HOUSE OF REPRESENTATIVES—*Wednesday, March 8, 1989*

The House met at 2 p.m.

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

We pray, O merciful God, that Your glory will transcend all the ordinary concerns that we face and cause us to lift our eyes to the ultimate purposes of life. May not the pressures and problems of each day keep our sights only to that which is close to us, but may Your Spirit give the purpose, direction, and indeed the joy that comes from Your Word of hope and of truth. In Your name, we pray. Amen.

THE JOURNAL

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

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

PLEDGE OF ALLEGIANCE

The SPEAKER. Would the gentleman from Kansas [Mr. GLICKMAN] kindly lead us in the Pledge of Allegiance.

Mr. GLICKMAN led the Pledge of Allegiance as follows:

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

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Haller, one of its clerks, announced that the order entered by the Senate on February 22, with respect to the Senate hearing arguments on and disposing of the motions filed by Judge Alcee L. Hastings to dismiss articles 1 through 15 and article 17 of the articles of impeachment be modified so that proceedings that were scheduled to occur on March 8 and 9 be postponed to occur on Wednesday, March 15 and Thursday, March 16.

The message also announced that pursuant to sections 276d–276g, title 22, of the United States Code, as amended, the Chair on behalf of the Vice President, appoints Mr. CONRAD as chairman of the Senate delegation to the Canada-United States Interparliamentary Group during the 101st Congress.

DO NOT TREAD ON THE AMERICAN FLAG

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

Mr. MONTGOMERY. Mr. Speaker, the American flag does not belong on the floor. Despite this very fundamental American belief, it is reported that an art institute in Chicago has chosen to display our grand symbol in this degrading manner.

There have been significant repercussions resulting from this decision, several of which have been prominently reported by the Nation's newspapers and wire services. Veterans of some of our national service organizations have publicly protested the display; approximately 600 people in a Sunday demonstration marched on the institute. It has been reported that an Alexandria, VA, art teacher was arrested on a felony flag desecration charge after she stepped on the flag as it lay spread across the floor. Other news accounts state that an Illinois State senator has vowed to have the museum official in charge of exhibitions arrested on charges of desecrating the American flag. And I'm sure there will be more to come in this controversy.

I believe that the manner in which we treat the American flag reveals much about how we regard ourselves as a free and independent society. In a Supreme Court decision in 1907, Justice Harlan said:

The flag is the symbol of the Nation's power, the emblem of freedom in its truest, best sense. It is not extravagant to say that to all lovers of the country it signifies government resting on the consent of the governed; liberty regulated by law; the protection of the weak against the strong; security against the exercise of arbitrary power; and absolute safety for free institutions against foreign aggression.

In a Flag Day speech, President Woodrow Wilson expressed his sentiments about the American flag as follows:

I know of nothing more difficult than to render an adequate tribute to the emblem of our nation. For those of us who have shared that nation's life and felt the beat of its pulse it must be considered a matter of impossibility to express the great things which that emblem embodies.

Mr. Speaker, the Stars and Stripes is the bloodshed of nine wars and countless conflicts to preserve freedom and democracy. It is the spirit and determination of a society that cares for its people. It is the history of struggle and the record of success. It is power, glory, and honor. It is adversity and peace. It is the grandest sight in a foreign land. It is hope. It is home.

Unfurled on battlefields around the globe, rolling and flapping in the coliseum breeze, draped over the coffins of those who have fought for her honor, and shining in the silent stillness of the Moon, the Stars and Stripes is our belief in ourselves and our dreams of what we can become.

In his historic speech to a joint session of Congress on September 9, 1971, Col. James B. Irwin, one of the Apollo 15 astronauts who landed on the Moon, said:

The proudest moment of my life was when I saluted our American flag that we had planted on the plain at Hadley-Apennine.

Mr. Speaker, today the flag flies over the Nation's Capitol and the U.S. Supreme Court. It flies over all our national cemeteries throughout the world. We affectionately refer to our flag as "Old Glory" and citizens throughout our country desire that it be treated with great respect.

Still, there are those few who have no feelings for our Nation's symbol and we have had to enact a criminal statute to address their shortcomings. On July 5, 1968, President Johnson signed into law a provision that whoever knowingly casts contempt upon any flag of the United States by publicly mutilating, defacing, defiling, burning, or trampling upon it shall be fined not more than $1,000 or imprisoned for not more than 1 year, or both.

Today, I am introducing a bill that would amend the law by providing that the same penalty be imposed upon anyone who knowingly displays the flag of the United States on the ground or on the floor, as was the case at the aforementioned art display.

Yes, Mr. Speaker, it is true that freedom of expression is also a basic American principle, but it can and should coexist with a sense of reverence for the flag and all that it means to Americans. I urge my colleagues to join me in cosponsoring this legislation.

THE 1990'S, "THE DECADE OF THE BRAIN"

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

Mr. CONTE. Mr. Speaker, while last month we celebrated the birthday of George Washington, the Father of

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Our Country, it also marked the birth of a founding father of another sort—160 years ago, Silas Mitchell, the "Founder of Neurology," was born.

If Silas were alive today, he would marvel at our advances in the study, care, and treatment of brain-related disorders. But he would also realize that we have much more to learn, and that the next decade could bring the most amazing improvements yet in the study of the brain.

To recognize and support the advances our scientists are making in the treatment of brain disorders, today I am introducing, with 84 of my colleagues, a resolution to declare the 1990's the "decade of the brain."

I ask all my colleagues to join me in commemorating these advances by cosponsoring my resolution.

The decade of the brain. Think about it.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1087

Mr. RAHALL. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 1087.

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

There was no objection.

SOME OF THE REAGAN CUTS ARE UNCONSCIONABLE AND OUGHT TO BE CORRECTED

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

Mr. BENNETT. Mr. Speaker, when I was home in Jacksonville, FL, last weekend, a widow of a Navy officer told me that her allotment from her husband's pension that was set aside in a contract between the Navy and her husband, which allotted her so much money, has now been reduced because she also gets Social Security. This was an attack upon entitlements which she could not understand.

I cannot understand it either.

When I realize the tremendous cuts that were made in taxes at the beginning of the last administration and that we are now catching up that kind of money out of the hides of little people and out of the contracts we have had with people for entitlements, which they have earned under contract, I think it is unconscionable and ought to be corrected.

To selectively impose such financial loss on the retired serviceman who has served his country long and loyally—and on the widows of such retirees—is bureaucracy at its worst, and is plainly unjust.

If there must be sacrifices for budget balancing, then let the burden fall equally across all comparable programs. Our Nation must not selectively penalize those who have given the prime years of their lives to the Nation's defense.

TARGETING THE WASTE IN OUR FEDERAL BUDGET

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

Mr. HASTERT. Mr. Speaker, this past weekend I was invited by the Warrenville, IL, Kiwanis Club to come to their weekly meeting and accept a check for $100—a small amount as budget discussions go on this floor. But the check is for an important cause.

The check is made out to the U.S. Treasury and is earmarked for reduction of the national debt. It comes from the 55 members of the Warrenville Kiwanis Club and is an indication of the urgency that some of us view our fiscal situation. The Kiwanis members have decided they cannot sit back and wait for someone else to take care of this problem. And they have challenged the 9,000 other Kiwanis Clubs to match their contribution.

Mr. Speaker, we should heed an important message from America's heartland—Warrenville is a community of less than 10,000. Our foremost priority this session should be to make reasoned decisions targeting the waste that we all know exists in our Federal programs. It is also time to pass the balanced budget amendment and line item veto.

This check is an important reminder that our constituents want us to make those difficult decisions and they are willing to join us in their own unique way. Warrenville and America will be watching to see how we accept our challenge. I hope we remember it in the weeks and months ahead.

APPOINTMENT AS MAJORITY MEMBERS OF SELECT COMMITTEE ON NARCOTICS ABUSE AND CONTROL

The SPEAKER. Pursuant to the provisions of section 303, House Resolution 84, 101st Congress, the Chair appoints as majority members of the Select Committee on Narcotics Abuse and Control, the following Members of the House:

Mr. RANGEL of New York, chairman;
Mr. BROOKS of Texas;
Mr. STARK of California;
Mr. SCHEUER of New York;
Mrs. COLLINS of Illinois;
Mr. AKAKA of Hawaii;
Mr. GUARINI of New Jersey;
Mr. FASCELL of Florida;
Mr. FAUNTROY of the District of Columbia;
Mr. HUGHES of New Jersey;
Mr. LEVINE of California;
Mr. ORTIZ of Texas;
Mr. SMITH of Florida;
Mr. TOWNS of New York;
Mr. TRAFICANT of Ohio;
Mr. MFUME of Maryland;
Mr. BRENNAN of Maine; and
Mrs. LOWEY of New York.

APPOINTMENT OF MAJORITY MEMBERS OF SELECT COMMITTEE ON CHILDREN, YOUTH, AND FAMILIES

The SPEAKER. Pursuant to the provisions of section 203, House Resolution 84, 101st Congress, the Chair appoints as majority members of the Select Committee on Children, Youth, and Families the following Members of the House:

Mr. MILLER of California, chairman;
Mr. LEHMAN of Florida;
Mrs. SCHROEDER of Colorado;
Mrs. BOGGS of Louisiana;
Mr. MCHUGH of New York;
Mr. WEISS of New York;
Mr. ANTHONY of Arkansas;
Mrs. BOXER of California;
Mr. LEVIN of Michigan;
Mr. MORRISON of Connecticut;
Mr. ROWLAND of Georgia;
Mr. SIKORSKI of Minnesota;
Mr. WHEAT of Missouri;
Mr. MARTINEZ of California;
Mr. EVANS of Illinois;
Mr. DURBIN of Illinois;
Mr. SKAGGS of Colorado; and
Mr. SARPALIUS of Texas.

APPOINTMENT OF MAJORITY MEMBERS OF SELECT COMMITTEE ON HUNGER

The SPEAKER. Pursuant to the provisions of section 103, House Resolution 84, 101st Congress, the Chair appoints as majority members of the Select Committee on Hunger the following Members of the House:

Mr. LELAND of Texas, chairman;
Mr. HALL of Ohio;
Mr. PANETTA of California;
Mr. FAZIO of California;
Mr. KOSTMAYER of Pennsylvania;
Mr. DORGAN of North Dakota;
Mr. CARR of Michigan;
Mr. PENNY of Minnesota;
Mr. ACKERMAN of New York;
Mr. ESPY of Mississippi;
Mr. FLAKE of New York;
Mrs. PATTERSON of South Carolina;
Mr. FOGLIETTA of Pennsylvania;
Mr. BUSTAMANTE of Texas; and
Mr. MCNULTY of New York.

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APPOINTMENT AS MAJORITY MEMBERS OF THE SELECT COMMITTEE ON AGING

The SPEAKER. Pursuant to the provisions of clauses 6 (f) and (i) of rule X, the Chair appoints as majority members of the Select Committee on

Aging the following Members of the House:

Mr. ROYBAL of California, chairman;
Mr. PEPPER of Florida;
Mr. DOWNEY of New York;
Mr. FLORIO of New Jersey;
Mr. FORD of Tennessee;
Mr. HUGHES of New Jersey;
Mrs. LLOYD of Tennessee;
Mrs. OAKAR of Ohio;
Mr. THOMAS A. LUKEN of Ohio;
Mrs. BYRON of Maryland;
Mr. WAXMAN of California;
Mr. SYNAR of Oklahoma;
Mr. DERRICK of South Carolina;
Mr. VENTO of Minnesota;
Mr. FRANK of Massachusetts;
Mr. LANTOS of California;
Mr. WYDEN of Oregon;
Mr. CROCKETT of Michigan;
Mr. SKELTON of Missouri;
Mr. HERTEL of Michigan;
Mr. BORSKI of Pennsylvania;
Mr. ERDREICH of Alabama;
Mr. SISISKY of Virginia;
Mr. WISE of West Virginia;
Mr. RICHARDSON of New Mexico;
Mr. VOLKMER of Missouri;
Mr. GORDON of Tennessee;
Mr. MANTON of New York;
Mr. ROBINSON of Arkansas;
Mr. STALLINGS of Idaho;
Mr. CLARKE of North Carolina;
Mr. KENNEDY of Massachusetts;
Ms. SLAUGHTER of New York;
Mr. BILBRAY of Nevada;
Mr. JONTZ of Indiana;
Mr. COSTELLO of Illinois;
Mr. STAGGERS of West Virginia;
Mr. PALLONE of New Jersey; and
Mrs. UNSOELD of Washington.

RELIEF FOR SMALL AIRPLANE MANUFACTURERS

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

Mr. GLICKMAN. Mr. Speaker, today I have introduced the General Aviation Standards Act of 1989. An identical bill passed the Public Works Committee unanimously last year and had the support of over 200 cosponsors.

The need for this legislation remains critical. The American general aviation industry has been brought to its knees and is currently threatened by foreign manufacturers; not because of an inability to compete, but because an unfair system of product liability laws is forcing U.S. general aviation manufacturers out of business.

The bill contains modest and reasonable changes in liability laws that apply to general aviation accidents, but contains no caps on awards or limitations on attorney's fees. It is supported by the entire general aviation community: manufacturers, consumers, and pilots.

I ask for my colleagues support for passage of this important legislation in the 101st Congress.

UNITED STATES SHOULD RESPECT POWER OF FREE ELECTIONS IN EL SALVADOR

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

Mr. PACKARD. Mr. Speaker, I want to address the House today about the upcoming election in El Salvador. Some critics are calling for reduction in aid should certain parties win. I believe that this message hurts the democratic process by encouraging Salvadorans to vote out of fear. Democracy in Central America is fragile and should not be tampered with in this manner.

Therefore, I call on both Congress and President Bush to respect the election results. We cannot impose our own prejudices upon this critical vote. The people will have spoken in a fair and legal manner. Our job in this Congress is not to impede free elections, but to encourage them. Some Members forget this goal. Many of us have, and will work here in the Congress to see that the results of a fair election are supported.

Morton Kondracke recently stated in the New Republic that "the last thing the problem-ridden country of El Salvador needs is for the support of the United States to be in doubt." Mr. Speaker, our Government has a history of allowing democracies to perish. For once, let us respect the power of free elections and listen to the voters in El Salvador.

REFUSENIK WOMEN HUNGER STRIKE

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

Mr. FRANK. Mr. Speaker, today begins a 3-day hunger strike in the Soviet Union by a group known as Jewish Women Against Refusal. They are a group of enormously brave and steadfast women who are protesting against the absolutely unjustified refusal of the Soviet Union to allow them and their families to emigrate. There have been in the past months and year improvement in the situation in the Soviet Union. It makes it all the more puzzling to us why people like these women and their families continue to be victimized and denied the most basic of human rights.

There is a very mixed picture right now and we appeal to the Soviet Union to understand that it is not only morally compelled, but in fact, it would be in their own interests to resolve these conflicts, simply to allow these people the basic rights that any human being ought to be able to exercise, and that is to leave a country when he or she is unhappy there.

The fact that so many of these women feel compelled to go on a hunger strike is an example of the depth of misery that they feel. It is a mark of the despair that they undergo. It simply is not worthy of any nation that wants to consider itself a great nation, to subject innocent people to this sort of punishment. I hope that Mikhail Gorbachev will heed the letters that I and others have written, that he will heed the pleas of these women and that he will, in fact, do what elementary human decency requires, allowing them to emigrate.

Mr. Speaker, I include in the RECORD my letter to him and a statement from the National Conference on Soviet Jewry, including a statement from these women.

HOUSE OF REPRESENTATIVES,
Washington, DC, March 8, 1989.

His Excellency MIKHAIL GORBACHEV,
Chairman of The Presidium of The Supreme Soviet, The Kremlin, Moscow 103132, R.S.F.S.R. USSR.

DEAR MR. CHAIRMAN: I write to you to express my continued support for family reunification, for the freedom of movement by registering my strong support for a group of women who today are starting a hunger strike to protest the continued refusals by the authorities to grant those women and their families permission to emigrate.

First, the women I want to note in particular are:

From Moscow: Inna Uspensky, Evgenia Berenfeld, Ludmila Fridman, Tatyana Futoryanskaya, Olga Goldfarb, Elena Golovina-Lokshina, Polena Golub, Tamara Gurfink, Galina Livshitz, Alla Varshavskaya, Marina Gorelic-Salganic, Judith Lurie, Natalya Magazanik, Rimma Mushinskaya, Mela Novik, Elena Rappaport, Marina Shulman, Irene Sterkina, Natalya Stonova, Irene Tyomkina, Ludmila Yakhontova.

From Leningrad: Sofia Wander, Sheyla Alexandrovsky, Olga Gersheles-Dinkins, Olga Komsitskaya, Irene Pisarevskaya, Lilia Rabinovich, Sofa Wanda-Benenson, Olga Kagan, Lidia Axelrod, Olga Kelman, Olga Osrivskaya, Tamara Pliss, Marina Shmidt.

From Kiev: Oxana Kotlyer, Lubov Rozenberg, Larisa Kitovskaya.

From Vilnius: Karmela Raiz.

From Irkutsk: Ala Stomatova.

From Kharkov: Irina Ichkina.

From Dneprodzerzhinsk: Anna Markova.

As you know, many members of this group have waited for more than a decade for permission to be re-united with family in Israel and elsewhere. The decision to deny permission to emigrate often has been on the basis of "state secrets." That decision often seems arbitrary and in conflict with your own public statements about the life-span of any such "state secrets."

The Soviet Union has made some important steps in the past year, and I have been very pleased by the significant increase in the number of exit visas granted. At the same time, I remain disturbed by the harassment subjected to those who have tried and tried again over the years to obtain permission to emigrate. The campaign to in-

timidate these women and their families remains. My concern for these brave individuals and their families also remains, and that concern is very strong.

On January 19, 1989, as you now, the Vienna Conference on Security and Cooperation in Europe confirmed the right to emigrate, including the essential assurance that that right would be observed. The Soviet Union, as you know, committed itself to this, and acknowledged its commitment within the Soviet press.

In the spirit of the very positive steps which the Soviet Union has made in the area of human rights, I ask for another positive gesture—the granting of exist visas for these women and their families.

Your prompt consideration will be appreciated, and I look forward to your response.

BARNEY FRANK.

NATIONAL CONFERENCE ON SOVIET JEWRY, STATEMENT BY REFUSENIK WOMEN ON THE EVE OF THEIR HUNGER STRIKE MARCH 8-10, 1989

As in the past two years, refusenik women declare a three day hunger strike on March 8, International Women's Day.

There have been certain improvements in the problem of emigration throughout 1987 and 1988. However, there is still no legal mechanism for solving the problem. This accordingly affects the fate of people tragically. Repeated promises by Soviet authorities to line the problem up with their international commitments remain empty words.

The Soviet authorities have now divided the problem of emigration into two spheres: one is for people who apply to emigrate for the first time and the other is the release of refuseniks. Thousands of people who first apply are allowed to go rather quickly, while refuseniks remain an object of endless political bargaining at international negotiations and harassments by bureaucrats at home.

Lawlessness and arbitrary rule reign towards refuseniks detained for reasons of "state security." In most cases, they have been held beyond all reasonable time limits. Their problem is not resolved. In many cases refusal of permission for them to emigrate is confirmed, their term of waiting being extended monstrously. More and more "security" refuseniks appear, receiving refusals as hitherto without any lawful grounds.

Another big group of refuseniks are the poor relatives. Their situation is vivid testimony that the Soviet authorities refuse to comply with their own legislation. As a result, hundreds of people, including many women and children, are denied defense under law and are doomed to wage an endless overwhelming struggle against cruelty and inhuman treatment.

As a whole, the refusenik situation today exposes the old absence of legal foundation for solving the human rights problem in the Soviet Union. Accordingly, we again appeal to the Soviet and foreign public to support our just fight for observance of the right to emigrate, both for those who have been waiting for years, and for those who hope to use the right but cannot do so because there are no reliable assurances.

