction of the approbation.

HOUSE RULES AND MANUAL, *supra* note 14, at § 286 n. a.

[29] 2 W. HOLDSWORTH, HOLDSWORTH'S HISTORY OF ENGLISH LAW: ANGLO-SAXON ANTIQUITIES, THE MEDIEVAL COMMON LAW 431 (1923); *see* 4 W. HOLDSWORTH, HOLDSWORTH'S HISTORY OF ENGLISH LAW: THE COMMON LAW AND ITS RIVALS 174-78 (1924) (16th century parliamentary procedure) [hereinafter W. HOLDSWORTH, THE COMMON LAW AND ITS RIVALS].

The most striking feature of the procedure of Parliament continued to be the influence exercised by the forms and conceptions of the common law. . . . Firstly, we have seen that the whole fabric of Parliamentary procedure was regarded as a special law governing Parliament. It was the "lex et consuetudo Parliamenti," which governed the High Court of Parliament, just as the procedural rules of the common law, the civil law, or the canon law, governed the various courts which exercised jurisdiction in the English state. Secondly, this law was a customary law to be ascertained mainly by the precedents to be collected from the records of Parliament. It therefore possessed all the flexibility and adaptability of customary law; and this was no small advantage at this time of conflict. Thirdly, it was, like the common law itself, a permanent and independent body of customary law.

6 W. HOLDSWORTH, THE COMMON LAW AND ITS RIVALS, *supra* note 29, at 88-89 (footnotes omitted).

[30] HOUSE RULES AND MANUAL, *supra* note 14, at § 60.

[31] [T]he ways in which the House applies its rules are relatively predictable, at least in comparison with the Senate. . . . Moreover, even the ways in which the House frequently waives, supplants, or supplements its regular rules with special, temporary procedures generally fall into a relatively limited number of recognizable patterns.

Underlying most of the rules that Representatives may invoke, and the procedures the House may follow, is a fundamentally important premise—that a majority of Members ultimately should be able to work their will on the floor.

S. BACH, AN INTRODUCTION TO THE LEGISLATIVE PROCESS ON THE HOUSE FLOOR 1-2 (CONGRESSIONAL RESEARCH SERVICE, Rep. No. 86-96G, 1986).

The essential characteristic of the Senate's rules, and the characteristic that most clearly distinguishes its procedures from those of the House of Representatives, is their emphasis on the rights and prerogatives of individual Senators. . . . [T]he Senate's rules give greater weight to the value of full and free deliberation than they give to the value of expeditious decisions. . . .

Precisely because of the nature of its standing rules, the Senate cannot rely on them exclusively. If all Senators took full advantage of their rights under the rules whenever it might be to their advantage, the Senate would have great difficulty reaching timely decisions. Therefore, the Senate has developed a variety of practices by which it sets aside some of its rules to expedite the conduct of its business or to accommodate the needs and interests of its members. . . . In most cases, these alternative arrangements require the unanimous consent of the Senate—the explicit or implicit concurrence of each of the one hundred Senators.

Id. Rep. No. 87-176, 1986, revised March 6, 1987).

[32] S. Bach, The Nature of Congressional Rules (Sept. 3-6, 1987) (paper prepared for delivery at the 1987 Annual Meeting of the American Political Science Association; Chicago, Illinois).

[33] Although not the subject of judicial consideration, the following account of an incident involving John Quincy Adams provides an excellent early illustration of the type of problems a congressional rule can present:

In 1836 John Quincy Adams challenged a House practice, begun in 1792, of refusing to receive petitions and memorials on the subject of slavery. Adams offered a petition from citizens of Massachusetts for the abolition of slavery in the District of Columbia. His action led to a protracted debate and the adoption of a resolution by 117-68 vote directing that any papers dealing with slavery "shall, without being either printed or referred, be laid upon the table and that no further action whatever shall be had thereon."

Adams, who considered adoption of the resolution to be a violation of the Constitution and the rules of the House reopened the issue in 1837 by asking the Speaker how to dispose of a petition he had received from 22 slaves. Southerners moved at once to censure Adams. The move failed, but the House agreed, 163-18, that "slaves do not possess the right of petition secured to the people of the United States by the Constitution." Further agitation led the House in 1840 to adopt, by a vote of 114-108, a rule that no papers "praying the abolition of slavery . . . shall be received by this House or entertained in any way whatever." Four years later, however, the rule was rescinded by a vote of 108-80.

CONGRESSIONAL QUARTERLY'S GUIDE TO CONGRESS, *supra* note 27, at 46.

[34] 144 U.S. 1 (1891).

[35] *Id.* at 5.

[36] *See supra* note 10.

[37] THE CONSTITUTION OF THE UNITED STATES OF AMERICA: ANALYSIS AND INTERPRE-

TATION, S. Doc. No. 92-82, 92nd Cong., 2d Sess. 113 (1973).

[38] *In re Ballin*, 45 F. 170 (C.C. S.D.N.Y.) (rev'g the Decision of the Board of United States General Appraisers), *rev'd*, 144 U.S. 1 (1891).

[39] *U.S.* v. *Ballin*, 144 U.S. 1 at 9-11 (1891).

[40] *Id.* at 3.

[41] "Whatever a question arises in a court of law of the existence of a statute, or of the time when a statute took effect, or of the precise terms of a statute, the judges who were called upon to decide it have a right to resort to any source of information which in its nature is capable of conveying to the judicial mind clear and satisfactory answer to such questions; . . ."

Id. (quoting Gardner v. The Collector, 73 U.S. (6 Wall.) 499, 511 (1868); *see* J. Grant, *Judicial Control of the Legislative Process: The Federal Rule*, 3 WEST. POL. QUART. 364, 379-84 (1950); *see also* Comment, *Judicial Review of the Legislative Enactment Process; Louisiana's "Journal Entry" Rule*, 41 LA. L. REV. 1187 (1981); Comment, *Judicial Review of the Legislative Process of Enactment: An Assessment Following Childers v. Couey*, 30 ALA. L. REV. 495 (1979) (judiciary reviewing Alabama state legislature procedures).

[42] "Each House shall keep a Journal of its Proceedings, and from time to time publish the same, excepting such Parts as may in their Judgement require Secrecy. . . ." U.S. CONST. art. I, § 5, cl. 3; *see supra* note 12; *see also* Field v. Clark, 143 U.S. 649, 680 (1891):

[I]t is not competent for the appellants to show, from the journals of either House, from the reports of committees or from other documents printed by authority of Congress, that the enrolled bill . . . contained a section that does not appear in the enrolled act in the custody of the State Department.

[43] *Ballin*, 144 U.S. at 4.

[44] *Id.*

[45] *Id.* at 4-5.

[46] *Id.* at 5.

[47] *Id.* (emphasis added).

[48] *Id.*

[49] *Id.*

[50] *Id.*

[51] 286 U.S. 6 (1932).

[52] The pivotal provisions are ¶¶ 3 and 4 of Rule XXXVIII which read:

"3. When a nomination is confirmed or rejected, any Senator voting in the majority may move for a reconsideration on the same day on which the vote was taken, or on either of the next two days of actual executive session of the Senate; but if a notification of the confirmation or rejection of a nomination shall have been sent to the President before the expiration of the time within which a motion to reconsider may be made, the motion to reconsider shall be accompanied by a motion to request the President to return such notification to the Senate. Any motion to reconsider the vote on a nomination may be laid on the table without prejudice to the nomination, and shall be a final disposition of such motion."

"4. Nominations confirmed or rejected by the Senate shall not be returned by the Secretary to the President until the expiration of the time limited for making a motion to reconsider the same, or while a motion to reconsider is pending, unless otherwise ordered by the Senate." *Id.* at 30-31.

[53] *Id.* at 28.

[54] *Id.; see* President's Message to the Senate Refusing to Return Senate Resolutions of Advice and Consent for Appointments to the Federal Power Commission, PUB. PAPERS 11-14 (Jan. 10, 1931).

"I am advised that these appointments were constitutionally made, with the consent of the Senate formally communicated to me and that the return of the documents by me and reconsidered by the Senate would be ineffective to disturb the appointees in their offices. I cannot admit the power in the Senate to encroach upon the Executive functions by the removal of duly appointed executive officer under the guise of reconsideration of his nomination."

President's Statement About Refusal to Resubmit Federal Power Commission Appointments to the Senate, PUB. PAPERS 13-16 (Jan. 10, 1931) ("'I am advised by the Attorney General that these appointments were constitutionally made, [and] are not subject to recall. . . .'").

[55] *Smith*, 286 U.S. at 29.

[56] *Id.* at 33.

[57] *Id.*

[58] *Id.*

To place upon the standing rules of the Senate a construction different from that adopted by the Senate itself when the present case was under debate is a serious and delicate exercise of judicial power. The Constitution commits to the Senate the power to make its own rules; and it is not the function of the Court to say that another rule would be better. A rule designed to ensure due deliberation in the performance of the vital function of advising and consenting to nominations for public office, moreover, should receive from the Court the most sympathetic consideration. *Id.* at 48.

[59] *Id.* at 37-48.

[60] The Court's decision in Missouri Pac. Ry. Co. v. Kansas, 248 U.S. 276 (1919), provides an interesting contrast. Although concluding that the "question would be justiciable," *id.* at 279, the Court deferred to Congress' application of art. 1, § 7, cl. 2 requiring a two-thirds vote of each House to pass a bill over a presidential veto. Writing for the entire court, Justice White concluded that the "application of the rule was the result of no mere formal following of what had gone before but came from conviction expressed, after deliberation, as to its correctness by many illustrious men." *Id.* at 284.

[61] 338 U.S. 84 (1948).

[62] *See* McGrain v. Daugherty, 273 U.S. 135, 174 (1927) ("We are of [the] opinion that the power of inquiry—with process to enforce it—is an essential and appropriate auxiliary to the legislative function."); *see also* STAFF OF JOINT COMM. ON CONG. OPERATIONS, 94TH CONG., 2D SESS., LEADING CASES ON CONG. INVESTIGATORY POWER (Comm. Print 1976).

[63] *Christoffel*, 338 U.S. at 85. Rule XII(1)(a)(1) provides: "The Rules of the House are the rules of its committees and subcommittees so far as applicable. . . ." HOUSE RULES AND MANUAL, *supra* note 14, at 405.

[64] *Christoffel*, 338 U.S. at 87; *cf.* United States v. Bryan, 339 U.S. 323 (1950) (Absence of a quorum was not available as a defense when the objection was not raised before the committee.).

[65] *Christoffel*, 338 U.S. at 86.

[66] *Id.*

[67] "Every person who, having taken an oath or affirmation before a competent tribunal, . . . wilfully and contrary to such oath or affirmation states or subscribes any material matter which he does not believe to be true, shall be guilty of perjury. . . ." *Id.* at 85 n. 2 (quoting District of Columbia Code, § 22-2501, 31 Stat. 1329).

[68] *Id.* at 86.

[69] *Id.* at 89-90.

[70] *Id.* at 91, 95.

[71] Although beyond the scope of this Comment, the analogous issues raised by those more recent cases which explore the boundaries of the speech or debate clause ("for any Speech or Debate in either House, [Senators and Represenatives] shall not be questioned in any other Place." U.S. CONST. art. I, § 6, cl. 1) cannot escape reference. *See* Davis v. Passman, 442 U.S. 228 (1979) (A congressional employee brought suit against a congressman for employment discrimination. While the majority did not reach the speech or debate clause issue, it did hold that the petitioner had a cause of action. Chief Justice Burger, joined by Justices Powell and Rehnquist dissented, arguing that the case presented serious separation of powers concerns.); Eastland v. United States Servicemen's Fund, 421 U.S. 491, 504 (1975) (Plaintiff brought suit to obtain an injunction against the issuance of a subpoena by a Senate subcommittee. The Court held that the issuance of the subpoena was "an integral part of the deliberative and communicative processes," of congressional business.); Doe v. McMillan, 412 U.S. 306 (1973) (A suit was brought by parents of children cited for disciplinary problems in a House subcommittee report. The Court concluded that the speech or debate clause barred relief from committee members and staff for introducing the material at committee hearings, for referring the report to the Speaker of the House, and for voting for the publication of the report since these were all legislative acts.)

In Gravel v. United States, 408 U.S. 606, 625 (1972), *reh'g denied*, 409 U.S. 902 (1972), action was taken against Senator Gravel to restrain publication of the Pentagon Papers. The Court held that private publications was unprotected and offered the following standard:

Legislative acts are not all-encompassing. The heart of the Clause is speech or debate in either House. Insofar as the Clause is construed to reach other matters, they must be an integral part of the deliberative and communicative processes by which Members participate in committee and House proceedings with respect to the consideration and passage or rejection of proposed legislation or with respect to other matters which the Constitution places within the jurisdiction of either House.

Another case of particular importance, although not always found under the speech or debate rubric, is Powell v. McCormack, 395 U.S. 486 (1969). Congressman Adam Clayton Powell, responding to a resolution excluding him from the 90th Congress for mishandling House funds, brought an action to compel House members and employees to seat him as a duly elected Member of Congress. Writing for the majority, Chief Justice Warren concluded that "though this action may be dismissed against the Congressmen petitioners are entitled to maintain their action against House employees and to judicial review of the propriety of the decision to exclude petitioner Powell." *Id.* at 506. By determining that the action against Powell was an exclusion rather than an expulsion, the Court avoided reaching the question of whether it had the power to review House expulsion standards. Since Powell clearly met the constitutional requirements of age, residence, and citizenship, the Court saw no need to apply art. I, § 5, cl. 1, which provides that each House is "the Judge of the Elections, Returns and

Qualifications of its own Members. . . ." *Id.* at 522. Thus, the Court had the final word on the application of explicit nondiscretionary constitutional requirements and only indirectly on internal congressional procedure. Of interest is Professor Wechsler's observation, articulated in another context a decade before *Powell*, that though presenting "issues of the most important constitutional dimension, . . . the seating or expulsion of a Senator or Representative" is not a proper matter for review by the judiciary. Wechsler, *supra* note 4, at 8.

For discussions of the evolution of the speech or debate doctrine see Reinstein and Silvergate, *Legislative Privilege and the Separation of Powers*, 86 HARV. L. REV. 1113 (1973); Note, *Speech or Debate Immunity: Preserving Legislative Independence While Cutting Costs of Congressional Immunity*, 60 NOTRE DAME L. REV. 589 (1985).

[72] 374 U.S. 109 (1963).

[73] *Id.* at 114.

[74] The particular Committee Rule involved, Rule IV, provides in part:

"IV—Executive and Public Hearings:

A—*Executive:*

"(1) If a majority of the Committee or Subcommittee, duly appointed as provided by the rules of the House of Representatives, believes that the interrogation of a witness in a public hearing might endanger national security or *unjustly injure his reputation*, or the reputation of other individuals, the Committee *shall interrogate such witness in an Executive Session for the purpose of determining the necessity or advisability of conducting such interrogation thereafter in a public hearing.*

B—*Public Hearings:*

(1) All other hearings shall be public." *Id.* at 114-15 (emphasis added)

[75] *Id.* at 123.

[76] *Id.* at 124.

[77] *Id.* at 143 (White, J., dissenting).

[78] *Ballin*, 144 U.S. at 5.

[79] *Smith*, 286 U.S. at 33.

[80] *Yellin*, 374 U.S. at 146.

[81] The role that the courts play in adjudicating questions involving the rules of either house must of necessity be a limited one, for the manner in which a house or committee of Congress chooses to run its business ordinarily raises no justiciable controversy. . . . Even when a judicial controversy is presented, the function of the courts is a narrow one. *Id.* at 143 (White, J., dissenting) (citations omitted).

[82] *Ballin*, 144 U.S. at 1; *See supra* notes 34-50 and accompanying text.

[83] *See supra* notes 51-59 and accompanying text.

[84] *See supra* notes 61-70 and accompanying text.

[85] *See supra* note 72-81 and accompanying text.

[86] Due to geographical proximity, case law at the U.S. Court of Appeals level has been confined almost exclusively to the D.C. Circuit. *But see* Texas Ass'n of Concerned Taxpayers v. United States, 772 F.2d 163, 167 (5th Cir. 1985) ("Where . . . a constitutional provision governing the mode of internal operation of Congress contains a word or phrase susceptible of more than one meaning, and Congress has given that word or phrase an interpretation consistent with the limitations on authority contained in the provisions, the courts should not intrude. . . ."), *reh'g denied*, 776 F.2d (1985) (en banc), *cert. denied*, 476 U.S. 1151 (1986); Davids v. Akers, 549 F.2d 120, 125 (9th Cir. 1977) ("We are not in a position . . . to make a better judgment about how the Arizona House of Representatives should go about its business than the House can make. Even if the court could, it ought not to.").

[87] *See infra* notes 89-127 and accompanying text.

[88] *See infra* notes 92-106 and accompanying text.

[89] *See* Metzenbaum v. Federal Energy Regulatory Comm'n, 675 F.2d 1282, 1287 (D.C. Cir. 1982) ("To decide [in favor of intervention] would subject congressional enactments to the threat of judicial invalidation on each occasion of dispute over the content or effect of a House or Senate rule."); United States *ex rel.* Joseph v. Cannon, 642 F.2d 1373, 1379 (D.C. Cir. 1981) ("[S]o-called political questions are denied judicial scrutiny, not only because they invite courts to intrude into the province of coordinate branches of government, but also because courts are fundamentally under-equipped to formulate national policies or develop standards of conduct for matters not legal in nature."), *cert. denied*, 455 U.S. 999 (1982); Exxon Corp. v. Federal Trade Comm'n, 589 F.2d 582, 590 (D.C. Cir. 1978) ("Although the courts will intervene to protect constitutional rights from infringement by Congress, including its committees and members, . . . where constitutional rights are not violated, there is no warrant for the judiciary to interfere with the internal procedures of Congress. . . ." (citations omitted)), *cert. denied*, 441 U.S. 943 (1979); Harrington v. Bush, 553 F.2d 190, 214 (D.C. Cir. 1977) ("In deference to the fundamental constitutional principle of separation of powers, the judiciary must take special care to avoid intruding into a constitutionally delineated prerogative of the Legislative Branch."); Consumers Union of United States v. Periodical Correspondents Ass'n, 515 F.2d 1341, 1351 (D.C. Cir. 1975) ("[This case is] not justiciable by reason of the textually demonstrable commitment of such rules to the legislative branch of government. . . ."), *cert. denied*, 423 U.S. 1051 (1976).

[90] Prominent on the surface of any case held to involve a political question is found the textually demonstrable constitutional commitment of the issue to a coordinate political department; or a lack of judicially discoverable and manageable standards for resolving it; or the impossibility of deciding without an initial policy determination of a kind clearly for nonjudicial discretion; or the impossibility of a court's undertaking independent resolution without expressing lack of the respect due coordinate branches of government; or an unusual need for unquestioning adherence to a political decision already made; or the potentiality of embarrassment from multifarious pronouncements by various departments on one question.

Baker v. Carr, 369 U.S. 186, 217 (1962); *see infra* notes 92-127 and accompanying text. *Compare* Henkin, *Is There a "Political Question" Doctrine?*, 85 YALE L.J. 597, 601 (1976) ("The cases which are supposed to have established the political question doctrine required no such extra-ordinary abstention from judicial review; they called only for the ordinary respect by the courts for the political domain.") *with* Redish, *Judicial Review and the "Political Question"*, 79 NW. U.L. REV. 1031 1032-33 (1984-85) ("[I]n a number of cases in which the Court purported not to invoke the political question doctrine, it was in fact applying most of the doctrine's precepts in rendering its decision.").

[91] *See infra* note 95 and accompanying text.

[92] 699 F.2d 1166 (D.C. Cir.), *cert. denied*, 464 U.S. 823 (1983).

[93] *Id.* at 1167.

[94] *Id.* at 1172-73.

[95] *Id.* at 1173.

[96] *Id.*

[97] *Id.* at 1174.

[98] Although Justice Douglas had warned that "[g]eneralizations about standing to sue are largely worthless as such . . .," Association of Data Processing Serv. Org. v. Camp, 397 U.S. 150, 151 (1970), a traditional standing analysis has been characterized most often as requiring the following: (1) an injury in fact; (2) a causal connection between the injury and the challenged conduct; and (3) an available judicial remedy. C. WRIGHT, A. MILLER, & E. COOPER, FEDERAL PRACTICE AND PROCEDURE: JURISDICTION 2D § 3531 (1984). Valley Forge Christian College v. Americans United for Separation of Church and State, Inc., 454 U.S. 464 (1982), illustrates the terminology of modern standing theory:

Art. III requires the party who invokes the court's authority to "show that he personally has suffered some actual or threatened injury as a result of the putatively illegal conduct of the defendant," *Gladstone, Realtors v. Village of Bellwood*, 441 U.S. 91, 99 (1979), and that the injury "fairly can be traced to the challenged action" and "is likely to be redressed by a favorable decision," *Simon v. Eastern Kentucky Welfare Rights Org.*, 426 U.S. 26, 38, 41 (1976). In this manner does Art. III limit the federal judicial power "to those disputes which confine federal courts to a role consistent with a system of separated powers and which are traditionally thought to be capable of resolution through the judicial process." *Flast v. Cohen*, 392 U.S. at 97.

Id. at 472 (footnote omitted). In commenting on the close relationship between the "traceability" and "redressability" requirements, the Court has concluded that "[t]o the extent there is a difference, it is that the former examines the causal connection between the assertedly unlawful conduct and the alleged injury, whereas the latter examines the casual connection between the alleged injury and the judicial relief requested." Allen v. Wright, 468 U.S. 737, 753 n.19 (1984). Important, too, is the Court's, discussion of the Article III "case" and "controversy" genesis of standing doctrine:

In essence the question of standing is whether the litigant is entitled to have the court decide the merits of the dispute or of particular issues. This inquiry involves both constitutional limitations on federal-court jurisdiction and prudential limitations on its exercise. In both dimensions it is founded in concern about the proper—and properly limited—role of the courts in a democratic society.

Warth v. Seldin, 422 U.S. 490, 498 (1975) (citations omitted); *see Allen*, 468 U.S. at 752 ("[T]he law of Art. III standing is built on a single basic idea—the idea of separation of powers."), *reh'g denied*, 468 U.S. 737 (1984).

[99] *See* McGowan, *Congressman in Court: The New Plaintiffs*, 15 GA. L. REV. 241, 265 (1981) ("Invoking the court's discretion to deny an equitable remedy when the petitioner could get adequate relief from his fellow legislators seems to be the most satisfying way of resolving these cases."); *see also* Note, *The Justiciability of Congressional-Plaintiff Suits*, 82 COLUM. L. REV. 526, 527 (1982) ("[C]ourts access for congressional plaintiffs [should] be primarily determined by traditional doctrines of standing, focusing on the injury to the plaintiff's status

and rights as a legislator."); Note, *Congressional Access to the Federal Courts*, 90 HARV. L. REV. 1632, 1634 (1977) ("By treating all congressional suits alike, the courts have also obscured the institutional problems peculiar to suits by individual congressmen to assert participatory rights."); Comments, *Standing Versus Justiciability: Recent Developments in Participatory Suits Brought by Congressional Plaintiffs*, 1982 B.Y.U.L. REV. 371 (1982).

[100] *Vander Jagt*, 699 F.2d at 1180 (Bork, J., concurring). In his dissent in Barnes v. Kline, 759 F.2d 21, 44 (D.C. Cir. 1985), Judge Bork further articulated his view that a standing decision necessarily encompasses separation of powers concerns:

"Standing" is one of the concepts courts have evolved to limit their jurisdiction and hence to preserve the separation of powers. . . . Every time a court expands the definition of standing, the definition of the interests it is willing to protect through adjudication, the area of judicial dominance grows and the area of democratic rule contracts.

[101] *Vander Jagt*, 699 F.2d at 1168.

[102] *See supra* note 99.

[103] 656 F.2d 873 (D.C. Cir.), *cert. denied*, 454 U.S. 1082 (1981).

[104] *Id.* at 881.

[105] *Id.*

[106] *Vander Jagt*, 699 F.2d at 1184 (Bork, J., concurring).

[107] *See supra* note 99.

[108] Judge Bork argues against this result:

[S]eparation-of-powers considerations do not, strictly speaking, operate here on the basis of the plaintiffs' status as legislators. Rather, in keeping with the standing doctrine, my concern is with the separation-of-powers implications of the *harm* alleged: "diminution of influence" and the legislative process. Appellants complain of this single harm in both of their capacities.

Vander Jagt, 699 F.2d at 1183 n.3 (Bork, J., concurring) (emphasis in original).

[109] 771 F.2d 539 (D.C. Cir. 1985).

[110] *Id.* at 540.

[111] *Id.* at 545.

[112] Brief for Appellee at 36; *Gregg*, 771 F.2d at 539.

[113] *Gregg*, 771 F.2d at 546.

[114] *Riegle*, 656 F.2d at 881 ("While we discourage congressional plaintiffs in such circumstances, it is probable that a private plaintiff could acquire standing to raise the issue of unconstitutionality before a court.").

[115] *Gregg*, 771 F.2d at 546.

[116] *Id.* at 549.

[117] 829 F.2d 1133 (D.C. Cir. 1987).

[118] House Rule VII states that "[t]he Chaplain shall attend at the commencement of each day's sitting of the House and open the same with prayer. . . ." Rule XXIV provides that "[t]he daily order of business shall be as follows: First, prayer by the Chaplain."

As for the Senate, it has long been provided by resolution that "the Chaplain shall open each calendar day's session of the Senate with prayer. . . ." Senate Rule IV(1)(a) regulates commencement of daily sessions, and provides for "prayer by the Chaplain. . . ." Senate Rule IV(2) refers to the "customary daily prayer by the Chaplain."

Id. at 1143.

[119] *Id.* at 1134.

[120] *Id.* at 1136-37.

[121] [T]he complaint barely survives scrutiny under the first part, and thoroughly fails under the second part, of the test the Supreme Court has developed for determining Article III standing: (1) there must be concrete personal injury to the plaintiff, (2) such injury must be fairly traceable to the challenged conduct, and (3) the injury must be "likely" to be redressed if the relief sought is granted.

Id. at 1138.

[122] *Id.* at 1148 (Ginsburg, R., J., dissenting) (citations omitted) (emphasis in original).

[123] *See supra* note 98 and accompanying text.

[124] [I]f the court were to order the chaplains to discontinue the program, both houses would still have the power to invite guest chaplains to lead them in prayer without the intervention of their official chaplains. While such an order might provoke a conflict on a matter of constitutional principle between the houses of Congress and this court, it would involve a test of political will rather than of law because this court is without authority to act outside the boundaries of Article III.

Kurtz, at 1144-45.

[125] *See supra* notes 89-116 and accompanying text.

[126] *See supra* notes 33-88 and accompanying text.

[127] *See supra* notes 89-116 and accompanying text.

[128] 144 U.S. 1 (1891).

[129] *Id.* at 5.

[130] 771 F.2d 539 (D.C. Cir. 1985); *see supra* notes 33-116 and accompanying text.

[131] 699 F.2d 1166 (D.C. Cir.), *cert. denied*, 464 U.S. 823 (1983).

[132] *Id.* at 1170.

[133] *Id.* (quoting Marbury v. Madison, 5 U.S. (1 Cranch) 137, 177 (1803)).

[134] 5 U.S. (1 Cranch) 137 (1803).

[135] *Id.* at 1185 (Bork, J., concurring).

[136] *Marbury*, 5 U.S. (1 Cranch) at 170.

[137] *Id.* Chief Justice Marshall reiterated this theme in a speech delivered to Congress: If the judicial power extended to every question under the constitution, it would involve almost every subject proper for legislative discussion and decision; if to every question under the laws and treaties of the United States, it would involve almost every subject on which the executive could act. The division of power which the gentleman had stated, could exist no longer, and the other departments would be swallowed up by the judiciary.

Barnes v. Kline, 759 F.2d 21, 54 (D.C. Cir. 1985) (Bork, J., dissenting) (quoting Speech of the Honorable John Marshall to the United States House of Representatives, 18 U.S. (5 Wheat.) Appendix at 3, 16 (1820)).

[138] Understanding separation of powers objectives is a prerequisite to understanding the concept's effect on standing methodology. Separate powers, implicit in the structure of the Constitution, have been described "as a keystone for guaranteeing the liberty of the people." Choper, *supra* note 3, at 263. With reference to a lineage that includes Locke, Montesquieu, and Blackstone, Professor Choper has summarized the views of the founding fathers on the consequences that are avoided by maintaining a system of divided powers:

While a number of the founding fathers—including Washington, Adams, Jefferson, Jay, and Wilson—urged acceptance of the [separation of powers] principle on the grounds of government efficiency, Madison's statement that "the accumulation of all powers, legislative, executive, and judiciary, in the same hands, whether of one, a few, or many, and whether hereditary, self-appointed, or elective, may justly be pronounced the very definition of tyranny" could as well have come from Montesquieu's pen. Washington voiced the same sentiment in his Farewell Address, cautioning against "the exercise of the powers of one department to encroach upon another" because "the spirit of encroachment tends to consolidate the powers of all the departments in one, and thus to create, whatever the form of government, a red despotism." John Adams wrote that "it is by balancing each of these powers against the other two, that the efforts of human nature towards tyranny can alone be checked and restrained, and any degree of freedom preserved in the constitution." And Jefferson was equally confident in his opinion that concentration of powers "in the same hand [either Congress or the President] is precisely the definition of despotic government. It will be no alleviation that these powers will be exercised by a plurality of hands and not by a single one; 173 despots would surely be as oppressive as one."