The right to emigrate, including essential assurance that it will be observed, has just been confirmed by the Vienna Conference on Security and Cooperation in Europe. The conference confirmed that right on January 19 and its decision was published in the Soviet Press.

Will the Soviet Union once again refuse to honor its commitments, so that we will again remain deceived victims of lawlessness and arbitrary rule?

NATIONAL DAY OF CONCERN FOR THE SUDAN

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

Mr. WOLF. Mr. Speaker, people in Sudan are dying everyday. During the last 5 years, over 1 million people have died in the brutal civil war that ravages that country. Last year alone, between 250,000 and 500,000 people starved to death in Sudan.

I traveled to Sudan last January and in the camps I visited, I found many of the same images that haunted millions of Americans during the Ethiopian famine in 1985. We cannot just stand by as people are dying.

This week OXFAM America is sponsoring a National Day of Concern for the Sudan on Sunday, March 12. Americans are being asked to pray in their churches and synagogues and to undertake educational activities about the tragedy in Sudan.

OXFAM America is also urging people to congratulate President Bush for his quick initiatives to bring peace to Sudan and urge further positive actions.

Together, we can build momentum for peace in Sudan. I urge my colleagues and the American public to join with OXFAM America this Sunday in the National Day of Concern for the Sudan and to work for peace in that troubled land.

INTRODUCTION OF BILL PROHIBITING USER FEES FOR OUTPATIENT CARE AT MILITARY FACILITIES

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

Mr. BUSTAMANTE. Mr. Speaker, today I am introducing legislation which will prohibit charging user fees for outpatient care in military treatment facilities.

Although active duty military dependents and retired military personnel and their dependents are currently entitled to medical care in military facilities at no cost, President Bush's budget request for fiscal year 1990 includes a proposal to impose user fees for such care. The budget proposal does not expand or improve the medical coverage of military retirees, it just charges them a fee for coverage they are already entitled to. This is nothing more than a new tax levied on active duty dependents and military retirees and their dependents.

The military services use the medical care entitlement as a recruiting incentive because it attracts people to join the military service for professional careers. Imposing a fee after promising free medical care to millions of service members constitutes a breach of faith by the Government. If implemented, the proposal would have a negative impact on recruitment, retention and, ultimately, on readiness. As a result instead of saving the Government money, the proposal will require more spending to maintain our readiness.

Mr. Speaker, I invite my colleagues' support for this legislation which will keep our commitment to military service members and avoid expensive remedies to maintain our readiness in the future.

A VOTE ON BASE CLOSURE BEFORE GAO REPORT WOULD BE UNCONSCIONABLE

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

Mr. PORTER. Mr. Speaker, under the base closing commission legislation, Congress has 45 legislative days to reject the Commission's report.

A joint resolution rejecting the Commission's work was introduced last week. Under the law, the resolution could be brought to the floor for a vote within the next 2 weeks.

But Mr. Speaker, under no circumstances should the House consider the Commission's report without having the information on which it was based and an analysis of that information by the GAO.

For 7 weeks the Defense Department stonewalled us and provided little information so we could determine if the Commission's project cost savings are real. Now they are more cooperative, but the information we have seen to date raises serious questions about how the Commission came to its conclusions.

The GAO is preparing an independent analysis of the recommendations and the assumptions the Commission used. Given the complex nature of the report and the wide-ranging effects the closures may have, it is essential that we have GAO's analysis before any vote.

GAO knows how urgently their report is needed. In light of the hundreds of communities that may be adversely affected by a closure, a vote in the House before GAO's report is available would simply be unconscionable.

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OUR DEBT POLICIES AS THEY RELATE TO THE THIRD WORLD

(Mr. JONTZ asked and was given permission to address the House for 1

minute, and to revise and extend his remarks.)

Mr. JONTZ. Mr. Speaker, newspaper headlines the last couple of days have reported that the Bush administration is growing concerned about developments in Latin America and is rethinking our Nation's Third World debt policies.

This rethinking is long overdue. The effect of our debt policies has been to lower the standard of living for millions of people in South America and Central America, to create economic and political instability in that region, and here at home to cut off foreign markets for American farm products at a time when exports are increasingly critical to American agriculture.

The simple fact is that in order to raise cash to send to the banks, Brazil and Argentina have increased agricultural production, have reduced internal consumption, and have undercut the United States in world oilseed and grain markets.

Mr. Speaker, as the Treasury Department considers our Government's approach to the debt crisis, the opportunities for increasing farm exports by relieving these nations of the necessity of raising so much cash to make debt payments should be kept in mind. It is not that we ought to ask that the concerns of American agriculture be the only interest of the Treasury Department in developing our debt policies, but they certainly ought to be one concern.

AUTHORIZING TELEVISION BROADCASTS TO CUBA

The SPEAKER pro tempore (Mr. BORSKI). Under a previous order of the House, the gentleman from Michigan [Mr. BROOMFIELD] is recognized for 5 minutes.

Mr. BROOMFIELD. Mr. Speaker, today I am introducing a bill which would authorize the United States Information Agency to begin television broadcasts to Cuba.

For fiscal year 1989, $7.5 million was appropriated for the purchase, rent, construction, improvement, and equipping of facilities for TV Marti. The appropriation included funds for startup operations and a 90-day operational test which is not due to be completed until sometime in fiscal year 1990.

My bill would authorize $12 million for the remainder of fiscal year 1990 and a full $16 million for fiscal year 1991. I understand these amounts conform with the administration's plans for funding TV Marti and I further understand that a formal administration request for fiscal year 1990 funding at the $12 million level may soon be presented to Congress.

There could be no more opportune time than now to develop TV Marti. Last month, the Human Rights Committee of the United Nations released its report on the state of freedom in Cuba. The report made it clear that Fidel Castro continues to prevent the Cuban people from enjoying the same liberties and personal rights that are enjoyed by the people of many other countries in the Western Hemisphere.

Over the years, we have found that people are willing to risk quite a bit to learn the truth. All over Eastern Europe and the Soviet Union, people have huddled long into the night to listen to such bearers of accurate, objective, and comprehensive news as the Voice of America, the BBC, Radio Liberty, and Radio Free Europe.

We now know that listeners in Cuba have been just as eager to hear the truth. A new survey shows that among recent Cuban arrivals to Panama, Madrid, and Miami, Radio Marti had been the "most listened to" radio station by 72 percent of the respondents and "listened to" by 86 percent of the sample. Only 44 percent reported "listening to" the most popular Cuban-operated station.

I believe those statistics are important. I remember the development of Radio Marti several years ago. Opponents of the station, groping for arguments, suggested that no one in Cuba would care, that they would view it as just another outlet for "Yankee propaganda." I believe these listener statistics should put those arguments to rest.

Today, Jorge Mas, the Chairman of the President's Advisory Board for Radio Broadcasting to Cuba, testified to the Subcommittee on International Operations. In his testimony, he makes a good point. Should Congress approve this bill, it will be the first time in more than 30 years that the Cuban people will be able to see pictures of the free world.

They say that a picture is worth a thousand words. I suspect that pictures of their neighbors in the Western Hemisphere would be worth a lot more to the Cuban people, who for an entire generation have been denied an opportunity to compare their lot with that of their neighbors. The contracts should be striking. For once, the Cuban people will get a graphic demonstration of the failures of the Castro revolution.

Mr. Speaker, it is clear that broadcasts behind the Iron Curtain have been instrumental in forcing the Kremlin to concede certain freedoms to the people of the Soviet Union and Eastern Europe. So far, Fidel Castro has resisted making similar concessions. I believe TV Marti would be an excellent way to show the Cuban people what they too might accomplish with democratic political institutions and free markets.

PRIVATE LONG-TERM CARE INSURANCE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. STARK] is recognized for 5 minutes.

Mr. STARK. Mr. Speaker, today I am introducing legislation to provide for Federal and State standards for private long-term care policies.

As the Nation's elderly population grows the number of those requiring long-term care as well as the costs of what care will grow. As a result more and more individuals will seek to buy private long-term care insurance. It makes sense to develop the standards for regulating the sale of these policies while the long-term care insurance industry is still in its infancy.

Abuse of the public's trust has already been reported. Consumers Union, for example, reported in the May 1988 issue of Consumer Reports, that benefits and restrictions under current long-term care policies are at best difficult to understand. Because of the restrictions included in some policies, consumers who purchased these policies would receive virtually no protection against the costs of long-term care.

Federal and State standards are needed for long-term care insurance protection to prevent the same abuses which led the Congress to establish standards for Medicare supplemental insurance (MediGap) policies in 1980. As the Congress learned in the early days of the development of MediGap insurance, the elderly are vulnerable and can be frightened into buying useless or duplicative policies.

Long-term care insurance policies, unknown a few years ago, are now widely available. Currently some 70 companies have entered the field and are insuring approximately 500,000 individuals.

Unlike MediGap policies, which are regulated by Federal and State statutes, long-term care insurance policies are presently regulated in less than 20 States.

Finding ways to pay for long-term care is a serious problem today which will become even more problematic in the years to come. Currently about 2 million of the Nation's elderly are living in a nursing home. Thirty years from now that number will nearly double. Equal numbers of the elderly will also require long-term home- and community-based care. Nursing home care now costs an average $25,000 per year and as much as $40,000 in New York and California. By the year 2018, it will cost about $55,000 if inflation stays at the moderate rates experienced recently.

Medicare pays for about 2 percent of nursing home expenditures while Medicaid, the Federal program that finances health services for the indigent, pays half of the $38 billion presently expended for nursing home care. The other half of the $38 billion represents the out-of-pocket cost borne by nursing home residents or their children.

The bill I am introducing establishes standards and consumer protections for long-term care insurance policies along the lines developed to regulate MediGap policies. These standards are commonly referred to as the Baucus standards after Senator MAX BAUCUS, the chief sponsor of the legislation.

The General Accounting Office, in its report of October 1986, found that passage of the Baucus standards has encouraged States to adopt standards at least as stringent as the Federal standards. They also found that the Federal law had "resulted in more uniform regulation of MediGap insurance and increased protection for the elderly against substandard and overpriced policies."

The legislation I am introducing today is similar in design to the Baucus standards statute and should create similar impetus for states to establish minimum standards and consumer protections for the sale of long-term care insurance.

The bill is an updated version of H.R. 5085, which I introduced July 14, 1988. I have revised the legislation to take into account the

following amendments the National Association of Insurance Commissioners [NAIC] added to their Long-Term Care Insurance Model Act and Model Regulations on December 16, 1988.

The NAIC Long-Term Care Insurance Model Act now contains a provision which prohibits long-term care insurance policies from conditioning eligibility for any benefits on a prior hospitalization requirement. This is a very significant change because, as Consumers Union points out, a majority of patients enter a nursing home without first being hospitalized. In short, eliminating the prior hospitalization requirement will mean that many more policyholders will be able to actually receive benefits under their policies.

The amended NAIC Model Act also prohibits conditioning eligibility for benefits provided in an institutional care setting on the receipt of a higher level of institutional care. This will again significantly expand the potential for receiving benefits under long-term care insurance policies as the elderly will be able to receive custodial care in a nursing home without first having to qualify for skilled nursing care.

The Model Act, as my legislation, now prohibits home health benefits from being conditioned upon the receipt of benefits in a prior institutional setting. Unfortunately, the NAIC did not go as far as my bill, and still allows policies under certain circumstances to condition eligibility of noninstitutional benefits on the prior receipt of institutional care. I am concerned that this provision will prevent too many elderly from receiving home health benefits under their policies and so have prohibited such conditioning of home health benefits in my bill.

I am also pleased to see the NAIC Model Act has been amended to improve the disclosure requirements so that it will be much easier to understand what the benefits and limitations in policies are. This will make it easier to compare one policy with another.

The NAIC Model Regulation has been amended to provide very important continuation and conversion rights for individuals who have bought group long-term care insurance policies and for various reasons lose eligibility to remain in the group.

The bill I am introducing today includes the disclosure and continuation and conversion amendments.

Further, in anticipation of action the NAIC is planning to take this summer, my legislation will require extended care insurance policies, that offer at least 6 months of long-term care, to be required to meet the standards contained in this bill. Currently, only those policies which offer at least 24 months of long-term care are regulated by the legislation.

The important features of the bill include:

MINIMUM STANDARDS

The bill establishes standards for long-term care policies requiring that they provide at least a minimum level of benefits, described below, and minimum expected loss ratios of 60 percent.

Like the MediGap amendment which incorporated the NAIC MediGap Model Act, the legislation incorporates most of the long-term care insurance model act and regulations developed by the NAIC and sets forth the same two procedures for determining whether policies meet the Federal standards.

The NAIC model and the additional provisions of the proposed bill would require that policies:

First, include a guaranteed renewal;

Second, include a 30-day return policy;

Third, limit preexisting condition clauses to 6 months for conditions for which medical treatment was recommended by a physician or received preceding or following the effective date of coverage;

Fourth, not condition benefits on prior hospitalization or institutional requirements or limit benefits based on prior receipt of higher levels of services;

Fifth, not limit coverage to skilled nursing care nor provide significantly more coverage for skilled care in a facility than coverage for lower levels of care in a facility;

Sixth, limit eligibility for benefits to services (in facilities or otherwise) licensed in the State;

Seventh, contain a statement of the availability of, and limitations upon, long-term care benefits under Medicare;

Eighth, provide continuation and conversion rights for group policyholders;

Ninth, provide to each policyholder the telephone number of the commissioner or superintendent of insurance of the State in which the policy is issued; and

Tenth, provide at the time of solicitation a uniform disclosure statement.

Administration: The bill relies primarily on the States to enforce these standards.

Federal responsibilities involve determining whether State laws and regulations are equivalent to the Federal standards and certifying policies on a voluntary basis in States that do not have equivalent laws and regulations.

The bill provides that if a State has adopted standards that are at least as stringent as the Federal standards, policies regulated by the State are deemed to meet the Federal requirements.

The bill also establishes a voluntary certification program under which insurance companies could market policies as long-term care insurance in States that do not have laws and regulations equivalent to the NAIC model and the additional requirements.

Insurers can submit policies and supporting documents to the Secretary of Health and Human Services. If the Secretary determines that a submitted policy meets Federal requirements, it is certified and can be marketed as a long-term care insurance policy.

The bill establishes a Long Term Care Insurance Panel, consisting of the Secretary, three State commissioners of insurance and three individuals chosen from among Medicare beneficiaries and representatives of employers and labor. The panel is responsible for reviewing each State's insurance regulatory program and certifying those that meet the minimum standards contained in this bill. In States that do not obtain panel certification, as indicated above, the insurers may submit their policies to the Secretary of HHS for approval.

Penalties: The bill also establishes Federal sanctions, consisting of fines and/or imprisonment, for: (1) false statements or misrepresentation of a policy, and (2) mailing, advertising, soliciting, or offering to sell a policy that has not been approved by the Secretary or the State.

Other Requirements: To further protect policyholders, the Secretary would also be required to provide information to each Medicare beneficiary to aid in evaluating the value of long-term care policies and the relationship of any policy to Medicare benefits. Such information would include the addresses and phone numbers of State and Federal agencies which could provide additional information and assistance regarding long-term care policies.

The Secretary would also be required to inform Medicare beneficiaries of actions which are illegal and provide a toll free number and information on reporting suspected violations.

Mr. Speaker, senior citizens must be protected from abusive and misleading advertising and worthless long-term care policies. For MediGap policies this only occurred after passage of the Baucus amendment. My bill provides the Federal leadership required to assure reasonable and necessary regulation of the sale of long-term care insurance. I hope my colleagues will join me in speedy passage of this important legislation.

LEGISLATION TO PROVIDE REASON IN SMALL AIRCRAFT LIABILITY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kansas [Mr. GLICKMAN] is recognized for 5 minutes.

Mr. GLICKMAN. Mr. Speaker, today I have introduced the General Aviation Standards Act of 1989. This bill passed the Public Works Committee unanimously last year and had the support of over 200 cosponsors.

The need for this legislation remains critical. The American general aviation industry—consisting mostly of small planes and helicopters—has traditionally dominated the international marketplace. However, this once great industry has been decimated and is currently threatened by foreign manufacturers, not because of an inability to compete, but because an unfair system of product liability laws is forcing U.S. general aviation manufacturers out of business. As a result, Socata, Grob, Porsche, Rushmeyer, Sammi, and Agusta soon could replace the household names of Beech, Cessna, and Piper as the world's leading manufacturers of general aviation aircraft.

Liability costs for American manufacturers have skyrocketed—from $24 million in 1977 to $210 million in 1988, despite a steady improvement in safety. Liability costs are now the largest single cost component in the manufacture of an airplane, pushing the price of new aircraft beyond the reach of many consumers. The direct result is a drop in new aircraft sales from 18,000 units in 1978 to only 1,085 in 1987. As many as 70 percent of the jobs in the industry have been lost since 1980.

Foreign manufacturers, not encumbered by the high liability costs of American manufacturers, are moving rapidly to fill the void. At a time when we are all concerned about the competitiveness of American manufacturers, we are witnessing the demise of a high-tech-

nology industry that historically has contributed greatly to the domestic economy and the balance of trade. Congress has a special responsibility, by virtue of the pervasive Federal regulation of this industry, to act to resolve this crisis by enacting uniform Federal standards of liability. The bill contains modest and reasonable changes in liability laws but contains no caps on awards or limitations on attorney's fees. It is supported by the entire general aviation community: manufacturers, consumers, and pilots.

I hope you share my concern for this important American industry and the thousands of jobs involved and I ask for my colleagues support in the 101st Congress.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ANNUNZIO] is recognized for 5 minutes.

[Mr. ANNUNZIO addressed the House. His remarks will appear hereafter in the Extension of Remarks.]

E.B. LEON'S PASSING A LOSS TO ALL EL PASO

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. COLEMAN] is recognized for 5 minutes.

Mr. COLEMAN of Texas. Mr. Speaker, I wanted to take this opportunity to note with great sadness but with equally great admiration the passing of one of the most outstanding citizens of El Paso, TX, Mr. Eucebio Beltran Leon, known affectionately to all as E.B. Leon. More than anything else, his story is one of unsurpassable individual courage and persistence against the most daunting odds. It is a saga that began with the heroic way in which he first came to the United States and ended with a rich legacy of individual, family, and civic accomplishments that his loved ones, friends, and fellow El Pasoans will continue to cherish with fond memory and stirring inspiration.

E.B. Leon can only be characterized as the classic American success story. He was born in 1912 in Durango, Mexico, where he lived until the age of three, when Pancho Villa raided Durango, killed Mr. Leon's father and confiscated the family ranch. The surviving members of the family then began a 2-year, 672-mile trek on foot that ended in El Paso, TX. They were penniless upon arrival, and for some time the family lived in a tent at Seventh and Oregon Sts.

E.B. grew up in El Paso and enlisted in the U.S. Navy in World War II, where he won 13 Bronze Stars in the capture and occupation of Saipan, Guam, the southern Palau Islands, Leyte, Luzon, Iwo Jima, and Okinawa. He was honorably discharged and took on a variety of jobs until he became an independent businessman in El Paso in 1954, an occupation he held for 27 years.

But he was concerned for far more than his immediate financial welfare. By the time of his death, he had dedicated 51 years of service to the League of United Latin American Citizens [LULAC]. He first joined LULAC in 1937 when he joined Council No. 34 in Albuquerque, NM. An organizer and community leader in his own right, he helped organize LULAC Council No. 8 in El Paso in 1945 and has since won a host of awards from and on behalf of the organization. From 1956 to 1958, Mr. Leon was the National Assistant Expansion Cochairman. His contributions were so great and his leadership so compelling that in 1958 he was recognized as "The Hardest Working Organizer in the State of Texas." In June 1987, he was honored as the longest living active founding father at the LULAC National Convention.