Id. at 264-65 (footnotes omitted).

[139] *See supra* note 98 and accompanying text. The mere assertion that separation of powers notions are part of standing theory says nothing about how they influence standing methodology. The Court's lack of guidance in this area has led one commentator to observe that "[p]recisely how separation-of-powers analysis advances doctrinal application of the standing inquiry may be difficult to fathom." L. TRIBE, AMERICAN CONSTITUTIONAL LAW, 109 (1988).

For Judge Bork, the integration of separation of powers principles as a part of standing methodology is accomplished by focusing on two inquiries aimed at the two major components of the standing test—injury in fact and causation. First, a court must ask if recognition and protection of an injury would unduly enhance the role of the judiciary in relation to other branches. Thus, Judge Bork concluded in Vander Jagt v. O'Neill that "[c]ourts may take cognizance only of injuries of certain types, and the limitations are often defined less by the reality of the litigant's 'adverseness' than by the courts' view of the legitimate boundaries of their own power." Vander Jagt at 1177.

Second, in reviewing causation a court must go beyond an "esimation of probabilities" and examine the effect granting standing would have on the spread of judicial authority. "'[C]lausation' in this context," argues Judge Bork, "is something of a term of art, taking into account not merely an estimate of effects but also considerations related to the constitutional separation of powers as that concept defines the proper role of courts in the American governmental structure." Haitian Refugee Center v. Gracey, 809 F.2d 794, 801 (D.C. Cir. 1987) (standing denied to nonprofit membership corporation organized to assist Haitian refugees and two members who challenged a federal program to interdict undocumented aliens on the high seas).

See generally Logan, *Standing to Sue: A Proposed Separation of Powers Analysis*, 1984 WIS. L. REV. 37, 42 (1984).

When a plaintiff asserts what is in the Court's view a "generalized grievance," separation of powers concerns counsel that the Court consider disposing of the case on prudential rather than article III grounds, reserving for the legislative branch the opportunity to determine ultimately the best forum for resolving the controversy.

Id. Scalia, *The Doctrine of Standing as an Essential Element of the Separation of*

Powers, 17 SUFFOLK U.L. REV. 881, 882 (1983).

[S]tanding is a crucial and inseparable element of [separation of powers], whose disregard will inevitably produce—as it has during the past few decades—an overjudicialization of the processes of self-governance. . . . [C]ourts need to accord greater weight than they have in recent times to the traditional requirement that the plaintiff's alleged injury be a particularized one, which sets him apart from the citizenry at large.

Id. Note, *More Than an Intuition, Less Than a Theory": Toward a Coherent Doctrine of Standing*, 86 COLUM. L. REV. 564, 593 (1986) ("Standing to raise constitutionally grounded claims should be approached by first recognizing rights derived directly from the Constitution as legally cognizable, and then examining whether the right so derived accrues to the people in gross or in personam.").

[140] *Vander Jagt*, 699 F.2d at 1183 (Bork, J., concurring) (emphasis added).

The function of the article III case-or-controversy limitations, including the standing requirement, is, however, precisely to ensure that claims of unconstitutional action will go unreviewed by a court when review would undermine our system of separated powers and undo the limits the Constitution places on the power of the federal courts.

Barnes, 759 F.2d at 60 (Bork, J., dissenting).

[141] *Vander Jagt*, 699 F.2d at 1168.

[142] *See* Kurtz v. Baker, 829 F.2d 1133 (D.C. Cir. 1987).

[143] *Id.*

[144] *Id.* at 1143 ("Article III requires a chain of causation less ephemeral than a coin tossed into a wishing well."); *see* Allen v. Wright, 468 U.S. 737, 762 n.26 (1984) ("We rely on separation of powers principles to interpret the 'fairly traceable' component of the standing requirement.").

[145] Indeed, the notion that Congress can be trusted with the final word on the constitutionality of its procedural rules is not without precedent. Consider the comments of Professor Black in the judicial impeachment context:

We are used to confiding (or to imagining we confide) all constitutional questions to the courts. . . . Congress, . . . rests under the very heavy responsibility of determining finally some of the weightiest of constitutional questions, as well as a great many important and difficult questions of procedure. For this purpose, and in this context, we have to divest ourselves of the common misconception that constitutionality is discussable or determinable only in the courts, and that anything is constitutional which a court cannot or will not overturn. We ought to understand, as most senators and congressmen understand, that Congress's responsibility to preserve the forms and the precepts of the Constitution is greater, rather than less, when the judicial forum is unavailable, as it sometimes must be.

C. BLACK, IMPEACHMENT: A HANDBOOK 23-24 (1974); *see* Comm. on Fed. Legislation, *The Law of Presidential Impeachment*, 29 REC. A.B. CITY N.Y. 154, 170 (1974) ("[W]e believe it would be unconstitutional for the courts to review judgments of impeachment, even if Congress sought to escape its 'sole' responsibility by enacting a statute conferring such jurisdiction on the courts. Our conclusion applies equally to judicial review of the procedures utilized by Congress in impeachment proceedings.") (footnotes omitted).

[146] *See Barnes*, 759 F.2d at 44 (Bork, J., dissenting) ("Every time a court expands the definition of standing, the definition of the interests it is willing to protect through adjudication, the area of judicial dominance grows and the area of democratic rule contracts."), *rev'g* Barnes v. Carmen, 582 F. Supp. 163 (1984), *vacated as moot sub nom.* Burke v. Barnes, 475 U.S. 1044 (1986).

[147] *See supra* note 8 and accompanying text.

[148] Speaking from the perspective of a former member of Congress as well as a current member of the federal bench, D.C. Circuit Judge Abner J. Mikva has argued that "at best, Congress does an uneven job of considering the constitutionality of the statutes it adopts." Mikva, *How Well Does Congress Support and Defend the Constitution?*, 61 N.C.L. REV. 587, 587 (1983). Judge Mikva suggests that as an institution Congress is incapable of making the hard constitutional choices, *Id.* at 608.

In direct response to Judge Mikva, congressional scholar Louis Fisher argues that "Congress can perform an essential, broad, and ongoing role in shaping the meaning of the Constitution." Fisher, *Constitutional Interpretation by Members of Congress*, 63 N.C.L. REV. 707, 708 (1985). He supports this contention by observing that "Congress, by the very nature of our political system, shares with the executive and the judiciary the duty of constitutional interpretation." *Id.* Fisher further contends that "[t]he oath of office, the finding of facts for constitutional law, the resolution of 'political questions,' and the congressional staff reforms of recent decades are some examples that reinforce both congressional authority and competence," in the area of constitutional interpretation. *Id.*

[149] No one doubts that Congress, like the Court, can reach unconstitutional results. As Justice Brennan said in 1983: "Legislators, influenced by the passions and exigencies of the moment, the pressure of constituents and colleagues, and the pressure of business, do not always pass sober constitutional judgment on every piece of legislation they enact. . . ." Yet if we count the times that Congress has been "wrong" about the Constitution and compare those lapses with the occasions when the Court has been "wrong" by its own later admissions, the results make a compelling case for legislative confidence and judicial modesty. In a recent evaluation, George Anastaplo said that "in the great crisis over the past two hundred years, when Congress and the Supreme Court have differed on major issues, Congress has been correct."

Justice Brandeis once remarked that "the process of trial and error, so fruitful in the physical sciences, is appropriate also in the judicial function." The judiciary's record of the past two centuries supports his perception: it is a process of trial and error. At times the Court will admit its errors of constitutional interpretation and reverse a previous decision. Some members of the Court have the intellectual integrity to adopt Justice Jackson's attitude: "I see no reason why I should be consciously wrong today because I was unconsciously wrong yesterday." Others, under the spell of stare decisis, will stick doggedly to errors of the past. It is particularly at such times that Congress, the President, and the public have a duty to exercise independent judgment and prevail upon the Court to revisit and rethink anachronous holdings. Often constitutional adjustments can be accomplished without recourse to litigation, either through statutory change or executive-legislative accommodations.

Fisher, *Judicial Supremacy or Coordinate Construction?* 43-44 (article based on the author's paper *Does the Supreme Court Have the Last Word in Constitutional Law?* (presented October 17-19, 1986, at the University of Dallas)).

[150] *Vander Jagt*, 669, F.2d at 1182 (Bork, J., concurring).

[151] *See* Fisher, *Judicial Misjudgments About the Lawmaking Process: The Legislative Veto Case*, PUB. ADMIN. REV. 705, 710 (Nov. 1985) ("Through its misreading of history, congressional procedures, and executive-legislative relations, the Supreme Court has commanded the political branches to follow a lawmaking process that is impracticable and unworkable.").

[152] When a court invalidates an act of the political branches on constitutional grounds, however, it is overruling their judgment, and normally doing so in a way that is not subject to "correction" by the ordinary lawmaking process. Thus, the central function and it is at the same time the central problem, of judicial review: a body that is not elected or otherwise politically responsible in any significant way is telling the people's elected representatives that they cannot govern as they'd like.

J. ELY, DEMOCRACY AND DISTRUST: A THEORY OF JUDICIAL REVIEW 5 (1980).

[153] *See supra* Scalia, note 139, at 891 (emphasis in original).

[154] *Id.* at 894 (emphasis in original).

Even if the doctrine of standing was once meant to restrict judges "solely, to decide on the rights of individuals," what is wrong with having them protect the rights of the majority as well? They've done so well at the one, why not promote them to the other? The answer is that there is no reason to believe they will be any good at it. In fact, they have in a way been specifically *disigned* to be bad at it—selected from the aristocracy of the highly educated, instructed to be governed by a body of knowledge that values abstract principle above concrete result, and (just in case any connection with the man in the street might subsist) removed from all accountability to the electorate. That is just perfect for a body that is supposed to protect the individual against the people; it is just terrible (unless you are a monarchist) for a group that is supposed to decide what is good for the people. . . . It may well be, of course, that the judges know what is good for the people better than the people themselves; or that democracy simply does not permit the *genuine* desires of the people to be given effect; but those are not the premises under which our system operates.

Id. at 896-97 (emphasis in original).

[155] Critics might suggest that this view is untenable since it could thwart the review of an unquestionably unconstitutional rule. Theoretically, for example, a majority of House or Senate members could approve a rule which applies racial criteria to the selection of congressional officers. In response to similar criticism, however, Professor Ely has refused to accept the necessity of playing the "what if" game with regard to what can only be characterized as highly unlikely hypotheticals: "[I]t can only deform our constitutional jurisprudence to tailor it to laws that couldn't be enacted, since constitutional law appropriately exists for those situations where representative government cannot be trusted, not those where we know it can." J. ELY, *Supra* note 152, at 183.

[156] A. BERLE, THREE FACES OF POWER 51 (1967), *quoted in* Kurland, *Toward a Political Supreme Court*, 37 U. CHI. L. REV. 19, 20 (1969).

[157] Although offered in a different context, perhaps the words of Edmund Burke more closely communicate the spirit of the problem: "Those who have been once intoxicated with power, and have derived any kind of emolument from it, even though but for one year, can never willingly abandon it." Letter to a Member of the National Assembly (1791), *quoted in* THE OXFORD DICTIONARY OF QUOTATIONS 111 (1979).

[158] *See supra* note 6 and accompanying text.

[159] *See supra* notes 98, 138-39 and accompanying text.

[160] *See supra* notes 34-50 and accompanying text. The conclusion by Congress, therefore, that the constitutional quorum requirement can be satisfied by counting nonvoting members of the House who are present in the chamber is a nonjusticiable issue. Recognition of the claimed injury, being adversely affected by legislation passed in an allegedly unconstitutional procedural manner, would unduly enhance the role of the judiciary. Thus, the first prong of the standing analysis is not met. Neither is the injury "fairly traceable" to the assertedly unlawful conduct when considered with reference to separation of powers principles. *See supra* notes 98, 138-39 and accompanying text.

[161] For example, House rules require a separate vote on Senate amendments to general appropriations bills that, if originating in the House, would have been in violation of House rules. *See* HOUSE RULES AND MANUAL, *supra* note 14, at 570. Although the House regularly ignores this rule, its failure to comply is clearly not justiciable. Once again the separation of powers doctrine given voice in standing methodology requires this result. *Cf. supra* notes 72-81 and accompanying text.

[162] Thus, a majority vote of the House that results in the allocation of disproportionate committee assignments to the political parties is not reviewable by the courts. As already noted the injury resulting is not justiciably cognizable. *See supra* notes 92-108 and accompanying text.

[163] *See supra* notes 51-81, 117-24 and accompanying text.

[164] When third parties allege injuries in their own right, the standing analysis does not per se result in the absence of jurisdiction. Particularly in the case of a witness before a congressional investigatory committee, a threshold recognition of standing may not invoke separation of powers concerns. As already argued, if a concrete injury is alleged and causation established, the court must still consider the potential for encroachment into the rightful territory of the other branches. This concern is conceivably, although not necessarily, less in the investigatory context. *See supra* notes 138-39 and accompanying text.

[165] Kurtz v. Baker, 829 F.2d 1133 (D.C. Cir. 1987).

[166] Barnes v. Kline, 759 F.2d 21, 42 (D.C. Cir. 1985) (Bork, J., dissenting).

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CANCER RESEARCH

● Mr. DURENBERGER. Mr. President, I rise to honor and commend the AMC Cancer Research Center's nationwide network of volunteers for their support of my mammography provision in the catastrophic illness bill recently passed by this Congress.

The AMC Cancer Research Center is a world leader in the field of laboratory, clinicial and cancer control research. Since its founding in 1904, this health research institute has been renowned not only for the number and quality of its scientific and medical achievements, but for the dedication of the thousands of people across the Nation who work to further its humanitarian mission.

Breast cancer is a central battlefield in the Nation's cancer war on which AMC and its volunteers have helped bring about strategic victories. AMC serves as world headquarters for the International Association for Breast Cancer Research, an organization of 1,500 members representing 48 nations. In addition to conducting extensive basic and clinical research on this disease which takes the lives of 42,000 American women every year, AMC has launched unprecedented national programs for breast cancer control involving the participation of volunteers in virtually every State of the Union. Deserving special recognition for their efforts in this regard are AMC's National Council of Auxiliaries, with 12,000 members in 75 chapters throughout the country; High Priority, AMC's unique nationwide women's breast cancer research and information network; and the Adolph Coors Co., and actress and singer Cher for producing a national magazine ad campaign that has motivated and informed millions of American women on early breast cancer detection.

AMC President and Director Dr. Marvin A. Rich, National Chairwoman of AMC's High Priority group Evelyn Ostin, and actress and entertainer Lynda Carter aided in establishing the argument that reimbursement for screening mammograms under Medicare would save thousands of lives, billions of dollars and untold human suffering in this country every year.

The provision mandating Medicare reimbursement for screening mammograms was included in the final version of the catastrophic illness bill and it was signed by President Reagan July 1, 1988.

Mr. President, I know my colleagues in both the Senate and the House join me in thanking the AMC Cancer Research Center and its volunteers for their work to inform and influence legislators and the public on this and other cancer-related matters. Their continuing efforts are of vital importance to our Nation's health.●

IMPLEMENTATION OF INF TREATY

● Mr. WEICKER. Mr. President, an important milestone along the long and tortuous road toward real arms control was reached today. The United States has begun implementing the substance of the INF treaty.

This morning at 10 a.m. central daylight time at the Longhorn Army Ammunition Plant, Karnack, TX, the United States, for its part, began destroying nuclear delivery systems—Pershing and ground-launched Cruise missiles. A similar process got underway in the Soviet Union in August.

The United States is scheduled to destroy one Pershing IA and one Pershing II missile today. Nine more Pershings will be destroyed next week. The first Cruise missile will be destroyed in the fall. Under the terms of the treaty, the entire process—the destruction of about 860 Pershings and Cruise missiles—is to be completed by June 1991, and all of this is to be done under the watchful eye of a Soviet on-site inspection team.

Mr. President, the INF is not a perfect treaty by any stretch of the imagination. It eliminates only a fraction of the United States-Soviet nuclear arsenal by destroying about 860 United States and 1,750 Soviet missile systems but does not destroy their warheads. Nonetheless, I believe the INF Treaty constitutes another logical and important step in the East-West arms control process—a long-term effort we hope will lead to the elimination of all nuclear weapons.

In several ways, the INF Treaty is unprecedented.

For the first time in superpower arms control agreements, an entire class of nuclear weapons will be eliminated, and these are not obsolete weapons ready for retirement. They are some of the most modern and sophisticated weapons in the superpower arsenals.

More importantly, the treaty provides for on-site inspection of an unprecedented scale. In the past, on-site inspection has always been a major obstacle to meaningful arms control. The breakthrough achieved on INF augurs well for the future.

Mr. President, I applaud President Reagan's achievements in the field of arms control and his efforts to reduce the threat of nuclear war. I hope future administrations will remain committed to arms control and that the INF Treaty will act as a foundation for future agreements.●

COSPONSOR S. 2756

● Mr. MOYNIHAN. Mr. President, once again the Senate finds itself debating further sanctions against South Africa. Our action today has been prompted by the South African Gov-

ernment's utter lack of progress in extending rights to the nonwhite majority in that country.

Since 1981, the current administration has pursued a policy of constructive engagement, which seeks to cajole Pretoria into acting like the responsible Western government it proclaims itself to be. Congress though cajoling to be an inadequate response to conditions in South Africa and passed the Comprehensive Anti-Apartheid Act of 1986 over the President's veto.

That act stated in part:

It shall be the policy of the United States to impose additional measures against the Government of South Africa if substantial progress has not been made within twelve months of the date of enactment of this act in ending the system of apartheid and establishing a nonracial democracy.

Seventy-eight Senators voted for that language, including 15 of the 17 Senators now sitting on the Foreign Relations Committee. Can any of them in good faith say that the end to apartheid is in sight?

As we proceed to the adoption of additional sanctions against South Africa, it may be useful to recall the extended period of patient insistence on change that has led the Senate to this point.

For my part, this began in 1975 at the time I was the U.S. Permanent Representative to the United Nations, and persuaded our Government—President Ford, as I shall note, needed no persuading—to support a General Assembly resolution entitled "Solidarity With the South African Political Prisoners." This resolution condemned "the ruthless repression by the racist South African regime * * *", expressed "solidarity with all South Africans struggling against apartheid * * *" and called upon the South African regime to:

Grant an unconditional amnesty to all persons imprisoned or restricted for their opposition to apartheid or acts arising from such opposition, as well as to political refugees from South Africa, and to repeal all repressive laws and regulations restricting the right of the people to strive for an end to the apartheid system.

The resolution passed the Special Political Committee by consensus on October 20 of that year. Three days later, speaking on behalf of the U.S. Government before that committee concerning apartheid, the late and beloved Clarence M. Mitchell, Jr., the public member of our delegation to the 30th Assembly, and a historic figure in the American civil rights movement, said:

The United States deplores the detention of persons whose only act is outspoken opposition to the system of apartheid. The South African Government is courting disaster when such repressive measures have the effect of closing off all avenues for peaceful change.

In response, then Prime Minister Vorster of South Africa called the first sentence of this statement a "downright lie." He also called for the name of just one individual in South Africa who was arrested and detained only because of his outspoken opposition to apartheid.

Mr. President, I did not think that such a charge could go unanswered. And so we immediately commenced to document what we knew to be true. We prepared, in effect, a bill of particulars. And we brought it before the General Assembly on November 28, 1975.

Mr. Mitchell addressed the Assembly at length with respect to violations of civil liberties in South Africa. He named prisoners, specified dates, cited statutes, quoted judges, described sentences, identified jails.

Mr. President, the U.S. delegation had a larger purpose than merely responding to Mr. Vorster's charge. The plain fact was that half or more of the nations who sponsored the General Assembly resolution, calling for amnesty for political prisoners in South Africa, were either police states or totalitarian states—need I name them?—with political prisoners in their own jails and Gulags.

It was because of this that there was some initial hesitation in Washington about joining such company in denouncing just one oppressive nation in particular. May I note, however, that President Ford always understood that we could not stand apart, no matter how noxious the company we would be keeping. Our solution was to be specific about names and places, in the manner a constitutional government need not fear—the totalitarians did not dare begin such a practice—but also to point out that not all was lost in South Africa, that the rudiments of constitutional government still existed and needed to be supported by the West, not abandoned.

We commenced a lawyer-like presentation of the case, in the tradition of a "Brandeis Brief," a term we used at the time. There may have been political prisoners in South Africa: but they were no longer unknown political prisoners. We presented a list of persons under banning orders as published in the South African Government Gazette on July 11, 1975. The UN's Department of Political and Security Council Affairs' Unit on Apartheid had issued a report that month providing details on those individuals listed in the Gazette.

Later that day, November 28, the General Assembly adopted the draft resolution on solidarity with the South African Political Prisoners unamended and without objection as General Assembly Resolution 3411(B).

Again, I wish to note that I felt it was not without some irony and hypocrisy, that the South Africa resolution had passed the committee on October 20 by consensus. To repeat: more of the countries supporting the resolution also had political prisoners; and some had been imprisoned without benefit of trial. For that reason, on November 12, I introduced in the Special Political Committee a draft resolution entitled "Amnesty for Political Prisoners." That resolution appealed to all Governments to proclaim an unconditional amnesty by releasing all political prisoners. Not surprisingly, we were not successful in having this resolution adopted, and, in fact, withdrew it, on November 21.

Mr. President, since coming to the Senate I have continued to speak out against apartheid—and have sponsored legislation to combat it. I am especially proud to have been an original cosponsor of S. 635, the Anti-Apartheid Act of 1985. That bill provided limited but significant sanctions against the Government of South Africa, demonstrating that the United States would materially oppose apartheid, and providing tangible incentives for the South African Government to change its racist principles.

I also supported S. 995, the Anti-Apartheid Action Act of 1985, which included similar incentives and was approved by the Senate on July 11, 1985. To provide a further spur to change in South Africa, that act stated that it would be United States policy to impose additional economic and political sanctions against the Government of South Africa within 12 months, if significant progress had not been made toward ending apartheid.

And on August 15, 1986, I cosponsored the Comprehensive Anti-Apartheid Act.

Since the Senate last visited the subject of South Africa sanctions, the South African Government has become no less brutal in its efforts to subjugate the 29 million nonwhites living within its borders. Prime Minister Botha has twice extended the state of emergency originally imposed in June 1986, giving police and the military extraordinary arrest and detention powers. Disturbing reports of Government-ordered political killings persist. Many have been beaten while in police custody. The Government of South Africa has encouraged black-against-black violence as part of a divide and conquer strategy to maintain power. No one even presumes to suggest that the South African justice system is worthy of its name.

What has changed since we last visited this subject in the Senate is that the South African Government has frozen the flow of information, both within South Africa and between South Africa and the outside world. In South Africa, it is illegal to refer to any of the thousands of political detaiees in public. The major antiapartheid organizations have been banned from any political activity. Reporters

are barred from reporting news of violence, unlawful gatherings, strikes, or any form of public dissent. It is illegal to quote restricted antiapartheid organizations or their spokesmen. The power to censor is absolute, and it is unchecked.

Conditions in South Africa have not improved since 1986. They have only disappeared from our view. Brutal images of apartheid no longer flash across the television screen. But nonwhites are still suffering, are still humiliated, are still denied the most basic human rights solely because of the color of their skin.

The Senate must follow through on its 1986 commitment to impose further sanctions if change were not forthcoming. It has indeed not been. I therefore wish to be added as cosponsor of S. 2756, the Anti-Apartheid Act Amendments of 1988.

As I said on December 9, 1984, "it's not just what the people think in South Africa that matters. It's what they think in the world. They're looking to us. We are the most successful multiethnic, multiracial Nation on Earth. We demonstrate that what most countries can't do, can, in fact, be done. We show what South Africa could do."●

S. 2199, THE AMERICAN HERITAGE TRUST ACT

● Mr. LEAHY. Mr. President, I want to express my strong support today for S. 2199, the American Heritage Trust Act, which was introduced on March 18, 1988, by Senators FOWLER, CHAFEE, BAUCUS, and GRAHAM. Since then, this vital piece of legislation has attracted 32 additional cosponsors—including this Senator—from both sides of the aisle.

I call this legislation "vital" in that it is intended to preserve, protect, and extend recreation and wildlife areas, open space and historically significant buildings, all of which are an important part of our recreational, environmental and cultural health as a people. This is legislation that would stabilize funding for two important Federal funding vehicles—the Land and Water Conservation Fund [LWCF] and the Historic Preservation Fund [HPF].

My home State of Vermont is a place with a time-honored tradition of preserving recreation and wildlife areas, and historic buildings. For this reason I want to document my support for the American Heritage Trust Act with an outstanding example of a LWCF project in Vermont. This example explains how the people of the town of Groton—population 667—in Vermont's Northeast Kingdom feels about the development of their recently completed veteran's park.

This project was initiated in 1984 when a group of Groton townspeople decided that they needed a recreation area in their village. They felt that an abandoned gas station on the main highway would make an excellent site because it was in the center of the village and also bordered the Wells River. After considerable public involvement, the town purchased the site and applied for Federal funds to develop it for recreation purposes.

In Vermont, project applications for Land and Water Conservation Funds are ranked according to a point system by the State Forests, Parks, and Recreation Board, a five member citizen board appointed by the Governor. Because Groton had never received any prior LWCF moneys, the need was well documented, and community support was strong, the board ranked Groton third out of 11 applications, assuring funding.

Many lower ranking, but still very worthwhile, applications were not approved due to funding limitations. This legislation will return the funding for the LWCF back to reasonable levels, so that fewer of these worthy applications would need to be denied.

Work on the project was begun in 1987 and completed in July 1988. A site that was a real eyesore to the community is now a very attractive 1.5 acre area. It includes a multipurpose recreation court for basketball and volleyball, a tot lot, access to the Wells River for fishing, walkways, horseshoe courts, skating and sledding areas, picnic tables, and a bandstand. The entire project cost the Federal Government only $31,647.

Projects such as this can do a lot for community spirit and cohesion. For good reason, this legislation is strongly supported by Vermont State officials, such as our commissioner of forests, parks and recreation, Mollie Beattie. It is also supported by many of our local officials, such as Michael O. Blair, the chairman of the board of selectmen in the town of Groton.

I urge many more of my colleagues to join me in cosponsorship and active support of S. 2199. To demonstrate to my fellow Senators the great good sense of the Land and Water Conservation Fund, which would receive adequate, consistent funding under the provisions of the American Heritage Trust Act, I ask that Mr. Michael O. Blair's statement be printed in the RECORD.

The letter follows:

TOWN OF GROTON,
Groton, VT.

This project has been very beneficial to the people of Groton. The LWCF grant has enabled a small community to carry out a recreation and beautification program that would have otherwise been impossible.

Groton is a small town in a rural area and with very limited resources. We have many families with small children and, also, a large percentage of senior citizens on fixed incomes. The park is located in the center of town near these people and is designed to benefit both the young and the old. The park was planned for, and is filling, a much needed facility for recreation and just plain relaxation for all age groups.

The funding by LWCF was the needed spark to get this project rolling. With work progressing at the park site public involvement and enthusiasm has increased steadily. We have seen volunteer labor, donations of material and substantial money donations from private individuals and local businesses.

The town has been working for the last several years to improve the appearance of property in town, especially in the area of the park. Most houses have recently been painted and spruced up and the town has resurfaced the sidewalks. The completion of the park has crowned this effort and has installed a new pride in the community. It is a beautiful addition to this town and we believe will be used and treasured for many years to come.

We are strong believers in the LWCF program and in what it can accomplish in a community. We would urge any town interested in self-betterment to consider participation in this program.

MICHAEL O. BLAIR,
Chairman, Board of Selectmen.●

SUPERCONDUCTING SUPER COLLIDER

● Mr. McCAIN. Mr. President, early last year President Reagan endorsed as a national imperative the superconducting super collider. Now, after months spent in the site evaluation process, the Department of Energy is preparing to select the final location of the super collider. Mr. President, this is a critical point in the progress of this great and necessary project. Now is the time that my colleagues and I must reaffirm our commitment to the SSC, before the final site is chosen and our parochial biases are tested. This project is simply too vital to the future of American global competitiveness for us to sacrifice our national interest due to short-sighted resentment by those States which are not selected to host the project.

Why is it so important? Allow me to read from a recent article by President Reagan's former science adviser, G.A. Keyworth:

[The SSC] reflects an underlying national understanding that science is the fountainhead of American technological competitiveness and must, therefore, be accorded high public priority. The most important aspect of the SSC may well be the message it sends to a generation of young people, a message that emphasizes a national focus on knowledge, on excellence, and on leadership. But perhaps even more significant, consider the message we would be sending if we failed to grasp this opportunity. The particle accelerator was invented in this country and as it evolved it generated dozens of Nobel Prizes for American scientists. We now have a choice: to crown 50 years of advances, or to step back from the frontier we blazed our way to.

Last February, the Secretary of the Department of Energy, John Herrington also aptly described the case for

the super collider. He called President Reagan's decision to support the SSC "a momentous leap forward for America and science and technology" and stated that "the super collider holds the potential for a new generation and a new revolution in science, education, technology and commerce." "Like Apollo," he explained, "[the super collider] will have spinoffs, discoveries, and innovations that will profoundly touch every American * * *. Once again, this Nation has said there are no dreams too big, no innovation unimaginable, and no frontiers beyond our reach."

Mr. President, that is precisely the issue we face. The super collider is a tremendous opportunity for this Nation to silence all challengers for global leadership in the realm of high energy physics. It will also help revitalize American industry through unforeseen discoveries and spinoff technologies and will bring us a more complete understanding of the fundamental workings of the universe. Finally, Mr. President, as the largest scientific instrument in the world, the super collider has the dramatic appeal necessary to spark a new era of pride and enthusiasm for science in this country. The Nobel laureate, Prof. James Cronin has commented on this effect:

> The intellectual achievements of humanity in its relatively brief time on Earth are almost beyond belief. Furthermore, they are among the most positive aspects of human nature. The spirit of a nation and the pride of its people can only be enhanced when science, including the exploration of our planet, solar system, galaxy, and universe is among its highest priorities.

Mr. President, even if those skeptics among us wish to dismiss the potential impact of the super collider on the psyche and general scientific literacy of our Nation, they cannot ignore the fact that the SSC is an economically sound investment. Recently, a study was completed by CENR—the Center for European Nuclear Research—which confirmed the economic promise of constructing the super collider. An April article by Lee Edson describes the study's findings. It reads:

> A recent study of the 10-year economic impact in Europe of the European Center for Nuclear Research, or CENR—the huge Swiss accelerator near Geneva—shows that the presence of this device and the research community around it has created an "economic utility" that has paid back 60 percent of the cost during the 10-year period under study. What's more, in a sample year, 75 percent of the increased business from CENR resulted from sales to markets outside high-energy physics, such as shipbuilding, railways, power generation, refrigeration, and medical care.

One can only imagine the magnitude of the benefits, economic and otherwise, that will accrue from a super collider with 20 times the maximum energy of the CENR accelerator.

Mr. President, I believe it may be useful to devote a few additional seconds to recalling some of the technological developments that owe their origin to basic research in high energy physics.

On a general level, it is estimated that about one-third of our Nation's GNP is directly attributable to our knowledge of the atom and its composition. One reason for this was the development of the quantum theory which, according to an article by John Dowell, "now underlies all of the technologies involving matter on the molecular, atomic, and nuclear scales, including all of modern electronics." Many physicists today feel that they are on the verge of discoveries which will have comparable, if not greater, implications.

More specifically, according to Mr. Dowell, work at the CENR accelerator has resulted in spin-offs for "computers, electronics, telecommunications, power generation and distribution, cryogenics, vacuum technology, optics, precision mechanics, magnet technology, steel and welding, car design, railways, shipbuilding, subway control, refrigeration, oil prospecting, materials storage, television," for "manufacturing techniques, and the industrial application of new materials, " and for medicine and biochemistry.

History provides an appropriate anecdote that we should recall in assessing the merits of the super collider. When questioned regarding the possibility of extracting power from the atom, the great scientist Rutherford replied that "anyone who expects a source of power from the transformation of these atoms is talking moonshine!"

Experience has taught us repeatedly that investment in basic scientific research pays off. History has also made it clear that those nations which lack the leadership to make progress a priority face inevitable decline. The super collider is an excellent chance for us to preserve our position as the world's greatest innovator and to heed the lessons of history.

Mr. President, we are moving in that direction. Two weeks ago the Department of Energy released a draft environmental impact statement that discusses the ramifications of locating the super collider in each of the seven remaining possible sites. Although it is important that construction of the SSC not be hindered by parochial bickering, the reality is that a site must be chosen. I believe the DOE document offers some useful distinctions for determining which location is most qualified.

I think it is clear that the report reflects favorably on my State of Arizona. If built at the Arizona-Maricopa site, the super collider will enjoy numerous benefits accruing from the site's desert character. Of course, this is not surprising since the SSC was initially envisioned as a "desertron" to be built in the desert.

Because the Maricopa site is nearly uninhabited, construction in Arizona will require the fewest number of relocations and the smallest expenditures for purchasing privately owned land. This will permit an exceptionally rapid land acquisition process. Arizona was also cited by the DOE report as the only site at which water inflow will not be a problem during either construction or operation of the facility. Building the super collider in Arizona will also result in loss of the least acreage of prime farmland and in zero loss of water supply. The site is also unique in offering absolutely no loss of valuable wetlands or forests. In fact, it is not an exaggeration to say that the environmental quality of the Arizona site will actually improve with the project's replanting efforts since the area has been degraded by excessive grazing and use of recreational vehicles.

The Arizona-Maricopa site also offers superior air quality and climate and very little risk of seismicity. No designated critical habitats for threatened or endangered species would be jeopardized by construction and no adjustments of the siting areas will be necessary due to existing structures or for any other reason. The Arizona site also has the least potential for paleontological finds and is significantly less culturally and historically important than many of the competing locations. In addition, the DOE gave Maricopa high marks for solar power potential, natural gas consumption requirements, and absence of difficulties related to noise pollution. Finally, geology at the Arizona site was commended for superior strength, low plasticity, and low slake potential.

Mr. President, I am convinced that the super collider represents a necessary and attractive investment in the continued global scientific leadership of this Nation. It is very nearly inevitable that construction of the SSC will bring radical discoveries, discoveries which will spawn profitable spin-off technologies and fundamentally alter our understanding of the universe. As Professor Cronin has observed, "the single most important parameter responsible for the enormous progress in particle physics has been the energy of the accelerator. The pace of discovery has been a consequence of the steady increase in the energy of particle collisions provided by the accelerator."●

THE CALENDAR

Mr. BYRD. Mr. President, I inquire of the distinguished Republican leader as to whether or not the following calendar orders have been cleared on his

side: calendar orders numbered 899, 907, 910, 912, and 913.

Mr. DOLE. Mr. President, I say to the majority leader that each of these matters has been cleared on this side.

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

Mr. President, I ask unanimous consent that the Senate proceed to the consideration of calendar orders numbered 899, 907, 910, 912, and 913 en bloc; that those measures be considered en block, agreed to en bloc, with amendments where shown adopted; that if there are amendments to the preamble, that they also be agreed to; and that the motion to reconsider en block be laid on the table.

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

AWARDING OF CONGRESSIONAL GOLD TO MRS. JESSE OWENS

The bill (H.R. 1270) to award a congressional medal to Mrs. Jesse Owens, was considered, ordered to a third reading, read the third time, and passed.

NATURAL GAS POLICY ACT AMENDMENTS

The Senate proceeded to consider (H.R. 2701) to amend the Natural Gas Policy Act of 1978 to remove certain duration and right of first refusal requirements.

Mr. NICKLES. Mr. President, I rise to strongly support the passage of H.R. 2701, a bill to remove portions of Natural Gas Policy Act of 1978 that prevent the efficient operation of the natural gas marketplace. Specifically, this bill repeals two provisions in section 315, one of which requires that contracts for new OCS gas from reservoirs in production prior to the NGPA be for a duration of at least 15 years. The second provision in section 315 repealed by H.R. 2701 requires producers of certain categories of now decontrolled natural gas to offer their present purchaser a "right of first refusal" because the producer can sell to a new purchaser.

Both of these provisions were placed in the 1978 law to assure interstate pipelines long-term sources of natural gas supplies. However, even if there was a rationale for the provisions in 1978, the fundamental changes that have occurred in the natural gas marketplace since then clearly show that these two provisions are not only unnecessary for pipelines' supply but are unfair to producers and consumers.

During the past decade there have been many changes in natural gas markets, especially in the quantities of gas available as a result of partial decontrol of natural gas prices and the advent of direct sales between producers and consumers. In response to these changes, natural gas contracts are now of shorter duration and have flexible pricing terms.

These two provisions in section 315 hamper efficient market operation by encumbering certain producers with conditions that unfairly disadvantage them in today's fast-paced market. The 15-year contract duration requirement for OCS gas is an unattractive requirement in today's market, and discourages investments by producers to bring on additional supplies from older reservoirs. The consumer loses the benefit of the lower cost and security of these additional supplies. The "right of first refusal" provision in section 315 imposes a timelag in which the producer and new purchaser must wait while the old purchaser reviews the proposed purchase. This cumbersome delay is not necessary for supply security and serves as an obstacle in today's fast moving gas market that discourages serious bargaining by would-be purchasers. This provision has also raised the possibility of anticompetitive practices because the producer has to show his best deal to the old purchaser.

I am proud of having taken an active role in the Committee on Energy and Natural Resources in moving this important measure to the Senate floor. I hope my colleagues will join the Members of the House in unanimously supporting H.R. 2701.

The bill (H.R. 2701) was ordered to a third reading, read the third time, and passed.

UMATILLA BASIN PROJECT ACT

The Senate proceeded to consider the bill (S. 1613) to authorize the Secretary of the Interior to construct, operate, and maintain the Umatilla Basin Project, OR, and for other purposes, which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clause and insert in lieu thereof, the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Umatilla Basin Project Act".

SEC. 2. AUTHORIZATION OF PROJECT.

(a) For purposes of mitigating losses to anadromous fishery resources and continuing water service to the Hermiston, West Extension, Westland, and Stanfield Irrigation Districts, or any other entity which participates in the project water exchange, the Secretary of the Interior, acting pursuant to the Federal reclamation laws (Act of June 17, 1902, and Acts amendatory thereof and supplementary thereto), is authorized to construct, operate, and maintain the Umatilla Basin Project, Oregon, substantially in accordance with the report of the Secretary dated February 12, 1988. The principal works of the project shall consist of—

(1) pumping plants and related diversion, conveyance, and distribution features;

(2) works incidental to the rehabilitation or modification of existing irrigation systems necessary to accomplish a water exchange;

(3) fish passage and protective facilities and other necessary mitigation measures;

(4) a program to monitor and regulate project operations; and

(5) a program to evaluate fishery resource mitigation measures.

SEC. 3. INTEGRATION AND OPERATION OF PROJECT.

Project facilities and features authorized by this Act shall be integrated and coordinated, from an operational standpoint, into other features of the Umatilla Project, and shall be operated in a manner consistent with Federal reclamation laws and water rights established pursuant to State law including the contract rights of water users. Prior to the initiation of project construction, the Secretary shall secure the necessary State and local permits and other authorities for the operation of project facilities, and through the conclusion of appropriate agreements with the State of Oregon, the relevant irrigation districts, and the Confederated Tribes of the Umatilla Indian Reservation provide for the monitoring and regulation of project related water supplies for the purposes herein identified.

SEC. 4. POWER FOR PROJECT PUMPING.

The Administrator of the Bonneville Power Administration, consistent with provisions of the Columbia River Basin Fish and Wildlife Program established pursuant to the Pacific Northwest Electric Power Planning and Conservation Act (94 Stat. 2697), shall provide for project power needed to effect the water exchange with irrigation districts for purposes of mitigating anadromous fishery resources. The cost of power shall be credited to fishery restoration goals of the Columbia River Basin Fish and Wildlife Program.

SEC. 5. FISHERY RESOURCE FACILITIES.

Facilities and any other project features which furnish fishery resource benefits in connection with the project shall be constructed, operated, and maintained in accordance with the Federal Water Project Recreation Act (Public Law 89-72, 79 Stat. 213), as amended, except that costs, which shall be allocated to the mitigation of anadromous fish species, shall be nonreimbursable.

SEC. 6. NON-FEDERAL OBLIGATIONS.

The Secretary shall negotiate and enter into agreements which specify appropriate non-Federal obligations of the operation and maintenance of project facilities authorized in this Act. The Federal responsibility for operation and maintenance shall be limited to those costs in excess of non-Federal obligations as established by such agreements.

SEC. 7. INTERIM FLOW AUGMENTATION.

Until the facilities authorized in this Act are constructed and in operation, and as an interim measure to provide flow augmentation of the Umatilla River for anadromous fishery resources, funds are authorized to be appropriated to the Secretary to provide for interim operation and maintenance of existing pumps or other facilities for the purpose of providing flow augmentation for anadromous fish.

SEC. 8. NON-FEDERAL COSTS.

(a) CREDIT FOR NON-FEDERAL FISHERY RESOURCE IMPROVEMENTS.—The Umatilla Basin Project authorized by this Act is a Federal action to improve streamflow and fish passage conditions and shall be considered part of a comprehensive program to restore the Umatilla River basin anadromous fishery resource. Related fishery resource improvement facilities which utilize funding sources

under the Pacific Northwest Electric Power Planning and Conservation Act of 1980 (94 Stat. 2697) and programs of the State of Oregon and other entities shall be consolidated in any final calculation of required cost sharing.

(b) TREATMENT OF NON-FEDERAL COSTS INCURRED IN IMPLEMENTING PROJECT FEATURES BEFORE APPROPRIATIONS.—Where a public or private entity shares in the cost of or constructs any feature of the project or portion thereof prior to the appropriation of funds for construction of such feature, the costs incurred shall be credited to the total amount of any cost sharing required for the project. The Secretary is authorized to accept title to facilities appropriate to the project without compensation and thereafter to operate and maintain such facilities.

SEC. 9. CONJUNCTIVE USE OF PUMPING FACILITIES.

When project pumping capacity is available in excess of that needed for fishery resource benefits as determined by the Secretary of the Interior, such capacity shall be available to supplement the water supply of irrigated lands eligible for service from the irrigation districts that participate in the project authorized in this Act at a rate based upon a share of operation and maintenance costs associated with such use as negotiated by the Secretary of the Interior and the irrigation districts: Provided, That such use shall be considered as secondary to the purpose of providing water for fishery resource purposes. Pumping power for this purpose shall be provided to the Bureau of Reclamation by the Administrator of the Bonneville Power Administration. The Administrator's rate for this service during the peak period shall be the forecasted average rate to be paid by public agencies for irrigation loads during peak periods. The rate during the off peak period shall be the rate paid by public agencies for irrigation loads during off peak periods. The cost of power for such pumping shall be borne by irrigation districts receiving the benefit of such water. The cost of transmitting power from the Federal Columbia River Power System to the project pumping facilities shall also be included in the operation and maintenance costs.

SEC. 10. REHABILITATION AND BETTERMENT AUTHORIZATION.

For purposes of encouraging water conservation and improvements to water supply systems of the irrigation districts participating in the project authorized by this Act, such districts shall be eligible to receive financial assistance, as deemed appropriate by the Secretary, under provisions of the Rehabilitation and Betterment Act of October 7, 1949 (63 Stat. 724), as amended.

SEC. 11. LEASE AND PURCHASE OF WATER.

The Secretary is authorized to acquire from willing parties land, water rights, or interests therein for benefit of fishery resources consistent with the purpose of this Act: Provided, That acquisition of water rights shall be in accordance with applicable State law. There is hereby authorized to be appropriated such sums as required to accomplish the purposes of this section.

SEC. 12. AUTHORIZATION OF APPROPRIATIONS.

(a) There is hereby authorized to be appropriated for construction of the Umatilla Basin Project the sum of $42,200,000 (April 1987 prices), plus or minus such amounts as may be required by reasons of changes in the cost of construction work of the types involved therein as shown by applicable engineering cost indices and exclusive of facilities indicated in section 12(b) of this Act. There are also authorized to be appropriated such sums as may be required for the operation and maintenance of the project, including the monitoring and evaluation of project accomplishments.

(b) Related fish passage and protective facilities constructed or to be constructed by the Bonneville Power Administration that are features of the Columbia River Fish and Wildlife Program established pursuant to the Pacific Northwest Electric Power Planning and Conservation Act (94 Stat. 2697) shall be consolidated into calculations of project costs and benefits: Provided, That the Secretary shall not request an appropriation of funds to construct any such facilities.

SEC. 13. WATER RIGHTS.

Nothing in this act shall be construed to—

(1) impair the validity of or preempt any provision of State water law, or of any interstate compact governing water;

(2) alter the rights of any State to any appropriated share of the waters of any body or surface or ground water, whether determined by past or future interstate compacts, or by past or future legislative or final judicial allocations;

(3) preempt or modify any State or Federal law or interstate compact dealing with water quality or disposal;

(4) confer upon any non-Federal entity the ability to exercise any Federal right to the waters of any stream or to any ground water resources; or

(5) affect any water rights of any Indian or Indian tribe if such rights were established by the setting aside of a reservation by treaty, Executive order, agreements, or Act of Congress.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

S. 2763 READ THE FIRST TIME

Mr. BYRD. Mr. President, I ask that S. 2763, which was introduced by Senator PELL earlier today, be read the first time.

The PRESIDING OFFICER. The clerk will read the bill for the first time.

The assistant legislative clerk read as follows:

A bill (S. 2763) entitled "The Prevention of Genocide Act of 1988."

Mr. BYRD. Mr. President, I ask that the bill be read a second time.

The PRESIDING OFFICER. Is there objection?

Mr. DOLE. Mr. President, I respectfully object.

The PRESIDING OFFICER. Objection is heard.

SOUTH DAKOTA WATER SUPPLY AND ASSISTANCE ACT

The Senate proceeded to consider the bill (H.R. 2772) to authorize the Lyman-Jones West River, and Oglala Sioux Rural Water Development Projects, which had been reported from the Committee on Energy and Natural Resources, with amendments, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets, and the parts of the bill intended to be inserted are shown in italics.)

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 "South Dakota Water Supply and Assistance Act of 1988".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) there are insufficient water supplies available to residents of the Pine Ridge Indian Reservation in South Dakota, and the water supplies that are available do not meet minimum health and safety standards, thereby posing a threat to public health and safety;

(2) Shannon County, South Dakota, where the Pine Ridge Indian Reservation is located, is the poorest county in the United States, and the lack of water supplies on the Pine Ridge Indian Reservation restricts efforts to promote economic development on the reservation;

(3) serious problems in water quantity and water quality exist in the rural counties of Haakon, Jackson, Jones, Lyman, Mellette, Pennington, and Stanley Counties, South Dakota;

(4) the United States has a trust responsibility to ensure that adequate and safe water supplies are available to meet the economic, environmental, water supply, and public health needs of the Pine Ridge Indian Reservation; and

(5) the best available, reliable, and safe rural and municipal water supply to serve the needs of the Pine Ridge Indian Reservation, and the residents of Haakon, Jackson, Jones, Lyman, Mellette, Pennington, and Stanley Counties is the Missouri River.

(b) PURPOSES.—The Congress declares that the purposes of this Act are to—

(1) ensure a safe and adequate municipal, rural, and industrial water supply for the residents of the Pine Ridge Indian Reservation in South Dakota;

(2) assist the citizens of Haakon, Jackson, Jones, Lyman, Mellette, Pennington, and Stanley Counties, South Dakota, to develop safe and adequate municipal, rural, and industrial water supplies;

(3) promote the implementation of water conservation programs on the Pine Ridge Indian Reservation and in Haakon, Jackson, Jones, Lyman, Mellette, Pennington, and Stanley Counties, South Dakota;

(4) provide certain benefits to fish, wildlife, and the natural environment of South Dakota; and

(5) repeal the authorization of appropriations for the Pollock-Herreid Unit of the Pick-Sloan Missouri Basin Program.

SEC. 3. OGLALA SIOUX RURAL WATER SUPPLY SYSTEM.

(a) AUTHORIZATION.—The Secretary of the Interior (hereafter in this Act referred to as the "Secretary") is authorized and directed to plan, design, construct, operate, maintain, and replace a municipal, rural, and industrial water system, to be known as the Oglala Sioux Rural Water Supply System, as generally described in the report entitled "1988 Planning Report and Environmental Assessment" and dated February 1988. The Oglala Sioux Rural Water Supply System shall consist of—

(1) pumping and treatment facilities located along the Missouri River near Fort Pierre, South Dakota;

(2) pipelines extending from the Missouri River near Fort Pierre, South Dakota, to the Pine Ridge Indian Reservation;

(3) facilities to allow for interconnections with the West River Rural Water System and Lyman-Jones Rural Water System;

(4) distribution and treatment facilities to serve the needs of the Pine Ridge Indian Reservation;

(5) appurtenant buildings and access roads;

(6) necessary property and property rights;

(7) electrical power transmission and distribution facilities necessary for services to water system facilities; and

(8) such other pipelines, pumping plants, and facilities as the Secretary deems necessary or appropriate to meet the water supply, economic, public health, and environmental needs of the reservation, including (but not limited to) water storage tanks, water lines, and other facilities for the Oglala Sioux Tribe and reservation villages, towns, and municipalities.

(b) AGREEMENT WITH NON-FEDERAL ENTITY TO PLAN, CONSTRUCT, OPERATE, AND MAINTAIN THE OGLALA SIOUX RURAL WATER SUPPLY SYSTEM.—

(1) In carrying out subsection (a), the Secretary, with the concurrence of the Oglala Sioux Tribal Council, shall enter into agreements with the appropriate non-Federal entity for planning, designing, constructing, operating, maintaining, and replacing the Oglala Sioux Rural Water Supply System.

(2) Such cooperative agreements shall set forth, in a manner acceptable to the Secretary—

(A) the responsibilities of the parties for needs assessment, feasibility, and environmental studies; engineering and design; construction; water conservation measures; and administration of any contracts with respect to this subparagraph;

(B) the procedures and requirements for approval and acceptance of such design and construction; and

(C) the rights, responsibilities, and liabilities of each party to the agreement.

(3) Such cooperative agreements may include purchase, improvement, and repair of existing water systems of individual tribal members located on the Pine Ridge Indian Reservation.

(4) The Secretary may unilaterally terminate any cooperative agreement entered into pursuant to this section if the Secretary determines that the quality of construction does not meet all standards established for similar facilities constructed by the Secretary or that the operation and maintenance of the system does not meet conditions acceptable to the Secretary for fulfilling the obligations of the United States to the Oglala Sioux Tribe.

(5) Upon execution of any cooperative agreement authorized under this section, the Secretary is authorized to transfer to the appropriate non-Federal entity, on a nonreimbursable basis, the funds authorized to be appropriated by section 10 of this Act for the Oglala Sioux Rural Water Supply System.

(c) SERVICE AREA.—The service area of the Oglala Sioux Rural Water Supply System shall be the boundaries of the Pine Ridge Indian Reservation.

(d) CONSTRUCTION REQUIREMENTS.—The pumping plants, pipelines, treatment facilities, and other appurtenant facilities for the Oglala Sioux Rural Water Supply System shall be planned and constructed to a size sufficient to meet the municipal, rural, and industrial water supply requirements of the Pine Ridge Indian Reservation, the West River Rural Water System, and the Lyman-Jones Rural Water System, taking into account the effects of the conservation plans described in section 5. All three systems may be interconnected and provided with water service from common facilities. Any joint costs associated with common facilities shall be allocated to the Oglala Sioux Rural Water Supply System.

(e) TITLE TO SYSTEM.—Title to the Oglala Sioux Rural Water Supply System shall be held in trust for the Oglala Sioux Tribe by the United States and shall not be transferred without a subsequent Act of Congress.

(f) LIMITATION ON AVAILABILITY OF CONSTRUCTION FUNDS.—The Secretary shall not obligate funds for the construction of the Oglala Sioux Rural Water Supply System until—

(1) the requirements of the National Environmental Policy Act of 1969 have been met;

(2) a final engineering report has been prepared and submitted to the Congress for a period of not less than ninety [days; and] *days.*

[(3) the recommendations required by section 6(b) of this Act have been submitted to the Congress.]

(g) TECHNICAL ASSISTANCE.—The Secretary is authorized and directed to provide such technical assistance as may be necessary to the Oglala Sioux Tribe to plan, develop, construct, operate, maintain, and replace the Oglala Sioux Rural Water Supply System, including (but not limited to) operation and management training.

(h) APPLICATION OF INDIAN SELF-DETERMINATION ACT.—Construction and operation of the Oglala Sioux Rural Water Supply System within the Pine Ridge Reservation shall be subject to the provisions of the Indian Self-Determination Act (Public Law 93-638; 25 U.S.C. 450f et seq.).

SEC. 4. WEST RIVER RURAL WATER SYSTEM AND LYMAN-JONES RURAL WATER SYSTEM.

(a) PLANNING AND CONSTRUCTION.—

(1) The Secretary is authorized and directed to enter into cooperative agreements with appropriate non-Federal entities to provide Federal funds for the planning and construction of the West River Rural Water System and the Lyman-Jones Rural Water System in Haakon, Jackson, Jones, Lyman, Mellette, Pennington, and Stanley Counties, South Dakota, as described in the report entitled "1988 Planning Report and Environmental Assessment" and dated February 1988.

(2) The Secretary may not provide more than 65 per centum of the total cost of—

(A) the West River Rural Water System, and

(B) the Lyman-Jones Rural Water System.

Such Federal funds may be obligated and expended only through cooperative agreements described in subsection (b).

(3) The non-Federal share of the costs allocated to the West River and Lyman-Jones Rural Water Systems shall be 35 per centum.

(b) COOPERATIVE AGREEMENTS.—

(1) The Secretary, with the concurrence of the Lyman-Jones and West River Rural Water Systems, shall execute cooperative agreements with the appropriate non-Federal entities to provide Federal assistance for the planning, design, and construction of the West River Rural Water System and the Lyman-Jones Rural Water System. Such cooperative agreements shall set forth, in a manner acceptable to the Secretary—

(A) the responsibilities of the parties for needs assessment, feasibility and environmental studies; engineering and design; construction; water conservation measures; and administration of any contracts with respect to this subparagraph;

(B) the procedures and requirements for approval and acceptance of such design and construction; and

(C) the rights, responsibilities, and liabilities of each party to the agreement.

(c) FACILITIES ON WHICH FEDERAL FUNDS MAY BE EXPENDED.—The facilities on which Federal funds may be obligated and expended under this section shall include—

(1) water intake, pumping, treatment, storage, interconnection, and pipeline facilities;

(2) appurtenant buildings and access roads;

(3) necessary property and property rights;

(4) electrical power transmission and distribution facilities necessary for service to water system facilities;

(5) planning and design services for all facilities; and

(6) other facilities and services customary to the development of rural water distribution systems in South Dakota.

(d) SERVICE AREA.—The service area of the West River Rural Water System and the Lyman-Jones Rural Water System shall be as described in the engineering study entitled "1988 Planning Report and Environmental Assessment" and dated February 1988.

(e) LIMITATION ON AVAILABILITY OF CONSTRUCTION FUNDS.—The Secretary shall not obligate funds for the construction of the West River Rural Water System and the Lyman-Jones Rural Water System until—

(1) the requirements of the National Environmental Policy Act of 1969 have been met;

(2) final engineering reports have been prepared and submitted to the Congress for a period of not less than ninety [days; and] *days.*

[(3) the recommendations required by section 6(b) have been submittted to Congress.]

(f) PROHIBITIONS ON USE OF FEDERAL FUNDS.—The Secretary may not obligate or expend any Federal funds for the operation, maintenance, or replacement of either the West River or Lyman-Jones Rural Water Systems.

SEC. 5. WATER CONSERVATION.

[(A) DEVELOPMENT AND IMPLEMENTATION OF CONSERVATION PROGRAMS.—The Secretary may not obligate any Federal funds for the construction of the West River Rural Water System, the Lyman-Jones Rural Water System, and the Oglala Sioux Rural Water Supply System, until the Secretary finds that appropriate non-Federal interests have developed and implemented water conservation programs throughout the service area of each such rural water system. The purpose of such programs shall be to ensure that such rural water systems and their customers are utilizing the best practicable technology and management techniques to reduce water use and water system costs. Such conservation programs shall include (but are not limited to) adoption and enforcement of the following:

[(1) American National Standards Institute low consumption performance standards for all newly installed plumbing fixtures.

[(2) Beneficial reductions in nondomestic uses.

[(3) Leak detection and repair programs.

[(4) Metering for all elements and individual connections of the rural water supply systems.

[(5) Conservation pricing schedules.

[(6) Public education programs.

[(7) Coordinated operation between each rural water system and the preexisting water supply facilities in its service area.

Such programs shall contain provision for periodic review and revision, in cooperation with the Secretary.

[(b) AUTHORITY TO WITHHOLD WATER.—The Secretary is authorized to withhold water deliveries to the West River Rural Water System, the Lyman-Jones Rural Water System, and the Oglala Sioux Rural Water Supply System if the tribal authority or non-Federal sponsoring agency fails to comply with the water conservation plans required under subsection (a).]