As amazing as it may sound, E.B. Leon didn't stop there. His boundless energy and enthusiasm for helping others carried over to other important interests as well. He was a member of the YMCA, the Veterans of Foreign Wars, the Toastmasters International and the Council on Aging, where after his retirement from business he worked as a trained alcoholism counselor. Until recently, he served as an Advisory Board Member on the El Paso City Council's "Retired Senior Volunteer Program."

Mr. Speaker, the lifetime of accomplishment left behind by E.B. Leon is testimony to the hearfelt power of the American dream. In a shallow day and age marked by the worship of money, machines, and technology, the intensely human drama of a lifetime of service to others stands in awesome contrast. The life of E.B. Leon represents to me the traditional values of earlier generations that revered family, neighborhood, duty, country, sacrifice, hard work, and dedication.

E.B. Leon dreamed big dreams and he never lost faith in the special dream he called America. He acknowledged the country's flaws, particularly the state of race relations in the Southwest, but he worked for change and indeed, he saw things change in his own lifetime as the result of his efforts and hundreds of thousands who shared his dreams for this country.

Mr. Speaker, we will all miss E.B. Leon. But his legacy lives on just as his dreams for America live on, and his life will serve as a sterling example for those he left behind. It sends the needed message to an all too complacent generation that the American dream is still the most powerful vision this world has to offer. And, on a more personal level, it means that I will miss him very much. He was a supporter, a hard worker, and most of all, he was my friend. I shall miss him dearly, and I know that the people of the 16th Congressional District of Texas extend their sympathies and best wishes to his family.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arizona [Mr. KYL] is recognized for 60 minutes.

[Mr. KYL addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

THE SATANIC VERSES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. KOSTMAYER] is recognized for 60 minutes.

Mr. KOSTMAYER. Mr. Speaker, the gentleman from Illinois [Mr. HYDE] and I take this time this afternoon to discuss an issue which should be of concern to everyone who cares about the right of public expression in this country and around the world. I want to speak just a very few minutes about my concerns about this issue and then yield to my colleague, the gentleman from Illinois, and to others who may want to be heard on this matter.

Mr. Speaker, there are certain fundamental human values that set the United States apart as a people and as a society. These are fundamental values which have characterized our history. The most important value in my own view is the diversity and the pluralism which have always characterized American life. Specifically, this value is seen in the first amendment to the Constitution which says:

> Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

There are unhappily, Mr. Speaker, values which all people do not share. The majesty of the first amendment, this right of public expression, is a fundamental. It is easily accepted when we are dealing with noncontroversial issues. Every American endorses it when we deal with easy issues or noncontroversial issues.

No one objects to the Girls Scouts being heard, no one objects to the PTA being heard, no one objects to the local debating society. But the first amendment is tested when the words written and the words spoken are controversial. That is the case with the book entitled "The Satanic Verses," written by a man called Salman Rushdie.

While other countries may accept the Ayatollah's death threat against the author of this book, we in this country do not accept it; we reject it. Yet last week, Mr. Speaker, and the week before, we say a number of examples around the country where the Ayatollah's edict was accepted. We saw demonstrations and marches here, in the United States endorsing the Ayatollah's death sentence. There were attacks on Walden Books and on a bookstore in Berkeley, CA, called Cody's Books. There was the firebombing of the Riverside Press in New York City which a week earlier had published an editorial in defense of the book's publication. There are bookstores throughout the United States refusing to sell the book out of fear for the safety of their employees and their customers. There are libraries in the country refusing to carry the book.

In Britain the foreign secretary nearly apologized for the book. We heard former President Carter charac-

terizing the book as "insulting." Both the British foreign minister and the former President of the United States missed the point. The point is now whether we like the book or do not like it. I suspect I would find it deeply offensive.

That is not the issue. The issue is the right of expression, the right to write a book, the right to read a book.

So this edict is having some effect throughout the United States. We see the cold hand of the Ayatollah, the cold hand of tyranny, being felt here in the sweet land of liberty.

These are always terribly painful and controversial issues. As I said, they are issues which are difficult and controversial. I remember some of them throughout my career here in the Congress. Should members of the American Nazi Party be permitted to march in Skokie, IL, home to so many Holocaust survivors? Should an artist's rendering which includes the desecration of the American flag in Chicago be closed by the courts? Should a Klansman elected in a free and fair election in Louisiana be seated in the Louisiana Legislature?

These are the tough questions that truly test whether or not we are sincere in our dedication to the first amendment to the Constitution of the United States. And when it comes to freedom of speech, there is no need to discuss the noncontroversial issues, only the ones that pain us and divide us.

But surely, Mr. Speaker, these are the cases that truly test whether or not we are sincere about our commitment to human freedom in the United States, no matter how offensive, no matter how repulsive, no matter how unpopular. Surely, Mr. Speaker, they test the strength of our system; they test the brilliance of our Constitution. Indeed they test the very meaning of American.

So, Mr. Speaker, I raise these issues here today in this place where controversy and debate are no strangers. If we can tolerate the most repugnant and the most repulsive ideas, then we can tolerate all ideas, and that is a good thing.

□ 1430

Mr. Speaker, I do not believe that words written or spoken threaten free men and free women anywhere in the world, and, if we in this country do not speak out, who will?

Mr. Speaker, we gather here this afternoon to speak out and to reaffirm the right of free expression as it once again comes under attack.

It seems to me that this is a special and sometimes lonely obligation of the United States since we are the largest and the most powerful democracy on the planet. This task, therefore, falls to us and in many ways to us alone.

Finally, Mr. Speaker, thousands of our countrymen from Valley Forge, to Gettysburg, to the Argonne, to Hamburger Hill have died face down in the mud so that we could read and write what we want to read and write. We do not intend to dishonor their service by being silent on this subject today.

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

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

Mr. HYDE. Mr. Speaker, I want to congratulate the gentleman from Pennsylvania [Mr. KOSTMAYER] on a superb statement. I wish to associate myself with every word of it. I think he has expressed succinctly and effectively the thoughts of many of us who are troubled by the letting of a contract out by the spiritual leader of an important nation against an author who has written something that they have found highly offensive.

Mr. Speaker, we all see things and read things that are highly offensive and insulting to ideas and concepts and institutions that are near and dear to us. The movie, "The Last Temptation of Christ," is analogous. It traduced the focal point of Christianity. It was an insult, but I think the appropriate way to deal with those things is to express your opinion, express your freedom of speech in contradiction, in condemnation, even of something that one finds highly offensive about something that is sacred.

However, Mr. Speaker, at the same time to physically inhibit, whether by threats or in person, the exercise of first amendment rights is absolutely contrary to any civilized understanding of what freedom of speech really means. It means the right to say things that other people reject and do not like and condemn, but, so long as one is not yelling "fire" in a crowded theater, so long as there is not a clear and present danger, this right of a freedom of speech is one of the important, significant and, I am sorry to say, sometimes unique aspects of this ongong experiment we call American democracy.

I might add, Mr. Speaker, that one of the lessons that we ought to dwell on from this unfortunate and ongoing occurrence is how often freedom of speech is violated, not by Ayatollahs, but sometimes by people from whom we have a right to expect better. I think of the occupation of the university.

Now universities are particularly citadels of free speech, libraries, thought, and ideas. These are the sum, the substance, the grist, of universities, of education, of learning, and, when things are said and taught, or thought to be said, or attempted to be taught that a group of students do not approve of, I think there ought to be other ways, and there are other ways, to demonstrate one's disapproval without physically making it impossible for the person who wishes to assert or speak the idea that others do not agree with. There are ways to express oneself.

Mr. Speaker, I think what happened at Howard University, no matter how one disagrees with Mr. Atwater's nomination as a director or a member of the board, the forbidding by physical violence of Mr. Cosby to even make his commencement address, the demonstrations—I am for demonstrating, but not when they involve the physical taking over of buildings and denying other people their right.

Now this has happened again and again on university campuses. Jeane Kirkpatrick was victimized in several universities, and I simply say this: This abhorrent Salman Rushdie series of events where the Ayatollah has threatened death, and has made it a holy cause and offered a reward for anyone that will assassinate someone for exercising their freedom of speech, which really is not just an American right; it is a natural right for every member of the human race; I just think we ought to learn that this extreme is not unknown in terms of the substance in America where freedom of speech is not quite tolerated as much as we think it ought to be, as I think it ought to be.

So, Mr. Speaker, let us look at this extreme example of intolerance, and let us try to speak out against all intolerance wherever it happens because the consequences of tolerating a little intimidation on free speech sometimes are manifest in this extreme fashion.

What is happening to this author is tragic. That anybody can defend it is even more tragic. It seems to me, despite the abhorrence in which one holds the demeaning or insulting of a religion, that ought to be an easy enough price to pay for the blessed right to express yourself.

So I congratulate the gentleman from Pennsylvania [Mr. KOSTMAYER] for bringing this to the attention of the House, for taking this time, and I hope that we can all dwell on how precious and how fragile the right of freedom of expression is. All of us must dedicate ourselves to advancing that right wherever it is threatened.

Mr. KOSTMAYER. Mr. Speaker, I thank the gentleman from Illinois [Mr. HYDE] for sharing this time with me, and I am honored to be associated with him on this matter.

Mr. FRANK. Mr. Speaker, will the gentleman yield?

Mr. KOSTMAYER. I yield to the gentleman from Massachusetts.

Mr. FRANK. Mr. Speaker, I congratulate the gentleman from Pennsylvania [Mr. KOSTMAYER] and the gentleman from Illinois [Mr. HYDE] for in a bipartisan fashion giving us a chance to express how important a

basic principle is here under attack. I thought that the gentleman from Illinois [Mr. HYDE] was quite eloquent when he pointed out that we are talking here about people's rights to be offensive.

Mr. Speaker, yes, there are books written and movies made that have offended Islam, and Judaism and Christianity, and none of us believe that that is the correct thing to do, but we believe that it is in a free society a legally permissible thing to do, and the response is, as the gentleman from Illinois [Mr. HYDE] said, the response is a very vigorous counterattack.

In fact, Mr. Speaker, if one really believes that their religion is one with some force, then these thoughts of attack ought simply to inspire them, and the many who believe with them, to fight back. They have a right, as individuals and organizations, to boycott. No one has an obligation to buy. Private citizens who think that a particular form of expression is abhorrent should not pay the money for it. That is part of a free market that goes along with the freedom of expression that we have here.

But the notion that one has a right to prevent people from saying it is absolutely untenable, and what bothers me is people who write and say, "Well, but freedom of speech must be balanced by respect for other people's sensitivities. Freedom of speech can't be absolute in that it must not insult others."

Mr. Speaker, people do not understand one very clear thing. Freedom of expression only comes up when we are talking about opinions that are obnoxious and offensive to some people. If we are talking about opinions with which everybody agrees, freedom does not become an issue. Even Stalin thought that Molotov was free to agree with him. Hitler had no problem when Goebbels said things he liked. Freedom as a concept only comes into play when people have in fact said things with which one vehemently disagrees, and that is what we have to vindicate.

Now we have new horrifying degree of assault on freedom when the man who runs a country, the Ayatollah Khomeini, orders people to go and murder someone. It is bad enough when he prevents people from reading things in his own country, but when he announces that he has got a world right to censor what everybody reads and, in fact, to commit violence against the publisher or the author, that is an outrage, and when others fail strongly to condemn that, that is an equal outrage.

Mr. Speaker, I think we have to focus on the failure of many others who have some responsibility here to talk about what a disaster this is. The sad spectacle of the Ayatollah and his abhorrent version of his religion being so prominent and with so few others willing to be critical is a very sad one. That is not an accurate representation of Islam, and it ought to be made clearer by other believers in that religion itself.

□ 1440

There has to be an absolute insistence that people's rights to speak and publish cannot be trammeled by this sort of activity. I think it is incumbent on the Government of the United States and on the Government of Great Britain and other countries, none of us want to see money spent unwisely, but the only way to deal with this sort of threat is for all of us to pledge that resources will be put at the disposal of Mr. Rushdie, of bookstores, of publishers. If we have to spend more money to protect people, then we better do that, because if this threat succeeds in diminishing sales, et cetera, then know that it will become a model for many, many others to follows.

So it is absolutely essential that we make it clear not only that this is outrageous, but also that the right position is not halfway between. It is not to say, well, yes, they should not have threatened to kill him, but they should not have published the book, either.

It is not that, well, the Ayatollah went a litte too far, but Mr. Rushdie had no right to do that.

Mr. Rushdie has written a book which he had a right to write and he has an absolute right to be protected in its dissemination and it is an obligation of all countries.

People ought to understand, I have been involved in controversies that others have had here, we have Louis Farrakhan, a man who says on a regular basis some of the most despicable things I have ever heard. I have been asked by groups to help prevent him from having access to public forums.

I have said no, that is not appropriate. What is appropriate is to refute him. Do not patronize him. I do think it is legitimate to object to public funds being used to subsidize him, but if he wants to hire a hall and be available to people who want to hear him, then the only answer is to dispute him.

I am particularly troubled that some of the people who thought it was good when I defended the right of Louis Farrakhan to be hateful now write to me and say, "Oh, but this is a different story here, because Mr. Rushdie is being offensive."

People ought to understand that a commitment to freedom is not a tap they can turn on and off. If you are going to deny the right to be offensive and controversial to people with whom you disagree, you ought not to expect that right to be there when you yourself is the advocate of those kind of views.

I hope that people will pay attention to it. There is a broad specter of opinion of a bipartisan sort in this House and I hope that our Government and other governments at the State and local level will be encouraged to provide to people who are engaged in the sale and promotion of that book absolutely every protection that they can get.

Mr. Speaker, I thank the gentleman from Pennsylvania.

Mr. KOSTMAYER. Mr. Speaker, I thank the gentleman from Massachusetts for participating here.

Mr. Speaker, I yield to the gentleman from New York [Mr. WEISS].

Mr. WEISS. Mr. Speaker, I want to thank my friend, the gentleman from Pennsylvania [Mr. KOSTMAYER], for yielding this time to me and for having taken this special order. I want to express and associate myself with the two previous speakers, the gentleman from Illinois [Mr. HYDE] and the gentleman from Massachusetts [Mr. FRANK] for their very eloquent statements.

I think it is right and appropriate that we stand here today condemning the actions of the Ayatollah Khomeini in connection with the book "The Satanic Verses" by Salman Rushdie.

It is imperative that, as a free society, we speak out when one of our important values, in this case freedom of expression, is threatened. Writers across the country and indeed the world have banded together to protest the death threats against Mr. Rushdie, his publishers, and booksellers who display the book. The United States must stand in solidarity with Mr. Rushdie and the international writing community against this brutal attack on freedom of expression.

While the Government of Iran has been engaged in various acts of extreme behavior for many years, until now it has not attempted to patrol the expression of the international artistic community through death threats and intimidation. All cultures and all freedom-loving people have an interest in stopping this most recent example of Iran's disrespect for the norms of international behavior.

Mr. Speaker, I have joined with a goodly number of our colleagues in writing to President Bush, urging him to put the Government of Iran on public notice that it is the United States' intention to postpone indefinitely any possibility of normalized trade or diplomatic relations until the threats have been rescinded and the safety of the author, publishers, and sellers of "The Satanic Verses" has been assured. Freedom of expression must not be silenced by intimidation, and that message must be sent to the Government of Iran.

The safety of Mr. Rushdie and of the principle of freedom of expression is clearly an American interest as well as a world interest. Let the Government of the United States join the many members of the international community who have spoken out to protect these interests and preserve artistic freedom.

Mr. KOSTMAYER. Mr. Speaker, I thank the gentleman from New York.

Mr. Speaker, I yield to the gentleman from Georgia [Mr. JONES].

Mr. JONES of Georgia. Mr. Speaker, I thank my distinguished colleague, the gentleman from Pennsylvania, for yielding to me and for giving me this opportunity by taking this special order.

Mr. Speaker, before I give my statement, I would like to read into the RECORD a statement which just came across the Associated Press wire a couple of hours ago, because I think it underscores the seriousness which we are discussing here today:

BEIRUT, LEBANON.—The following is the text of a statement issued Wednesday by the Revolutionary Justice Organization, which holds American hostages in Lebanon. The Arabic-language statement was translated by The Associated Press in Beirut.

"In the name of the Almighty.

"After a thorough reading of The Satanic Verses book and its contents that insult Islam and the Arab prophet, and after examining the study of the so-called Salman Rushdie, the Revolutionary Justice Organization declares that it has completed its preparations to execute the just sentence issued by the esteemed cleric and the great struggler Ayatollah Khomeini against Salman Rushdie. Hence, it puts forward the following evidence for carrying out the sentence:

"1. Insulting Islam and the Arab prophet is an insult to the latest and greatest human civilization represented by revolutionary Islam.

"2. Salman Rushdie's record indicates that he was a branch member of the Freemasons' movement in England. Immediately after the publication of his Satanic Verses book, he was promoted to full official membership of the Freemasons' highest council in England (or the church of organized atheism) which combats divine religions, especially christianity and Islam and their great prophets.

"3. Imam Ayatollah Khomeini, with his acute awareness of the grave consequences against the future of the divine religions emanating from this Freemasonic and Zionist attack, has handed down his verdict when the Arabs and those who claim to be the protectors of Islam and speak for all the Moslems remained in tight silence.

"The Revolutionary Justice Organization also declares that before taking any measures, it will find itself compelled to attack British police posts assigned to protect Salman Rushdie in order to get to him to carry out the sentence. We hold the British government responsible in advance for the human and material losses among the British police and their posts that could result from the attacks on them. This warning applies to all countries that are currently negotiating with the British government to extend asylum and protection to Rushdie.

"Victory to the oppressed

"Glory and immortality to the martyrs

"The Revolutionary Justice Organization."

Mr. Speaker, the recent death threats by the Ayatollah Khomeini and others on the life of British writer Salman Rushdie demand the strongest possible condemnation by those who love our precious liberties.

Putting a price on Rushdie's head puts a price on the head of free men and women everywhere. We must not stand for it—we must stand united against it—and let the Ayatollah and his fanatical followers know unequivocally that if Rushdie is harmed, those responsible will suffer the gravest possible consequences.

When I was a very small boy, Mr. Speaker, the world was at war.

We lived then by a freight yard on the docks of Hampton Roads—overhead Navy dirigibles flew along the Atlantic coast, searching the depths for German submarines.

On the short wave of our old battery radio came the voices of Franklin Roosevelt, Winston Churchill, and Adolph Hitler. At night, during the blackouts, my mother prayed quietly for an Allied victory over the forces of darkness.

Nearby was a naval hospital. When Taps was played, I was told, it meant that a serviceman had died. In my child's imagination, I would wonder who it was that had given his life for me. I would create a life for them even as they left this world—I would give them names and hometowns, places taken from the sides of the boxcars in the freight yard.

So, as Taps drifted across the tidal waters, I would imagine the soul of someone, perhaps named "Joe" from Rock Island, rising on the coastal breeze.

The forces of darkness were defeated. But Taps played often.

Mr. Speaker, when the quislings of corporate cowardice removed Salman Rushdie's "The Satanic Verses" from their shelves because of fear, we lost precious moments of freedom that can never be regained. These are moments that were purchased at the greatest price, by the ultimate sacrifice of men and women whose courage enables us to speak freely here in this Chamber today.

"Eternal vigilance," as Mr. Jefferson said, "is the price of liberty."

We must be vigilant, we must be unafraid, and we must be unequivocal when dealing with those who would forever silence the voices of dissent and disagreement, and take from us our right to think as a truly free people.

It is our duty to send an old-fashioned plain and simple message to the so-called religious fanatics who seek to forever silence Salman Rushdie.

We need also to remind those merchants of appeasement in the United States that although they have the right to remove a book out of fear, they have the moral responsibility to not give in to the bullies of intellectual intimidation and spiritual terrorism.

They owe that to those who have gone before—people like "Joe from Rock Island" for whom Taps was played when I was a little boy.

I thank you, Mr. Speaker, and I thank my distinguished colleagues for these special orders.

□ 1450

Mr. KOSTMAYER. Mr. Speaker, I yield to my good friend, the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. I thank the gentleman from Pennsylvania [Mr. KOSTMAYER], for arranging this special order enabling us to speak out on this important issue concerning the freedom of expression.

Mr. Speaker, I rise in strong support of the resolution introduced by the gentleman from California [Mr. MILLER] expressing the sense of Congress condemning the death sentence issued against British author Salman Rushdie by the Ayatollah Ruhollah Khomeini of Iran, and to call for its immediate repudiation.

One of the basic tenets of a democratic society is freedom of expression. When that freedom is impugned through censorship, repression, or the threat of physical violence, it is incumbent upon the Members of this legislative body to express our outrage and indignation.

The recent death sentence decreed against British author Salman Rushdie is the latest manifestation of the bizarre, irresponsible behavior which has been the trademark of the Iranian leadership over the last decade.

With the recent cease-fire in the Iran-Iraq war, Iran should take advantage of the opportunity for rapprochement with the West. This recent episode, however, speaks against any hope for moderation in that troubled state. The death sentence against Salman Rushdie merely adds another chapter to the catalog of outrageous acts perpetrated by Khomeini, and must be condemned by those of us throughout the world who value freedom in all of its forms.

Accordingly, Mr. Speaker, I urge my colleagues to adopt this resolution.

Ms. PELOSI. Mr. Speaker, I thank my colleagues, Mr. KOSTMAYER and Mr. HYDE for calling this special order to allow us the opportunity to express concern about the international incident resulting from the publication of Salman Rushdie's book, "Satanic Verses." This affair has tested the very principles on which our Government is based, freedom of speech and freedom of expression. I believe that it is important for us to challenge the decisions to restrict access to this publication, regardless of its contents.

The Ayatollah Khomeini's orders for the immediate execution of Mr. Rushdie and all of those involved in the publishing of this work cannot be tolerated. The American system is nourished by freedom of expression. While I may not agree with Mr. Rushdie's opinions, I respect his right to hold his own views. The suppression of the thoughts of others leads to oppression.

In the San Francisco Bay area, bookstore owners and managers are risking their own lives to ensure that "Satanic Verses" continues to be available to the general public. Last week alone, two bay area bookstores were fire-bombed in an apparent attempt to intimidate owners into pulling the book from their shelves. Despite these attacks, the two stores remain firmly committed to the rights of the book-buying public. I commend the owners, managers, and employees of these bookstores for their steadfast commitment to freedom of expression. It is important that we not allow these terrorist actions to injure or restrict the freedom that America cherishes.

I commend those members of the international community who have refused to be intimidated by the Ayatollah's threats. The free world must stand together in our responsibility to defend the free flow of thoughts and ideas. We must never allow any one person or group to forcibly impose their own values and ideas on the world community.

The uproar caused by the publication of "Satanic Verses" is damaging to the institution of American democracy. We must demonstrate our dedication to the values and principles which have helped to shape our Government by refusing to allow the Ayatollah Khomeini to dictate our domestic policy. Our Government must work to uphold the right of every American to have access to books representing varying viewpoints.

I urge our Justice Department to take an active role in pursuing those who have issued threats against retailers who offer their patrons the opportunity to purchase "Satanic Verses." We cannot tolerate these direct attacks on the freedom on which we pride ourselves.

Again, I thank my colleagues for calling this important special order, and I look forward to working with them to ensure the protection of freedom of expression.

GENERAL LEAVE

Mr. KOSTMAYER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks in connection with this special order.

The SPEAKER pro tempore (Mr. BORSKI). Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Maryland [Mrs. BENTLEY] is recognized for 60 minutes.

[Mrs. BENTLEY addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.]

TRIBUTE TO SENATOR JENNINGS RANDOLPH, OF WEST VIRGINIA, ON HIS 87TH BIRTHDAY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from West Virginia [Mr. RAHALL] is recognized for 30 minutes.

Mr. RAHALL. Mr. Speaker, few Members of either the House of Representatives or the U.S. Senate ever attain legendary status. Fewer still attain that status while they are still alive. But we are today honoring one of that rare group, my friend and long-time mentor Jennings Randolph.

Fifty-six years ago, in 1933, Jennings Randolph was sworn in as a Member of Congress. Fifty-six years ago, he began to work diligently to improve the way in which Government worked to overcome problems, to make America great. His service to this Nation, while a Member of the House of Representatives from 1933 to 1947, and in the U.S. Senate from 1958 to 1984, spanned one-quarter of the life of this Republic.

I had the honor to work closely with Jennings Randolph from my first day as a Member of the House more than 12 years ago, and before that as an employee of the U.S. Senate in the Democratic Cloakroom under Senator ROBERT C. BYRD. The experience has been among the most rewarding aspects of my service in Congress, and I'm proud to say, I still work closely with this great American.

On this, the occasion of his 87th birthday, I am pleased to pay tribute to this most senior and most beloved public servant from the great State of West Virginia. As he would say and did say when I last talked to him just 2 days ago, and as I would wholeheartedly agree, Jennings Randolph is today 87 years young.

In the Senate, a body where perhaps no one is more conscious of its unique code of activity, nor where the rule of courtesy is so zealously enforced, Jennings Randolph made it unnecessary for freshman Senators to search for a printed book of etiquette that could instruct them in the management of relations between Members. No such publication exists, because the rule of courtesy and the forms of civility in that Chamber were learned by example only—and Jennings Randolph instructed by personal example in the subtle ways of representative government.

During his service in the House of Representatives, Jennings Randolph began to search for a way to establish a national energy policy; he introduced legislation in 1942 known as the Synthetic Liquid Fuels Act that would have created ways in which to transform coal and its products into other useful energy forms. For example, in the early 1940's he copiloted a plane flown from Morgantown, WV, to Washington, DC, using fuel made from coal.

One of his last acts as a U.S. Senator was to see the creation of a peace arm of the Government, the U.S. Institute of Peace, the culmination of an effort Jennings Randolph began in 1945 as a Member of the House of Representatives. The U.S. Institute of Peace has been operating for the past 5 years, thanks to the efforts Jennings Randolph made way back before 1948, when we still had a Cabinet level Department of War.

In 1933, Roosevelt and Randolph were the New Deal twins, and there have been few Members of Congress in either body who stood more clearly for the enduring values of hope and human progress for which Franklin Roosevelt stood than Jennings Randolph did throughout his long and distinguished career. And today, he could tell us as clearly as if it were yesterday about the first 100 days of Franklin Roosevelt's Presidency.

Senator Jennings Randolph grasps better than most men the latent, untapped talents, and abilities that lie in almost everyone. And he has lent and to this day is still lending his efforts and his time to what they might never have become without his help and concern.

Some examples of his golden opportunities for others for which he worked throughout his career include the students he taught at Davis and Elkins College, at Salem College his own beloved alma mater, and at Southeastern University in Washington, DC. He is known for always challenging the young, among them participants in the National Youth Science Camp, the YMCA, the Metropolitan Police Boys and Girls Club, the National Youth Governors Conference—all of whom have benefited from his experience and dedication.

Across America today, blind people and other handicapped men and women and children owe a debt to Senator Randolph. Through the Randolph-Sheppard Act for the Blind, and the Education for all Handicapped Children and Adults Act, Jennings Randolph created futures for the blind and handicapped—futures that included the ability to earn a living, and to become proud and productive people. He established and chaired the first Subcommittee on the Handicapped under the parent Committee on Labor and Human Resources until the Senate gained a Republican majority in 1981. Jennings Randolph quite literally reduced the obstacles that would have imprisoned physically and mentally disabled people, bringing light into the lives of those who could not see, and a smooth path for those who might have stumbled.

Through his efforts as chairman of the Public Works and Environment

Committee in the Senate, which he ably chaired for 14 years, Jennings Randolph authored the original Appalachian Regional Commission, and the Economic Development Administration, which brought roads, bridges, health care facilities, better schools, and many jobs to West Virginia and the rest of the Nation, but particularly to the 13 Appalachian States. It was during this time that he fought with the Corps of Engineers—and won—to call their dams and reservoirs "lakes." There are now eight of them in West Virginia, and so naming them has meant a great deal to the tourism industry that has been carefully crafted in our State for many years.

It was in his Senate years that he created what is now known as the Interstate Highway System, which now serves our State and the Nation, setting the stage for a better life for millions now living, and for generations to come.

During his tenure in the Senate, he came to be known as America's environmental architect in the legislative arena. His pace never slackened, and his work brought forth the Clean Air and Clean Water Acts, the Superfund Program to clean up toxic waste, and solid waste disposal.

Serving as the ranking Democrat on the Senate Labor and Human Resources Committee Jennings Randolph brought into being the Black Lung Compensation Act for those, who due to their work deep in the coal mines of West Virginia and other coal-mining States, were dying of that progressive disease known technically as pneumoconiosis.

Jennings Randolph is the author of the 26th amendment to the Constitution of the United States which gives 18- to 20-year-olds the right to vote, a franchise he believes they deserve because, as he says, if an 18-year-old is mature enough to be expected to fight and perhaps die for his or her country, and is old enough to be considered a responsible adult under our laws, they should be allowed to vote.

Jennings Randolph introduced and guided to enactment the first Airport Authority Act which resulted in the building, extension, or renovation of airports throughout the country, enabling the people in America to enjoy the ease and speed of those new-fangled jet airplanes, and a much expanded airline industry. Later, he was one of only nine Members of the Senate to vote against airline deregulation. He did so because he believed the improved and increased service to such small rural States such as West Virginia would be seriously impaired by deregulation, and that such impairment could lead to an economic downtrend in the efforts being made by his State and its representatives to attract and keep new business and industry and the jobs they brought with them.

He introduced legislation, so early on that it was first named the National Aeronautics Museum, but which took so long to guide to enactment that its name had to be changed to the Air and Space Museum, because by that time men had walked on the Moon. Such was the vision of this courageous man.

He is a leader, who leads through the whispered confidence, the silent gesture, the humorous anecdote, the gentle rebuke, the welcome plaudit, and all of the characteristic wit and wisdom of a gentleman. He embodies the finest traditions of the House of Representatives and the U.S. Senate, and of our great country.

In conclusion, Mr. Speaker, I would like to recall that many years ago they asked the great physicist, Lord Rutherford, how he always happened to be riding the crest of the wave. And he replied, "Well, I made the wave didn't I?" And that is how we think of Jennings Randolph today—he helped make the waves and then found realistic solutions that have made the difference in quality of life for not just West Virginians, but all Americans.

William Shakespeare might have been talking about Jennings Randolph when he said: "Age cannot wither him nor custom stale his infinite variety." Throughout his brilliant career and to this day his vision never dims, and his convictions never waver—and because of that we have a national transportation system, safer workplaces, a cleaner environment, the right to a decent education and decent health care, and the hope of a better life for all.

From all of West Virginia, happy birthday, Senator Jennings Randolph and God willing, may you have many, many more. Our thoughts and our prayers are with you.

□ 1500

Mr. STAGGERS. Mr. Speaker, will the gentleman yield?

Mr. RAHALL. I yield to my colleague, the gentleman from West Virginia.

Mr. STAGGERS. Mr. Speaker, fourscore and eight years ago a man was born in West Virginia. He was born to a family in north-central West Virginia that nurtured an appreciation of service to his fellow man. He served 14 years in this House and 26 years in the U.S. Senate. That man is a legend to those of us who know him. That kind and gentle public servant is Jennings Randolph.

Senator Randolph is a hero to millions of people in this country. He was a tireless advocate for people who worked hard for their livelihood and championed legislation that helped those who needed a helping hand.

He was the last of the Roosevelt "New Dealers" to leave Congress at the end of the 98th Congress. Winning his election in 1932, he came to Washington inspired to make a difference, and he did.

He championed legislation for clean water, clean air, mine safety, black lung programs, the Air and Space Museum, the Appalachian Regional Commission, National Labor Relations Act, the Randolph-Sheppard Act, education, and for the handicapped. He is the father of modern commercial aviation, however; he is most proud of his original sponsorship giving 18-year-olds the right to vote. Many of us here in this Chamber were first able to vote due to this man's efforts.

He first proposed that a Cabinet-level Department for Peace be formed. We are still working on the scaled-down version of his vision, and many people from his old district would welcome the Peace Academy.

He was at a reception for me nearly a year ago. He was and always will be a perceptive thinker. He dislikes the title "Congressman" and was letting all know that we are U.S. Representatives, servants of the people who elect us to this position of high public trust.

He was, up until he retired over 4 years ago, the only Member of the U.S. Senate with a listed telephone number in the District of Columbia. It was not unusual for people from West Virginia to call his home in the evening or on a weekend if their car broke down while visiting our Nation's Capital.

Senator Randolph said, "I had an overriding desire to help people, to upgrade, to benefit our people." That is why my family, the people of his district, and I are pleased to honor one of America's best. Jennings Randolph served the people of the Second Congressional District of West Virginia and later the entire State of West Virginia as Senator. He is the portrait of what a representative of the people should be.

I am pleased and honored to join my colleagues in wishing our dear friend my best wishes on this, his 87th birthday.

Mr. RAHALL. Mr. Speaker, I thank my colleague from West Virginia.

Mr. WISE. Mr. Speaker, it is with great pride, honor, and admiration that I rise today on the occasion of the 87th birthday of Senator Jennings Randolph.

Senator Randolph has set the finest of examples by both his deeds and his conduct. This is perhaps best illustrated by the fact that he earned enormous respect on both sides of the Senate aisle for his mastery of the art of legislative compromise and the tenacity with which he pursued his goals.

Senator Randolph's contribution to our State of West Virginia is equally enormous. The work he has done on infrastructure development and the Interstate Highway System will provide opportunities for many generations. Legislation such as the National Energy Security Act has served to keep mining alive

and a tradition for West Virginia's economy, security, and heritage.

Mr. Speaker, it is impossible to be raised in West Virginia and not be inspired by this man. Excellence is synonymous with Jennings Randolph. Many do not realize that his legacy as an athlete is as rich as that of a statesman. He has greatly influenced both athletic and academic programs at Davis and Elkins College and Salem College, two of West Virginia's small, independent colleges.

Senator Randolph always took time to work on projects to benefit the young. From his early days as the athletic director of Davis and Elkins College in his hometown of Elkins, WV, to the fight he led to grant 18-year-olds the right to vote, he has exerted a positive and priceless influence on our Nation's youth.

Mr. Speaker, West Virginia has produced many great leaders, heroes, and statesmen. I can think of none who better exemplifies these traits than Senator Jennings Randolph. We are all greatly indebted and enriched for having worked with him.

Mr. MOLLOHAN. Mr. Speaker, the opportunity to pay tribute to a man who is known as a true legend is very rare. Today, we have that rare opportunity—the 87th birthday of our friend, former U.S. Senator Jennings Randolph.

Senator Randolph's name has a magic ring to it in West Virginia. From the steelmills of the northern panhandle to the coalfields of the south and from the river towns along the Ohio to the apple orchards near Harpers Ferry—Jennings Randolph is remembered fondly as a champion of Mountain State causes and friend to all who sought his wisdom and leadership.

He came to Congress in good company, taking his oath of office in 1933—the same year that Franklin Delano Roosevelt took the Presidency and proceeded to guide America through the perils of depression recovery. Randolph worked his early years in the House to support FDR's recovery initiatives. For seven straight terms, Senator Randolph represented his beloved fellow West Virginians in this Chamber. During that time he also became West Virginia's congressional champion of coal.

There are few West Virginians over 50 who do not remember or have not heard about the Senator's dramatic demonstration of the value and abilities of synthetic fuels derived from coal. In November 1943, during a world war in which fuel had become a most prized commodity, Senator Randolph boarded a small single-engine airplane in Morgantown, WV, and flew to Washington, DC. It doesn't sound so unusual until you consider that the fuel that powered the prop wasn't a conventional oil derivative. Coal was the power supply for that promising flight of 1943. Senator Randolph hoped that it would show a fuel-hungry America that West Virginia coal has the answer to fuel problems and oil shortages. Along with Senator Joseph O'Mahoney of Wyoming, then-Congressman Randolph introduced the Synthetic Fuels Act that was to provide funding and encouragement for the further development of liquid fuels from coal.

But, America's war victory and postwar progress led to the gradual lessening of the need for a synthetic fuels effort and the program eventually became dormant. It was most frustrating to Senator Randolph who was powerless to save the program. The 1946 election swept 156 incumbents from the U.S. House of Representatives including Randolph.

The late Representative from Kentucky, Carl Perkins, wrote that if government and industry had followed Senator Randolph's advice on synthetic fuels development, America would have been spared the postwar mining slump, the shock of the oil crises of the 1970's, and our dangerous dependence upon foreign energy. His synthetic fuels dream was not to be. In 1983, when he sought to recreate his historic 1943 flight, Senator Randolph could secure no more than 1 pint of synthetic fuel.

When he returned to Washington in 1958, he returned as a U.S. Senator and a new legacy of innovation and progress began under his stewardship. The Randolph-Sheppard Act that gave blind people the opportunity to operate vending stands in Government buildings; the 26th amendment to the Constitution which gave 18-year-olds the right to vote; measures that led to the National System of Interstate Highways that link America's great and small cities with efficient highways; legislation creating the National Air and Space Museum which millions of people visit in Washington; environmental protection initiatives; economic assistance programs to bring jobs and business opportunity to lagging areas of America; legislation to create a Peace Academy, the Economic Development Administration, and the Appalachian Regional Commission—they were all authored or influenced by Senator Jennings Randolph and have become part of the Randolph legend.

He served as chairman of the Senate Environment and Public Works Committee and a host of other respected and influential boards, caucuses, and committees. In spite of that impressive list of accomplishments and activities, Senator Randolph always had time for his people—whether it was the small boy at a West Virginia function who desired an autograph or the senior citizen who wanted the Senator to know of a personal difficulty, Senator Randolph always had the time to be West Virginia's friend in the U.S. Senate.

His retirement in 1985 was met with many mixed emotions—his fellow West Virginians were saddened over his departure, but all wished him well in his search for new challenges and activities. Now, we are celebrating Senator Randolph's 87th birthday with fond memories and warmest regards for his service and friendship of so many years.

He is fond of remarking how his political career really began as he sat on his father's knee at the Democratic National Convention of 1912 and absorbed the color, excitement, and passion of politics when Woodrow Wilson was nominated for his first term as President. That was a fateful convention for West Virginians because it sparked a 10-year-old boy's imagination and interest in politics—an interest that was to guide him for the next 70 years and inspire him to accomplish great deeds for his State and Nation.

Mr. Speaker, it is with great pride, pleasure, and honor that I join my colleagues in wishing our dear Senator Jennings Randolph warmest wishes for a happy 87th birthday. He has forever left a mark of hard work and accomplishment upon Congress, West Virginia, and America.

GENERAL LEAVE

Mr. RAHALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order today.

The SPEAKER pro tempore (Mr. BORSKI). Is there objection to the request of the gentleman from West Virginia?

There was no objection.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. OWENS] is recognized for 60 minutes.

[Mr. OWENS of New York addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

CELEBRATING THE LIFE OF DIDI DANIELS PETERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. LELAND] is recognized for 60 minutes.

Mr. LELAND. Mr. Speaker, I rise this afternoon to celebrate the life of Didi Daniels Peters—a truly beautiful woman who succumbed to a long illness on Saturday, February 25, 1989. She will be missed by all of us who were blessed to have known her.

I first had the pleasure of meeting Didi with her husband Brock the world-renowned actor, singer, and producer, in their home in Hollywood. That meeting had a profound impact on my congressional career.

I had been invited to Brock and Didi's home by my colleague JULIAN DIXON. He was meeting with the Peters's and other renowned African-American actors, writers, and producers—who had come together as the National Alliance for Black Advancement in Communications—to discuss the absence of positive African-American images in film and television. I had not intended to participate in the meeting at all, I merely was going to audit the conversation.