The Secretary shall encourage the full consideration and incorporation of prudent and responsible water conservation measures in the operation of the West River Rural Water System, the Lyman-Jones Rural Water System, and the Oglala Sioux Rural Water Supply System where such measures are shown to be economically feasible. The non-Federal parties (incuding the Oglala Sioux Tribe) participating in the Systems shall develop a water conservation plan which shall contain definite goals, appropriate water conservation measures, and a time schedule for meeting the water conservation objectives. The provisions of section 210(c) of Public Law 97-293 (96 Stat. 1268) shall apply with respect to the Systems.

SEC. 6. MITIGATION OF FISH AND WILDLIFE LOSSES.

(a) OGLALA SIOUX RURAL WATER SUPPLY SYSTEM AND THE WEST RIVER AND LYMAN-JONES RURAL WATER SYSTEMS.—Mitigation for fish and wildlife losses incurred as a result of the construction and operation of the Oglala Sioux Rural Water Supply System, the West River Rural Water System, and the Lyman-Jones Rural Water System shall be on an acre-for-acre basis, based on ecological equivalency, concurrent with [or prior to] project construction.

(b) OAHE AND BIG BEND DAMS AND RESERVOIRS.—The Secretary, in cooperation with the State of South Dakota and other Federal agencies, shall develop and submit recommendations to the Congress for financing and implementing mitigation plans for fish and wildlife losses incurred as a result of the construction and operation of the Oahe Dam and Reservoir and Big Bend Dam and Reservoir. Such plans shall incorporate the proposal of the United States Army Chief of Engineers as outlined in Design Memorandum M(Gen)-19 of December 1987 for improved management of existing Federal lands, and purchase of single-purpose mitigation lands, such as the Olson and Mudon Ranches, from willing sellers.

SEC. 7. PROHIBITION ON USE OF FUNDS FOR IRRIGATION PURPOSES.

None of the funds made available to the Secretary for planning or construction of the Oglala Sioux Rural Water Supply System, the West River Rural Water System, or the Lyman-Jones Rural Water System may be used to plan or construct facilities used to supply water for the purpose of irrigation.

SEC. 8. RULE OF CONSTRUCTION.

Nothing in this Act is intended, nor shall be construed, to preclude the State of South Dakota or the Oglala Sioux Tribe from seeking congressional authorization to plan, design, or construct additional federally assisted water resource development projects.

SEC. 9. USE OF PICK-SLOAN POWER.

(a) IN GENERAL.—The Systems authorized by sections 3 and 4 of this Act shall utilize power from Pick-Sloan for their operation. This power shall be deemed to be a project use pumping requirement of Pick-Sloan.

(b) POWER TO BE USED.—As of the date of enactment of this Act, power identified for future project use pumping at the Pollock-Herreid Unit of the Pick-Sloan shall be reserved for and utilized by the Systems and made available for the purpose authorized by subsection (a).

(c) RATE.—The rate for project use power made available pursuant to subsection (a) shall be the wholesale firm power rate for the Pick-Sloan (Eastern Division) in effect at the time the power is sold.

(d) ADDITIONAL POWER.—If additional power beyond that made available through subsection (b) is required to meet the pumping requirements of the Systems, the Administrator of the Western Area Power Administration is authorized to purchase the additional power needed under such terms and conditions the Administrator deems appropriate. Expenses associated with such power purchases shall be recovered through a separate power charge, sufficient to recover these expenses, applied to the Systems.

(e) DEFINITIONS.—For purposes of this section—

(1) the term "Systems" means the Oglala Sioux Rural Water Supply System, the West River Rural Water System, and the Lyman-Jones Rural Water System; and

(2) the term "Pick-Sloan" means the Pick-Sloan Missouri Basin Program authorized by section 9 of the Act of December 22, 1944 (58 Stat. 891; commonly referred to as the Flood Control Act of 1944).

SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

(a) PLANNING, DESIGN, AND CONSTRUCTION.—There are authorized to be appropriated $87,500,000 for the planning, design, and construction of the Oglala Sioux Rural Water Supply System, the West River Rural Water System, and the Lyman-Jones Rural Water System under the provisions of sections 3 and 4 of this [Act] *Act, plus or minus such amounts as may be justified by reason of ordinary fluctuations in development costs incurred after January 1, 1987, as indicated by engineering costs indices applicable for the type of construction involved.* Such sums are authorized to remain available until expended.

(b) OPERATION AND MAINTENANCE OF OGLALA SIOUX RURAL WATER SUPPLY SYSTEM.—There are authorized to be appropriated such sums as may be necessary for the operation and maintenance of the Oglala Sioux Rural Water Supply System.

SEC. 11. WATER RIGHTS.

Nothing in this Act shall be construed to—

(1) impair the validity of or preempt any provision of State water law, or of any interstate compact governing water;

(2) alter the rights of any State to any appropriated share of the waters of any body or surface or ground water, whether determined by past or future interstate compacts, or by past or future legislative or final judicial allocations;

(3) preempt or modify any State or Federal law or interstate compact dealing with water quality or disposal;

(4) confer upon any non-Federal entity the ability to exercise any Federal right to the waters of any stream or to any ground water resources; or

[(5) affect any water rights of any Indian or Indian tribe if such rights were established by the setting aside of a reservation by treaty, Executive order, agreements, or Act of Congress.

Nothing in this Act is intended, nor may be considered, to diminish or affect the quantity or quality of water from the Missouri River Basin or elsewhere that is owned or claimed by the Oglala Sioux Tribe under aboriginal title, recognized title, or under the Winters' doctrine (Winters against United States, 207 U.S. 564 (1908) and progeny).]

(5) affect any water rights (including Winters' rights), including the quantity or quality thereof, of any Indian or Indian tribe if such rights were established by the setting aside of a reservation by treaty, Executive order, agreements, or Act of Congress or under aboriginal title except that nothing in this section or in this Act may be construed to validate or invalidate or in any way affect any assertion that any such rights or aboriginal title exist or does not exist or was heretofore extinguished.

SEC. 12. REPEAL OF AUTHORIZATION OF APPROPRIATIONS.

(a) POLLOCK-HERREID UNIT.—Section 407 of the Reclamation Authorization Act of 1975 (Public Law 94-228; 90 Stat. 209) relating to the authorization of appropriations for the Pollock-Herreid Unit of the Pick-Sloan Missouri Basin Program is hereby repealed. The Pollock-Herreid Unit shall remain an authorized feature of the Pick-Sloan Missouri Basin Program.

[(b) FEASIBILITY STUDIES.—Paragraphs (2) and (3) of section 3(a) of Public Law 97-273 (96 Stat. 1181) are hereby repealed.]

(b) FEASIBILITY STUDIES.—Strike section 3 of Public Law 97-273 (96 Stat. 1181) and substitute in lieu thereof the following:

"SEC. 3. The Secretary is authorized, in cooperation with the State of South Dakota, to conduct a feasibility investigation of the alternate uses of facilities constructed for use in conjunction with the Oahe Unit, initial stage, James Division, Pick-Sloan Missouri Basin Program, South Dakota, and to report to the Congress the findings of such study along with his recommendations.".

The amendments were agreed to.

Mr. DASCHLE. Mr. President, I rise today to urge the adoption of H.R. 2772, the Mni Wiconi Project Act of 1988. This legislation was introduced in the House of Representatives by TIM JOHNSON, and I introduced the Senate bill with my distinguished colleague, Senator PRESSLER.

The act authorizes the construction of the Lyman-Jones/West River/Oglala Sioux water pipeline. The pipeline will service the West River region of South Dakota, including the Oglala Sioux Tribe on the Pine Ridge Reservation, the West River Rural Water District and the Lyman-Jones Rural Water District. Because of the extensive involvement of the Oglala Sioux Tribe in the planning and development of the pipeline complex, it has been named the Mni Wiconi project,

derived from the Lakota term meaning "good water."

The Mni Wiconi project began in earnest when the three local entities participating in the project, the Oglala Sioux Tribe, and the West River and Lyman-Jones Water Districts, recognized that the common need for decent drinking water made jurisdictional boundaries irrelevant. Cooperation and commonality of purpose and action have made this legislation possible. In South Dakota, Governor Mickelson's support has been important, and in the House of Representatives, I would like to credit the leadership and tireless support of my colleague from South Dakota, TIM JOHNSON. This project would not have been possible had this close cooperation not existed.

The setting for the proposed Mni Wiconi project is 11,000 square miles of prairie grasslands in western South Dakota. The area is one of the most isolated regions of the country, and also one of the most starkly beautiful. The vast, rugged area is inhabited by approximately 20,300 people, of which about 12,000 are Indians. Most of these people extract a modest living raising livestock. They do this in an area where they lack one of the most basic living requirements—safe drinking water.

The Mni Wiconi project will bring safe drinking water to these people. Today, those who can afford to do so truck their water in at great cost. Others are forced to drink what comes from the ground. Analyses show that this water contains unsafe levels of sodium, dissolved solids, sulfates, iron, and radium 226/228, among others. High blood pressure and a myriad of other health problems have been the direct result of having to drink the contaminated water.

The Mni Wiconi project will pipe easily treatable water from the Missouri River, near Fort Pierre, SD, to the project areas. The 30-inch pipeline will pump a maximum of 7,000 gallons of water per second from the river, an amount equal to only about one-half of 1 percent of the river's flow at the dam site. The Mni Wiconi project, like the highly successful WEB pipeline, has rare support from State and national conservation groups who recognize that real water needs can be addressed while still protecting the environment. Any environmental damage incurred during the construction of the project will be mitigated on an acre-for-acre basis, similar to the provisions adopted for the Garrison Diversion project.

In a last minute attempt to kill the project, the administration inserted various amendments and threatened to veto the bill, in large part due to the $100 million price tag for the Mni Wiconi. Indeed on a per capita basis, the project is more expensive than we are used to seeing in much of America. However, when one considers the fact that individual wells in the area can cost from $10,000 to $30,000, and do not ensure water quality, the cost is not too high.

It is difficult to overstate the importance of this bill on the daily lives of the Oglala Sioux people and the Pine Ridge Reservation. Shannon County, the county where most of the people on the reservation live, is considered to be the poorest county in the Nation. Unemployment on the reservation hovers around 85 to 90 percent. One out of five houses on the reservation does not have running water. How can one expect employment, poverty, and the standard of living to improve without decent water?

Differences from the original House bill arose when amendments were included in the Senate version of the bill. Unfortunately, the administration remained totally silent during the House committee and floor passage of this bill. As a result, the compromise bill, agreed to on a totally bipartisan basis by the South Dakota congressional delegation, Governor Mickelson, the Oglala Sioux Tribe, environmental groups, and the project sponsors, will be forced to cross another hurdle before passage. However, I am confident that agreement can be reached swiftly by the House-Senate conference committee which will be asked to reconcile the differences between the respective bills.

This year the Nation has been rudely confronted with the problem of unreliable water. Drought, polluted beaches, and toxic spills in our waterways are all examples of the problem. Passing the Clean Water Act over the President's veto showed that Congress was ready to make a stand against unsafe water. The Federal Government sets safe drinking water standards in recognition of the right of every American to drink clean water. This right extends to rural America where the ground water is unsafe and a pipeline delivering clean water is the only answer.

Mr. President, I urge the Senate to authorize the Mni Wiconi project and continue to send Americans the message that clean and safe water is a basic right of daily life.

The amendments were ordered to be engrossed, the bill (H.R. 2772) was read the third time, and passed.

REFUNDS UNDER THE FEDERAL POWER ACT

The Senate proceeded to consider the bill (H.R. 2858) to provide for refunds pursuant to rate decreases under the Federal Power Act, which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clause and insert in lieu thereof, the following:

This Act may be cited as the "Regulatory Fairness Act".

SEC. 2. REFUNDS IN PROCEEDINGS UNDER SECTION 206 OF THE FEDERAL POWER ACT.

Section 206 of the Federal Power Act (16 U.S.C. 824e) is amended as follows:

(1) At the end of subsection (a) insert: "Any complaint or motion of the Commission to initiate a proceeding under this section shall state the change or changes to be made in the rate, charge, classification, rule, regulation, practice, or contract then in force, and the reasons for any proposed change or changes therein. If, after review of any motion or complaint and answer, the Commission shall decide to hold a hearing, it shall fix by order the time and place of such hearing and shall specify the issues to be adjudicated.".

(2) Designate subsection (b) as (d) and insert the following new subsections after subsection (a):

"(b) Whenever the Commission institutes a proceeding under this section, the Commission shall establish a refund effective date. In the case of a proceeding instituted on complaint, the refund effective date shall not be earlier than the date 60 days after the filing of such complaint nor later than 5 months after the expiration of such 60-day period. In the case of a proceeding instituted by the Commission on its own motion, the refund effective date shall not be earlier than the date 60 days after the publication by the Commission of notice of its intention to initiate such proceeding nor later than 5 months after the expiration of such 60-day period. Upon institution of a proceeding under this section, the Commission shall give to the decision of such proceeding the same preference as provided under section 205 of this Act and otherwise act as speedily as possible. If no final decision is rendered by the refund effective date or by the conclusion of the 180-day period commencing upon initiation of a proceeding pursuant to this section, whichever is earlier, the Commission shall state the reasons why it has failed to do so and shall state its best estimate as to when it reasonably expects to make such decision. In any proceeding under this section, the burden of proof to show that any rate, charge, classification, rule, regulation, practice, or contract is unjust, unreasonable, unduly discriminatory, or preferential shall be upon the Commission or the complainant. At the conclusion of any proceeding under this section, the Commission may order the public utility to make refunds of any amounts paid, for the period subsequent to the refund effective date through a date fifteen months after such refund effective date, in excess of those which would have been paid under the just and reasonable rate, charge, classification, rule, regulation, practice, or contract which the Commission orders to be thereafter observed and in force: Provided, That if the proceeding is not concluded within fifteen months after the refund effective date and if the Commission determines at the conclusion of the proceeding that the proceeding was not resolved within the fifteen-month period primarily because of dilatory behavior by the public utility, the Commission may order refunds of any or all amounts paid for the period subsequent to the refund effective date and prior to the conclusion of the proceeding. The refunds shall be made, with interest, to those persons who have

paid those rates or charges which are the subject of the proceeding.

"(c) Notwithstanding subsection (b), in a proceeding commenced under this section involving two or more electric utility companies of a registered holding company, refunds which might otherwise be payable under subsection (b) shall not be ordered to the extent that such refunds would result from any portion of a Commission order that (1) requires a decrease in system production or transmission costs to be paid by one or more of such electric companies; and (2) is based upon a determination that the amount of such decrease should be paid through an increase in the costs to be paid by other electric utility companies of such registered holding company: Provided, That refunds, in whole or in part, may be ordered by the Commission if it determines that the registered holding company would not experience any reduction in revenues which results from an inability of an electric utility company of the holding company to recover such increase in costs for the period between the refund effective date and the effective date of the Commission's order. For purposes of this subsection, the terms 'electric utility companies' and 'registered holding company' shall have the same meanings as provided in the Public Utility Holding Company Act of 1935, as amended.".

SEC. 3. LIMITATION ON AUTHORITY PROVIDED.

Nothing in subsection (c) of section 206 of the Federal Power Act, as amended (16 U.S.C. 824e(c)) shall be interpreted to confer upon the Federal Energy Regulatory Commission any authority not granted to it elsewhere in such Act to issue an order that (1) requires a decrease in system production or transmission costs to be paid by one or more electric utility companies of a registered holding company; and (2) is based upon a determination that the amount of such decrease should be paid through an increase in the costs to be paid by other electric utility companies of such registered holding company. For purposes of this section, the terms "electric utility companies" and "registered holding company" shall have the same meanings as provided in the Public Utility Holding Company Act of 1935, as amended.

SEC. 4. EFFECTIVE DATE.

The amendments made by this Act are not applicable to complaints filed or motions initiated before the date of enactment of this Act pursuant to section 206 of the Federal Power Act: Provided, however, That such complaints may be withdrawn and refiled without prejudice.

SEC. 5. STUDY.

No earlier than three years and no later than four years after the date of enactment of this Act, the Federal Energy Regulatory Commission shall perform a study of the effect of the amendments to section 206 of the Federal Power Act made by this Act. The study shall analyze (1) the impact, if any, of such amendments on the cost of capital paid by public utilities; (2) any change in the average time taken to resolve proceedings under section 206; and (3) such other matters as the Commission may deem appropriate in the public interest. Upon completion the study shall be sent to the Committee on Energy and Natural Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives.

The amendment was agreed to.

Mr. BUMPERS. Mr. President, I rise in support of H.R. 2858, the Regulatory Fairness Act, which was reported by a unanimous vote of the Energy Committee on August 3. The legislation is based on S. 1567, which I introduced in July 1987, and the House-passed version of H.R. 2858, sponsored by Congressman TERRY BRUCE.

The committee bill will amend the Federal Power Act to ensure that consumers of wholesale electric power receive timely and effective relief when their electric rates are too high. Typically wholesale electric power is purchased by small publicly owned utilities or rural cooperatives from large investor owned utilities. These wholesale purchases are regulated by the Federal Energy Regulatory Commission [FERC].

In my view, the current law is patently unfair to the customers of these small utilities. Rate increases sought by utilities go into effect subject to refund while FERC considers the merits of the request. In contrast, rate decreases sought by consumers are not effective until the end of a lengthy FERC proceeding. Rate relief is prospective only, so the wholesale consumer receives no recompense for having paid excessive rates during the pendency of the rate proceeding. Under this system, consumers have little incentive to go through the trouble and expense of applying for rate reductions, and wholesale suppliers of electricity have every incentive to delay rate reduction proceedings.

The committee bill would address this inequity by establishing more symmetry between the procedures for rate reductions and rate increases. It would provide that rate reductions ordered by FERC be prospective from a refund effective date set by the Commission as contrasted to the date of the final Commission order. Excess rates collected between the refund effective date and the final Commission order would be refunded to consumers.

Several amendments were adopted by the committee which are explained fully in the committee report. Regarding the report, I note a typographical error which should be corrected in the description of one of these amendments—making refunds discretionary so as to parallel the refund authority for rate increases. On page 5 of Rept. 100-491, the word "not" was dropped from the last sentence in the last full paragraph. The corrected sentence would read: "The committee recognizes that it may not be appropriate in all instances to order refunds in the event that it is determined in a proceeding under section 206 of the act that rates or charges are not just and reasonable.".

Mr. President, the merits of this bill are evident and the equitable arguments in favor of it are easy to understand. As in many regulatory matters however, there tend to be complexities in the execution of the most clearcut equitable principles. I am indebted to the staff of the Energy and Natural Resources Committee—particularly Bill Conway, senior counsel of the Water and Power Subcommittee—for their professional assistance in cutting through these complexities to achieve a bill which the entire membership of the committee could support.

There are more than 900 local, publicly owned electric systems and more than 500 rural electric cooperatives that purchase all or part of their electric power from investor-owned utilities. In addition a number of investor-owned utilities are wholesale customers of generating utilities whose rates fall under FERC jurisdiction. The Regulatory Fairness Act will provide important equitable relief for the millions of consumers served by these utilities. I urge the Senate to adopt this legislation.

The amendment was ordered to be engrossed, the bill (H.R. 2858) was read the third time, and passed.

AMENDING THE PUBLIC HEALTH SERVICE ACT

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar Order No. 894, S. 2231.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2231) to amend the Public Health Service Act to reauthorize nurse training programs established under title VIII of such act, and for other purposes.

The Senate proceeded to consider the bill.

AMENDMENT NO. 2939

(Purpose: To provide a substitute amendment)

Mr. BYRD. Mr. President, on behalf of Senators KENNEDY and HATCH, I send a substitute amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD], on behalf of Mr. KENNEDY (for himself and Mr. HATCH) proposes an amendment numbered 2939.

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

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

The amendment is as follows:

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 "Nurse Education Reauthorization Act of 1988".

TITLE I—SPECIAL PROJECTS

SEC. 101. SPECIAL PROJECT GRANTS AND CONTRACTS.

(a) PURPOSES.—Section 820(a) of the Public Health Service Act (42 U.S.C. 296k(a)) is amended—

(1) in paragraph (1)—

(A) by striking out "and" at the end of subparagraph (E);

(B) by inserting "and" after the semicolon at the end of subparagraph (F); and

(C) by adding at the end thereof the following:

"(G) provide faculty development directed at improving the ability of faculty to facilitate retention of such individuals;";

(2) in paragraph (5), by striking out "and the need to promote preventive health care" and inserting in lieu thereof ", the need to promote preventive health care, and the need to promote occupational health care"; and

(3) by striking out paragraph (6) and inserting in lieu thereof the following new paragraph:

"(6) provide training and education—

"(A) to upgrade the skills of licensed vocational or practical nurses, nursing assistants, and other paraprofessional nursing personnel with priority given to rapid transition programs towards achievement of undergraduate nursing degrees; and

"(B) to develop curricula for the achievement of baccalaureate degrees in nursing or masters degrees in nursing by registered nurses or individuals with baccalaureate degrees in other fields;".

(b) AUTHORIZATION.—Section 820(d) of such Act is amended—

(1) in paragraph (1), by striking out the first sentence and inserting in lieu thereof the following new sentence: "For payments under grants and contracts under paragraphs (1) through (6) of subsection (a), there are authorized to be appropriated $15,000,000 for fiscal year 1989, $16,000,000 for fiscal year 1990, and $17,000,000 for fiscal year 1991."; and

(2) in paragraph (2), by striking out the first sentence and inserting in lieu thereof the following new sentence: "For payments under grants and contracts under paragraphs (7), (8), and (9) of subsection (a), there are authorized to be appropriated $4,200,000 in fiscal year 1989, $4,700,000 in fiscal year 1990, and $5,200,000 in fiscal year 1991.".

SEC. 102. ADVANCED NURSE EDUCATION.

(a) PURPOSES.—The last sentence of section 821(a) of the Public Health Service Act (42 U.S.C. 296l(a)) is amended—

(1) by striking out "priority in" and inserting in lieu thereof "priority to (A)"; and

(2) by inserting before the period at the end thereof the following: "and (B) programs with innovative curriculum that permit individuals with registered nursing degrees to rapidly achieve advanced degrees".

(b) AUTHORIZATION.—Subsection (b) of section 821 of such Act is amended to read as follows:

"(b) For payments under grants and contracts under this section, there are authorized to be appropriated $19,500,000 for fiscal year 1989, $20,500,000 for fiscal year 1990, and $21,500,000 for fiscal year 1991.".

SEC. 103. NURSE PRACTITIONER AND NURSE MIDWIFE PROGRAMS.

(a) TRAINING.—Section 822(a)(2)(B)(ii) of the Public Health Service Act (42 U.S.C. 296m(a)(2)(B)(ii)) is amended by striking out "less than eight" and inserting in lieu thereof "less than six full-time equivalent".

(b) TRAINEESHIPS.—Section 822(b)(3) of such Act is amended—

(1) by inserting "Indian Health Service or a Native Hawaiian health center" after "(designated under section 322)"; and

(2) by striking out "or in a public health care facility" and inserting in lieu thereof ", a public health care facility, a long-term care facility certified under title XVIII or XIX of the Social Security Act (42 U.S.C. 1395 et seq.), a migrant health center (as defined in section 329(a)(1)), or a community health center (as defined in section 330(a))".

(c) GUIDELINES.—Section 822(c) of such Act is amended by inserting "under subsection (a) or (b)" after "a program".

(d) AUTHORIZATION.—Subsection (d) of section 822 is amended to read as follows:

"(d) For payments under grants and contracts under subsections (a) through (c), there are authorized to be appropriated $19,000,000 for fiscal year 1989, $20,000,000 for fiscal year 1990, and $21,000,000 for fiscal year 1991.".

SEC. 104. NURSING SHORTAGE RELIEF PROGRAMS.

Part A of title VIII of the Public Health Service Act (42 U.S.C. 820 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 823. NURSING SHORTAGE RELIEF PROGRAMS.

"(a) LONG-TERM CARE NURSING PRACTICE DEMONSTRATION.—

"(1) IN GENERAL.—The Secretary shall make grants to or enter contracts with public and nonprofit private collegiate schools of nursing for projects to demonstrate and evaluate innovative nursing practice models with respect to the provision of long-term managed health care services and health care services in the home or the provision of health care services in long-term care facilities. Models demonstrated and evaluated with grants and contracts under this subsection shall be designed to increase the recruitment and retention of nurses to provide nursing care for individuals needing long-term care and to improve nursing care in home health care systems and nursing homes.

"(2) AUTHORIZATION.—For grants and contracts under this subsection, there are authorized to be appropriated $2,500,000 for fiscal year 1989, $3,000,000 for fiscal year 1990, and $3,500,000 for fiscal year 1991.

"(b) NURSE RECRUITMENT CENTERS.—

"(1) IN GENERAL.—The Secretary shall make grants to and enter into contracts with public and nonprofit private entities to develop, establish, and operate at least one and not more than five regional model professional nurse recruitment centers for the purpose of recruiting individuals to enter education programs to train professional nurses. In making grants and entering into contracts under this subsection, the Secretary shall ensure that centers developed, established, and operated under this subsection include centers in rural areas.

"(2) DUTIES.—Each center developed, established, or operated with a grant or a contract under this subsection shall—

"(A) conduct nursing recruitment programs directed towards—

"(i) individuals between the ages of 12 and 14 years of age;

"(ii) individuals who are enrolled in high schools;

"(iii) individuals enrolled in colleges and universities who have not declared a major field of study; and

"(iv) adults who are not in school and who may desire to enter nursing;

"(B) develop and compile resource materials concerning professional opportunities in nursing, and disseminate such materials to appropriate individuals and groups, such as community and professional organizations, hospitals, career and guidance counselors in educational institutions, and the print and broadcast media;

"(C) identify potential applicants for nursing education programs and provide information to such potential applicants on the role of the nurse and nursing education programs; and

"(D) promote collaboration among organizations and assist individuals and organizations to establish mentor relationships between professional nurses and potential applicants for nursing education programs.

"(3) AUTHORIZATION.—For grants and contracts under this subsection, there are authorized to be appropriated $2,500,000 for fiscal year 1989, $3,000,000 for fiscal year 1990, and $3,500,000 for fiscal year 1991.

"(c) APPLICATION REQUIREMENTS.—No grant may be made and no contract may be entered into under this section unless an application therefor is submitted to the Secretary at such time, in such form, and containing such information as the Secretary may prescribe.".

TITLE II—ASSISTANCE TO NURSING STUDENTS

SEC. 201. TRAINEESHIPS FOR ADVANCED EDUCATION OF PROFESSIONAL NURSES.

Section 830 of the Public Health Service Act (42 U.S.C. 297) is amended by striking out subsection (c) and inserting in lieu thereof the following new subsections:

"(c)(1) The Secretary may make grants to and enter into contracts with public and nonprofit schools of nursing and other public and nonprofit private entities to cover the cost of traineeships for nurses pursuing graduate degrees in other disciplines.

"(2) Payments under this subsection may be made in advance or by way of reimbursement, and at such intervals and on such conditions, as the Secretary finds necessary. Such payments may be used only for traineeships and shall be limited to such amounts as the Secretary finds necessary to cover the costs of tuition, fees, and other direct educational costs.

"(3) A traineeship funded under this subsection shall not be awarded unless the recipient enters into a commitment with the Secretary to provide full-time service with or without compensation, for a period equal to 1 month for each month for which the recipient receives such a traineeship, in—

"(A) a health manpower shortage area (designated under section 332);

"(B) a long-term care facility certified under title XVIII or XIX of the Social Security Act (42 U.S.C. 1395 et seq.);

"(C) a community health center (as defined in section 330(a));

"(D) a migrant health center (as defined in section 329(a)(1));

"(E) the Indian Health Service;

"(F) a Native Hawaiian health center; or

"(G) a public health care facility.

"(4)(A) If, for any reason, an individual who received a traineeship under paragraph (1) fails to complete a service obligation under paragraph (3), such individual shall be liable for the payment of an amount equal to the cost of tuition and other education expenses and other payments paid under the traineeship, plus interest at the maximum legal prevailing rate.

"(B) When an individual who received a traineeship is academically dismissed or voluntarily terminates academic training, such

individual shall be liable for repayment to the Federal government for an amount equal to the cost of tuition and other educational expenses paid to or for such individual from Federal funds plus any other payments that were received under the traineeship.

"(C) Any amount that the United States is entitled to recover under subparagraph (A) or (B) shall, within the 3-year period beginning on the date the United States becomes entitled to recover such amount, be paid to the United States.

"(D) The Secretary shall by regulation provide for the waiver or suspension of any obligation under subparagraph (A) or (B) applicable to any individual whenever compliance by such individual is impossible or would involve extreme hardship to such individual and if enforcement of such obligation with respect to any individual would be against equity and good conscience.

"(d)(1) For the purposes of subsection (a), there are authorized to be appropriated $18,000,000 for fiscal year 1989, $19,000,000 for fiscal year 1990, and $20,000,000 for fiscal year 1991.