But their concerns were so compelling I could not maintain my passive posture. That first meeting with Didi and the others caused me to join the Telecommunications and Finance Subcommittee of the Energy and Commerce Committee so that I could do my part to help change the images our children see.

In subsequent years Didi and Brock helped to focus Congress' attention on the shameful absence of positive African-American images in film and television. Brock and Didi were a uniquely creative husband and wife power-

house—their collective legacy will be with us always.

Didi was a pioneer—a modern-day heroine. She dedicated her life to the arts and as a result she enriched our lives as well as this Nation's cultural heritage.

Didi was among the first African-American women to break the gender and color barriers in television production with her "Jazz Party" series—the first regular television series on jazz. Her love for jazz led her to own WNCN in New York, the first all jazz radio station in the United States.

She also became one of the first women executives in the recording industry when she became an assistant publicity director for United Artists records.

Didi's creativity knew no bounds. When she was the national funding director of the NAACP, she created the national "Bank of Stars," a year of concert tours in major cities which featured starts of music, poetry, and literature.

Before moving to the west coast, Didi founded the Dance Theater of Harlem Advisory Board and Guild and was a founding board member of the Museum of African American Art.

My love for Didi is deeply grounded in my sincere appreciation for her labor of love—Maga Link, Inc. Didi was quick to say that the creation of Maga Link was her proudest professional achievement.

Maga Link, which was founded by Brock and Didi, spawned Communications Bridge Institute, the first institution of its kind dedicated to the professional career training of low-income, minorities, and women in videotape technology.

Brock and Didi began this training program because, as Didi stated in 1983:

> It's very hard for minorities and disadvantaged people to get training. They can't afford it. And the school system doesn't concentrate on the media. * * * We didn't want these students to be locked out of the future.

Future generations owe a debt of gratitude to Didi for her vision and foresight.

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

Mr. LELAND. I am glad to yield to my colleague, the gentleman from the great State of Maryland.

□ 1510

Mr. MFUME. I certainly want to commend the gentleman from Texas for taking time under this special order to commemorate the life and the legacy and the work of Didi Peters.

Many of us who admired her from afar, who had the opportunity, once, twice, or just casually to meet her, who were really the beneficiaries of her works in the area of communications and broadcasting, certainly hold a deep debt of gratitude and a great deal of respect for all she did to make things better for those of us who came through that same door; but more importantly for those who still yet come behind us.

I think the gentleman is certainly right in suggesting with a great deal of emphasis that Didi Peters was really a heroine in her own time, a trailblazer in many respects for the causes of the furtherance of the arts, particularly as they affect African-ancestored Americans.

Her work with the Dance Theater of Harlem, with Maga Link, with the NAACP Arts Program, are just a few of the many examples that we could take time on this floor, through this special order, to cite.

But perhaps most of all I think her legacy and her impact will probably be measured like the impact and the legacy of the teacher, and that is that it goes on generation after generation, and that generational effect and that generational impact really means that Didi Peters will live long beyond this day, and her work and all that she stood for, and in many instances sweated for, will live on also.

So I join with the gentleman from Texas in taking a moment to express my gratitude for all of her work, as one who benefited in the area of broadcast communications. I know I speak for all people in the performing arts as it relates to their ability now to take advantage of situations that had not previously existed, but more importantly for having someone such as her not just to go up to the door and knock, but really to push the door wide open.

She served as a bridge, in many respects, that we might run across and get to the film industry, get to the broadcast industry.

So my condolences to the Peters family; my thanks also to the Peters family for letting this Nation share with them the beauty of Didi Peters and I thank the gentleman for yielding.

Mr. LELAND. If the gentleman will remain for just a minute, I would like to, in just some conversation with him, acknowledge the fact that their daughter, Lisa, is bound to carry on that legacy, too. She, too, is a link to the future for Brock and Didi.

I am very proud of the association that I have had with that family, especially through a very personal relationship between myself and Brock and Didi.

I am also very excited about the legacy that Didi has left because in fact if you look at the television prime time soap operas, you will see Diahann Carroll playing on "Dynasty." I will tell you that Diahann Carroll did not get there by herself. It was the hard work of people, people led by Didi, Brock, Robert Hooks, George Standford Brown, and many others who have come together to put leverage on the industry in Hollywood, the independent producers, the TV network owners, and all of them coming before Congress and appearing before my subcommittee on two different occasions, one in Hollywood, and on the other occasion in Washington when in fact they impressed the leadership of those stations, those institutions enough to at least give them some illustration, or illumination, if you will, that African-Americans were not present in positive roles to the extent that they should be; they were not following the objectivity of where other folks were, given the vacuum that was created by blacks only participating, in front of the cameras at least, as far as their roles, playing comedians and so forth.

So when we look at the credits as they roll after the movies that we see on television and in the movies, when we realize those black names and Hispanic names and women playing greater leading roles, we will remember Didi Peters, because she was in the forefront, the avant-garde, if you will, in getting those folks there.

As many skills as those credits might represent today, at least some advancement was realized.

Mr. MFUME. Well, a great deal of advancement certainly is being realized even though—and I am sure Mrs. Peters would be the first to admit—that there are many more hurdles to overcome. In thinking, really, about her contribution to this industry and to African-ancestored Americans and in doing so to America, I am reminded of the old gray-haired builder who, at the end of his own life, was still building yet another bridge. There were those who mocked and jeered and questioned the merit of this activity so late in his own life. When asked, he responded, he said, "Good friend, in the past I have come, traveling after this road, there is a youth who must pass this way. And that chasm that has been not for me, for that wide-eyed eager, anxious, ambivalent, sometimes abused young person, that may be a pitfall be." He said, "They too must cross in the twilight dim. So I stand here today and build this bridge for him."

Mr. Speaker, I thank Didi Peters for all the bridges she took time to build, even in the twilight of her own life. Again, as I said earlier, so that we might use them to run across and to get into positions that would make this a more equitable and fair society in terms of the arts and would move more importantly to better shape the images that are so readily ingested by the American people.

Mr. LELAND. What a most eloquent statement for a most beautiful woman.

Let me say that that bridge she is indeed today, as I have alluded to. I am reminded also that Didi built many other kinds of bridges.

By the way, when I was talking, she did not talk about blacks or African-Americans, if you will, and other ethnic minorities, in just appearing before the cameras. She also fought so that she had a strong and positive campaign which she led to make sure that blacks were also writing scripts, other ethnic minorities were producing and doing all of the things that needed to be done to make the screen presentations whole.

She was an unyielding, very eloquent spokesperson for that effort and for that we will indeed be forever thankful.

I am so very grateful to the gentleman from Maryland for adding his great praises to this great woman. I do appreciate all that he has said.

I might add that there are other Members of Congress who just could not be here, who want to be here, but who will submit their statements in writing.

Mr. DELLUMS. Mr. Speaker, I rise to honor the life and accomplishments of a good friend and a pioneer in the arts, Ms. Didi Daniels Peters, well-known producer, publicist, and community activist, and wife of world-renowned actor/singer and producer Brock Peters, died in Los Angeles on Saturday, February 25, 1989, after an extended illness. She was 59 years old.

The Philadelphia, PA, native was cofounder, with her husband Brock, of Maga Link, Inc., which created Communications Bridge Institute, the first institution in the Nation for the professional career training in videotape technology of low-incomed minorities, and women. Maga Link, Inc., was recently named by the Corporation for Public Broadcasting as the CPB Consortium for Black Programming to the Public Broadcasting System for the development, production, and distribution of programming to stations nationally and to PBS educational and cultural institutions.

Ms. Peters was one of the first black women television producers in the country. One of her productions, "Jazz Party," the first regular television series on jazz, earned her an Emmy Award nomination. As assistant publicity director for United Artists Records, she became one of the first female executives within the record industry.

She was founder of the Dance Theater of Harlem Advisory Board and Guild and founding board member of the Museum of African American Art. Ms. Peters was also one of the founders of the Media Forum, an organization consisting of a group of eminent media personalities who produce seminars, forums, and concerts designed to inform the public about media imagemaking. This group's television special, "Voices of our People," won ten Emmy awards in 1984. She also served as a trustee of the Bella Lewitzky Dance Foundation and of the Dance Gallery, a group which constructed the first theater ever built for dance in the history of the art form. This facility is located in downtown Los Angeles.

The jazz lover was once the owner/producer of WNCN in New York, the first all-jazz radio station in the United States. This station, which set the precedent for such stations which followed, featured major musicians and critics as regular disc jockeys. Included were "Cannonball" Adderly, Duke Ellington, Horace Silver, Leonard Feather, Nat Hentoff, and others. She later became the national funding director of the NAACP for which she created the national "Bank of Stars," a year of concert tours in major cities which featured stars of music, poetry, and literature. As a tribute to this project, Max Roach wrote his groundbreaking "Freedom Now Suite."

Having become highly discontent with the quality of black-oriented films of the late 1960's and the early 1970's, Ms. Peters and her husband started a production company, Delbro Enterprises. This company produced such award-winning projects as the PBS-TV special "This Far by Faith" and the feature film, "Five on the Black Hand Side," a family comedy which broke the "blaxploitation" trend of this period.

This uniquely creative husband and wife team also produced numerous internationally acclaimed benefit events for the issues and organizations to which they were both committed. Included are the "Harlem Homecoming" series for the Dance Theater of Harlem; "Hallelujah" at the Forum; "Soul Food at the Waldorf" for the Free Southern Theater; "The American Tap Show" for the Dance Gallery, and the Olympics Arts Festival.

Ms. Peters earned here M.A. degree in political science and administration with honors under a fellowship at Howard University. She later studied at the University in Copenhagen, as a fellow of the Scandinavian American Foundation. Her works have also been cited into the U.S. CONGRESSIONAL RECORD on three occasions. Her awards include the NAACP National Humanitarian Image Award; the Delta Sigma Theta Fortitude Award; was named as one of the 10 most distinguished black women in 1984 by the NAACP Legal Defense Fund; the Rosa Parks Award of the U.S.C. Black Woman's Caucus in 1982. She has also been the recipient of many citations from mayors, Governors, State, and national legislators, and leaders for her outstanding professional and community activities.

During a recent interview, the legendary achiever was asked about that in her career of which she was most proud. "That's an easy one," she readily responded. "I am proudest of my part in creating Maga Link, Inc., which now trains over 35 percent women for 'behind the camera' jobs and the Dance Theater of Harlem which destroyed the stereotypical view that blacks didn't have the 'arch' for ballet." She continued, "But I am filled with both pride and joy as I look back over the 27-year 'Brock and Didi' partnership. There have been a lot of liberal and sensitive men who opened those 'first' doors for me. I was lucky enough to marry one who has understood what the word 'partner' really means."

Mrs. COLLINS. Mr. Speaker, it is with a deep sense of sorrow that I join the distinguished Member from Texas, Congressman MICKEY LELAND, the Congressional Black Caucus, and the thousands of voices today that are resounding as one to speak on the life and legacy of Didi Daniels Peters—an accomplished producer, publicist, and community activists. But even more fondly to remember, she is the wife of world-renowned artist Brock Peters.

Mr. Speaker, as I take his moment to reflect on the life of one of history's most powerful black women, I cannot help but to enunciate those words that the founder of the National Council of Negro Women, Mary McCloud Bethune, has bestowed upon women of color as a guiding light on the road to success. She stated, "when the door of opportunity opens be ready to put your foot in."

Venturing into a field that was heavily dominated by men and equally nonminorities, Didi Daniels Peters premiered in the television industry as one of the first black women television producers in the country. Turning to the recording industry, she is acknowledged, in her capacity as an assistant publicity director for United Artists Records, as one of the first female executives in the record business.

The Dance Theater of Harlem, which many of us in the Congress have enjoyed over the years, could not have realized its importance or diversified potential without the insight of Didi who recognized the need to set up the Dance Theater of Harlem advisory board. And the list of her many achievements goes on and on.

But Mr. Speaker, there is one important element in her memoirs that captures the essence of Didi Daniels Peters. Is it not a beautiful testimony of life when a man and woman can come together in a "partnership." Responding to the question of the most proud moment in her career she stated, "But I am filled with both pride and joy as I look back over the 27-years 'Brock and Didi' partnership. There have been a lot of liberal and sensitive men who opened those 'first' doors for me. I was lucky enough to marry one who has understood what the word 'partner' really means."

Mr. Speaker, it is always a moment of sadness to learn of the passing of one who has contributed so greatly to the social, political, and cultural development of this Nation. So as we speak about Didi Daniels Peters today—reflect in silence on her today—let us remember her as a gift of love which we were given to learn from and to enjoy.

Mr. DIXON. Mr. Speaker, it is with deep sadness that I rise today to pay my respects to a dedicated and motivated woman, Mrs. Didi Daniels Peters. Didi, a long-time, personal friend passed away on Saturday, February 25, 1989, after struggling with an extended illness. Didi will be remembered not only as a wonderfully caring individual, but also as a shining star of the black community who contributed to the enlightenment of our society. Didi was a well respected producer, publicist, and community activist and will truly be missed by those of us who were privileged enough to know her. She was a true inspiration to us all. Together with her husband, Brock Peters, a world-renowned actor, singer, and producer, they worked to improve miniority participation and portrayal in film and television, as well as greatly enhanced our cultural involvement in the arts.

Didi's accomplishments and contributions can best be appreciated when reflecting upon the description of a young black man's search for his identity in Ralph Ellison's 1952 novel, "The Invisible Man." Tragically, this novel opens with the statement, "I am an invisible man." His was not a life of recognition for individual accomplishment, but rather one of bombarding prejudices and unfulfilled expections that he was unable to surpass.

Didi Peters' personal accomplishments stand out for all to see. She, unlike the invisible man, truly gained personal recognition in her community and actually went beyond the personal level to help other minorities break longstanding stereotypes and barriers. Not only was Didi one of the first black female television producers in the country, but through her development of Maga Link, Inc., she opened the door for many blacks and other minorities to become involved in the major media avenues of our society. Maga Link, Inc., is the first institution in the Nation to train low-income minorities and women for professional careers in videotape technology. I have had the opportunity to visit Maga Link, Inc., many times, and I have been continuously impressed by the projects in this workshop. Maga Link, Inc., was recently recognized by the Corporation for Public Broadcasting System for its nationwide program development, production, and distribution.

While dance and jazz music have long been integral parts of the black community, Didi succeeded in promoting these passions in mainstream society. Of this endeavor the invisible man could only dream. Didi was a founder of the Dance Theater of Harlem Advisory Board and Guild which unquestionably has helped to promote black expression within the grand, dance expression of ballet. The Dance Theater of Harlem has enjoyed worldwide recognition for its beautiful productions. Didi initiated several other important art and dance projects including the Museum of African American Art, the Bella Lewitzky Dance Foundation, and a group called the Dance Gallory which constructed the first theater ever built for dance in the history of the art form. This is located in downtown Los Angeles.

Another organization founded by Didi, The Media Forum, received 10 Emmy awards in 1984 for its television special "Voices of Our People." Didi concentrated on refocusing the entertainment industry's attention of blacks and minorities in a more positive light.

Didi and Brock's creation of the production company, Delbro Enterprises, for instance, upholds this policy and exposes the public to quality black-oriented productions. Delbro produced such award-winning projects as the PBS-TV special "This Far By Faith," and the feature film, "Five on the Black Hand Side." The frustrated character in "The Invisible Man" could not penetrate society's tough barriers and defenses, and he had no hope for changing public misconceptions or prejudices. Didi and Brock have affected public awareness and in awareness we find understanding, which is the path to acceptance and advancement. Didi's own activities, along with her joint ventures with Brock, will remain with us for many years to come. Acceptance and understanding will be found somehow, someday, and surely Didi's actions will be a key link in the chain of understanding.

With public exposure as a recognized force, Didi became the national funding director of the NAACP in which she created the national "Bank of Stars," a year of concert tours in major cities which featured stars of music, poetry, and literature. People of all races, religions, and backgrounds can share the pleasure in these mediums. Didi's love for jazz music also inspired her to develop and produce the first all jazz radio station in the United States, WNCN in New York.

Didi received many awards and honors over the years including the NAACP National Humanitarian Image Award, the Delta Sigma Theta Fortitude Award, the honor of being named one of the Ten Most Distinguished Black Women in 1984 by the NAACP legal defense fund, and the Rosa Parks Award of the USC Black Woman's Caucus in 1982. Didi also was the recipient of many citations from mayors, Governors, State, and national legislators for her outstanding professional and community service.

I want to extend my sincere condolences to Didi's loving husband, Brock, her daughter Lise Jo Peters, her sister Marie Daniels Baxter, her cousin Albert Popwell, and a host of other relatives and friends who will deeply miss such a generous and insightful woman.

Mr. DYMALLY. Mr. Speaker, I would like to express my deepest sympathy to the family of Ms. Didi Daniels Peters, the well-known producer, publicist, and community activist who died on February 25 after an extended illness.

As one of the first black women television producers in the country, Ms. Peters made successful inroads within the public broadcasting industry, later paving the way for greater opportunities for minorities and women. As assistant publicity director for United Artists Records, she became one of the first female executives within the recording industry.

She was founder of the Dance Theatre of the Harlem Advisory Board and Guild and founding board member of the Museum of African American Art. As founder of Media Forum, Ms. Peters worked with eminent media personalities to produce seminar forums and concerts designed to inform the public about media imagemaking.

Didi's strides in media imagemaking culminated in a joint venture with her husband, Mr. Brock Peters, to build a production company, Delbro Enterprises, as a means to break the blaxploitation of stereotypical black-oriented films. The uniquely creative husband and wife team also produced numerous internationally acclaimed benefit events for the social issues and organizations to which they were both committed.

In addition, she and her husband, of Maga Link, Inc., created the Communications Bridge Institute, the first institution in the Nation to provide for the professional career training in videotape technology of low-income, minorities and women. Recently, Maga Link, Inc., was named by the Corporation for Public Broadcasting as the CPB Consortium for Black Programming to the Public Broadcasting System for the development, production, and distribution of programming to stations nationally and to PBS educational and cultural institutions.

During a recent interview, this legendary achiever was asked about that in her career of which was was most proud of. Many of us were touched by her response. She readily responded, "I am proudest of my part in creating Maga Link, Inc., which now trains over 35 percent women for behind the camera jobs and of the Dance Theatre of Harlem which destroyed the stereotypical view that blacks did not have the arch for ballet." She continued, "But I am filled with both pride and joy as I look back over the 27 year Brock and Didi partnership. There have been a lot of liberal and sensitive men who opened those first doors for me. I was lucky enough to marry one who has understood what the word partner really means."

Mr. Speaker, although Didi will be sorely missed by family and friends alike, her vivacity for life will remain with us in spirit, and as a model, for many years to come.

GENERAL LEAVE

Mr. LELAND. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order today.

The SPEAKER pro tempore (Mr. BORSKI). Is there objection to the request of the gentleman from Texas?

There was no objection.

"THE SATANIC VERSES"

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. MILLER] is recognized for 5 minutes.

Mr. MILLER of California. Mr. Speaker, I rise with my colleagues to reaffirm the human right to free expression. The threats of death and violence issued by Ayatollah Khomeini against Salman Rushdie and those assoticiated with his book, "The Satanic Verses," are wholly unacceptable.

Salman Rushdie and his belief in intellectual questioning run an obvious collision course with the world of Islam and its defense of the Holy Scriptures and the prophet Mohammed. We recognize that his book has caused genuine offense, and we do not condone the demeaning of anyone's religious beliefs.

Nor is this protest brought simply because it was the Ayatollah who issued the threats. Such threats of assassination must be denounced no matter who the perpetrator.

Some argue it would have been better that Rushdie not write a book that is offensive to Moslems. They argue that had it been written about ideas held sacred in our own culture, it would not have been well received, let alone become a best seller. Perhaps. But that is not the question.