"(2) For the purposes of subsection (b), there are authorized to be appropriated $1,100,000 for each of the fiscal years 1989 through 1991.

"(3) For the purposes of subsection (c), there are authorized to be $1,000,000 for each of the fiscal years 1989 through 1991.".

SEC. 202. NURSE ANESTHETISTS.

Section 831 of the Public Health Service Act (42 U.S.C. 297-1) is amended—

(1) in subsection (b), by striking out the first sentence and inserting in lieu thereof the following new sentence: "The Secretary may make grants to public and private nonprofit institutions to cover the costs of projects to improve, plan, develop, and operate programs for the education of nurse anesthetists that are accredited by an entity or entities designated by the Secretary of Education."; and

(2) in subsection (c), by striking out the first sentence and inserting in lieu thereof the following new sentence: "For the purpose of making grants under this section, there are authorized to be appropriated $1,800,000 for each of the fiscal years 1989 through 1991.".

SEC. 203. TRAINEESHIPS FOR UNDERGRADUATE EDUCATION OF PROFESSIONAL NURSES.

Subpart I of part B of title VIII of the Public Health Service Act (42 U.S.C. 297 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 832. SCHOLARSHIPS FOR UNDERGRADUATE EDUCATION OF PROFESSIONAL NURSES.

"(a) IN GENERAL.—

"(1) GRANTS.—The Secretary may make grants to accredited public or nonprofit private schools of nursing for scholarships to be awarded by the school to full time undergraduate students thereof who are in financial need.

"(2) AMOUNT OF AWARD.—The total amounts of the scholarship award to a student for each year shall not exceed the cost of attendance (tuition and fees) for such year at the educational institution attended by the student (as determined by such educational institution).

"(3) PRIORITY.—Priority in the awarding of scholarships shall be given to individuals from disadvantaged backgrounds.

"(b) PAYMENTS.—Payments to institutions under this section may be made in advance or by way of reimbursement, and at such intervals and on such conditions, as the Secretary finds necessary. Such payments may be used only for scholarships and shall be limited to such amounts as the Secretary finds necessary to cover the costs of tuition and fees.

"(c) AUTHORIZATION.—For the purpose of making grants under this section, there are authorized to be appropriated $10,000,000 for fiscal year 1989, $11,000,000 for fiscal year 1990, and $12,000,000 for fiscal year 1991.".

SEC. 204. LOAN AGREEMENTS.

Section 835(c)(1) of the Public Health Service Act (42 U.S.C. 297a(c)(1)) is amended by adding at the end thereof the following new sentence: "This subsection may not be construed to require such schools to reimburse the student loan program under this subpart for loans that became uncollectable prior to 1983.".

SEC. 205. LOAN PROVISIONS.

Section 836(b)(1)(C) of the Public Health Service Act (42 U.S.C. 297b(b)(1)(C)) is amended by striking out "of exceptional financial" and inserting in lieu thereof "in".

SEC. 206. DISTRIBUTION OF ASSETS FROM LOAN FUNDS.

Section 839 of the Public Health Service Act (42 U.S.C. 297c) is amended by striking out "1991" each place it appears in subsections (a) and (b) and inserting in lieu thereof "1994".

SEC. 207. NURSING SCHOLARSHIP AND LOAN DEMONSTRATION PROGRAM.

Part B of title VIII of the Public Health Service Act (42 U.S.C. 297 et seq.) is amended by adding at the end the following new subpart:

"Subpart III—Nursing Scholarship and Loan Demonstration Program

"SEC. 843. NURSING SCHOLARSHIP AND LOAN DEMONSTRATION PROGRAM.

"(a) IN GENERAL.—The Secretary may award scholarships and loans to full-time students enrolled in public or nonprofit private schools accredited for the training of professional nurses who have contracted with a health care facility described in subsection (g) to engage in full-time employment as a nurse for a period of time that is at least equal to the period of time during which the student received scholarship and loan assistance under this section.

"(b) MAXIMUM AMOUNT OF ASSISTANCE.—The total amount of scholarships and loans provided to a student under this section shall not exceed 100 percent of the cost of tuition, reasonable living expenses, books, fees, and necessary transportation.

"(c) ELIGIBILITY.—A scholarship or loan may be awarded under this section to a student currently enrolled, or to a student who has been accepted to and plans to matriculate, in a nursing program described in subsection (a). Demonstration of need for financial assistance (as determined by the Secretary) shall be required for the award of scholarships and loans under this section. In the award of scholarships and loans under this section, preference shall be given to disadvantaged and minority students underrepresented in the nursing profession.

"(d) SPLIT OF SCHOLARSHIP AND LOAN.—Of the proportion of scholarship and loan awarded to a student under this section, not more than 75 percent shall be in the form of a loan.

"(e) INTEREST.—Loans awarded under this section shall bear interest on the unpaid balance of the loan, computed from the date the student completes the nursing program or from the date the student is no longer enrolled in the nursing program, at a rate of 5 percent per annum.

"(f) ADMINISTRATION.—The Secretary may prescribe such regulations as may be necessary to carry out the demonstration program authorized under this section. The Secretary shall require any student seeking a scholarship and loan award under this section to submit an application in such form as the Secretary may require.

"(g) REPAYMENT.—

"(1) IN GENERAL.—Any hospital, long-term care facility certified under title XVIII or XIX of the Social Security Act (42 U.S.C. 1395 et seq.), or other private nonprofit or public facility that has a contract described in subsection (a) may contract with the Secretary to repay on behalf of a nursing student up to 75 percent of the amount of principal and interest due on a loan awarded under this section.

"(2) LIABILITY OF STUDENTS.—If a student who has been awarded a loan under this section does not fulfill the contract with an eligible health care facility described in paragraph (1) to engage in full-time employment as a nurse for a period of time that is at least equal to the period of time during which the student received scholarship and loan assistance under this section, is dismissed for academic reasons, or voluntarily terminates academic training, the student shall be liable for repayment of an amount equal to 100 percent of the principal and interest due on the loan. Repayment of such amount shall begin not later than 6 months following the date the student completes the nursing program or the date the student is no longer enrolled in the nursing program. The period for repayment of such amount shall be determined by the Secretary, except that such period may not exceed 10 years.

"(3) LIABILITY OF HEALTH CARE FACILITIES.—If a health care facility with which a student has entered into a contract under this section does not fulfill the contract, the health care facility shall remain liable for repayment of an amount equal to 75 percent of the principal and interest due on the loan incurred by the student.

"(4) WAIVER OR SUSPENSIONS.—The Secretary shall by regulation provide for the waiver or suspension of any obligation of any student who has received a scholarship or loan under this section whenever compliance by such student is impossible or would involve extreme hardship to such student and if the enforcement of such obligation with respect to any student would be against equity and good conscience.

"(h) RURAL OR FRONTIER AREAS.—Of the amount made available for a fiscal year under subsection (i), not less than 35 percent of such amount shall be allotted for scholarships and loans for students who contract with health care facilities in rural or frontier areas.

"(i) AUTHORIZATION OF APPROPRIATIONS.—For scholarships and loans awarded under this section, there are authorized to be appropriated $2,000,000 for each of the fiscal years 1989 through 1991.".

TITLE III—GENERAL

SEC. 301. RENAMING OF NATIONAL ADVISORY COUNCIL ON NURSE TRAINING.

(a) IN GENERAL.—Section 851 of the Public Health Service Act (42 U.S.C. 298) is amended—

(1) in the section heading, by striking out "NATIONAL ADVISORY COUNCIL ON NURSE TRAINING" and inserting in lieu thereof "ADVISORY COUNCIL ON NURSES EDUCATION"; and

(2) in subsection (a), by striking out "National Advisory Council on Nurse Training" and inserting in lieu thereof "Advisory Council on Nurses Education".

(b) CONFORMING AMENDMENTS.—

(1) Section 820 of such Act (42 U.S.C. 296k) is amended by striking out "National Advisory Council on Nurse Training" each place it appears in subsections (b) and (c) and inserting in lieu thereof "Advisory Council on Nurses Education".

(2) Section 856(1) of such Act (42 U.S.C. 298b-3(1)) is amended by striking out "National Advisory Council on Nurse Training" and inserting in lieu thereof "Advisory Council on Nurses Education".

The PRESIDING OFFICER. Are there amendments to the substitute? If not, the question is on agreeing to the substitute.

The amendment (No. 2939) was agreed to.

Mr. KENNEDY. Mr. President, I am pleased to speak in support of S. 2231, the Nurse Education Reauthorization Act of 1988. Historically, the nurse training authority under title VIII of the Public Health Service Act has provided two principal types of aid—institutional support for nursing schools and financial assistance for nursing students. This support in the past has increased the enrollments and graduates of nursing educational institutions. As a result, title VIII has served the important role of increasing opportunities for nurses to obtain undergraduate degrees and advanced training to become nurse administrators, nurse practitioners, nurse midwives, and clinical nurse specialists. Title VIII programs received $56 million in appropriations for fiscal year 1988. This legislation provides for an increase in authorization to $94 million in fiscal year 1989 to address the worsening nursing shortage.

Today the Nation faces a crisis in health care due to a worsening nursing shortage which demands our immediate attention. We are faced with an ever-increasing demand for nursing services at a time of recognized shortage of nurses and rapidly declining enrollments in our schools of nursing.

In Washington, D.C. General Hospital has had to close its emergency room on several occasions in the past year because of a lack of adequate nursing staff. Hospitals around the country have been forced to close beds and patient wards due to the nursing shortage. Many intensive care units and surgical units are dangerously close to compromising patient care because far too few nurses are available for duty. And with nurses being asked to work double shifts and care for too many critically ill patients, burnout is causing many to leave the profession.

The implications for the future nursing supply may well be devastating. Preliminary projections from the Sixth Report of the Department of Health and Human Services to the President and to Congress for the year 2000 indicate that 1,743,000 nurses will be needed—38 percent more nurses than were required in 1985. Faced with declining enrollment and a hospital vacancy rate for nurses exceeding 13 percent, support of nursing requires immediate attention.

An article in Time magazine of March 14, 1988, outlines the existing and potential dangers to a continuation of this crisis. Citing the increased nursing responsibility associated with advancing medical technology, the aging population and the amount and complexity of nursing care involved in caring for the growing number of AIDS patients, the article highlights the immediate and future perils to patient care.

Experts have attributed the shortage of nurses in all disciplines and every area of the country to several causes. First, nurses are clearly underpaid. They do not receive initial salaries commensurate with the amount of education required nor with the level of responsibility required to care for patients. The salary premium for over 20 years of nursing experience has been estimated to be only 5 cents an hour. It is easy to understand why so many people who might be interested in nursing turn to other higher paying professions.

Second, nurses do not receive adequate respect as full members of the health care team. Often they are not included in the decisionmaking process. This combination frequently leads to frustration, burnout, and high turnover.

Lastly, the number of nurses entering and completing undergraduate training programs is shrinking. Student enrollment in undergraduate nurse programs has declined for the third consecutive year and the supply of nurse graduates is expected to decrease well into the next decade. The National League for Nursing reports a 10-percent decline in RN Program enrollments between 1983 and 1985. This represents 25,000 fewer RN students over this 2-year period. An American Hospital Association study cites a further drop in enrollment of nearly 20 percent from July 1986.

Nursing schools have the capacity to educate more nurses, but fewer young people are choosing this career. Significant change is needed in hospital policies and in reimbursements for medical care to improve nursing salaries and provide greater involvement in patient care decisions. Hospitals have developed several innovative methods for recruiting nurses, including paying bounty awards and paying the educational costs for nursing students in return for a commitment to join the staff. But greater Federal resources are clearly necessary to increase the supply of nurses and the number and quality of nurse specialists.

As a result, this bill provides several important revisions to the existing Nurse Education Act—title VIII of the Public Health Service Act. Federal support of nurse education has been an important method of increasing the supply of nurses, and a new section would be added entitled "Scholarships for Undergraduate Education of Professional Nurses." The purpose of this program is to offer direct financial support to nursing students, with priority for disadvantaged students.

To direct financial support for students, this bill also includes an increase in funding for institutions of nurse education. The special projects section provides for improved geriatric nurse training and support for faculty to retain disadvantaged students in their programs. The bill recommends the establishment of a complete educational career ladder to encourage and support all nurses in obtaining undergraduate and graduate nursing degrees through rapid transition programs which acknowledge their past professional experience. In addition, this program will encourage the development of curriculums for the achievement of baccalaureate degrees in nursing by those individuals with baccalaureate degrees in other fields.

In recognition of the important role and increased need of nurses with advanced training, the bill also proposes additional funding for advanced nurse education. Graduate programs in nursing have responded to the need for such education in specialized clinical areas, including organ transplant care, trauma, and critical care nursing. The nature of acute illnesses, shortened hospital stays, and advanced technology in health care have heightened the need for postgraduate specialty education of the nurses.

In addition to these areas, master and doctoral programs have prepared nurses and made vital contributions to health care in areas such as nursing administration, health policy, gerontological nursing, and nurse education. These programs offer opportunities for nurses to assume an important role in solving the critical problems facing the health care system. Such programs provide for nursing leaders, educators, and clinical nurse specialists.

The Nurse Practitioners and Nurse Midwives Programs funded by this legislation provide needed primary health care to a large portion of the underserved population. After completion of advanced training, nurses are able to manage clients independently within the context of a health care consultation system. Because of their autonomous nature, these health providers are able to provide care to the needy in rural areas, inner city and neighborhood health centers, migrant health centers, community health centers, and other public health facilities.

The report of the Graduate Medical Education National Advisory Committee states that "* * * nurse practitioners and nurse midwives can make positive contributions to the health care system, can enhance patient access to services, decrease cost and provide a broadened range of services." As a result of this increasingly important role, increased funding is needed for traineeships. In exchange for traineeship funds to support the cost of their education, nurse practitioners, or nurse midwives will be required to practice in a long-term care facility, community health center, migrant health center, or public health facility for underserved populations for a period equal to the length of their traineeships.

To assist students in financing their education, the bill includes language to revise the Loan Provision Program. This change is minor, but it will broaden the range of eligible applicants and encourage participation in this proven program.

This bill also includes specific initiatives from S. 1402, the Nursing Shortage Reduction Act of 1987 which was adopted unanimously by the Senate. Two of the three provisions will be included under a special section—the Nursing Shortage Relief programs. Long-term care nursing practice demonstrations will provide funds to evaluate nurse practice models to improve nursing care in home health care systems and nursing homes. The second program, nurse recruitment centers, provides for the development of regional models of recruitment centers directed toward individuals between the ages of 12 and 14 years of age; toward those enrolled in colleges who have not declared majors; and toward adults who are not in schools who may desire to enter into nursing. These programs are vital measures to address the complex nature of the nursing recruitment crisis. The need for more nurses to care for the elderly and patient population with ever-increasing complex illnesses is compelling. Congress must respond by providing greater funding for nursing education.

Finally, the bill includes a new demonstration program to provide loans and scholarships. Nursing students who receive these loans and scholarships must agree to work for a hospital or other health care facility for a specified period of time. In return, the health care facility must agree to repay 75 percent of the student's loans received under this documentation. I am optimistic that this sort of public-private cooperative effort to increase the supply of nurses will be successful, and will serve as a model for other Federal programs.

I want to thank my colleagues on the Committee on Labor and Human Resources for their hard work on behalf of S. 2231. In particular, I greatly appreciate the effort of Senators SIMON, WEICKER, and HATCH, and their staffs for their support and determination to guide this important legislation through the Senate. I also want to commend the many nursing associations, specialty nursing groups and nurse educators, as well as the Division of Nursing in the Department of HHS and other interested groups and individuals who have assisted in the development of this legislation. I encourage my colleagues to support this bill and join in providing adequate funding for these most important nurse education programs. I ask all of my colleagues in the Senate to favorably consider S. 2231.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of the House companion bill, Calendar Order No. 800, H.R. 4833.

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

The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 4833) to amend the Public Health Service Act to revise and extend the programs of nurse education established in title VIII of such act, and for other purposes.

Mr. BYRD. Mr. President, I ask unanimous consent that all after the enacting clause be stricken and that the text of S. 2231, as amended, be inserted in lieu thereof.

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

The PRESIDING OFFICER. The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, shall it pass?

So the bill (H.R. 4833), as amended, was passed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

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

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, I move that the Senate insist on its amendment and ask for a conference with the House of Representatives thereon, and that the Chair be authorized to appoint conferees.

The motion was agreed to, and the Presiding Officer appointed Mr. KENNEDY, Mr. HARKIN, Mr. MATSUNAGA, Mr. HATCH, and Mr. QUAYLE conferees on the part of the Senate.

Mr. BYRD. Mr. President, I ask unanimous consent that Calendar Order No. 894 be indefinitely postponed.

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

SUPPORT VOORHEES COLLEGE

Mr. DOLE. Mr. President, I send a bill to the desk on behalf of Senators THURMOND and HOLLINGS and ask for its immediate consideration.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 2764) to provide for a Health and Human Resources Center at Voorhees College in Denmark, South Carolina.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection the Senate proceeded to consider the bill.

Mr. THURMOND. Mr. President, this legislation provides support for a project that is of vital importance to a small historically black college in South Carolina, Voorhees College. I am pleased to have my distinguished colleague, Mr. HOLLINGS, join me as a sponsor of this measure.

Some years ago, the State of South Carolina and Voorhees entered into an agreement whereby Voorhees made available to Bamberg County land on which an elementary school and gymnasium were built. Voorhees was promised use of the gymnasium for its academic and sports programs. That agreement is now threatened because the school plans to develop an afternoon program that will consume the few hours Voorhees presently has available for its classes. Therefore, Voorhees will no longer have access to a facility for its instructional programs. So far they have been able to negotiate continued use through June, 1989. Voorhees hopes to be able to renew this lease through 1989, but the outcome of this is uncertain. This less than satisfactory agreement hampers Voorhees ability to plan for the future; but more importantly, its accreditation would be in jeopardy if Voorhees does not have a facility in which to offer its programs.

The lack of a suitable facility for physical and health education programs was noted in Voorhees's last acreditation evaluation.

To lose accreditation would be devastating to Voorhees. It would jeopardize its ability to attract good students, as well as current Federal funding. Moreover, Voorhees plans a critical community leadership role in Bamberg County, which has the highest unemployment and teenage pregnancy rates in South Carolina. Accordingly, Voorhees is seeking Federal support to

build a facility to house these programs.

I urge my colleagues to support this bill.

Mr. HOLLINGS. Mr. President, today I join with my distinguished senior Senator in introducing legislation to authorize the construction of a Health and Human Resources Center on the campus of Voorhees College in Denmark, SC. Senator THURMOND and I have worked closely with Voorhees College on this badly needed project. And, while our efforts for authorization have been successful in the Senate, complications with the larger measure in which the project was included has prevented its actual enactment into law.

We have, however, been successful in obtaining a conference agreement on the project's funding—the conference agreement on H.R. 4783, the fiscal year 1989 Labor, Health and Human Services, and education appropriations bill, provides $4.5 million for the cost of constructing a Health and Human Resources Center at Voorhees College.

Mr. President, it is now critical that the authorization for this project go forward. Without an authorization the moneys cannot be allocated to Voorhees and this historically black college could very possibly lose its accreditation—seriously threatening the continuation of this fine institution.

I urge my colleagues to join Senator THURMOND and I in supporting, once again, legislation authorizing the construction of a Health and Human Resources Center at Voorhees College.

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed as follows:

S. 2764

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

SECTION 1. HEALTH AND HUMAN RESOURCES CENTER.

(a) GENERAL AUTHORITY.—The Secretary of Education is authorized, in accordance with this section, to provide financial assistance to Voorhees College in Denmark, South Carolina, to pay the cost of construction and related costs for a Health and Human Resources Center at Voorhees College.

(b) APPLICATION REQUIRED.—No financial assistance may be made under this section unless the applicant completes an application according to requirements set forth by the Secretary of Education.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sum, not to exceed $4,500,000, as may be necessary to carry out this section. Funds appropriated pursuant to this section shall remain available until expended.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the bill was passed.

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

The motion to lay on the table was agreed to.

NATIONAL POW/MIA RECOGNITION DAY

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of House Joint Resolution 453, a joint resolution to designate September 16 as "National POW/MIA Recognition Day," and that the Senate proceed to its immediate consideration.

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

The joint resolution will be stated by title.

The legislative clerk read as follows:

A joint resolution (H.J. Res. 453) designating September 16, 1988, as "National POW/MIA Recognition Day."

The Senate proceeded to consider the joint resolution.

Mr. MURKOWSKI. Mr. President, as the ranking Republican member of the Senate Veterans' Affairs Committee, I am pleased to support Joint Resolution 453 which would designate September 16, 1988, as National Prisoner of War—Missing in Action Day. This recognition reinforces my belief that these POW/MIA's have not been and will not be forgotten.

During 1986, while I was chairman of the Senate Committee on Veterans' Affairs, the committee held extensive hearings, both open and closed, on the issue of Americans still missing or prisoners in Southeast Asia. In January 1986, I led the first bipartisan delegation of Members from both Houses of Congress on a factfinding mission to Hanoi, Bangkok, and Vientiane, Laos. Since that time, President Reagan and the Congress have continued to operate on the premise that Americans may still be held against their will in Southeast Asia. As a result, our Defense Intelligence Agency devotes considerable resources to tracking down and attempting to verify reports of live sightings of Americans.

In my capacity as ranking minority member of both the Committee on Veterans' Affairs and the Subcommittee on East Asian and Pacific Affairs of the Committee on Foreign Relations, I have continued to work to ensure all agencies of our Government fulfill their obligation to actively follow every lead concerning Americans possibly held captive. We owe that dedication to the men who are still missing and to their families. I believe that by setting aside a day of recognition for these men, we as a country will show our support as well for these men who so gallantly served their Nation, as well as for their families and friends.

I was encouraged when General Vessey's mission to Hanoi seemed to result in increased seriousness in the treatment of the issue by the Vietnamese Government. More recently, in late July 1988, the Vietnamese withdrew their cooperation only to announce in late August they would resume their cooperation when they discovered that we could not be manipulated by attempts to play upon our heartfelt and unquenchable desire to obtain a full and final accounting for those still missing and freedom for any still-held prisoner. Once again I am hopeful the way lies open to make progress toward resolution of this question.

We as a people continue to care deeply about those who served in combat in defense of American ideals. The missing in action and their families who continue to wait, hope and pray for progress in the search for answers are an integral part of that heritage and serve as a reminder that, although the guns are silent, the war is not over. This day is not only for these men but for their families as well.

On September 16, 1988, I will be proud to join all America in remembering those brave men still missing. They will never be forgotten and we will never rest until they are accounted for.

The joint resolution (H.J. Res. 453) was ordered to a third reading, was read the third time, and passed.

The preamble was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

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

The motion to lay on the table was agreed to.

AMBASSADOR ARNOLD LEWIS RAPHEL AND GEN. HERBERT MARION WASSOM

Mr. BYRD. Mr. President, I send to the desk and ask for its immediate consideration a resolution on behalf of myself and the distinguished minority leader and others.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 467) to express the deep regret of the Senate regarding the deaths of Ambassador Arnold Lewis Raphel and General Herbert Marion Wassom.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

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

The resolution (S. Res. 467) was agreed to.

The preamble was agreed to.

The resolution with its preamble is as follows:

Whereas the Senate of the United States has learned with profound sorrow and deep regret of the tragic deaths of the United States Ambassador to Pakistan, Arnold Lewis Raphel, and the Chief United States Defense Representative to Pakistan, Brigadier General Herbert Marion Wassom; and

Whereas Ambassador Raphel's career in the United States Foreign Service spanned more than two decades during which he distinguished himself as an expert on the Middle East and South Asia; and

Whereas General Wassom served more than twenty-six years of active duty in the United States Army and was decorated for his valor with the Legion of Merit with Oak Leaf Cluster, the Bronze Star with two Oak Leaf Clusters with the Defense Meritorious Service Medal; and

Whereas the presence of Ambassador Raphel and General Wassom in Islamabad served to strengthen the important bond of friendship between the governments of the United States and Pakistan; and

Whereas Ambassador Raphel and General Wassom were tragically killed while actively promoting the long-standing commitment of the United States to the security and independence of Pakistan; and

Whereas Ambassador Raphel was the sixth United States Ambassador to be killed while courageously serving this nation overseas; and

Whereas the untimely deaths of Ambassador Raphel and General Wassom on August 17, 1988, are a tragedy for the United States Foreign Service, the United States Army, and the American people. Therefore, be it

Resolved That the United States Senate expresses its deep sympathies to the families of Ambassador Arnold Raphel and Brigadier General Herbert Marion Wassom who were killed while serving this nation with courage and dedication.

BOND REVIEW WAIVER

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 5143, a bill to waive the review period for the issuance of certain D.C. revenue bonds.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 5143) to waive the period of congressional review for certain District of Columbia acts authorizing the issuance of revenue bonds.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. GLENN. Mr. President, as chairman of the Committee on Governmental Affairs, I want to take a moment to explain to my colleagues H.R. 5143, the District of Columbia Revenue Bond Act of 1988. This legislation passed the House on August 11, and has been cleared by myself, the committee's ranking minority member, Senator ROTH, and the chairman and ranking members on the subcommittee with jurisdiction over the District of Columbia, Senators SASSER and HEINZ, respectively.

What this bill does is to waive the 30-day congressional review period for certain District of Columbia bond acts. This legislation is for a limited purpose and is aimed at insuring that the upcoming October adjournment of Congress does not place undue burdens and impediments on six District of Columbia bond acts due to the mandated 30-day congressional review period.

This legislation is necessary because the U.S. Internal Revenue Code affecting the issuance of tax-exempt bonds requires the approval of the appropriate State or local authority for the issuance of revenue bonds. Further, under section 602(C)(1) of the District of Columbia Self-Government and government Reorganization Act, Public Law 93-198 (the "Home Rule Act"), after the D.C. Government has done all it can and must do to pass a bond act, that act must then be transmitted to Congress for a review period of 30 legislative days.

I would note that this 30-day period counts legislative days in which at least one House of Congress is in session. Typically the count converts to between 60 to 90 calendar days.

Bond issues in particular are financially sensitive and should not be unduly delayed. Several D.C. bond acts now pending or recently approved will not clear the 30-day review period prior to the scheduled adjournment of Congress. The six bonds which would be adversely affected are to be issued by the following non-profit institutions: Columbia Hospital for Women, Children's Hospital, District of Columbia Hospital Association, Georgetown University, Providence Hospital, and St. John's Child Development.

It is critically important for the participating institutions to have the District issue tax-exempt bonds on their behalf at the earliest possible time in order to take advantage of current low tax-exempt rates. The bonds issued pursuant to the District's revenue bond acts will comply in all respects with applicable Federal tax law.

Finally, I should note that this legislation also has the support of the Mayor of the District of Columbia, Marion Barry, as well as David Clarke, chairman of the council of the District of Columbia.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 5143) was ordered to a third reading, was read the third time, and passed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

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

The motion to lay on the table was agreed to.

THE ROTUNDA OF THE U.S. CAPITOL TO BE USED IN CONNECTION WITH THE INAUGURATION

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Concurrent Resolution 141 submitted earlier today by Mr. FORD.

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

The bill will be stated by title.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 141) authorizing the Rotunda of the United States Capitol to be used on January 20, 1989, in connection with the proceedings and ceremonies for the inauguration of the President-elect and the Vice President-elect of the United States.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. FORD. Mr. President, I am today submitting a concurrent resolution authorizing the rotunda of the U.S. Capitol to be used on January 20, 1989, in connection with the proceedings and ceremonies for the inauguration of the President-elect and the Vice President-elect of the United States.

This concurrent resolution is identical to one approved by the Congress 4 years ago and is essential in the event circumstances require that the inaugural ceremony be moved indoors. As you will recall, this was the case in 1985 when bitterly cold weather necessitated a last-minute change from the west front inside to the rotunda.

This concurrent resolution will assure that the Joint Congressional Committee on Inaugural Ceremonies has the necessary authority to take similar action in 1989 in the event it is required.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution was agreed to, as follows:

Resolved by the Senate (the House of Representatives concurring), That the rotunda of the United States Capitol is hereby authorized to be used on January 20, 1989, by the Joint Congressional Committee on Inaugural Ceremonies in connection with the proceedings and ceremonies conducted for the inauguration of the President-elect and the Vice President-elect of the United States. Such Committee is authorized to utilize appropriate equipment and the services of appropriate personnel of departments and agencies of the Federal Government,

under arrangements between such Committee and the heads of such departments and agencies, in connection with such proceedings and ceremonies.

AGREEMENT WITH FOREIGN FIRE ORGANIZATIONS

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 2641 dealing with the agreement with foreign fire organizations reported earlier today.

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

The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2641) to authorize the Secretary of Agriculture and other Agency heads to enter into agreements with foreign fire organizations for assistance on wildlife protection.

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 2940

(Purpose: To authorize the Secretary of Agriculture and other Agency heads to enter into agreements with foreign fire organizations for assistance in wildlife protection)

Mr. BYRD. Mr. President, I send to the desk an amendment in the nature of a substitute on behalf of Senators MELCHER and BAUCUS.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD] for Mr. MELCHER (for himself, Mr. BAUCUS and Mr. WALLOP) proposes an amendment numbered 2940.

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:

Strike all after the enacting clause and insert the following:

That this Act may be cited as the "Temporary Emergency Wildfire Suppression Act".

SEC. 2. DEFINITIONS.

As used in this Act—

(1) the term "fire organization" means any governmental, public, or private entity having wildlife protection resources;

(2) the term "wildfire protection resources" means personnel, supplies, equipment, and other resources required for wildfire presuppression and suppression activities; and

(3) the term "wildfire" means any forest or range fire.

SEC. 3. IMPLEMENTATION.

(a)(1) The Secretary of Agriculture or the Secretary of the Interior, in consultation with the Secretary of State, may enter into a reciprocal agreement with any foreign fire organization for mutual aid in furnishing wildfire protection resources for lands and other properties for which such Secretary or organization normally provides wildfire protection.

(2) Any agreement entered into under this subsection—

(A) shall include a waiver by each party to the agreement of all claims against every other party to the agreement for compensation for any loss, damage, personal injury, or death occurring in consequence of the performance of such agreement;

(B) shall include a provision to allow the termination of such agreement by any party thereto after reasonable notice; and

(C) may provide for the reimbursement of any party thereto for all or any part of the costs incurred by such party in furnishing wildfire protection resources for, or on behalf of, any other party thereto.

(b) In the absence of any agreement authorized under subsection (a), the Secretary of Agriculture or the Secretary of the Interior may—

(1) furnish emergency wildfire protection resources to any foreign nation when the furnishing of such resources is determined by such Secretary to be in the best interest of the United States, and

(2) accept emergency wildfire protection resources from any foreign fire organization when the acceptance of such resources is determined by such Secretary to be in the best interest of the United States.

(c) Notwithstanding the preceding provisions of this section, reimbursement may be provided for the costs incurred by the Government of Canada or a Canadian organization in furnishing wildfire protection resources to the Government of the United States under—

(1) the memorandum entitled "Memorandum of Understanding Between the United States Department of Agriculture and Environment Canada on Cooperation in the Field of Forestry-Related Programs" dated June 25, 1982; and

(2) the arrangement entitled "Arrangement in the Form of an Exchange of Notes Between the Government of Canada and the Government of the United States of America" dated May 4, 1982.

(d) Any service performed by any employee of the United States under an agreement or otherwise under this Act shall constitute service rendered in the line of duty in such employment. The performance of such service by any other individual shall not make such individual an employee of the United States.

SEC. 4. FUNDS.

Funds available to the Secretary of Agriculture or the Secretary of the Interior for wildfire protection resources in connection with activities under the jurisdiction of such Secretary may be used to carry out activities authorized under agreements or otherwise under this Act, or for reimbursements authorized under section 3(c): *Provided*, That no such funds may be expended for wildfire protection resources or personnel provided by a foreign fire organization unless the Secretary determines that no wildfire protection resources or personnel within the United States are reasonably available to provide wildfire protection.

SEC. 5. TERMINATION DATE.

The authority to enter into agreements under section 3(a), to furnish or accept emergency wildfire protection resources under section 3(b), or to incur obligations for reimbursement under section 3(c), shall terminate on December 31, 1988.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. DOLE. Mr. President, will the Senator from Montana yield? Does the Senator from Montana have any objection to including Senator WALLOP as a cosponsor?

Mr. BAUCUS. Not at all.

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

The Senator from Montana.

Mr. BAUCUS. Mr. President, the thrust of the substitute of the original bill is to allow the Secretaries of Interior and Agriculture to enter into an agreement with Canada whereunder the United States Government would reimburse Canada for certain firefighting equipment that is so necessary now for fires in Yellowstone Park and fires that are now ravaging many parts of the West.

We all have read in the papers and see on the evening news the fires in Yellowstone National Park, our national treasure. The first and most famous park we have in our country. Old Faithful lodge, for example, is threatened. Several outbuildings very close to Old Faithful have already burned down. It is, frankly, sheer luck that has prevented Old Faithful Lodge itself from burning down last night.

The firefighting crews and support staff on the ground are tired to the bone. They have been working very hard and valiantly. They have done an absolutely terrific job in trying to fight these fires.

However, we need more manpower. Canada has trained personnel that we need immediately. Canada also has slurry bombers that we need to drop fire retardent on these fires. Canada has infrared equipment that is neded to penetrate the smoke to find out where the hotspots are. There is a whole list of equipment and list of needs that are necessary to put these fires out.

The House is committed to passing this bill. Once we pass this legislation tonight, it is my strong hope that the President signs it tomorrow forthright so that the authority is there for Canada to come forth with the necessary resources and we can reimburse them.

The fact is that we have provided services to Canada in the past. The Canadian Government has reimbursed the United States. Unfortunately, this legislation is now needed for the converse, so that Canada can provide services and we can reimburse Canada.

I thank the leader and also the Senator from Kansas for quickly moving on this. The senior Senator from Montana pushed this resolution through the Agriculture Committee. I want to thank him, Senator WALLOP, and others. It is very, very urgent and action has to be taken at this moment.

I thank the Chair, and I thank the Senator from West Virginia.

Mr. MELCHER. Mr. President, I recently returned from Montana, where I saw first hand the continuing devastation wrought by forest fires in my home State. The pending measure would further efforts to put out these and other of our Nation's wildfires in the United States by enabling Federal firefighting agencies to draw upon Canadian firefighting resources.

Although the United States and Canada in the past have assisted each other in combating forest fires, Federal firefighting agencies lack express statutory authority to engage in such activities or to reimburse Canada for any such assistance. Lacking a firm statutory basis, firefighting arrangements with Canada have been unnecessarily complicated or altogether precluded. To remedy this situation, this legislation would grant the Secretary of Agriculture and the Secretary of Interior, with the consultation of the Secretary of State, the authority to enter into international firefighting agreements and to reimburse other governments for help in this area.

This measure is based on legislation I introduced earlier this summer with the cosponsorship of the chairman of the Committee on Agriculture, Senator LEAHY. I understand that the Agriculture Secretary Richard Lyng recently wrote to the chairman to express his support for that legislation and to urge that the measure be enacted as soon as possible. In addition, on June 29, 1988, at a hearing of the House Subcommittee of Forestry, Family Farms, and Energy, on a House measure identical to S. 2641, F. Dale Robertson, chief of the U.S. Forest Service supported this legislation. The Department of the Interior and the National Association of State Foresters also have expressed their support.

The pending bill is an emergency interim measure, and would extend the needed authority to the Departments of Agriculture and Interior only through December 31, 1988. I will continue working to ensure enactment of a permanent policy in this area before the finish of the 100th Congress.

Mr. President, given the emergency nature of the fire situation in Yellowstone National Park and other areas of the West which are experiencing forest fires, I am especially thankful to the chairman of the Agriculture Committee and the committee's ranking minority member for taking such prompt action on my legislation.

Canada has approximately 35 planes that are especially designed for fighting forest fires. These could be mobilized on very short notice to help bring fires in this Nation's forests and parks under control. To provide the U.S. Forest Service and other Federal agencies access to these and other available Canadian firefighting resources, I urge my colleagues to pass this vitally needed legislation.

The PRESIDING OFFICER (Mr. SIMON). The bill is open to further amendment. If there is no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as amended, as follows:

S. 2641

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 "Temporary Emergency Wildfire Suppression Act".

SEC. 2. DEFINITIONS.

As used in this Act—

(1) the term "fire organization" means any governmental, public, or private entity having wildfire protection resources;

(2) the term "wildfire protection resources" means personnel, supplies, equipment, and other resources required for wildfire presuppression and suppression activities; and

(3) the term "wildfire" means any forest or range fire.

SEC. 3. IMPLEMENTATION.

(a)(1) The Secretary of Agriculture or the Secretary of the Interior, in consultation with the Secretary of State, may enter into a reciprocal agreement with any foreign fire organization for mutual aid in furnishing wildfire protection resources for lands and other properties for which such Secretary or organization normally provides wildfire protection.

(2) Any agreement entered into under this subsection—

(A) shall include a waiver by each party to the agreement of all claims against every other party to the agreement for compensation for any loss, damage, personal injury, or death occurring in consequence of the performance of such agreement;

(B) shall include a provision to allow the termination of such agreement by any party thereto after reasonable notice; and

(C) may provide for the reimbursement of any party thereto for all or any part of the costs incurred by such party in furnishing wildfire protection resources for, or on behalf of, any other party thereto.

(b) In the absence of any agreement authorized under subsection (a), the Secretary of Agriculture or the Secretary of the Interior may—

(1) furnish emergency wildfire protection resources to any foreign nation when the furnishing of such resources is determined by such Secretary to be in the best interest of the United States, and

(2) accept emergency wildfire protection resources from any foreign fire organization when the acceptance of such resources is determined by such Secretary to be in the best interest of the United States.

(c) Notwithstanding the preceding provisions of this section, reimbursement may be provided for the costs incurred by the Government of Canada or a Canadian organization in furnishing wildfire protection resources to the Government of the United States under—

(1) the memorandum entitled "Memorandum of Understanding Between the United States Department of Agriculture and Environment Canada on Cooperation in the Field of Forestry-Related Programs" dated June 25, 1982; and

(2) the arrangement entitled "Arrangement in the Form of an Exchange of Notes Between the Government of Canada and the Government of the United States of America" dated May 4, 1982.

(d) Any service performed by any employee of the United States under an agreement or otherwise under this Act shall constitute service rendered in the line of duty in such employment. The performance of such service by any other individual shall not make such individual an employee of the United States.

SEC. 4. FUNDS.

Funds available to the Secretary of Agriculture or the Secretary of the Interior for wildfire protection resources in connection with activities under the jurisdiction of such Secretary may be used to carry out activities authorized under agreements or otherwise under this Act, or for reimbursements authorized under section 3(c): *Provided,* That no such funds may be expended for wildfire protection resources or personnel provided by a foreign fire organization unless the Secretary determines that no wildfire protection resources or personnel within the United States are reasonably available to provide wildfire protection.

SEC. 5. TERMINATION DATE.

The authority to enter into agreements under section 3(a), to furnish or accept emergency wildfire protection resources under section 3(b), or to incur obligations for reimbursement under section 3(c), shall terminate on December 31, 1988.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill passed.

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

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, I earlier inquired of the distinguished Republican leader if Calendar Order No. 903, H.R. 900, had been cleared on his side, and the distinguished Republican leader indicated in the affirmative.

Mr. DOLE. It has been cleared.

WEST VIRGINIA NATIONAL INTEREST RIVER CONSERVATION ACT

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar Order No. 903.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 900) to protect and enhance the natural, scenic, cultural, and recreational values of certain segments of the New, Gauley, Meadow, and Bluestone Rivers in West Virginia for the benefit of present and future generations, and for other purposes, which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enact-

ing clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

This Act may be cited as the "West Virginia National Interest River Conservation Act of 1987".

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Sec. 601. Acreage limitations.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) The outstanding natural, scenic, cultural and recreational values of the segment of the New River in West Virginia within the boundaries of the New River Gorge National River have been preserved and enhanced by its inclusion in the National Park System.

(2) The establishment of the New River Gorge National River has provided the basis for increased recreation and tourism activities in southern West Virginia due to its nationally recognized status and has greatly contributed to the regional economy.

(3) Certain boundary modifications to the New River Gorge National River are necessary to further protect the scenic resources within the river's visual corridor and to provide for better management of the national park unit.

(4) Several tributaries of the New River in West Virginia also possess remarkable and outstanding features of national significance. The segment of the Gauley River below Summersville Dam has gained national recognition as a premier whitewater recreation experience. The lower section of the Bluestone River and the lower section of the Meadow River possess remarkable and outstanding natural, scenic, and recreational values due to their predominantly undeveloped condition.

(5) Portions of several of the New River tributaries, including segments of the Gauley River, the Meadow River, and the Bluestone River are suitable for inclusion in the National Park System or the National Wild and Scenic Rivers System.

(6) It is in the national interest to preserve the natural condition of certain segments of the New, Gauley, Meadow, and Bluestone Rivers in West Virginia and to enhance recreational opportunities available on the free-flowing segments.

(b) PURPOSE.—The purpose of this Act is to provide for the protection and enhancement of the natural, scenic, cultural, and recreational values on certain free-flowing segments of the New, Gauley, Meadow, and Bluestone Rivers in the State of West Virginia for the benefit and enjoyment of present and future generations.

TITLE I—NEW RIVER GORGE NATIONAL RIVER

SEC. 101. BOUNDARY MODIFICATION.

Section 1101 of the National Parks and Recreation Act of 1978 (16 U.S.C. 460m-15) is amended by striking out "NERI-20,002, dated July 1978" and substituting "NERI-80,023, dated January 1987".

SEC. 102. COOPERATIVE AGREEMENTS WITH STATE.

Title XI of the National Parks and Recreation Act of 1978 is amended by adding the following new section at the end thereof:

"SEC. 1113. COOPERATIVE AGREEMENTS WITH STATE.

"In administering the national river, the Secretary is authorized to enter into cooperative agreements with the State of West Virginia, or any political subdivision thereof, for the rendering, on a reimbursable or nonreimbursable basis, of rescue, fire fighting, and law enforcement services and cooperative assistance by nearby law enforcement and fire preventive agencies.".

SEC. 103. IMPROVEMENT OF ACCESS AT CUNARD.

Title XI of the National Parks and Recreation Act of 1978 is amended by adding the following new section at the end thereof:

"SEC. 1114. IMPROVEMENT OF ACCESS AT CUNARD.

"(a) DEVELOPMENT AND IMPROVEMENT.—The Secretary shall expeditiously acquire such lands, and undertake such developments and improvements, as may be necessary to provide for commercial and noncommercial access to the river near Cunard. No restriction shall be imposed on such access based on the time of day, except to the extent required to protect public health and safety.

"(b) INTERIM MEASURES.—Pending completion of the developments and improvements referred to in subsection (a), the Secretary shall permit the motorized towing of whitewater rafts in the section of the national river between Thurmond and Cunard when the volume of flow in the river is less than three thousand cubic feet per second.".

SEC. 104. FLOW MANAGEMENT.

Title XI of the National Parks and Recreation Act of 1978 is amended by adding the following new section at the end:

"SEC. 1115. FLOW MANAGEMENT.

"(a) FINDINGS.—The Congress finds that adjustments of flows from Bluestone Lake project during periods of low flow are necessary to respond to the congressional mandate contained in section 1110 of this Act and that such adjustments could enhance the quality of the recreational experience in the segments of the river below the lake during those periods as well as protect the biological resources of the river.

"(b) REPORT TO CONGRESS REQUIRED.—The Secretary of the Army, in conjunction with the Secretary of the Interior, shall conduct a study and prepare a report under this section. The report shall be submitted to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives not later than December 31, 1989. Before submission of the report to these Committees, a draft of the report shall be made available for public comment. The final report shall include the comments submitted by the Secretary of the Interior and the public, together with the response of the Secretary of the Army to those comments.

"(c) CONTENTS OF STUDY.—The study under this section shall examine the feasibility of adjusting the timing of daily releases from Bluestone Lake project during periods when flows from the lake are less than three thousand cubic feet per second. The purpose of such adjustment shall be to improve recreation (including, but not limited to, fishing and whitewater recreation) in the New River Gorge National River. Any such adjustments in the timing of flows which are proposed in such report shall be consistent with other project purposes and shall not have significant adverse effects on fishing or on any other form of recreation in Bluestone Lake or in any segment of the river below Bluestone Lake. The study shall assess the effects of such flow adjustments on the quality of recreation on the river in the segments of the river between Hinton and Thurmond and between Thurmond and the downstream boundary of the New River Gorge National River, taking into account the levels of recreational visitation in each of such segments.

"(d) TEST PROCEDURES.—As part of the study under this section, the Secretary of the Army shall conduct test releases from Bluestone Lake project during twenty-four-hour periods during the summer of 1989 when flows are less than three thousand cubic feet per second from the project. All such adjustments shall conform to the criteria specified in subsection (c). The tests shall provide adjustments in the timing of daily flows from Bluestone Lake project which permit flows higher than the twenty-four-hour average to reach downstream recreational segments of the river during morning and afternoon hours. The tests shall develop specific data on the effects of flow adjustments on the speed of the current and on water surface levels in those segments. No test shall be conducted when flows from the lake are less than one thousand seven hundred cubic feet per second and no test shall reduce flows below that level.".

TITLE II—GAULEY RIVER NATIONAL RECREATION AREA

SEC. 201. ESTABLISHMENT.

(a) IN GENERAL.—In order to protect and preserve the scenic, recreational, geological, and fish and wildlife resources of the Gauley River, there is hereby established the Gauley River National Recreation Area (hereinafter in this Act referred to as the "recreation area").

(b) AREA INCLUDED.—The recreation area shall consist of the land, waters, and interests therein generally depicted on the boundary map entitled "Gauley River National Recreation Area", numbered NRA-GR/20,000A and dated July 1987. The map shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior.

(c) BOUNDARY MODIFICATIONS.—Within five years after the enactment of this Act, the Secretary of the Interior (hereinafter in this title referred to as the "Secretary") shall submit to the Committee on Interior and In-

sular Affairs of the United States House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate a report containing any boundary modifications which the Secretary recommends, together with the reasons therefor.

SEC. 202. ADMINISTRATION.

(a) IN GENERAL.—The recreation area shall be administered by the Secretary in accordance with this Act and with the provisions of law generally applicable to units of the National Park System, including the Act entitled "An Act to establish a National Park Service, and for other purposes", approve Application August 25, 1916 (16 U.S.C. 1-4).

(b) HUNTING AND FISHING; FISH STOCKING.—The Secretary shall permit hunting, trapping and fishing on lands and waters within the recreation area in accordance with applicable Federal and State laws. The Secretary may, after consultation with the State of West Virginia Department of Natural Resources, designate zones where, and establish periods when, such activities will not be permitted for reasons of public safety, administration, fish and wildlife habitat or public use and enjoyment subject to such terms and conditions as he deems necessary in the furtherance of this Act. The Secretary shall permit the State of West Virginia to undertake or continue fish stocking activities carried out by the State in consultation with the Secretary on waters within the boundaries of the recreation area. Nothing in this Act shall be construed as affecting the jurisdiction or responsibilities of the State of West Virginia with respect to fish and wildlife

(c) COOPERATIVE AGREEMENTS WITH STATE.—In administering the recreation area the Secretary is authorized to enter into cooperative agreements with the State of West Virginia, or any political subdivision thereof, for the rendering, on a reimbursable basis, of rescue, firefighting, and law enforcement services and cooperative assistance by nearby law enforcement and fire preventive agencies.

(d) APPLICATION OF OTHER PROVISIONS.—The provisions of section 7(a) of the Act of October 2, 1968 (16 U.S.C. 1278(a)), shall apply to the recreation area in the same manner and to the same extent as such provisions apply to river segments referred to in such provisions.

(e) RECREATIONAL ACCESS.—

(1) EXISTING PUBLIC ROADS.—The Secretary may enter into a cooperative agreement with the State of West Virginia under which the Secretary shall be authorized to maintain and improve existing public roads and public rights-of-way within the boundaries of the national recreation area to the extent necessary to facilitate and improve reasonable access to the recreation area at existing access points where such actions would not unreasonably diminish the scenic and natural values of the area.

(2) FACILITIES ADJACENT TO DAM.—In order to accommodate visitation to the recreation area, the Secretary shall construct such facilities as necessary to enhance and improve access, vehicle parking and related facilities, and provide river access for whitewater recreation and for other recreational activities, immediately downstream of the Summersville Dam, to the extent that such facilities are not provided pursuant to section 205 and such facilities are within the boundaries of the recreation area. Such construction shall be subject to the memorandum of understanding referred to in subsection (f).

(3) OTHER LOCATIONS.—In addition, in order to provide reasonable public access and vehicle parking for public use and enjoyment of the recreation area, consistent with the preservation and enhancement of the natural and scenic values of the recreation area, the Secretary may, with the consent of the owner thereof, acquire such lands and interests in lands to construct such parking and related facilities at other appropriate locations outside the boundaries of, but within one mile of the recreation area as may be necessary and appropriate. Any such lands shall be managed in accordance with the management provisions for the recreation area as defined in subsection (a).

(f) PROPERTIES AND FACILITIES OF FEDERAL AGENCIES.—After consultation with any other Federal agency managing lands and waters within or contiguous to the recreation area, the Secretary shall enter into a memorandum of understanding with such other Federal agency to identify those areas within the recreation area which are (1) under the administrative jurisdiction of such other agency; (2) directly related to the operation of the Summersville project; and (3) essential to the operation of such project. The memorandum of understanding shall also include provisions regarding the management of all such lands and waters in a manner consistent with the operation of such project and the management of the recreation area.

SEC. 203. MISCELLANEOUS.

(a) LANDS AND WATERS.—The Secretary may acquire lands or interests in lands within the boundaries of the recreation area by donation, purchase with donated or appropriated funds, or exchange. When any tract of land is only partly within such boundaries, the Secretary may acquire all or any portion of the land outside of such boundaries in order to minimize the payment of severance costs.

(b) JURISDICTION.—Lands, waters and interests therein within the recreation area which are administered by any other agency of the United states and which are not identified under section 202 as directly related to the Summersville project and essential to the operation of that project shall be transferred without reimbursement to the administrative jurisdiction of the Secretary.

(c) PROTECTION OF EXISTING PROJECT.—Nothing in this Act shall impair or affect the requirements of section 1102 of Public Law 99-662 or otherwise affect the authorities of any department or agency of the United States to carry out the project purposes of the Summersville project, including recreation. In releasing water from such project, in order to protect public health and safety and to provide for enjoyment of the resources within the recreation area, other departments and agencies of the United States shall cooperate with the Secretary to facilitate and enhance whitewater recreational use and other recreational use of the recreation area.

SEC. 204. AUTHORIZATION OF APPROPRIATIONS.

There are hereby authorized to be appropriated such sums as may be necessary to carry out the purpose of this title.

SEC. 205. SPECIAL CONDITIONS.

(a) NEW PROJECT CONSTRUCTION.—If, after the enactment of this Act, any department, agency, instrumentality or person commences construction of any dam, water conduit, reservoir, powerhouse, transmission line or other project at or in conjunction with the Summersville project, the department, agency, instrumentality or other person which constructs or operates such new project shall comply with such terms and conditions as the Secretary deems necessary, in his discretion, to protect the resources of the recreation area, including such terms and conditions as the Secretary deems necessary to ensure that such new project will not adversely affect whitewater recreation and other recreation activities during or after project construction.

(b) ADVERSE EFFECTS ON THE RECREATION AREA.—If any such new project referred to in subsection (a) will create a direct, physical, adverse effect on access to the recreation area immediately downstream of the Summersville Dam during or after project construction, including vehicle parking, related facilities, and river access for whitewater recreation and other recreational use of the recreation area, the department, agency, instrumentality or person constructing such project shall replace and enhance the adversely affected facilities in such manner as may be appropriate to accommodate visitation, as determined by the Secretary.

(c) NEW PROJECT PERMITS.—The terms and conditions referred to in this section shall be included in any license, permit, or exemption issued for any such new project. Any such new project shall be subject to all provisions of this Act, including section 202(d), except that during the four-year period after the enactment of this Act, nothing in this Act shall prohibit the licensing of a project adjacent to Summersville Dam as proposed by the city of Summersville, or by any competing project applicant with a permit or license application on file as of August 8, 1988, if such project complies with this section. Any such project shall be limited to 80 megawatts. If such project is licensed within such four-year period, the Secretary shall modify the boundary map referred to in section 201 to relocate the upstream boundary of the recreation area along a line perpendicular to the river crossing the point five hundred and fifty feet downstream of the existing valve house and one thousand two hundred feet (measured along the river bank) upstream of United States Geological Survey Gauge Numbered 03189600, except in making the modification the Secretary shall maintain within the boundary of the recreation area those lands identified in the boundary map referred to in section 201 which are not necessary to the operation of such project.

SEC. 206. ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—There is hereby established the Gauley River National Recreation Area Advisory Committee (hereinafter in this Act referred to as the "Advisory Committee"). The Advisory Committee shall be composed of fifteen members appointed by the Secretary to serve for terms of two years. Any member of the Advisory Committee may serve after the expiration of his term until a successor is appointed. Any member of the Advisory Committee may be appointed to serve more than one term. The Secretary or his designee shall serve as Chairman.

(b) MANAGEMENT AND DEVELOPMENT ISSUES.—The Secretary, or his designee, shall meet on a regular basis and consult with the Advisory Committee on matters relating to development of a management plan for the recreation area and on implementation of such plan.

(c) EXPENSES.—Members of the Advisory Committee shall serve without compensation as such, but the Secretary may pay expenses reasonably incurred in carrying out their responsibilities under this Act on vouchers signed by the Chairman.

(d) MEMBERSHIP.—The Secretary shall appoint members to the Advisory Committee as follows:

(1) one member to represent other departments or agencies of the United States administering lands affected by the recreation area, to be appointed from among persons nominated by the head of such department or agency;

(2) two members to represent the State Department of Natural Resources, to be appointed from among persons nominated by the Governor of the State of West Virginia;

(3) one member to represent the State Department of Commerce to be appointed from among persons nominated by the Governor of West Virginia;

(4) three members to represent the commercial whitewater rafting industry in West Virginia;

(5) one member to represent noncommercial whitewater boating organizations;

(6) one member to represent conservation organizations in West Virginia;

(7) one member to represent individuals engaged in game fishing in West Virginia;

(8) one member to represent the Nicholas County Chamber of Commerce;

(9) one member to represent the Fayette County Chamber of Commerce;

(10) one member to represent recreational users of Summersville Lake; and

(11) two members to represent local citizens or citizens groups which are concerned with the Gauley River or own lands included within the boundaries of the recreation area.

(e) TERMINATION; CHARTER.—The Advisory Committee shall terminate on the date ten years after the enactment of this Act notwithstanding the Federal Advisory Committee Act (Act of October 6, 1972; 86 Stat. 776). The provisions of section 14(b) of such Act (relating to the charter of the Committee) are hereby waived with respect to this Advisory Committee.

TITLE III—MEADOW NATIONAL WILD AND SCENIC RIVER

SEC. 301. DESIGNATION OF LOWER MEADOW RIVER.

Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) is amended by adding the following new paragraph at the end:

"( ) MEADOW, WEST VIRGINIA.—The segment from approximately one mile above the Route 19 Bridge to its confluence with the Gauley River approximately 4.5 miles downstream from the bridge, as depicted on the boundary map entitled 'Meadow Wild and Scenic River', numbered WSR-MEA/20,000A and dated July 1988; to be administered by the Secretary of the Interior. The Secretary shall not be required to establish detailed boundaries of the river as provided under subsection (b) of this section. The acreage limitations specified in subsection (a) of section 6 shall not apply. Nothing in this Act shall affect the management by the State of hunting, trapping, and fishing within the segment designated under this paragraph.".

TITLE IV—BLUESTONE NATIONAL SCENIC RIVER

SEC. 401. DESIGNATION OF LOWER BLUESTONE RIVER.

Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) is amended by adding the following new paragraph at the end:

"( ) BLUESTONE, WEST VIRGINIA.—The segment in Mercer and Summers Counties, West Virginia, from a point approximately two miles upstream of the Summers and Mercer County line down to the maximum summer pool elevation (one thousand four hundred and ten feet above mean sea level) of Bluestone Lake as depicted on the boundary map entitled 'Bluestone Wild and Scenic River', numbered WSR-BLU/20,000, and dated January 1987; to be administered by the Secretary of the Interior as a scenic river. In carrying out the requirements of subsection (b) of this section, the Secretary shall consult with State and local governments and the interested public. The Secretary shall not be required to establish detailed boundaries of the river as provided under subsection (b) of this section. Nothing in this Act shall preclude the improvement of any existing road or right-of-way within the boundaries of the segment designated under this paragraph. Jurisdiction over all lands and improvements on such lands owned by the United States within the boundaries of the segment designated under this paragraph is hereby transferred without reimbursement to the administrative jurisdiction of the Secretary of the Interior, subject to leases in effect on the date of enactment of this paragraph (or renewed thereafter) between the United States and the State of West Virginia with respect to the Bluestone State Park and the Bluestone Public Hunting and Fishing Area. Nothing in this Act shall affect the management by the State of hunting, trapping and fishing within the segment designated under this paragraph. Nothing in this Act shall affect or impair the management by the State of West Virginia of other wildlife activities in the Bluestone Public Hunting and Fishing Area to the extent permitted in the lease agreement as in effect on the enactment of this paragraph. If requested to do so by the State of West Virginia, the Secretary may terminate such leases and assume administrative authority over the areas concerned. Nothing in the designation of the segment referred to in this paragraph shall affect or impair the management of the Bluestone project or the authority of any department, agency, or instrumentality of the United States to carry out the project purposes of that project as of the date of enactment of this paragraph. Nothing in this Act shall be construed to affect the continuation of studies relating to such project which were commenced before the enactment of this paragraph.".