No one is guaranteed a good review or respectable sales; but we, and the preponderance of nations do believe that there is a fundamental guarantee

of the right to disseminate your ideas, no matter how noxious, heinous, or reprehensible they may be. Ultimately, it is the power of the reader, not of the state, that must determine the legitimacy of intellectual thoughts.

The threat against Rushdie and his associates is a threat against the very freedom of expression itself. The United States, which wishes this freedom to be respected in countries throughout the world, would be hypocritical not to express its anger and opposition at the attack levied by the Ayatollah. The Senate has passed a resolution condemning the death threats. I have introduced a similar resolution in the House, which has been cosponsored by over 100 of our colleagues. I would urge again that my colleagues vote for this resolution of condemnation so that both Houses of the U.S. Congress will be on record firmly in support of our most basic freedom, the one we use every day right here, the freedom of speech.

I applaud the actions of our allies, the European Community, in withdrawing their diplomatic chiefs from Iran and for discussing economic sanctions against Iran.

I applaud the librarians and the booksellers that have resisted intimidation and continue to offer the book to their patrons.

And I applaud the many authors here and abroad that have tirelessly protested the Ayatollah's threats and come to the defense of their colleague, Mr. Rushdie.

And I offer my sympathy to the stores that have already suffered attacks, presumably related to the book. To Cody's Bookstore, a landmark in Berkeley, and to the Riverdale Press, a weekly newspaper in the Bronx that has always defended the right to speak freely.

Finally, as we condemn these death threats, we should not be naive. Khomeini is not one known to back down, particularly not when it is the United States that is doing the asking. The United States has no diplomatic or trade relations, economic or military aid—outside of some humanitarian aid—to use as leverage against Iran and the Ayatollah.

But it would be wrong not to speak out just because we thought the Ayatollah might not heed our words. Our words in this case are our principles—that we stand firmly behind the right to speak, to write, to read, to distribute information, and to freely protest the works of others. We believe in the ability of people to decide for themselves the merits of a writer's words.

We have enough experience with book burnings in its many forms to know that it has no justification whatsoever.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Member (at the request of Mr. HOUGHTON) to revise and extend his remarks and include extraneous material:)

Mr. BROOMFIELD, for 5 minutes, today.

(The following Members (at the request of Mr. JONES of Georgia) to revise and extend their remarks and include extraneous material:)

Mr. STARK, for 5 minutes, today.

Mr. GLICKMAN, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. LELAND, for 60 minutes, today.

Mrs. SCHROEDER, for 60 minutes, on March 15.

(The following Member (at the request of Mr. MFUME) to revise and extend his remarks and include extraneous material:)

Mr. MILLER of California, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. HOUGHTON) and to include extraneous matter:)

Mr. STUMP.

Mr. COX.

Mr. GILMAN in two instances.

Mr. DONALD E. "BUZ" LUKENS in two instances.

Mr. RIDGE.

Mr. MOORHEAD in two instances.

Mr. SCHUETTE.

Mr. YOUNG of Alaska.

Ms. SCHNEIDER.

Mr. SCHULZE.

Mr. TAUKE.

Mr. RHODES.

Mr. CRAIG in three instances.

Mrs. MEYERS of Kansas.

Mr. LAGOMARSINO.

Mr. YOUNG of Florida.

Mr. REGULA.

Mrs. ROUKEMA in three instances.

(The following Members (at the request of Mr. JONES of Georgia) and to include extraneous matter:)

Mr. PENNY.

Mr. LAFALCE.

Mr. FLORIO.

Mr. OWENS of New York.

Mr. HAMILTON.

Mr. BEILENSON.

Mr. LANTOS in two instances.

Mr. OWENS of Utah.

Mr. RANGEL.

JOINT RESOLUTION PRESENTED TO THE PRESIDENT

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee did on the following date present to the President, for his approval, a joint resolution of the House of the following title:

H.J. Res. 22. Joint resolution to designate the week beginning March 6, 1989, as "Federal Employees Recognition Week."

ADJOURNMENT

Mr. MILLER of California. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 3 o'clock and 22 minutes p.m.), the House adjourned until tomorrow, Thursday, March 9, 1989, at 11 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

733. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting copies of the original report of political contributions by Donald P. Gregg, of Maryland, Ambassador Extraordinary Plenipotentiary-designate to the Republic of Korea, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

734. A letter from the (FOIA) Officer, Federal Home Loan Mortgage Corporation, transmitting the Corporation's 1988 annual report on activities under the Freedom of Information Act, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

735. A letter from the Chairman, Federal Reserve System, transmitting a copy of the annual report of the Board's compliance with the Government in the Sunshine Act, calendar year 1988, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Operations.

736. A letter from the Acting Chairman, International Trade Commission, transmitting the Commission's 1988 annual report on activities under the Freedom of Information Act, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

737. A letter from the Acting Chairman, International Trade Commission, transmitting a copy of the annual report of the Commission's compliance with the Government in the Sunshine Act, calendar year 1988, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Operations.

738. A letter from the Managing Director, Interstate Commerce Commission; transmitting the Commission's 1988 annual report on activities under the Freedom of Information Act, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

739. A letter from the Administrator, National Aeronautics and Space Administration, transmitting a report of activities under the Freedom of Information Act during calendar year 1988, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

740. A letter from the Director, Office of Personnel Management, transmitting a draft of proposed legislation to amend title 5, United States Code, to ensure the equitable application of a General Schedule alternative plan or other pay limitation to certain other Federal employees, and for other

purposes; to the Committee on Post Office and Civil Service.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BEILENSON (for himself and Mrs. KENNELLY):

H.R. 1291. A bill entitled, the "Intelligence Officer's Technical Tax Correction Act of 1989"; to the Committee on Ways and Means.

By Mr. BOEHLERT:

H.R. 1292. A bill to amend the Federal Aviation Act of 1958 relating to bankruptcy transportation plans; to the Committee on Public Works and Transportation.

By Mr. BOEHLERT (for himself, Mr. WALGREN, and Mrs. MORELLA):

H.R. 1293. A bill to establish a program of awards by the National Science Foundation for undergraduate students who are willing to commit themselves to teach elementary or secondary mathematics or science for a specified period of time; to the Committee on Science, Space, and Technology.

By Mr. BROOMFIELD (for himself, Mr. FASCELL, Mr. GOSS, and Mr. SMITH of Florida):

H.R. 1294. A bill to provide for television broadcasting of accurate information to the people of Cuba, and for other purposes; to the Committee on Foreign Affairs.

By Mr. MONTGOMERY (for himself, Mr. STUMP, Mr. APPLEGATE, Mr. SOLOMON, Mr. HARRIS, Mr. ROWLAND of Connecticut, Mr. PAYNE of Virginia, Mr. SANGMEISTER, Mr. PARKER, Mr. BUSTAMANTE, and Mr. HASTERT):

H.R. 1295. A bill to amend title 18, United States Code, to forbid the display of the flag of the United States on the floor or ground; to the Committee on the Judiciary.

By Mr. BUSTAMANTE:

H.R. 1296. A bill to amend title 10, United States Code, to prohibit the imposition of a charge for the receipt of outpatient medical or dental care in a facility of any uniformed service; to the Committee on Armed Services.

By Mr. CHANDLER (for himself, Mr. UDALL, and Mr. DYMALLY):

H.R. 1297. A bill to provide that sick leave may be granted to a Federal employee for the purpose of allowing that employee to assist an immediate relative having a physical or mental disability to seek medical attention; to the Committee on Post Office and Civil Service.

By Mr. CLEMENT:

H.R. 1298. A bill to amend title II of the Social Security Act to provide for an improved benefit computation formula for workers who attain age 65 in or after 1982 and to whom applies the 15-year period of transition to the changes in benefit computation rules enacted in the Social Security Amendments of 1977—and related beneficiaries—and to provide prospectively for increases in their benefits accordingly; to the Committee on Ways and Means.

By Mr. CRAIG:

H.R. 1299. A bill to provide that Pocatello and Chubbuck, ID, be designated as a single metropolitan statistical area; to the Committee on Post Office and Civil Service.

By Mr. KILDEE:

H.R. 1300. A bill to amend the Head Start Act to increase the amount authorized to be appropriated for fiscal year 1990; to the Committee on Education and Labor.

By Mr. CRAIG:

H.R. 1301. A bill to amend the Social Security Act to place the Office of Rural Health Policy directly under the Office of the Assistant Secretary for Health; to the Committee on Ways and Means.

H.R. 1302. A bill to provide for the off-budget treatment of the Federal hospital insurance trust fund under the Social Security Act made effective with fiscal year 1990; jointly, to the Committees on Government Operations and Ways and Means.

By Mr. DEWINE:

H.R. 1303. A bill entitled, the "Federal Victim's Services and Protections Compliance Act"; to the Committee on the Judiciary.

By Mr. DONNELLY:

H.R. 1304. A bill to amend the Communications Act of 1934 with respect to the regulation of service tiers provided by cable television systems; to the Committee on Energy and Commerce.

By Mr. FLORIO (for himself, Mr. HUGHES, and Mr. PAYNE of New Jersey):

H.R. 1305. A bill to amend the Controlled Substances Act to strengthen minimum imprisonment provisions for employing persons under 18 years of age in drug operations; jointly, to the Committees on the Judiciary and Energy and Commerce.

By Mr. GILMAN (for himself, Mr. SOLOMON, and Mr. MANTON):

H.R. 1306. A bill to authorize the original enlistment of certain aliens in the Armed Forces of the United States and the militias of the several States, to provide temporary and permanent resident status to such enlisted members, and for other purposes; jointly, to the Committees on Armed Services and the Judiciary.

By Mr. GLICKMAN (for himself, Mr. ANDERSON, Mr. MINETA, Mr. FISH, Mr. GINGRICH, Mr. LEHMAN of Florida, Mr. CARR, Mr. FRANK, Mr. BARTON of Texas, Mr. BEREUTER, Mr. BILIRAKIS, Mr. BOEHLERT, Mr. BOUCHER, Mr. BROWN of California, Mrs. BYRON, Mr. CLINGER, Mr. COBLE, Mr. CRAIG, Mr. DANNEMEYER, Mr. DAVIS, Mr. DE LUGO, Mr. DERRICK, Mr. DICKINSON, Mr. DYMALLY, Mr. FASCELL, Mr. FRENZEL, Mr. GEKAS, Mr. HAYES of Illinois, Mr. DORGAN of North Dakota, Mr. HEFLEY, Mr. HEFNER, Mr. HENRY, Mr. HOUGHTON, Mr. INHOFE, Mrs. JOHNSON of Connecticut, Mr. KOLTER, Mr. LEWIS of Florida, Mr. LIGHTFOOT, Mr. LIPINSKI, Mr. MARTIN of New York, Mrs. MARTIN of Illinois, Mr. MCCANDLESS, Mr. MCCURDY, Mrs. MEYERS of Kansas, Mrs. MORELLA, Mr. PARRIS, Mr. PEASE, Mr. PENNY, Mr. PETRI, Mr. RHODES, Mr. RITTER, Mr. ROBERTS, Mr. ROBINSON, Mr. ROE, Ms. SCHNEIDER, Mr. SKEEN, Mr. SLATTERY, Mr. DENNY SMITH, Mr. SMITH of Texas, Mr. SMITH of New Hampshire, Mr. SPRATT, Mr. STANGELAND, Mr. STUMP, Mr. SWIFT, Mr. TAUKE, Mr. VANDER JAGT, Mr. VOLKMER, Mr. WHITTAKER, Mr. CHANDLER, Mr. NIELSON of Utah, Mr. STENHOLM, Mr. GALLEGLY, and Mr. HAYES of Louisiana):

H.R. 1307. A bill to amend the Federal Aviation Act of 1958 relating to general aviation accidents; jointly, to the Committees on Public Works and Transportation, the Judiciary, and Energy and Commerce.

By Mr. HOLLOWAY (for himself, Mrs. BOGGS, Mr. LIVINGSTON, Mr. HUCKABY, Mr. TAUZIN, Mr. BAKER, Mr. HAYES of Louisiana, and Mr. MCCRERY);

H.R. 1308. A bill to authorize the Administrator of Veterans' Affairs to establish a national cemetery in the central geographic area of Louisiana; to the Committee on Veterans' Affairs.

By Mr. HOPKINS:

H.R. 1309. A bill to amend title 10, United States Code, and certain other defense-related laws to repeal legislative veto provisions and to amend the War Powers Resolution to provide expedited procedures for legislation regarding the engagement of U.S. Armed Forces in hostilities, and for other purposes; jointly, to the Committees on Armed Services, Foreign Affairs, and Rules.

By Mrs. MORELLA (for herself, Mrs. BYRON, and Mr. FAUNTROY):

H.R. 1310. A bill to redesignate a certain portion of the George Washington Memorial Parkway as the "Clara Barton Parkway"; to the Committee on Interior and Insular Affairs.

By Mr. NELSON of Florida (for himself and Mr. FASCELL):

H.R. 1311. A bill to provide for television broadcasting of accurate information to the people of Cuba, and for other purposes; to the Committee on Foreign Affairs.

By Mr. OWENS of New York:

H.R 1312. A bill to amend the Domestic Volunteer Service Act to extend through the fiscal year 1992 certain authorities contained in such act relating to national volunteer antipoverty programs; to the Committee on Education and Labor.

H.R. 1313. A bill to amend the Immigration and Nationality Act to permit the entry as immediate relatives of spouses, children, and parents of persons who died a service-connected death while on active duty in the Armed Forces of the United States; to the Committee on the Judiciary.

By Mr. PANETTA:

H.R. 1314. A bill to equalize the retired pay of persons who served during World War II as Philippine scouts with the retired pay of other members of the Armed Forces of the United States of corresponding grades and length of service; to the Committee on Armed Services.

By Mr. PERKINS (for himself, Mr. RAHALL, Mr. ROGERS, Mr. MOLLOHAN, Mr. STAGGERS, and Mr. WISE):

H.R. 1315. A bill to amend the Surface Mining Control and Reclamation Act of 1977 to facilitate the use of abandoned mine reclamation fund moneys to replace certain water supplies adversely affected by coal mining practices; to the Committee on Interior and Insular Affairs.

By Mr. ROTH:

H.R. 1316. A bill to amend the Export Administration Act of 1979 and the Federal Deposit Insurance Act to authorize controls on the export of capital from the United States, to control exports supporting terrorism, to prohibit ownership of United States banks by controlled countries, and for other purposes; jointly, to the Committees on Banking, Finance and Urban Affairs and Foreign Affairs.

By Mr. SCHULZE (for himself, Mr. GIBBONS, Mr. THOMAS of California, Mr. GUARINI, Mr. ARCHER, Mr. YOUNG of Alaska, Mr. DE LUGO, and Mr. LAGOMARSINO):

H.R. 1317. A bill to amend section 468A of the Internal Revenue Code of 1986 with respect to deductions for decommissioning costs of nuclear powerplants; to the Committee on Ways and Means.

By Mr. SHAW:

H.R. 1318. A bill to amend the Immigration and Nationality Act to make the use of the employment verification paperwork system voluntary for recruiters and referrers; to the Committee on the Judiciary.

By Mr. SOLOMON:

H.R. 1319. A bill to amend section 620(f) of the Foreign Assistance Act of 1961—relating to the prohibition on assistance to Communist countries—and to require certain reports with respect to Communist countries receiving United States humanitarian disaster relief assistance; to the Committee on Foreign Affairs.

By Mr. SPRATT:

H.R. 1320. A bill to suspend for a 5-year period the duty on certain blue and green dyes; to the Committee on Ways and Means.

H.R. 1321. A bill to suspend for a 5-year period the duty on vat red 10 dye; to the Committee on Ways and Means.

H.R. 1322. A bill to suspend for a 5-year period the duty on certain brown, orange, and violet dyes; to the Committee on Ways and Means.

H.R. 1323. A bill to suspend for a 5-year period the duty on certain dyes; to the Committee on Ways and Means.

By Mr. STARK:

H.R. 1324. A bill to provide that certain provisions of the Internal Revenue Code of 1986 providing special rules for financially troubled financial institutions shall not remain in effect after the enactment of financial institution reform legislation; to the Committee on Ways and Means.

H.R. 1325. A bill to amend title XVIII of the Social Security Act to provide for the application of certain standards to the certification of long-term care insurance policies, and for other purposes; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. SWIFT:

H.R. 1326. A bill to authorize appropriations for the Federal Election Commission for fiscal year 1990, and for other purposes; to the Committee on House Administration.

By Mr. YOUNG of Alaska (for himself, Mr. DAVIS, Mr. JONES of North Carolina, Mr. VANDER JAGT, and Mr. TAUZIN):

H.R. 1327. A bill entitled the "Coast Guard Environmental Compliance Act"; to the Committee on Merchant Marine and Fisheries.

By Mr. CONTE (for himself, Mr. LAGOMARSINO, Mr. LEHMAN of Florida, Mr. LELAND, Mr. LENT, Mr. LEVIN of Michigan, Mr. LIPINSKI, Mr. MCDADE, Mr. MCDERMOTT, Mr. MCEWEN, Mr. MCHUGH, Mr. MARTINEZ, Mr. MATSUI, Mrs. MEYERS of Kansas, Mr. MILLER of Washington, Mr. MINETA, Mr. MOAKLEY, Mr. NATCHER, Ms. OAKAR, Ms. PELOSI, Mr. PORTER, Mr. QUILLEN, Mr. RAVENEL, Mr. RHODES, Mr. ROBINSON, Mr. ROE, Mr. ROYBAL, Mr. SLAUGHTER of Virginia, Mr. SMITH of New Jersey, Mr. DENNY SMITH, Mr. SMITH of New Hampshire, Mr. SOLARZ, Mr. STOKES, Mr. STUDDS, Mr. WALGREN, Mr. WEBER, Mr. WOLF, Mr. EVANS, Mr. MOORHEAD, Mr. SCHAEFER, Mr. CLINGER, Mr. AKAKA, Mr. ANNUNZIO, Mr. ANTHONY, Mr. ATKINS, Mr. BATES, Mrs. BENTLEY, Mr. BERMAN, Mr. BEVILL, Mr. BLILEY, Mrs. BOGGS, Mr. BORSKI, Mr. BOSCO, Mr. BROWN of California, Mr. CARDIN, Mr. CLARKE, Mr. COELHO, Mrs. COLLINS, Mr. COYNE, Mr. DEFAZIO, Mr. DE LUGO, Mr. DICKS, Mr. DONNELLY, Mr. DURBIN, Mr. DYMALLY, Mr. EMERSON, Mr. FAUNTROY, Mr. FLIPPO, Mr. FOGLIETTA, Mr. HAMMERSCHMIDT, Mr. HAWKINS, Mr. HAYES of Louisiana, Mr. HEFNER, Mr. HOCHBRUECKNER, Mr. HORTON, Mr. HYDE, Mr. INHOFE, Ms. KAPTUR, Mr. KASICH, Mr. KENNEDY, Mr. KOSTMAYER Mr. FAZIO, Mr. EARLY, Mrs. JOHNSON of Connecticut, and Mr. MRAZEK):

H.J. Res. 174. Joint resolution to designate the decade beginning January 1, 1990, as the "Decade of the Brain"; to the Committee on Post Office and Civil Service.