TITLE V—GENERAL PROVISIONS

SEC. 501. COORDINATION AMONG RECREATIONAL RESOURCES.

Subject to existing authority, the Secretary of the Interior shall cooperate with, and assist, any regional authority comprised of representatives of West Virginia State authorities and local government authorities in or any combination of the foregoing: Nicholas, Fayette, Raleigh, Summers, Greenbrier, and Mercer Counties, West Virginia, for the purposes of providing for coordinated development and promotion of recreation resources of regional or national significance which are located in southern West Virginia and management by State or Federal agencies, including State, local and National Park System units, State and National Forest System units, and historic sites.

SEC. 502. SPECIAL PROVISIONS.

Subject to his responsibilities to protect the natural resources of the National Park System, the Secretary of the Interior shall enter into a cooperative agreement with the State of West Virginia providing for the State's regulation, in accordance with State law, of persons providing commercial recreational watercraft services on units of the National Park System and components of the National Wild and Scenic Rivers System subject to this Act.

SEC. 503. PUBLIC AWARENESS PROGRAM.

The Secretary of the Interior shall establish a public awareness program to be carried out in Mercer, Nicholas, and Greenbrier Counties, West Virginia, in cooperation with State and local agencies, landowners, and other concerned organizations. The program shall be designed to further public understanding of the effects of designation as components of the National Wild and Scenic Rivers System of segments of the Bluestone and Meadow Rivers which were found eligible in the studies completed by the National Park Service in August 1983 but which were not designated by this Act as units of such system. By December 31, 1992, the Secretary shall submit a report to the Committee on Interior and Insular Affairs of the United States House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate describing the program undertaken pursuant to this section. Section 7(b) of the Wild and Scenic Rivers Act shall continue to apply to the segments subject to this section until December 31, 1992.

SEC. 504. CONSOLIDATED MANAGEMENT.

In order to achieve the maximum economy and efficiency of operations in the administration of the National Park System units established or expanded pursuant to this Act, the Secretary shall consolidate offices and personnel administering all such units to the extent practicable and shall utilize the existing facilities of the New River Gorge National River to the extent practicable.

SEC. 505. NEW SPENDING AUTHORITY SUBJECT TO APPROPRIATIONS.

Any new spending authority which is provided under this Act shall be effective for any fiscal year only to the extent or in such amounts as provided in appropriation Acts.

TITLE VI—TECHNICAL CHANGE TO WILD AND SCENIC RIVERS ACT

SEC. 601. ACREAGE LIMITATIONS.

Notwithstanding the provisions of section 501(b)(1)(B) of Public Law 99-590, section 3(b) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(b)) is amended to read as follows:

"(b) The agency charged with the administration of each component of the national wild and scenic rivers system designated by subsection (a) of this section shall, within one year from the date of designation of such component under subsection (a) (except where a different date if provided in subsection (a)), establish detailed boundaries therefor (which boundaries shall include an average of not more than 320 acres of land per mile measured from the ordinary high water mark on both sides of the river); and determine which of the classes outlined in section 2, subsection (b), of this Act best fit the river or its various segments.

"Notice of the availability of the boundaries and classification, and of subsequent boundary amendments shall be published in the Federal Register and shall not become effective until ninety days after they have been forwarded to the President of the Senate and the Speaker of the House of Representatives.".

Mr. ROCKEFELLER. Mr. President, I rise today in support of H.R. 900, a bill to protect and enhance the natural, scenic, cultural, and recreation values of specific segments of the

Gauley, Meadow, and Bluestone Rivers. I believe this bill is in the interest of the Nation and my own State. This bill has widespread support among the people living in the region. Passage of H.R. 900 will bring about significant economic, recreational, and environmental benefits, and these are the reasons I am so enthusiastic about this bill.

To give you some background, in 1978 when the New River was designated as a National River through legislative action, a study was authorized to look at the tributaries of this beautiful and special river. These legislatively mandated studies performed by the National Park Service determined the Bluestone, Gauley, and Meadow to be outstanding rivers in terms of their scenic, natural recreational, and cultural attributes.

As a result of these studies and the strong support voiced by local citizens of this region, I introduced the legislation which you are considering today, which would establish a portion of the Gauley River as a national recreation area and designate the lower portions of the Meadow and the Bluestone as the State's first wild and scenic rivers. This bill will also allow for much needed boundary modifications in the New River Gorge National River.

Protection of these river segments in their free-flowing natural state will preserve these rivers for enjoyment by our citizenry now and in the future. Federal designation of these rivers will enhance the economic development of the region through the expanded opportunities for tourism and recreation that will result. Each year 700,000 tourists visit the New River Gorge National River. My bill will heighten awareness even more—nationally and internationally—of the enormous recreational opportunities available on these rivers. This designation will provide more publicity to this region than we could ever possibly buy. As a State still struggling to overcome difficult economic problems, West Virginia needs the boost that would be provided by this legislation.

The potential of this legislation is also helped greatly by recent steps that have been taken or completed to improve the road system in the area. The recently funded New River Parkway, and the just completed turnpike and Interstate 64, will enable tourists to visit these areas on modern, safe, and convenient highways.

Through H.R. 900, the Gauley River National Recreation Area will cover a 24.5 mile segment from Summersville to Swiss in Nichols County. This area provides one of the most spectacular whitewater experiences in the country with its boulder strewn rapids, high ledges, narrow chutes, and tortuous channels. I recommend it highly to any of you who enjoy the outdoors. In 1986, whitewater recreation on the Gauley alone pumped over $16 million into the local economy.

The Meadow River from the Route 19 bridge to Carnifex Ferry where it joins with the Gauley is in a wild and primitive condition. It is an even more demanding—and some would say breathtaking—challenge for whitewater rafting than the Gauley due to its narrow channel and steep gradient.

One of the most pristine rivers in the United States is the Bluestone. Well known for its beauty and magnificent gorge, the Bluestone offers opportunities for fishing, camping, rafting, and canoeing.

Mr. President, without a doubt, the rivers that I have proposed for Federal designation are worthy of inclusion in the system of Wild and Scenic Rivers. Enactment of this legislation will complement the existing New River Gorge National River, greatly enhance the economic development of southern West Virginia through tourism, and help to ensure that the scenic beauty and natural resources of this area are given the care and protection that they so deserve.

My views both echo and reflect the views of the people who reside and work in this region of West Virginia. I am pleased about this consensus, which I hope will underscore the importance of this legislation to this body.

Again, I am grateful for your consideration of H.R. 900 and I urge passage of this legislation.

The PRESIDING OFFICER. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute.

The committee amendment was agreed to.

The question is on the engrossment of the committee amendment and third reading of the bill.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read a third time, the question is, Shall the bill pass?

So the bill (H.R. 900), as amended, was passed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill passed.

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

The motion to lay on the table was agreed to.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The minority leader is recognized.

Mr. DOLE. Mr. President, I have had a discussion with the distinguished Senator from Montana, Mr. BAUCUS, if we could add Senator SIMPSON as a cosponsor, and he also does not have any objection to Senators SYMMS and MCCLURE being added. I ask unanimous consent that Senators SIMPSON, SYMMS, and MCCLURE be added as cosponsors.

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

DEATH OF PRESIDENT MOHAMMED ZIA UL-HAQ

Mr. BYRD. Mr. President, I send to the desk a Senate resolution on behalf of Mr. DOLE, Mr. STENNIS, Mr. HELMS, Mr. BOREN, Mr. HEFLIN, Mr. HUMPHREY, Mr. JOHNSTON, Mr. HECHT, Mr. SHELBY, Mr. SYMMS, Mr. MCCLURE, Mr. NICKLES, Mr. BOND, and myself. I ask unanimous consent that tomorrow, upon the disposition of the textile bill, the Senate proceed without further debate to vote on the resolution.

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

Mr. HELMS. Mr. President, during the August recess I was deeply saddened by the news of the tragic death of President Mohammed Zia ul-Haq of Pakistan. President Zia was a brave man who stood up to the Soviet Union in Afghanistan.

When the Soviet brutally and illegally invaded the sovereign country of Afghanistan in 1979, President Zia understood that this was a first step toward Soviet hegemony over the whole region.

Courageously, President Zia came forward and aided the Afghan freedom fighters in their struggle to rid their country of the Communist occupation. He allowed the freedom fighters to use Pakistan as a staging area for their attacks on Soviet-backed troops. And he sheltered more than 4 million Afghan refugees who had fled the horror of the Soviet occupation.

The sheltering of these refugees was an especially risky undertaking. The area in Pakistan, where most of the refugees settled, was already heavily populated, and they were unpopular with the local residents. But President Zia took in these refugees anyway, knowing full well that if the Soviet Union were to gain total control of Afghanistan, then Pakistan would probably be next on the Kremlin's menu.

I should hope that all of those involved, especially the Soviet Union, recognize that neither the resolve of the United States toward the Afghan people, nor our commitment to the stability of that region, has wavered. We all should take a minute to reflect upon what South West Asia would look like at this moment had President Zia not given his support to the Afghan Resistance.

Mr. President, the people of Pakistan have lost a leader who fought tenaciously for the sovereign rights of his people. The United States and the Afghan resistance have lost a trusted friend and a loyal ally.

Mr. President, I was pleased to work with the majority leader and the Republican leader in putting this resolution together, along with the other sponsors; Senators BOREN, HEFLIN, HUMPHREY, JOHNSTON, HECHT, SHELBY, MCCLURE, SYMMS, NICKLES, and BOND.

This resolution expresses the deep regret of the Senate over the death of President Zia. In addition, it welcomes the commitment of the Government of Pakistan to follow the constitutional process, to proceed with free and fair elections and to continue Pakistan's support for the Afghan refugees and the resistance.

President Zia was a valued friend of the United States. He took grave risks to promote our interest in bringing about a free Afghanistan. He was a figure of heroic proportions who will long be remembered as a builder of Pakistan.

EXTENSION OF MORNING BUSINESS AND RECESS UNTIL TOMORROW AT 9:30 A.M.

Mr. BYRD. Mr. President, I ask unanimous consent that morning business may be extended for 10 minutes and that the distinguished Senator from New Hampshire be permitted to speak therein, and upon the conclusion of his speech at or before 7:20 the Senate stand in recess under the order.

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

The Senator from New Hampshire is recognized.

Mr. HUMPHREY. I thank the leadership for an extension of time in morning business.

DEATH OF AMBASSADOR ARNOLD RAPHEL AND BRIG. GEN. HERBERT MARION WASSOM

Mr. HUMPHREY. Mr. President, the sudden and untimely deaths of the United States Ambassador to Pakistan, Arnold Raphel, and the Chief United States Defense Representative to Pakistan, Brig. Gen. Herbert Wassom, are a tragedy for the United States Foreign Service, the United States Army, and the American people. Of course, it is a deep personal tragedy for their families.

It is appropriate that in this first week returning after the recess, during which the tragic accident occurred which took the lives of these fine public servants, the Senate take the time to honor them and to express its deep sympathy to their respective families.

I never met General Wassom, but I had met many times with Ambassador Raphel. I always found him to be considerate and gentlemanly, and, of course, his knowledge of Southwest Asia is internationally known. I did not always agree with Ambassador Raphel. That is likewise known. In fact, we frequently disagreed on issues concerning the war in Afghanistan. But despite our differences we worked closely on many important initiatives over the past year: naming a political officer to cover Afghanistan full time, appointing a scholar-in-residence on Afghanistan, naming a full-time Voice of America reporter in Peshawar, establishing a USIA country plan for Afghanistan, and establishng a USIA presence in Quetta, among other things.

Ambassador Raphel's career in the U.S. Foreign Service spanned more than two decades during which he became known as one of the most capable diplomats in our Foreign Service Corps. He was considered a "rising star." At age 45 he was without question one of our youngest Ambassadors ever to serve in such an important post. General Wassom, and Ambassador Raphel's tours in Islamabad served very greatly to strengthen the important bounds of friendship between the Governments of Pakistan and the United States.

I commend the leaderships of the Senate for bringing this resolution to the Senate floor for early consideration. We hope that will offer some little consolation to the families and that it will yet be a further source of pride for them.

Mr. President, I thank the Chair.

UNANIMOUS-CONSENT AGREEMENT—S. 2662

Mr. BYRD. Mr. President, the following request has been cleared with Mr. HOLLINGS, the manager on this side. The distinguished Republican leader is on the floor.

I ask unanimous consent that when the Senate completes its business today, it stand in recess until tomorrow morning at 9:30 a.m. that following the two leaders under the standing order, there be a period for morning business, not to extend beyond the hour 10 a.m.; that at the hour of 10 a.m. the Senate resume consideration of the pending measure, the textile bill; that there be only 2 hours remaining on that bill, to be equally divided between and controlled by Mr. PACKWOOD and Mr. HOLLINGS or their designees; that a vote occur on final passage of the textile bill at the hour of noon; that only in the event there is a pending amendment at the hour of noon, would that vote on final passage at the hour of noon slip a little bit—in other words, the only vote, under the order, that could occur at the hour of noon other than a vote on final passage would be a vote on a then pending amendment; that there be no motion to recommit, with or without instructions; that paragraph 4 of rule XII be waived; that upon the passage of the bill, no time be in order on a motion to reconsider and no entry of a motion to reconsider be in order.

The PRESIDING OFFICER. Is there objection?

Mr. PACKWOOD. Do I correctly understand that that would be the final action on this matter, the textile matter, tomorrow?

You might have some other business tomorrow, but that would be the final action on this bill?

Mr. BYRD. That would be the final action on this bill, but I would move to go to the House bill. I cannot say that once we pass this bill, we would go home and do nothing else, nor can I say we would not try to go to the House bill. I would move to go to the House bill, and that would be debatable. If Senators wish to debate that motion over the weekend, I would simply offer a motion to invoke cloture, and we could go to some other bill, and then the cloture motion would ripen on Tuesday. But I would not entertain any thought of going late tomorrow on the motion to proceed.

Once the motion to proceed is made, if there is a disposition—and it is a clear disposition—to filibuster that motion, the motion to invoke cloture would be offered, and it might be that I would try to take up something else tomorrow. Of course, I would discuss that with the distinguished Republican leader.

Mr. PACKWOOD. That is fine.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request? The Chair hears none, and it is so ordered.

PROGRAM

Mr. BYRD. Mr. President, I ask unanimous consent then at 9:30, after the two leaders have been recognized, there be a period for morning business to extend to the hour of 10 o'clock, that Senators may be permitted to speak during that time for morning business for not to exceed 5 minutes each, that at the hour of 10 o'clock, as under the order previously entered, the Senate resume consideration of the textile bill, that there be 2 hours of debate to be equally divided between Mr. HOLLINGS and Mr. PACKWOOD, and that the remainder of the previous order fall into place as previously ordered.

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

RECESS UNTIL TOMORROW AT 9:30 A.M.

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 9:30 a.m. tomorrow morning.

Thereupon, the Senate, at 7:12 p.m., recessed until Friday, September 9, 1988, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate September 8, 1988:

DEPARTMENT OF STATE

JOHN RANDOLPH HUBBARD, OF CALIFORNIA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO INDIA.

UNITED NATIONS

THE FOLLOWING-NAMED PERSONS TO BE REPRESENTATIVES AND AN ALTERNATE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE FORTY-THIRD SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS:

REPRESENTATIVES:

RUDY BOSCHWITZ, UNITED STATES SENATOR FROM THE STATE OF MINNESOTA.

CHRISTOPHER J. DODD, UNITED STATES SENATOR FROM THE STATE OF CONNECTICUT.

ALTERNATE REPRESENTATIVE:

ARTHUR SCHNEIER, OF NEW YORK.

INTERNATIONAL BANKS

NICHOLAS F. BRADY, OF NEW JERSEY, TO BE UNITED STATES GOVERNOR OF THE INTERNATIONAL MONETARY FUND FOR A TERM OF FIVE YEARS; UNITED STATES GOVERNOR OF THE INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT FOR A TERM OF FIVE YEARS; UNITED STATES GOVERNOR OF THE INTER-AMERICAN DEVELOPMENT BANK FOR A TERM OF FIVE YEARS; UNITED STATES GOVERNOR OF THE AFRICAN DEVELOPMENT BANK FOR A TERM OF FIVE YEARS; UNITED STATES GOVERNOR OF THE ASIAN DEVELOPMENT BANK; AND UNITED STATES GOVERNOR OF THE AFRICAN DEVELOPMENT FUND.

INTER-AMERICAN FOUNDATION

THE FOLLOWING-NAMED PERSONS TO BE MEMBERS OF THE BOARD OF DIRECTORS OF THE INTER-AMERICAN FOUNDATION FOR THE TERMS INDICATED:

FOR A TERM EXPIRING OCTOBER 6, 1992:

JOHN C. DUNCAN, OF NEW YORK, VICE LUIS GUERRERO NOGALES, TERM EXPIRED.

FOR A TERM EXPIRING SEPTEMBER 20, 1994:

RICHARD THOMAS MCCORMACK, OF PENNSYLVANIA. (REAPPOINTMENT.)

PEACE CORPS NATIONAL ADVISORY COUNCIL

GARY DALE ROBINSON, OF WASHINGTON, TO BE A MEMBER OF THE PEACE CORPS NATIONAL ADVISORY COUNCIL FOR A TERM OF ONE YEAR EXPIRING OCTOBER 6, 1988. (NEW POSITION.)

GARY DALE ROBINSON, OF WASHINGTON, TO BE A MEMBER OF THE PEACE CORPS NATIONAL ADVISORY COUNCIL FOR A TERM OF TWO YEARS EXPIRING OCTOBER 6, 1990. (REAPPOINTMENT.)

DEPARTMENT OF DEFENSE

KAREN R. KEESLING, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF THE AIR FORCE, VICE TIDAL W. MCCOY, RESIGNED.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

MARY T. GOEDDE, OF OHIO, TO BE AN ASSISTANT SECRETARY OF HEALTH AND HUMAN SERVICES, VICE RONALD F. DOCKSAI, RESIGNED.

DEPARTMENT OF THE INTERIOR

JANET J. MCCOY, OF OREGON, TO BE AN ASSISTANT SECRETARY OF THE INTERIOR, VICE RICHARD THOMAS MONTOYA, RESIGNED.

MERIT SYSTEMS PROTECTION BOARD

SAMUEL W. BOGLEY, OF MARYLAND, TO BE A MEMBER OF THE MERIT SYSTEM PROTECTION BOARD FOR THE TERM OF SEVEN YEARS EXPIRING MARCH 1, 1995, VICE DENNIS M. DEVANEY, RESIGNED.

NATIONAL INSTITUTE OF BUILDING SCIENCES

DIANNE E. INGELS, OF COLORADO, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE NATIONAL INSTITUTE OF BUILDING SCIENCES FOR A TERM EXPIRING SEPTEMBER 7, 1991. (REAPPOINTMENT.)

INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT

KENNETH BLANKENSHIP, OF NORTH CAROLINA, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT FOR A TERM OF YEARS PRESCRIBED BY PUBLIC LAW 99-498 OF OCTOBER 17, 1986. (NEW POSITION.)

IN THE AIR FORCE

THE FOLLOWING AIR NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR PROMOTION IN THE RESERVE OF THE AIR FORCE UNDER THE PROVISIONS OF SECTIONS 593 AND 8379, TITLE 10 OF THE UNITED STATES CODE. PROMOTIONS MADE UNDER SECTION 8379 AND CONFIRMED BY THE SENATE UNDER SECTION 593 SHALL BEAR AN EFFECTIVE DATE ESTABLISHED IN ACCORDANCE WITH SECTION 8374, TITLE 10 OF THE UNITED STATES CODE. (EFFECTIVE DATE FOLLOWS SERIAL NUMBER.)

LINE OF THE AIR FORCE

To be lieutenant colonel

MAJOR JACK S. ARNOLD, xxx-xx-xxxx 6/8/88
MAJOR DONALD I. BASH, xxx-xx-xxxx 5/18/88
MAJOR RICHARD R. CAWLEY, xxx-xx-xxxx 5/14/88
MAJOR WILLIAM B. MOORE, xxx-xx-xxxx 5/5/88
MAJOR GLENN B. PUSEY, JR., xxx-xx-xxxx 6/8/88
MAJOR GEORGE S. RALSTON, xxx-xx-xxxx 4/17/88
MAJOR RICHARD L. RAYBURN, xxx-xx-xxxx 5/22/88
MAJOR TIMONTHY C. RYAN, xxx-xx-xxxx 4/21/88
MAJOR JAMES A. SCHMELTZER, xxx-xx-xxxx 2/27/88
MAJOR VINCENT J. SHIBAN, xxx-xx-xxxx 5/27/88
MAJOR JAMES T. WILLIAMS, xxx-xx-xxxx 5/25/88
MAJOR JAMES F. WILSON, xxx-xx-xxxx 5/27/88
MAJOR STEWART A. ZUBER, xxx-xx-xxxx 6/5/88

MEDICAL CORPS

MAJOR JAMES O. BROWN II, xxx-xx-xxxx 6/4/88
MAJOR KEITH W. RUSSELL, xxx-xx-xxxx 3/30/88

NURSE CORPS

MAJOR PATRICIA S. SANCHEZ, xxx-xx-xxxx 5/23/88

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICERS FOR PERMANENT PROMOTION IN THE UNITED STATES AIR FORCE, UNDER THE PROVISIONS OF SECTION 628, TITLE 10, UNITED STATES CODE, AS AMENDED, WITH DATES OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE.

NURSE CORPS

To be major

LINDA R BESON, xxx-xx-xxxx

BIOMEDICAL SCIENCES CORPS

BRUCE W. EBERT, xxx-xx-xxxx

IN THE MARINE CORPS

THE FOLLOWING NAMED NAVAL RESERVE OFFICERS TRAINING CORPS GRADUATES FOR PERMANENT APPOINTMENT TO THE GRADE OF SECOND LIEUTENANT IN THE U.S. MARINE CORPS, PURSUANT TO TITLE 10, U.S. CODE, SECTION 2107:

CARL T AMODIO, xx...
ETHAN W ANDREWS, xx...
SALINA M BARLOW, xx...
BRIAN J BLYTHE, xx...
THOMAS S BOWERS, xx...
LISA M BOTUCHIS, xx...
ANTHONY W BROOKS, xx...
TIMONTHY K BUCKLEY, xx...
DAVID C CAMPBELL, xx...
STEPHANIE J CURLING, xx...
CHRISTOPHER P CYRUS, xx...
CHRISTIPHER J DANIELS, xx...
ROBERT W EAVES, III, xx...
PAUL L EDWARD, xx...
SEAN M FALK, xx...
MICHAEL G FERGUSON, xx...
STEPHEN P FORTE, xx...
JOHN B HAMILTON, xx...
NEAL A HEIMER, xx...
DAVID P HERONEMUS, xx...
ANDREW J KOSTIC, JR, xx...
CRAIG S KOZENIESKY, xx...
ALEXANDER R LOZANO, xx...
SAMUEL T MACRANE, III, xx...
SAMUEL A MAGLIANO, xx...
ANNE M MARTIN, xx...
TIMOTHY D MCLEAN, xx...
AUSTIN MILLER, xx...
SCOTT C NEWTON, xx...
JOHN A OMELAN, xx...
ABRAHAM ORTIZ, xx...
DONALD A PETTIES, xx...
WILLARD W REVELS, xx...
DAVID J ROBNETT, xx...
SHANE L ROSSOW, xx...
PAUL E SCHMDIT, xx...
JANICE D SWEETSER, xx...
KEVIN K TAKABAYASHI, xx...
LANDRY L VEAL, xx...
DANIEL S WISNIEWSKI, xx...
EDMUND P ZAIDE, JR, xx...

THE FOLLOWING NAMED MARINE CORPS ENLISTED COMMISSIONING EDUCATION PROGRAM GRADUATES FOR PERMANENT APPOINTMENT TO THE GRADE OF SECOND LIEUTENANT IN THE U.S. MARINE CORPS, PURSUANT TO TITLE 10, U.S. CODE SECTION 531:

PETER J DEVINE, xx...
JOHN P FLAVIN, xx...
JONATHAN O GACKLE, xx...
DANIEL G KREILEY, xx...
MICHAEL P ROACH, xx...

THE FOLLOWING NAMED U.S. NAVAL ACADEMY GRADUATE FOR PERMANENT APPOINTMENT TO THE GRADE OF SECOND LIEUTENANT IN THE U.S. MARINE CORPS, PURSUANT TO TITLE 10, U.S. CODE, SECTION 531:

CLARKE M WOODSIN, xx...

IN THE NAVY

THE FOLLOWING NAMED AIR FORCE CADETS TO BE PERMANENT ENSIGN IN THE LINE OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

ALBERT M. PASSY DAVID M. SMITH

IN THE AIR FORCE

THE FOLLOWING OFFICERS FOR APPOINTMENT IN THE REGULAR AIR FORCE UNDER THE PROVISIONS OF SECTION 531, TITLE 10, UNITED STATES CODE, WITH GRADE AND DATE OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE PROVIDED THAT IN NO CASE SHALL THE OFFICER BE APPOINTED IN A GRADE HIGHER THAN CAPTAIN.