By Mr. DE LUGO (for himself, Mr. LAGOMARSINO, Mr. UDALL, Mr. YOUNG of Alaska, Mr. LEACH of Iowa, Mr. MILLER of California, Mr. DARDEN, Mr. FUSTER, Mr. CLARKE, Mr. LEWIS of Georgia, Mr. FALEOMAVAEGA, Mr. BLAZ, Mr. GALLEGLY, Mr. MARKEY, Mr. MURPHY, Mr. VENTO, Mr. WILLIAMS, Mr. LEHMAN of California, Mr. RICHARDSON, Mr. LEVINE of California, Mr. OWENS of Utah, Mr. DEFAZIO, Mr. CRAIG, Mr. HANSEN, Mrs. VUCANOVICH, Mr. RHODES, Mr. DYMALLY, Mr. BERMAN, Mr. TRAXLER, Mr. MCHUGH, Mr. SABO, Mr. DIXON, Mr. FAZIO, Mr. AKAKA, Mr. MRAZEK, Mr. MCDADE, Mr. BENNETT, Mr. KASTENMEIER, Mr. EDWARDS of California, Mr. FORD of Michigan, Mr. BROWN of California, Mr. DELLUMS, Mrs. COLLINS, Mr. DERRICK, Mr. BARNARD, Mr. BONIOR, Mr. KILDEE, Ms. OAKAR, Mr. MATSUI, Mr. PASHAYAN, Mr. DORGAN of North Dakota, Mr. EMERSON, Mr. FOGLIETTA, Mr. MARTINEZ, Mr. BOEHLERT, Mr. BOSCO, Mr. HAYES of Illinois, Ms. KAPTUR, Mr. OWENS of New York, Mr. TORRES, Mr. BUSTAMANTE, Mr. STALLINGS, Ms. PELOSI, and Mr. ESPY):

H.J. Res. 175. Joint resolution to authorize entry into force of the Compact of Free Association between the United States and the Government of Palau, and for other purposes; jointly, to the Committees on Interior and Insular Affairs and Foreign Affairs.

By Mr. GUARINI:

H.J. Res. 176. Joint resolution proposing an amendment to the Constitution of the United States to provide for a single six-year term for President and Vice President, and to repeal the twenty-second article of amendment to the Constitution; to the Committee on the Judiciary.

By Mr. KOLTER:

H.J. Res. 177. Joint resolution designating October 8 through 14, 1989, as "National School Lunch Week"; to the Committee on Post Office and Civil Service.

By Mr. LAGOMARSINO (for himself, Mr. SOLARZ, Mr. GILMAN, and Mr. CLARKE):

H.J. Res. 178. Joint resolution designating September 15, 1989, as "National POW/MIA Recognition Day, and recognizing the national League of Families POW/MIA flag; to the Committee on Post Office and Civil Service.

By Mr. MFUME:

H.J. Res. 179. Joint resolution to provide for the designation of the week commencing on March 12, 1989, as "National Minority Financial Institutions Week"; to the Committee on Post Office and Civil Service.

By Mr. PANETTA (for himself, Mr. SMITH of Florida, Mr. COELHO, Mr. MARTINEZ, Mr. EMERSON, Mrs. BOXER, Mr. LEWIS of California, Mr. STENHOLM, Mr. KOSTMAYER, Mr. MCDADE, and Mr. TALLON):

H.J. Res. 180. Joint resolution designating the square dance as the national folk dance of the United States for 1990; to the Committee on Post Office and Civil Service.

By Mr. STUMP:

H.J. Res. 181. Joint resolution proposing an amendment to the Constitution of the United States allowing the President to veto any item of appropriation or any provision in any Act or joint resolution containing an item of appropriation; to the Committee on the Judiciary.

By Ms. SCHNEIDER (for herself, Mr. JONES of North Carolina, Mr. DAVIS, Mr. FOGLIETTA and Mr. LENT):

H. Con. Res. 69. Concurrent resolution to urge the development and implementation of a comprehensive United States oceans and Great Lakes policy; to the Committee on Merchant Marine and Fisheries.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

32. The SPEAKER presented a memorial of the Legislature of the State of Nevada, relative to illegal drugs; which was referred to the Committee on Merchant Marine and Fisheries.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BENNETT:

H.R. 1328. A bill to permit issuance of a certificate of documentation for employment in the coastwise trade of the United States for the vessel ¾ *Time*; to the Committee on Merchant Marine and Fisheries.

By Mr. GEKAS:

H.R. 1329. A bill for the relief of Gerald L. Clarke; to the Committee on the Judiciary.

By Mr. LAGOMARSINO:

H.R. 1330. A bill to transfer a parcel of land located in the Los Padres National Forest, California; to the Committee on Interior and Insular Affairs.

By Mr. MONTGOMERY:

H.R. 1331. A bill for the relief of Granham N. Brown and Barbara Brown (wife); to the Committee on the Judiciary.

By Mr. WEISS:

H.R. 1332. A bill for the relief of Inna Hecker Grade; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 10: Mr. ROGERS, Mr. TOWNS, Mr. BEVILL, Mr. ROE, Mr. DYMALLY, and Mr. EVANS.

H.R. 46: Mr. BORSKI and Mr. ECKART.

H.R. 48: Mr. DELLUMS, Mr. EDWARDS of California, Ms. PELOSI, and Mr. BERMAN.

H.R. 76: Mr. HUTTO, Mr. JAMES, Mr. PEPPER, and Mr. SMITH of Florida.

H.R. 84: Mr. MANTON.

H.R. 85: Mr. NEAL of North Carolina.

H.R. 88: Mr. ANDREWS, Mr. DELLUMS, Mr. DYMALLY, Mr. LANCASTER, Mr. PAYNE of Vir-

ginia, Mr. PICKETT, Mr. SKEEN, and Mr. SOLOMON.

H.R. 91: Mr. SMITH of Florida, Mr. SENSENBRENNER, Mr. CAMPBELL of Colorado, Mr. VENTO, Mr. SOLOMON, Mr. GRANT, and Mr. HERTEL.

H.R. 100: Mr. ARMEY and Mr. SENSENBRENNER.

H.R. 145: Mr. ANTHONY, Mr. CARPER, Mr. PANETTA, Ms. KAPTUR, Mr. AUCOIN, Mr. TALLON, Mr. MARKEY, Mr. HERTEL, Mr. EDWARDS of Oklahoma, Mr. WELDON, Mrs. SCHROEDER, Mr. WILLIAMS, Mr. MAVROULES, Mr. CONTE, Mr. DYSON, Mr. MCDADE, Mr. BATES, and Mr. HEFLEY.

H.R. 150: Mr. NEAL of North Carolina.

H.R. 152: Mr. SHAYS.

H.R. 154: Mr. FAUNTROY.

H.R. 155: Mr. MARKEY.

H.R. 156: Mr. WEISS and Mr. VENTO.

H.R. 210: Mr. SISISKY and Mr. FOGLIETTA.

H.R. 211: Mr. FOGLIETTA, Mr. MILLER of Washington, Mr. SISISKY, and Mr. BARNARD.

H.R. 212: Mr. BORSKI and Mr. SISISKY.

H.R. 213: Mr. MINETA.

H.R. 214: Mr. FOGLIETTA, Mr. MCDADE, and Mr. SISISKY.

H.R. 215: Mr. FRANK and Mr. WOLF.

H.R. 216: Mr. SISISKY, Mr. CONYERS, and Mr. ROYBAL.

H.R. 240: Mr. DWYER of New Jersey, Mr. FAUNTROY, Mr. OWENS of New York, and Mr. RANGEL.

H.R. 242: Mr. CHAPMAN, Mr. DYMALLY, and Mr. FAWELL.

H.R. 243: Mrs. BENTLEY and Mr. ECKART.

H.R. 245: Mr. GALLEGLY, Mr. HERGER, Mr. CAMPBELL of California, Mr. DELLUMS, Mr. COELHO, Mr. BATES, Mr. BERMAN, Mr. PANETTA, and Mr. WAXMAN.

H.R. 283: Mr. SKAGGS, Mrs. MORELLA, Mr. FORD of Michigan, Mr. MCMILLEN of Maryland, Mr. BARTLETT, Mr. FISH, and Mr. LANCASTER.

H.R. 286: Mrs. VUCANOVICH.

H.R. 303: Mr. HERTEL, Mr. KENNEDY, Mr. SANGMEISTER, Mr. DELLUMS, Mrs. UNSOELD, Mr. BORSKI, Mr. MARLENEE, Mr. MACHTLEY, Mr. MCCRERY, Mrs. SMITH of Nebraska, and Mr. WOLPE.

H.R. 309: Mrs. LLOYD.

H.R. 360: Mr. ESPY, Mrs. BENTLEY, Mr. CROCKETT, Mr. EDWARDS of California, Mr. MORRISON of Connecticut, Mr. KENNEDY, Mr. BORSKI, and Mr. NEAL of North Carolina.

H.R. 361: Mr. ESPY, Mrs. BENTLEY, Mr. CROCKETT, Mr. LEWIS of Georgia, Mr. EDWARDS of California, Mr. MORRISON of Connecticut, Mr. KENNEDY, Mr. MFUME, Mr. BORSKI, and Mr. NEAL of North Carolina.

H.R. 371: Mr. DONALD E. LUKENS, Mr. PETRI, Mr. SARPALIUS, Mr. DORGAN of North Dakota, Mr. COLEMAN of Missouri, Mr. GUNDERSON, Mr. KOLTER, Mr. VANDER JAGT, Mr. GEKAS, Mr. CLINGER, Mr. SHUMWAY, Mr. HASTERT, Mr. UPTON, Ms. KAPTUR, Mr. SLATTERY, and Mr. MCDADE.

H.R. 401: Mr. BILBRAY and Mr. WOLF.

H.R. 418: Mr. DELLUMS and Mr. FAZIO.

H.R. 437: Mr. COSTELLO, Mr. COBLE, Mr. HORTON, Mr. DONNELLY, Mr. WOLF, Mr. WILSON, Mr. MONTGOMERY, Mr. MCCURDY, Mr. DONALD E. LUKENS, Mr. FUSTER, Mr. BONIOR, Mrs. COLLINS, Mr. FOGLIETTA, Mr. PICKLE, Mr. RANGEL, Mr. CONTE, Mr. PAXON, Mr. QUILLEN, Mr. OWENS of New York, Mr. SPENCE, Mr. BUSTAMANTE, Mr. RITTER, and Mr. BLAZ.

H.R. 442: Mr. GAYDOS, Mr. BENNETT, Mr. LAGOMARSINO, and Mr. CHAPMAN.

H.R. 443: Mr. BENNETT, Mr. EMERSON, Mr. STANGELAND, and Mr. BARTON of Texas.

H.R. 500: Mr. SCHUMER, Mr. DYMALLY, Mr. SENSENBRENNER, Mr. SIKORSKI, and Mr. GORDON.

H.R. 525: Mr. WAXMAN, Mr. MILLER of California, Mr. FAZIO, Mr. MATSUI, Mr. ANDERSON, Ms. PELOSI, Mr. BOSCO, and Mr. BATES.

H.R. 526: Mr. HOYER and Mr. FOGLIETTA.

H.R. 529: Mr. GILMAN.

H.R. 530: Mr. GILMAN.

H.R. 532: Mr. FAUNTROY, Mr. DENNY SMITH, Mrs. COLLINS, Mr. FOGLIETTA, Mr. ARMEY, Mr. SENSENBRENNER, and Mr. EMERSON.

H.R. 534: Mr. KOLTER, Mr. AKAKA, Mr. PALLONE, Mr. TORRES, Mr. TALLON, Mr. DYMALLY, Mr. GEJDENSON, Mr. GILMAN, Mr. DELLUMS, Mr. MACHTLEY, Mr. SHAYS, Mr. LEWIS of Georgia, and Mr. ENGEL.

H.R. 557: Mr. DANNEMEYER.

H.R. 598: Mrs. BOXER, Mr. WHEAT, Mr. DEFAZIO, and Mr. FAUNTROY.

H.R. 615: Mr. EVANS and Mr. LANCASTER.

H.R. 665: Mrs. BOXER, Mr. ANDREWS, Mr. GIBBONS, Mr. EVANS, Mr. SOLARZ, Mr. CONYERS, Mr. DWYER of New Jersey, Mr. KILDEE, Mr. TORRICELLI, Mr. LIPINSKI, Mr. BILBRAY, and Mr. LEHMAN of Florida.

H.R. 669: Mr. BATES, Mr. FOGLIETTA, and Mr. ENGEL.

H.R. 673: Mr. WELDON, Mr. TAUZIN, Mr. SISISKY, Mr. DERRICK, Mr. EVANS, Mrs. MORELLA, Mr. MCGRATH, Mr. HATCHER, Mr. COBLE, Mr. CALLAHAN, Mr. CLARKE, Mr. HEFNER, and Mr. TALLON.

H.R. 718: Mr. GARCIA, Mr. UDALL, Mr. CROCKETT, and Mr. DE LUGO.

H.R. 742: Mr. BATES, Mr. BONIOR, Mrs. BOXER, Mr. BROWN of California, Mr. DE LUGO, Mr. FAUNTROY, Mr. FRANK, Mr. JONES of Georgia, Mr. KENNEDY, Mr. KILDEE, Mr. LANCASTER, Mr. MCNULTY, Mr. MINETA, Mr. MONTGOMERY, Mr. PAXON, and Mr. WALSH.

H.R. 743: Mr. LEVIN of Michigan.

H.R. 773: Mr. STENHOLM.

H.R. 783: Mr. CONTE.

H.R. 829: Mr. JOHNSON of South Dakota and Mr. MARLENEE.

H.R. 841: Mr. DORNAN of California, Mr. KOLTER, Mr. YOUNG of Alaska, and Mr. HUNTER.

H.R. 909: Mr. CHANDLER, Mr. FUSTER, Mr. MARLENEE, Mr. SAVAGE, Mr. DYMALLY, Mr. NEAL of Massachusetts, Mr. FAUNTROY, Mr. REGULA, Mr. CRAIG, Mr. KOLBE, Mr. GARCIA, Mr. EVANS, Mr. BILIRAKIS, Mr. HYDE, Mr. FOGLIETTA, and Mr. LEWIS of Florida.

H.R. 917: Mr. SMITH of New Jersey, Mr. DICKINSON, Mr. GEJDENSON, Mr. GORDON, Mr. PERKINS, Mr. BILBRAY, and Mr. GONZALEZ.

H.R. 933: Mr. LAGOMARSINO, Mr. YATES, Mr. GRANDY, Mr. CHAPMAN, Mr. HORTON, Mr. ACKERMAN, Mr. JOHNSON of South Dakota, Mr. PETRI, Mr. JACOBS, Mr. LEWIS of Georgia, Mr. EVANS, Mr. RAHALL, Mr. ROWLAND of Connecticut, Mr. LIPINSKI, Ms. SCHNEIDER, Mrs. BOXER, Mr. TORRES, and Mr. MORRISON of Connecticut.

H.R. 985: Mr. ECKART, Mr. FISH, and Mr. BARTON of Texas.

H.R. 1045: Mr. WOLPE, Mr. WYDEN, Mr. BONIOR, Mr. MATSUI, and Mr. FLORIO.

H.R. 1074: Mr. FEIGHAN, Mr. RAY, Mr. ENGLISH, Ms. PELOSI, Mr. BOEHLERT, Mr. BORSKI, Mr. JAMES, Mr. HOYER, Mr. STARK, Mr. GONZALEZ, Mr. JONES of North Carolina, Mr. HORTON, Mr. DWYER of New Jersey, Mr. KANJORKSI, Mr. LEWIS of Florida, Mr. FISH, Mr. RANGEL, Mr. FRANK, Mr. RAVENEL, Mr. RINALDO, Mr. GAYDOS, Mr. DICKS, Mr. HALL of Ohio, Mr. YATRON, Mr. BUSTAMANTE, Mr. CHAPMAN, Mr. FOGLIETTA, Mr. THOMAS of Georgia, Mr. WATKINS, Mr. BONIOR, Mr. GEJDENSON, Mr. HUGHES, Mrs. LLOYD, Mr. DERRICK, and Mr. MCDADE.

H.R. 1078: Mr. YATES, Mr. ENGEL, Mr. MCDERMOTT, Mr. BRYANT, Mr. HAYES of Illinois, Mr. DIXON, Mr. DONNELLY, and Mr. LEWIS of Georgia.

H.R. 1079: Mr. BROWN of Colorado, Mr. COLEMAN of Texas, Mr. COSTELLO, Mr. EMERSON, Mr. ERDREICH, Mr. FOGLIETTA, Mr. GORDON, Mr. HARRIS, Mr. HEFNER, Mr. HORTON, and Mr. HUCKABY.

H.R. 1083: Mr. MRAZEK, Mr. CLARKE, Mr. HOCHBRUECKNER, Mr. HENRY, Mr. DYMALLY, Mr. BUSTAMANTE, Mr. TRAFICANT, Mr. EVANS, Mr. RAVENEL, Mr. OWENS of New York, Mr. ROE, Ms. KAPTUR, Mr. FLIPPO, Mr. FLORIO, Mr. ENGEL, Mr. FAUNTROY, Mr. COLEMAN of Texas, Mr. MCDERMOTT, Mr. FLAKE, and Mr. DWYER of New Jersey.

H.R. 1085: Mr. FAUNTROY, Mr. FLORIO, Mr. SMITH of Florida, and Mr. BORSKI.

H.R. 1087: Mr. AUCOIN, Mr. PENNY, Mr. HARRIS , Mr. FAUNTROY, and Mr. DURBIN.

H.R. 1090: Mrs. BENTLEY, Mr. HUTTO, Mr. MACHTLEY, Mr. NELSON of Florida, and Mr. SMITH of Florida.

H.R. 1133: Mr. BRYANT.

H.R. 1142: Mrs. VUCANOVICH.

H.R. 1153: Mr. KOLBE, Mr. PARRIS, Mr. SENSENBRENNER, and Mr. WHITTAKER.

H.R. 1155: Mr. MAZZOLI and Mr. COX.

H.R. 1172: Mr. RAVENEL and Mr. FLIPPO.

H.R. 1173: Mr. LEWIS of Florida and Mr. GOSS.

H.R. 1199: Mr. FUSTER, Mr. STARK, Mr. MRAZEK, Mr. DWYER of New Jersey, Mr. GARCIA, Mr. FAUNTROY, Mr. SHAYS, Mr. DYMALLY, and Mrs. KENNELLY.

H.R. 1200: Mr. HEFNER, Ms. SCHNEIDER, Mr. PALLONE, Mr. JONES of North Carolina, Mr. NEAL of North Carolina, Mr. MONTGOMERY, Mr. MOAKLEY, Mr. SHAYS, Mr. ERDREICH, Mr. HARRIS, Mr. BARNARD, Mrs. MORELLA, Mr. CAMPBELL of Colorado, Mr. SCHUETTE, Mr. MAZZOLI, Mr. ENGLISH, Mr. ANTHONY, Mr. ROBINSON, Mr. HEFLEY, Mr. COSTELLO, Mr. FROST, Mr. RINALDO, Mr. NEAL of Massachusetts, Mr. NOWAK, Ms. PELOSI, Mr. SMITH of Florida, Mr. MORRISON of Connecticut, Mr. ACKERMAN, Ms. SLAUGHTER of Virginia, and Mr. GEJDENSON.

H.R. 1237: Mr. FOGLIETTA and Mr. EMERSON.

H.J. Res. 1: Mr. ANDERSON, Mr. CAMPBELL of Colorado, Mr. CAMPBELL of California, Mr. DELLUMS, Mr. DOWNEY, Mr. ECKART, Mr. JACOBS, Mr. LELAND, Mr. MAVROULES, Mr. OWENS of Utah, Mr. PICKETT, Mr. PRICE, Mr. WALSH, and Mr. WISE.

H.J. Res. 3: Mr. ARMEY, Mr. SENSENBRENNER, and Mr. GRANT.

H.J. Res. 19: Mr. MARTINEZ, Mr. DYMALLY, Mr. EVANS, Mr. SARPALIUS, Mr. LAGOMARSINO, Mr. LANCASTER, Mr. HORTON, Mr. QUILLEN, and Mr. GREEN.

H.J. Res. 74: Ms. OAKAR.