LINE OF THE AIR FORCE

LEX A. ABADIE, xxx-xx-xxxx
FREDERICK H. ABBOTT, III, xxx-xx-xxxx
VALENTINA M. ABORDONADO, xxx-xx-xxxx
EMIL E. ABRAHAM, xxx-xx-xxxx
JOHN T. ACKERMAN, xxx-xx-xxxx
BRYAN E. ADAMS, xxx-xx-xxxx
JAMES L. ADAMS, JR, xxx-xx-xxxx
THOMAS A. ADAMS, xxx-xx-xxxx
MERRILL E. ADKISON, xxx-xx-xxxx
SIMON A. ADMORE, xxx-xx-xxxx
KEITH K. AGENA, xxx-xx-xxxx
NEIL W. AGNEW, xxx-xx-xxxx
MARK E. AIKEN, xxx-xx-xxxx
KERIM A. AKEL, xxx-xx-xxxx
GARY L. AKINS, xxx-xx-xxxx
STEPHEN L. ALLEN, xxx-xx-xxxx
ALEXANDER A. ALLER, xxx-xx-xxxx
SUSAN M. ALTMEYER, xxx-xx-xxxx
STEPHEN P. AMISANO, xxx-xx-xxxx
TRACY A. AMOS, xxx-xx-xxxx
CHRISTOPHER P. ANDERSON, xxx-xx-xxxx
DAVID J. ANDERSON, xxx-xx-xxxx
DOLORES M. ANDERSON, xxx-xx-xxxx
DON L. ANDERSON, xxx-xx-xxxx
DOUGLAS P. ANDERSON, xxx-xx-xxxx
LYNDON S. ANDERSON, xxx-xx-xxxx
MARK D. ANDERSON, xxx-xx-xxxx
MICHAEL G. ANDERSON, xxx-xx-xxxx
PETER ANTARAMIAN, xxx-xx-xxxx
JOHANN J. ANTLFINGER, xxx-xx-xxxx
DUANE L. APLING, xxx-xx-xxxx
RITA K. ARCHER, xxx-xx-xxxx
DANA C. ARNOLD, xxx-xx-xxxx
DAVID C. ARTHUR, xxx-xx-xxxx
TERESA ARTIS, xxx-xx-xxxx
PAULA M. ASHBY, xxx-xx-xxxx
CHRISTOPHER E. ASHE, xxx-xx-xxxx
WILLIAM R. ASHLOCK, xxx-xx-xxxx
ALFRED B. BACON, xxx-xx-xxxx
BERNARD BADAMI, xxx-xx-xxxx
BRENT G. BAILEY, xxx-xx-xxxx
RICHARD W. BAILEY, xxx-xx-xxxx
CHRISTOPHER S. BAKER, xxx-xx-xxxx
GLENN A. BAKER, xxx-xx-xxxx
HOWARD B. BAKER, xxx-xx-xxxx
SHAWN B. BAKER, xxx-xx-xxxx
VINCENT R. BAKKE, xxx-xx-xxxx
RICHARD B. BAMBERGER, xxx-xx-xxxx
MARK D. BANCZAK, xxx-xx-xxxx
JAMES M. BARON, xxx-xx-xxxx
DIANNE M. BARRETT, xxx-xx-xxxx
ANGELA B. BARTHOLOMEW, xxx-xx-xxxx
CHARLES J. BARTLETT, xxx-xx-xxxx
MATTHEW R. BARTLETT, xxx-xx-xxxx
KENNETH R. BARTON, xxx-xx-xxxx
ROBERT K. BARTON, xxx-xx-xxxx
ROBERT L. BASS, xxx-xx-xxxx
JOHN G. BATHERSON, xxx-xx-xxxx
JAMES C. BATTE, xxx-xx-xxxx
DENNIS G. BAXTER, xxx-xx-xxxx
MARILYN J. BAYLESS, xxx-xx-xxxx
ARTHUR J. BAYUK, xxx-xx-xxxx
RICHARD J. BEAN, xxx-xx-xxxx
EDWARD F. BECK, xxx-xx-xxxx
RANDALL A. BECK, xxx-xx-xxxx
CARL J. BECKWITH, xxx-xx-xxxx
KIMBERLY C. BELKA, xxx-xx-xxxx
WADE E. BELL, JR, xxx-xx-xxxx
PETER L. BELMONTE, xxx-xx-xxxx
SAMUEL BELOFF, xxx-xx-xxxx
MARK C. BENEDICT, xxx-xx-xxxx
GARY A. BENITZ, xxx-xx-xxxx
JOHN T. BENJAMIN, xxx-xx-xxxx
CRAIG A. BENSON, xxx-xx-xxxx
JOHN V. BERGMAN, xxx-xx-xxxx
RYAN J. BERGMAN, xxx-xx-xxxx
CRAIG A. BERLETTE, xxx-xx-xxxx
PATRICIA A. BERNHARDT, xxx-xx-xxxx
GREGORY D. BEST, xxx-xx-xxxx
MICHAEL R. BEST, xxx-xx-xxxx
CHARLES S. BIEVER, xxx-xx-xxxx
JEFFREY B. BIGELOW, xxx-xx-xxxx
DAVID G. BIGGAR, xxx-xx-xxxx
SCOTT G. BIRKLAND, xxx-xx-xxxx
JAMES R. BISHOP, JR, xxx-xx-xxxx
MARK G. BISHOP, xxx-xx-xxxx
JERRY O. BLACK, xxx-xx-xxxx
JOHN W. BLACK, xxx-xx-xxxx
NORMAN S. BLACK, xxx-xx-xxxx
DOUGLAS E. BLAUSER, xxx-xx-xxxx
LAWRENCE K. BLAVOS, xxx-xx-xxxx

MARK A. BLUME, xxx-xx-xxxx
PATRICK J. BOCK, xxx-xx-xxxx
JOSEPH BOLTERSDORF, xxx-xx-xxxx
CRAIG A. BOND, xxx-xx-xxxx
DARREN R. BOND, xxx-xx-xxxx
ALLEN N. BOOHER, xxx-xx-xxxx
WAYNE A. BORDEN, xxx-xx-xxxx
BENJAMIN P. BOTT, xxx-xx-xxxx
MICHAEL C. BOUDOURIS, xxx-xx-xxxx
CLAUDIE E. BOWEN, xxx-xx-xxxx
TODD A. BOYD, xxx-xx-xxxx
VICKI M. BOYD, xxx-xx-xxxx
MICHAEL A. BOYNTON, xxx-xx-xxxx
DAVID A. BRADLEY, xxx-xx-xxxx
MICHAEL D. BRAMHALL, xxx-xx-xx...
JAMES A. BRANCH, xxx-xx-xxxx
AMY JANE BRANDON, xxx-xx-xxxx
SCOTT B. BRAUNER, xxx-xx-xxxx
KEVIN P. BREEN, xxx-xx-xxxx
JOAN CATHERINE BREMER, xxx-xx-xxxx
DOUGLAS A. BRENNAN, xxx-xx-xxxx
GARY D. BREWINGTON, xxx-xx-xxxx
RICHARD W. BRIGGS, xxx-xx-xxxx
EDWARD E. BRIMNER, xxx-xx-xxxx
FREDERICK M. BRINGHURST, xxx-xx-xxxx
JEFFRY M. BRINGSLID, xxx-xx-xxxx
PETER A. BRINKMAN, xxx-xx-xxxx
RODNEY K. BRITTENHAM, xxx-xx-xxxx
BRAD T. BROEMMEL, xxx-xx-xxxx
CHERYL P. BROOKS, xxx-xx-xxxx
BARRETT P. BROUSSARD, xxx-xx-xxxx
DAVID W. BROWN, xxx-xx-xxxx
DWIGHT F. BROWN, xxx-xx-xxxx
GARY W. BROWN, xxx-xx-xxxx
MARY G. BROWN, xxx-xx-xxxx
MATTHEW W. BROWN, xxx-xx-xxxx
MICHAEL A. BROWN, xxx-xx-xxxx
DAVID E. H. BRUNEAU, xxx-xx-xxxx
JEFFREY A. BRUNING, xxx-xx-xxxx
STEVEN P. BRUNTS, xxx-xx-xxxx
JOSEPH R. BRYAN, xxx-xx-xxxx
GLENN W. BUCHFELLER, xxx-xx-xxxx
SUSAN M. BUCKMAN, xxx-xx-xxxx
DAVID T. BUECHE, xxx-xx-xxxx
DOUGLAS L. BULLOCK, xxx-xx-xxxx
DAVID P. BUNTIN, xxx-xx-xxxx
JAY D. BURDETT, xxx-xx-xxxx
STEVEN A. BURKE, xxx-xx-xxxx
KENT T. BURKHARDT, xxx-xx-xxxx
ALAN J. BURNS, xxx-xx-xxxx
DAVID W. BURNS, xxx-xx-xxxx
KRIS A. BURROWS, xxx-xx-xxxx
CRAIG S. BUSHEY, xxx-xx-xxxx
CHARLES T. BUTLER, xxx-xx-xxxx
ROBERT J. BUTLER, xxx-xx-xxxx
ANDREW L. BUTTS, xxx-xx-xxxx
BRADLEY G. BUTZ, xxx-xx-xxxx
STEVEN A. BYBEE, xxx-xx-xxxx
DAVID J. BYRD, xxx-xx-xxxx
THOMAS A. BYRGE, JR., xxx-xx-xxxx
THOMAS W. CACCAMO, xxx-xx-xx...
GREGORY M. CAIN, xxx-xx-xxxx
WILLIAM F. CAIN, JR., xxx-xx-xxxx
MICHELLE C. CALDERA, xxx-xx-xx...
JAMES R. CALKINS, xxx-xx-xxxx
KEVIN P. CALLAHAN, xxx-xx-xxxx
JUAN A. CAMACHO, JR., xxx-xx-xxxx
JON E. CAMERON, xxx-xx-xxxx
GAGE B. CAMP, xxx-xx-xxxx
DANIEL L. CANTERBURY, xxx-xx-xxxx
JAMES G. CAPASSO, xxx-xx-xxxx
ROBERT E. CAREY, JR., xxx-xx-xxxx
JAMES M. CARGILL, xxx-xx-xxxx
JEFFREY L. CARLSON, xxx-xx-xxxx
LARRY D. CAROTHERS, xxx-xx-xxxx
CHRISTINE M. CARPENTER, xxx-xx-xxxx
DOUGLAS A. CARPENTER, xxx-xx-xxxx
MICHAEL J. CARR, xxx-xx-xxxx
NATSU LENA CARR, xxx-xx-xxxx
KEITH B. CARRAGHAN, xxx-xx-xxxx
ROBERT J. CARROLL, JR., xxx-xx-xxxx
MARK A. CARTEAUX, xxx-xx-xx...
BRIAN B. CARTER, xxx-xx-xxxx
GREGORY S. CARTER, xxx-xx-xxxx
WALTER G. CARTER, xxx-xx-xxxx
RICKY W. CARVER, xxx-xx-xxxx
TERRY W. CARVER, xxx-xx-xxxx
CARLA J. CASCIO, xxx-xx-xx...
JAMES P. CASEY, xxx-xx-xxxx
JENNIFER L. CASSIDY, xxx-xx-xxxx
GERARD A. CASTELLI, xxx-xx-xxxx
DAVID A. CASTILLO, xxx-xx-xxxx
RICHARD M. CEGLARZ, xxx-xx-xxxx
WILLIAM A. CENTER, xxx-xx-xxxx
SPENCER R. CHAPMAN, xxx-xx-xxxx
STEVEN R. CHARBONNEAU, xxx-xx-xxxx
MARIE ANN B. CHIO, xxx-xx-xxxx
DARWIN J. CHIVERS, xxx-xx-xxxx
PAUL M. CHOUDEK, xxx-xx-xxxx
DALE R. CHRISTENSEN, xxx-xx-xxxx
STEVEN R. CHRISTY, xxx-xx-xxxx
IN Y. CHUNG, xxx-xx-xxxx
THOMAS J. CIFOLLA, xxx-xx-xxxx
ORLANDO L. CISNEROS, xxx-xx-xxxx
DOUGLAS L. CLARK, xxx-xx-xxxx
KENNETH W. CLARK, xxx-xx-xxxx
SHARON G. CLARK, xxx-xx-xxxx
THOMAS G. CLARK, xxx-xx-xxxx
ANDREW L. M. CLARKE, xxx-xx-xxxx
WILLIAM C. CLEMENT, xxx-xx-xx...
JOHN D. CLINE, xxx-xx-xxxx
KENNETH L. CLINE, xxx-xx-xxxx
ALAN J. CLOSSON, xxx-xx-xxxx
GARY L. COCHRAN, xxx-xx-xxxx
RYAN C. COCHRAN, xxx-xx-xxxx
BARBARA J. COHEN, xxx-xx-xxxx
KENT S. COKER, xxx-xx-xxxx
KEVIN J. COLE, xxx-xx-xxxx
THOMAS M. COLE, xxx-xx-xx...
RONALD A. COLEMAN, xxx-xx-xx...
GLEN K. COLLINS, xxx-xx-xxxx
JOSE E. COLON, xxx-xx-xxxx
DOUGLAS C. COMBS, xxx-xx-xxxx
CARLTON P. COMTE, JR., xxx-xx-xxxx
JEFFREY CONNERS, xxx-xx-xxxx
REGINA M. CONNOR, xxx-xx-xxxx
WILLIAM D. CONNORS, xxx-xx-xxxx
WILFRED B. CONSOL, xxx-xx-xxxx
DAVID R. CONTRERAS, xxx-xx-xxxx
JAMES L. COOK, xxx-xx-xxxx
DAVID B. COOMER, xxx-xx-xxxx
SCOTT J. COONAN, xxx-xx-xxxx
WALTER A. CORBY, JR, xxx-xx-xxxx
FRANK W. CORLEY, III, xxx-xx-xxxx
JAY A. COSSENTINE, xxx-xx-xxxx
WILLIAM J. COSTLOW, xxx-xx-xx...
JOHN A. COTE, xxx-xx-xxxx
SARAH E. COTRUPI, xxx-xx-xxxx
RICHARD M. COTT, xxx-xx-xxxx
JAMES D. COUCH, xxx-xx-xxxx
BARRY J. COUSLER, xxx-xx-xxxx
CHARLES D. COX, xxx-xx-xxxx
SAMUEL E. COX, xxx-xx-xxxx
DAVID S. CRAGO, xxx-xx-xxxx
STEVEN E. CREWS, xxx-xx-xxxx
DARYL L. CROCKER, xxx-xx-xxxx
MICHAEL A. CROSS, xxx-xx-xxxx
TIMOTHY D. CROUCH, xxx-xx-xxxx
GEORGE R. CROUSE, xxx-xx-xxxx
JAMIE A. CROWELL, xxx-xx-xx...
MICHAEL D. CRUMM, xxx-xx-xx...
THOMAS B. CUCCHI, xxx-xx-xxxx
ANN R. CUNNINGHAM, xxx-xx-xxxx
GREGORY D. CUNNINGHAM, xxx-xx-xxxx
THOMAS J. CURRIE, xxx-xx-xxxx
JOHN W. CURRY, xxx-xx-xxxx
CHESTER R. CURTIS, JR., xxx-xx-xxxx
ROBERT E. CURTIS, JR., xxx-xx-xxxx
SUSAN M. CUTLER, xxx-xx-xxxx
TAMMY L. DALE, xxx-xx-xx...
MARK L. DAMICO, xxx-xx-xxxx
COLLEEN A. DANSEREAU, xxx-xx-xxxx
THOMAS A. DARDIS, xxx-xx-xxxx
DOUGLAS E. DARLING, xxx-xx-xxxx
BERNARD P. DAVEY, xxx-xx-xxxx
DARRELL E. DAVIS, xxx-xx-xxxx
GREGORY G. DAVIS, xxx-xx-xxxx
JOHN D. DAVIS, JR, xxx-xx-xxxx
M. TODD DAVIS, xxx-xx-xxxx
MICHAEL E. DAVIS, xxx-xx-xxxx
MICHAEL L. DAVIS, xxx-xx-xxxx
SCOTT J. DAVIS, xxx-xx-xxxx
WESLEY C. DAVIS, xxx-xx-xxxx
DANN R. DAY, xxx-xx-xxxx
KATHYRN A. DAY, xxx-xx-xxxx
STEVEN A. DAY, xxx-xx-xxxx
CLARENCE J. DECKER, xxx-xx-xxxx
LYLE K. DECKER, xxx-xx-xxxx
DOUGLAS W. DEHART, xxx-xx-xxxx
WILLIAM J. DELANCEY, xxx-xx-xx...
FRANK DELEON, JR, xxx-xx-xxxx
HUGH C. DELONG, xxx-xx-xxxx
MARK S. DEMIANOVICH, xxx-xx-xxxx
MICHAEL H. DEMOULLY, xxx-xx-xx...
ROBERT H. DEMPSEY, II, xxx-xx-xxxx
MARK C. DENHAM, xxx-xx-xxxx
MERRILY B. DENTE, xxx-xx-xxxx
WILLIAM J. DEROUCHEY, xxx-xx-xxxx
GARY D. DESCHANE, xxx-xx-xxxx
JOSEPH E. DIANA, xxx-xx-xxxx
SCOTT P. DICKMAN, xxx-xx-xxxx
JENNIE E. DICKOVER, xxx-xx-xxxx
CHARLES J. DIERKES, xxx-xx-xxxx
MARK DIESER, xxx-xx-xxxx
DAVID J. DINTAMAN, xxx-xx-xxxx
GREGORY E. DITZLER, xxx-xx-xxxx
KRAIG F. DOBSON, xxx-xx-xxxx
CHERYL M. DODD, xxx-xx-xxxx
GREG R. DODSON, xxx-xx-xxxx
RICHARD K. DOERING, xxx-xx-xxxx
JOHN D. DOHERTY, xxx-xx-xxxx
ROBERT A. DOMINGUEZ, xxx-xx-xxxx
CHRISTINE M. DON, xxx-xx-xxxx
PATRICK J. DONAHUE, xxx-xx-xxxx
THOMAS J. DONALDS, xxx-xx-xxxx
MICHAEL K. DONALDSON, xxx-xx-xxxx
STEPHEN D. DONALDSON, xxx-xx-xxxx
DAVID L. DONLEY, JR, xxx-xx-xxxx
LUCILLE M. DORSETT, xxx-xx-xx...
LATESSA D. DOTSON, xxx-xx-xxxx
JOSEPH T. DOUGHERTY, xxx-xx-xxxx
JEFFREY M. DRAKE, xxx-xx-xxxx
DUANE R. DREON, xxx-xx-xxxx
JERRY A. DUBOSE, xxx-xx-xxxx
CHERYL A. DUCKETT, xxx-xx-xxxx
RALPH W. DUESTERHOEFT, xxx-xx-xxxx
VALENTINE J. DUGIE, xxx-xx-xxxx
BRIAN C. DUNN, xxx-xx-xxxx
CHARLES A. DUNN, II, xxx-xx-xxxx
ROBERT W. DUNN, xxx-xx-xxxx
RICHARD E. DYER, JR, xxx-xx-xxxx
PATRICK C. EASON, xxx-xx-xxxx
JAMES H. EASTLAND, III, xxx-xx-xxxx
RONALD B. EDDY, xxx-xx-xxxx
MICHAEL K. EDGAR, xxx-xx-xxxx
TROY EDGELL, xxx-xx-xxxx
COAWETTA D. EDWARDS, xxx-xx-xxxx
DAVID B. EDWARDS, xxx-xx-xxxx
JERRY L. EDWARDS, xxx-xx-xxxx
KEITH A. EDWARDS, xxx-xx-xxxx
KENNETH A. EDWARDS, xxx-xx-xxxx
LANA L. EDWARDS, xxx-xx-xxxx
MARTIN L. EDWARDS, xxx-xx-xxxx
COLIN F. EICHMANN, xxx-xx-xxxx
MARK A. ELGERT, xxx-xx-xxxx
ISSAM S. ELKHATIB, xxx-xx-xxxx
GERALD H. ELLIS, xxx-xx-xxxx
MARY K. ELLIS, xxx-xx-xxxx
PAUL J. ENGLAND, xxx-xx-xxxx
BRUCE A. ENSOR, xxx-xx-xxxx
JEFFRY R. EPLING, xxx-xx-xxxx
RODNEY D. ERICKSON, xxx-xx-xxxx
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EDWARD R. RAUDENBUSH, xxx-xx-xxxx
DAVID M. RAYMO, xxx-xx-xxxx
JAMES C. REAVIS, xxx-xx-xxxx
MICHELE E. REBOULET, xxx-xx-xxxx
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JAMES P. RIORDAN, xxx-xx-xxxx
KEVIN T. RIORDAN, xxx-xx-xxxx
PHILIP R. RITCHIE, JR, xxx-xx-xxxx
STEPHEN B. RITTER, xxx-xx-xxxx
JAMES C. RIX, xxx-xx-xxxx
TRACY D. ROBEL, xxx-xx-xxxx
TONCIE L. ROBERSON, xxx-xx-xxxx
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ERICA ROBERTSON, xxx-xx-xxxx
JONATHAN P. ROBINSON, xxx-xx-xxxx
PHILLIP L. ROBINSON, xxx-xx-xxxx
RICHARD M. ROBINSON, xxx-xx-xxxx
STEVEN ROCHA, xxx-xx-xxxx
SCOTT M. RODRIGUE, xxx-xx-xxxx
EVAN G. ROELOFS, xxx-xx-xxxx
CHARLES A. ROGERS, xxx-xx-xxxx
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DIANE M. ROMAN, xxx-xx-xxxx
DAVID W. ROMIG, xxx-xx-xxxx
GEORGE H. ROSS, III, xxx-xx-xxxx
JOHN L. ROSS, JR, xxx-xx-xxxx
JOSEPH J. ROSSACCI, xxx-xx-xxxx
KENNETH R. ROSSON, xxx-xx-xxxx
PETER H. ROTZAL, xxx-xx-xxxx
JAMES A. ROUSSEAU, xxx-xx-xxxx
AMY M. ROWE, xxx-xx-xxxx
JAMES L. ROWE, JR, xxx-xx-xxxx
WILLIAM R. RUCK, II, xxx-xx-xxxx
STANLEY RUFF, xxx-xx-xxxx
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RICHARD J. RUGGIERO, xxx-xx-xxxx
KIRK H. RUMSEY, xxx-xx-xxxx
MARK C. RUNYAN, xxx-xx-xxxx
MARVIN E. RUTH, xxx-xx-xxxx
JOHN A. RUTKOWSKI, xxx-xx-xxxx
KATHLEEN D. RYAN, xxx-xx-xxxx
MARK A. SAGER, xxx-xx-xxxx
LAURA L. SAKOS, xxx-xx-xxxx
LORI S. SALGADO, xxx-xx-xxxx
LISA JO SALLER, xxx-xx-xxxx
CHARLES W. SAMUEL, xxx-xx-xxxx
JONATHAN J. SANDERS, xxx-xx-xxxx
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STANLEY T. SANO, xxx-xx-xxxx
JOHN P. SANTACROCE, xxx-xx-xxxx
JOSEPH F. SANTORELLI, xxx-xx-xxxx
WALTER J. SARAFIN, xxx-xx-xxxx
ROBERT SARAGOSA, xxx-xx-xxxx
JOANN M. SARTOR, xxx-xx-xxxx
JOHN SCARBOROUGH, xxx-xx-xxxx
JOHN D. SCHAAF, JR, xxx-xx-xxxx
ERIC SCHELLENBERGER, xxx-xx-xxxx
APRIL J. SCHERER, xxx-xx-xxxx
THOMAS L. SCHIANO, xxx-xx-xxxx
PAUL E. SCHMIDT, xxx-xx-xxxx
GEORGE C. SCHMIELER, JR, xxx-xx-xxxx
GIGI R. SCHMIT, xxx-xx-xxxx
ERIC W. SCHNAIBLE, xxx-xx-xxxx
CRAIG W. SCHNEPF, xxx-xx-xxxx
MICHAEL E. SCHULTE, xxx-xx-xxxx
DEAN R. SCHULTZ, xxx-xx-xxxx
TIMOTHY A. SCHWALM, xxx-xx-xxxx
BARBARA D. SCOTT, xxx-xx-xxxx
CARL W. SCOTT, xxx-xx-xxxx
PATRICIA K. F. SEARCY, xxx-xx-xxxx
MARK A. SELLERS, xxx-xx-xxxx
EUGENE A. SENN, xxx-xx-xxxx
KENNETH A. SEPTARIC, xxx-xx-xxxx
FRANK D. SERRA, xxx-xx-xxxx
HOUSTON A. SEWELL, xxx-xx-xxxx
THOMAS M. SHARKEY, xxx-xx-xxxx
ROBERT S. SHAW, xxx-xx-xxxx
ALAN J. SHAWCROSS, xxx-xx-xxxx
RICHARD L. SHELLEY, xxx-xx-xxxx
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JIMMY SHEPPARD, JR, xxx-xx-xxxx
JOHN U. SHERWOOD, xxx-xx-xxxx
RICHARD P. SHIPMAN, xxx-xx-xxxx
TIMOTHY C. SHOCKLEY, xxx-xx-xxxx
JAMES R. SHOEMAKER, xxx-xx-xxxx
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MAUREEN E. SHOW, xxx-xx-xxxx
DENNIS W. SHUMAKER, xxx-xx-xxxx
RODNEY S. SIBILA, xxx-xx-xxxx
DANIEL W. SIETMAN, xxx-xx-xxxx
WILLIAM F. SIFFIN, xxx-xx-xxxx
PETER R. SILVERO, xxx-xx-xxxx
REGIS C. SIMILE, xxx-xx-xxxx
JESSE T. SIMMONS, JR, xxx-xx-xxxx
JOHN C. SIMMONS, xxx-xx-xxxx
WILLIAM C. SIMON, xxx-xx-xx...
THOMAS A. SIMPKINSON, xxx-xx-xxxx
ANDREW L. SIMPSON, xxx-xx-xxxx
DONALD B. SIMS, xxx-xx-xxxx
ETHEL E. SINGLETON, xxx-xx-xxxx
ROBERT W. SINGLETON, xxx-xx-xxxx
ROBERT E. SIPPEL, xxx-xx-xxxx
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KENNETH G. SIPPERLY, JR, xxx-xx-xxxx
HENRY SIROLA, xxx-xx-xxxx
ERIC M. SITRIN, xxx-xx-xxxx
DANIEL P. SKROBIALOWSKI, xxx-xx-xxxx
MICHAEL J. SLAVEN, xxx-xx-xx...
WILLIAM E. SLUTTER, xxx-xx-xxxx

TRACY A. SMIEDENDORF, xxx-xx-xxxx
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BRENT A. SMITH, xxx-xx-xxxx
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GEORGE M. SMITH, xxx-xx-xxxx
GREGORY M. SMITH, xxx-xx-xxxx
JENNIFER L. SMITH, xxx-xx-xxxx
JONATHAN K. SMITH, xxx-xx-xxxx
MARK D. SMITH, xxx-xx-xxxx
MARK R. SMITH, xxx-xx-xxxx
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RICKEY J. WORKMAN, xxx-xx-xxxx
LORI A. WORTMAN, xxx-xx-xxxx
BROOKS D. WRIGHT, xxx-xx-xxxx
PETER H. WRIGHT, xxx-xx-xxxx
LEE O. WYATT, xxx-xx-xxxx
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JOHN M. ZAUGG, xxx-xx-xxxx
DONA K. ZAVISLAN, xxx-xx-xxxx
JAMES J. ZENTNER, JR., xxx-xx-xxxx
LOUIS V. ZUCCARELLO, xxx-xx-xx...

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICERS OF THE MARINE CORPS RESERVE FOR PERMANENT APPOINTMENT TO THE GRADE OF LIEUTENANT COLONEL, UNDER TITLE 10, UNITED STATES CODE, SECTION 5912:

LARRY D. ADAMS, xx...
STEPHEN S. ADAMS, xx...
CHARLES A. ANDERSON, xx...
ALLAN R. BACON, JR., xx...
SHERIDAN W. BARRETT, xx...
ROBERT L. BELL, xx...
MARTIN O. BINN, xx...
GERARD J. BOYLE, xx...
CHARLES B. BREWER, xx...
JOHN M. BUETTNER, xx...
FRANCISCO M. CIVIDANES, xx...
JOHANN A. CLENDENIN, xx...
JOHN F. CORCORAN, xx...
JOHN P. COTTER, xx...
MELVIN V. CRATSLEY, xx...
THOMAS E. CUNNINGHAM, xx...
ALAN R. DAVIS, xx...
DANNY D. DEDERICK, xx...
ROBERT J. DEPASS, xx...
STEVEN G. EASTERDAY, xx...
ROBERT P. EICHORN, xx...
NED H. ELLSWORTH, xx...
CHARLES L. EMMA, xx...
EDMUND E. EVANS, xx...
LARRY G. FANNING, xx...
FISHER A. FELTENBERGER, xx...
GERALD L. FISCHER, xx...
SIMON H. FORGETTE, xx...
DOUGLAS N. FRAZIER, xx...
JOHN E. FREY, xx...
HAROLD J. FRUCHTNICHT, xx...
FRANK M. GALLAGHER, JR., xx...
KEVIN A. GARVEY, xx...
LINDA S. GEVOCK, xx...
RICHARD A. GODFREY, xx...
KATHRYN A. GORDON, xx...
PATRICIA F. HALSEY, xx...
JAMES E. HALUSKA, xx...
JAMES E. HAYNIE, xx...
ROBERT L. HEDDEN, xx...
JOHN J. HEINECKE, xx...
LARRY D. HENSON, xx...
STEVEN T. HENSON, II, xx...
JAMES R. HESS, xx...
ANDREW F. HILEMAN, xx...
WELDON M. HITCHCOCK, xx...
RAYMOND A. JAHAASKI, xx...
JOAN M. JOHNSON, xx...
JERRY K. JOHNSON, xx...
BRETT A. JONES, xx...
JEROME D. KAIRIS, xx...
DAVID E. KELLY, xx...
HOLLIS G. KENT JR., xx...
PHILIP A. KERR, xx...
MICHAEL F. LOFTUS, xx...
MICHAEL B. MAGINNIS, xx...
SALVATORE A. MANNO, xx...
ALBERT T. MCADOO, xx...
WALTER C. MCBRIDE, JR., xx...
JAMES B. MCCANN, xx...
JOHN J. MCGARRY, xx...
FRANK M. MCINTIRE, xx...
MICHAEL J. MCKINNEY, xx...
MICHAEL T. MCVEY, xx...
RONALD B. MEADE, xx...
JOHN T. MILES, xx...
ROBERT J. MOBERG, II, xx...
TOMMY L. MOORE, xx...
DENNIS A. MORGA, xx...
KEVIN J. MURPHY, xx...
KENNETH C. NAIZER, xx...
PAUL NAWA, xx...
ALAN J. NEUMANN, xx...
JOHN J. NEWMAN, xx...
RUSSELL E. NICOSIA, xx...
RONALD C. ODEN, xx...
GARY J. OHLS, xx...
CHARLES A. PARLIER, II, xx...
JERRY E. PATTERSON, xx...
EDWARD J. PERROTT, xx...
PATRICIA L. PFEIL, xx...
STEPHEN A. PHARO, xx...
CHARLES D. REID, xx...
DOUGLAS W. REISER, xx...
RALPH W. RORAFF, xx...
SAMUEL J. ROUTSON, xx...
WAYNE P. SAMUELSON, xx...
MICHAEL G. SCHUTTA, xx...
PETER R. SEAL, xx...
DONALD C. SHEEHAN, xx...
JORGE A. SIBILA, xx...
STEPHEN C. SKILES, xx...
CLARENCE A. SMITH, JR., xx...
STEPHEN M. SMITH, xx...
TERRY W. STARK, xx...
ROGERS M. STEED, xx...
JAMES B. STOVER, xx...
ROGER J. STUDEBAKER, xx...
THOMAS P. SULLIVAN, xx...
STEPHEN C. TENNANT, xx...
KENNETH M. TOLBERT, xx...
CANDELARIO TREVINO, JR., xx...
WILLIAM T. VAUGHN, JR., xx...
DANIEL T. VENTRE, xx...
STEPHEN C. VERNON, xx...
THOMAS H. WALSH, xx...
WILLIAM G. WICKUN, xx...
JOHN G. WIETING, xx...
GARY I. WILSON, xx...
JOHN F. WIRTZ, JR., xx...
CRAIG W. WOOD, xx...
RUSSELL E. WOOLARD, xx...
THOMAS C. YANCEY, xx...