H.J. Res. 121: Mr. HUGHES, Mr. DYMALLY, Mr. FAUNTROY, Mrs. MEYERS of Kansas, Mr. DE LUGO, Mr. EVANS, Mr. MARTINEZ, Mr. SMITH of Florida, Mr. LAGOMARSINO, Mrs. BOXER, and Mr. LEWIS of Georgia.

H.J. Res. 124: Mr. AKAKA, Mr. BROWN of Colorado, Mr. COSTELLO, Mr. HOLLOWAY, Mr. LANCASTER, Mr. LEVIN of Michigan, Mr. SKEEN, Mr. SPRATT, Mr. SUNDQUIST, Mr. UPTON, and Mr. WATKINS.

H.J. Res. 125: Mrs. MEYERS of Kansas.

H.J. Res. 132: Mr. ROE, Mr. MCMILLEN of Maryland, Mr. LANTOS, and Mr. HUGHES.

H.J. Res. 136: Mr. ANNUNZIO, Mr. BEVILL, Mr. BONIOR, Mrs. BOXER, Mr. BUSTAMANTE, Mr. CAMPBELL of Colorado, Mr. CHAPMAN, Mr. FAZIO, Mr. FRANK, Mr. GUNDERSON, Mr. HORTON, Mr. LANCASTER, Mr. LANTOS, Mr.

LELAND, Mr. LEVIN of Michigan, Mr. MCNULTY, Mr. MARKEY, Mr. MARTINEZ, Mr. NOWAK, Mr. OLIN, Mr. RANGEL, Mr. WALSH, Mr. WEISS, and Mr. WOLPE.

H.J. Res. 145: Mr. MCHUGH, Mr. PALLONE, Mr. MARTIN of New York, Mr. FEIGHAN, Mr. GEKAS, Mr. NEAL of Massachusetts, Mr. DYMALLY, Mr. BENNETT, Mr. CLAY, Mr. FAZIO, Mr. ERDREICH, Mr. WOLF, Mr. MANTON, Mr. TALLON, Mr. COYNE, Mr. PORTER, Mr. ROE, Mr. FAUNTROY, Mr. DICKS, Mr. DWYER of New Jersey, Mr. GREEN, Mr. WOLPE, Mr. CONTE, Mr. WYLIE, Mr. OWENS of New York, Mr. MURPHY, Mrs. MORELLA, Ms. PELOSI, Mr. LANTOS, Mr. JONES of North Carolina, Mr. BLILEY, Mr. LAGOMARSINO, Mr. YOUNG of Florida, Mr. HEFNER, Mr. PEPPER, Ms. SNOWE, MR. KANJORSKI, Mr. SCHEUER, Mr. NIELSON of Utah, Mr. ANNUNZIO, Mr. PURSELL, Mr. THOMAS of Georgia, Mr. JONTZ, Mr. CARPER, Mr. QUILLEN, Mr. BERMAN, Mr. LELAND, Mr. KOLTER, Mr. FORD of Michigan, Mr. DELLUMS, Mr. PICKETT, Mr. BROOMFIELD, Mr. YATRON, Mr. BONIOR, Mr. RINALDO, Mr. BATEMAN, Mr. MAVROULES, Mr. WYDEN, Mr. HORTON, Ms. KAPTUR, Mr. GEJDENSON, Mr. MCMILLEN of Maryland, Mr. SOLARZ, Mrs. KENNELLY, Mr. BUECHNER, Mr. CRANE, Mr. FUSTER, Mrs. BENTLEY, Mr. ACKERMAN, Mr. WEISS, Mr. MOLLOHAN, Mr. CARDIN, Mrs. PATTERSON, Mr. OWENS of Utah, Mr. COELHO, Mr. BATES, Mr. MATSUI, Mr. THOMAS A. LUKEN, Mr. TORRICELLI, Mr. FOLEY, Mr. FAWELL, Mr. MCDADE, Mr. CLARKE, Mr. MCGRATH, Mr. HARRIS, Mr. BUSTAMANTE, Mr. HAMILTON, Mr. DONALD E. LUKENS, Mr. RANGEL, Mrs. JOHNSON of Connecticut, Mr. KOSTMAYER, Mrs. BOXER, Mr. TRAFICANT, Mr. MRAZEK, Mr. KILDEE, Mrs. MEYERS of Kansas, Mr. WELDON, Mr. SMITH of Iowa, Mr. ENGEL, Mr. FLORIO, Mr. HUGHES, Mr. LEWIS of Georgia, Mr. ROWLAND of Connecticut, Mr. AUCOIN, Mr. COURTER, Mr. MCDERMOTT, Mr. JONES of Georgia, Mr. MINETA, Mr. SHAW, Ms. OAKAR, Mr. RAHALL, Mrs. COLLINS, Mr. STOKES, Mr. MARTINEZ, and Mr. FRANK.

H.J. Res. 147: Mr. MCNULTY, Mr. SOLOMON, Mr. FAZIO, Mr. MARTINEZ, Mrs. COLLINS, Mr. DWYER of New Jersey, Mr. DYMALLY, Mr. ROE, Mr. FAUNTROY, Mr. FUSTER, Mr. ANNUNZIO, Mr. BUSTAMANTE, Mr. HORTON, Mr. SOLARZ, Mr. FRANK, and Mr. RANGEL.

H.J. Res. 158: Mr. COSTELLO, Mr. BLILEY, Mr. ERDREICH, Mr. ROE, Mr. BEVILL, Mr. HEFNER, Mr. HORTON, Mr. SARPALIUS, Mr. FAUNTROY, Mr. SMITH of Florida, Mr. DWYER of New Jersey, Mr. TRAFICANT, Mr. OWENS of New York, Mr. MCCLOSKEY, Mr. MONTGOMERY, Mr. ENGLISH, Mr. DYMALLY, Mr. RANGEL, Mr. LANCASTER, Mr. VALENTINE, Mr. MARTINEZ, Mr. PICKETT, Mr. HATCHER, Mr. CARDIN, and Mrs. COLLINS.

H. Con. Res. 39: Mr. MCGRATH, Mr. WILSON, Mr. GALLEGLY, Mr. BOEHLERT, Mr. PACKARD, Mr. STENHOLM, Mr. SMITH of Florida, Mr. ORTIZ, Mr. RANGEL, Mr. HARRIS, Mr. OWENS of New York, Mr. CLINGER, Mr. ARMEY, Mr. RAY, Mr. TALLON, Mr. FIELDS, Mr. DE LA GARZA, Mr. CHAPMAN, Mr. BARTLETT, and Mr. MCCLOSKEY.

H. Con. Res. 40: Mr. GOSS, and Mr. COBLE.

H. Con. Res. 46: Mrs. MEYERS of Kansas, Ms. KAPTUR, Mr. PARRIS, Mr. CHAPMAN, Mr. HORTON, Mr. LEVIN of Michigan, Mr. BERMAN, Mr. ARMEY, Mr. BROOMFIELD, Mr. MCMILLAN of North Carolina, Mr. SENSENBRENNER, Mr. KYL, Mr. DYMALLY, Mr. MCCURDY, and Mr. DORNAN of California.

H. Con. Res. 48: Mr. FUSTER, Mr. SYNAR, Mr. MCMILLEN of Maryland, Mr. DIXON, Mr. ANNUNZIO, Mr. WEISS, Mr. POSHARD, Mr. SHAYS, Ms. OAKAR, Mr. CARPER, Mr. NEAL of Massachusetts, Mr. BORSKI, Mr. ROYBAL, and Mr. HOCHBRUECKNER.

H. Con. Res. 51: Mr. AKAKA, Mr. BATES, Mr. BENNETT, Mr. BORSKI, Mr. CLAY, Mr. DARDEN, Mr. DELLUMS, Mr. DYMALLY, Mr. FAUNTROY, Mr. FLORIO, Mr. FUSTER, Mr. GUARINI, Mr. HOCHBRUECKNER, Mr. DONALD E. LUKENS, Mr. MANTON, Mr. MAZZOLI, Mr. MARKEY, Mr. MCGRATH, Mr. MCMILLEN of Maryland, Mr. MCNULTY, Mr. OWENS of New York, Mr. PAXON, Mr. PENNY, Mr. ROBINSON, Mr. SMITH of Mississippi, Mr. SOLARZ, Mr. ENGEL, Mr. STARK, Mr. KENNEDY, Mr. FOGLIETTA, Mr. LEWIS of Georgia, and Mr. BONIOR.

H. Res. 102: Mr. MCMILLEN of Maryland, Mr. KANJORSKI, Mr. BERMAN, Mr. COYNE, Ms. SNOWE, Mr. WEISS, Mr. COUGHLIN, Mr. BRYANT, Mr. DEFAZIO, Mr. CAMPBELL of Colorado, Mr. AKAKA, Mr. VENTO, Mr. KENNEDY, Mr. FORD of Michigan, Mr. MCDERMOTT, Mr. LEVIN of Michigan, Mr. LANTOS, Mr. MARKEY, Mr. BATES, Mr. FUSTER, Mr. RAHALL, Mr. CONTE, Mr. SABO, Mr. LOWERY of California, Mr. FRANK, Mr. HOYER, Mr. MAVROULES, Mr. PENNY, Mr. ROWLAND of Connecticut, Mr. MRAZEK, Mr. LELAND, Mr. THOMAS A. LUKEN, Mr. TORRES, Mr. FOGLIETTA, Mr. HENRY, Mr. FAUNTROY, Mr. SCHAEFER, Mr. BEREUTER, Mr. GEJDENSON, Mr. FLAKE, Mr. FEIGHAN, Mr. PANETTA, Mr. INHOFE, Mr. JOHNSON of South Dakota, Mr. WILLIAMS, and Mr. OWENS of Utah.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 1087: Mr. RAHALL.

SENATE—*Wednesday, March 8, 1989*

(Legislative day of Tuesday, January 3, 1989)

The Senate met at 11 a.m., on the expiration of the recess and was called to order by the President pro tempore [Mr. BYRD].

PRAYER

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

Let us pray:

Blessed are the peacemakers: for they shall be called the children of God.—Matthew 5:9.

God of peace, the western wall of the Dirksen Building reminds us that, "The Senate is the living symbol of the union of States." We accept controversy as endemic in our political system. We are grateful for the God-given freedom that made it so. But save us, Lord, from conflict that violates the law of love, breeds enmity, acrimony, divisiveness, and destroys unity of which the Senate is the symbol.

Thank Thee, Father, for strong convictions, the courage which those convictions generate and the will to exercise them.

May the words spoken here be under the control of an enlightened conscience, warm hearts infused with good will and cool heads committed to truth.

We ask Your blessing upon John Tower and his family in this difficult time.

In the name of the Prince of Peace. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

THE JOURNAL

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

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

SCHEDULE

Mr. MITCHELL. Mr. President, this morning, after a period of time for the two leaders, there will be 30 minutes for routine morning business with Senators permitted to speak therein for up to 5 minutes each. At 11:30, the Senate will go into executive session to continue debate on the nomination of former Senator Tower.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, during my closing statement on the Senate floor yesterday, I indicated to my colleagues that there could be rollcall votes during today's session. We are ready to go to a final vote on the Tower nomination as soon as the distinguished Republican leader indicates his assent to do so.

As all of my colleagues know, last Friday the distinguished Republican leader stated here in the Senate publicly that he was considering offering a motion or motions in relation to the Tower nomination. In the event such motions are made—and he is of course free to make them at any time—there may well be rollcall votes on those motions and Senators should be aware and available for such votes should they occur.

So I repeat, rollcall votes are possible during today's session and it is my expectation that today's debate will continue through the day and into the evening.

I note the distinguished Republican leader now on the floor and would merely repeat what I have stated to him privately and publicly. It is my hope that we could complete action on this matter this week. I believe that a fair and appropriate time would be to vote sometime tomorrow. I suggest that to the distinguished leader for his consideration. We are now entering the fifth full day of debate. Tomorrow will be the sixth day of debate.

At least from my standpoint, the message I am receiving from my constituents—and I do not represent this as anything other than it is—the views of my constituents are that this matter has gone on long enough; it ought to be brought to a conclusion. And, as the Constitution mandates, that conclusion is for the Senate to vote on the nomination up or down, each Senator casting his vote consistently with his or her own conscience.

So that is my hope, Mr. President, and my distinguished colleague and friend. With that, I will yield the floor.

I reserve the remainder of my time and yield to the distinguished Republican leader.

RECOGNITION OF THE REPUBLICAN LEADER

The PRESIDENT pro tempore. The Republican leader is recognized under the order.

Mr. DOLE. I thank the President pro tempore and my friend, the Senator from Maine, the distinguished majority leader.

We have discussed when to vote. It is going to be a very close vote. The majority leader has indicated he thinks he has the votes. We are not certain. We do not question the majority leader.

Our effort is to do what we can to attract as many Republicans and Democrats to support the Tower nomination. Frankly, it is a bit like walking on eggshells. You want to be sure you do not offend anyone. At the same time, you have to defend not only the nominee but to support the President in this very important nomination process.

I just left from visiting with the President. We did discuss the Tower nomination. He fully supports his nominee. He said it was not just an act of loyalty or friendship. He has known John Tower in many, many rolls, including his role in the Senate, his role on the Tower Commission, and his role as an arms negotiator. He feels that he is eminently qualified and the most qualified person he could find to head that very important agency with a budget of over $300 billion.

I know the debate has been longer than it has been on most nominees, but this is unprecedented. The hearings were unprecedented. Due process, I think, means what some of us who are lawyers or have been lawyers, at least went to law school, understand it to mean: fairness, notice, right to cross-examine, impartial tribunal, a lot of things that we believe have not been accorded to John Tower, who walked this Chamber for 24 years with honor.

So we do not want to prolong the debate. We want to win, just as some on the other side want to win.

I hope there is no hostility to John Tower in this Chamber, not just because he was a former colleague, but because I think he is a well-qualified nominee.

So I certainly will work with the majority leader and, at the same time, work with my colleagues who may be undecided or, if not undecided, undeclared. And that is another distinction. Some are decided but undeclared. If those that have decided would declare it would make my job easier and certainly the job of the majority leader. Because once one or the other side has a majority—and I do not quarrel with

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

the majority leader, it is time to vote. But as of now there seems to be a number in the undeclared category, maybe not undecided, but undeclared category.

So I will be consulting with the majority leader throughout the day and hopefully we can come to some agreement.

I believe we have a number of speakers on this side who want to discuss the merits of the nominee. I think it will be a pretty solid debate today.

Mr. MITCHELL. I thank the distinguished leader for his comments. It is my hope that the debate will be of the character and nature which all of us expect of the Senate and that it will be such as to enlighten all concerned. I look forward to that, as does the distinguished Republican leader.

Mr. DOLE. Mr. President, I reserve the remainder of my time.

Mr. MITCHELL. I reserve the remainder of my time.

The PRESIDENT pro tempore. Both leaders reserve the balance of their times.

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

The PRESIDENT pro tempore. The absence of a quorum has been suggested. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

MORNING BUSINESS

Mr. REID. Mr. President, I ask to proceed as if in morning business.

The PRESIDENT pro tempore. Under the order, a period for the transaction of morning business will now commence. Senators will be recognized for not to exceed 5 minutes each.

The senior Senator from Nevada, Mr. REID, is recognized for 5 minutes.

(The remarks of Mr. REID pertaining to the introduction of legislation are located later in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

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

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

The legislative clerk proceeded to call the roll.

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

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

The junior Senator from New York is recognized for 4 minutes.

Mr. D'AMATO. Mr. President, over the past weekend, reports were published in the New York Times, the Washington Post, and other newspapers stating that the administration is ready to proceed with the FSX fighter plane codevelopment deal with Japan. Mr. President, I remain opposed to this deal. I intend to do everything in my power to see that it does not go through.

Why? Why would I oppose it? Mr. President, to put it simply, it is a bad bargain. It is neither in our national security nor economic interest. It will seriously risk the future of one of the few remaining industries in which America is preeminent—aviation, in particular as it relates to the military aspects.

The Japanese are strong and deeply valued allies, and it is clearly in our mutual interest that they bear a larger share of their defense burden, much of which is being paid for by the American taxpayers. Their interest in this deal, however, is more about increasing their already formidable economic power than their defense capabilities and their fair share. The Japanese objective is clearly to do in aviation what they have done in automobiles, electronics, and other areas of industrial production.

Mr. President, despite a $54 billion trade surplus in the United States last year, and certainly one bound to be that much this year, the Japanese refuse to purchase our lower cost, high-performance aircraft. We hear about free trade. We hear about fairness. Here is an opportunity for the Japanese to demonstrate some of that.

Mr. President, Japan could purchase F-16 fighters from the United States for about $18 million per aircraft, roughly one-third of what the pending arrangement will cost them. In other words, they can buy a plane ready to fly that will meet their needs at $18 million, but they are ready to pay almost $60 million. Why? Well, it is certainly not for defense purposes. They are interested in acquiring U.S. aviation technology to support the development of their own industrial base.

If the Japanese objectives were to upgrade their military in the most cost efficient way and to pick up a greater share of their own defense, they would buy American, they would buy the American F-16. If the Japanese objectives were to lessen friction caused by the huge imbalances in Japanese-United States trade, they would buy American.

The true objective, however, is the long-term development and promotion of their domestic aviation industry and it is shortsighted of us to assist them in their drive to surpass another American industry and to dominate another world market.

More broadly, the FSX agreement is yet another demonstration of what is wrong with our decision making process. Let us look at what has happened in the last 2 weeks. A number of Senators, including this one, voiced substantial concerns about the agreement and wrote to the President asking him to look at it again.

An interagency review was promised. A deal apparently was negotiated between the agencies and they are prepared to say, "Well, now it is OK, we will take care of it all." The problem, Mr. President, is that the Japanese have not agreed to a thing and all available evidence is that they will not change one word. We are sitting around negotiating with ourselves and we are calling it a deal.

According to the New York Times story, Japanese officials said they would not renegotiate the memorandum of understanding but American officials said protocol could be written into the agreement between General Dynamics and Mitsubishi. Japanese officials said they had "no comment" on this aspect. So once again we start by——

EXTENSION OF MORNING BUSINESS

The PRESIDENT pro tempore. The time of the junior Senator from New York has expired.

Mr. D'AMATO. Mr. President, I understand that we are to return to another matter at 11:30.

The PRESIDENT pro tempore. The Senator is correct.

Mr. D'AMATO. If those parties are ready to go, then I would ask that the remainder of my text be placed in the RECORD as if read in its entirety. If they are not, I would ask for an additional 5 minutes.

Mr. EXON. Mr. President, reserving the right to object—and I shall not object—I do not object to giving the Senator 5 minutes. I would like to ask for unanimous consent that I be allowed no more than 2 minutes for the purpose of introducing a piece of legislation as if in morning business.

The PRESIDING OFFICER. Is there objection to an additional 5 minutes being given to the Senator from New York, Mr. D'AMATO, and 2 minutes to the senior Senator from Nebraska, Mr. EXON, with the order for the Senate going into executive session being delayed accordingly 7 minutes?

The Chair hears no objection. The junior Senator from New York is recognized for 5 minutes.

Mr. D'AMATO. I thank the chair.

So once again, Mr. President, we start by accepting the other side's negotiating position. That is simply Japan says we will not renegotiate.

A little common sense and a look at history is called for, Mr. President. Let us think back to how this issue of technology transfer was handled in the F-15 coproduction agreement. It seems that we did not want certain sensitive technology transferred as

part of that program either, and we wrote a restriction into the agreement. But later the Japanese came back and said, "How can we repair these planes if we do not have the technology?" And so you know what happened? We gave them that technology. So what is to stop the same thing from happening, and I would suggest it will take place again, or as it appears Secretary Baker has received a flat "No" from the Japanese when he sought even a guarantee about the 40 percent U.S. share of subsequent FSX production. So let us see where we stand. Let us analyze.

We cut a deal to codevelop the FSX after accepting the flat Japanese refusal to buy F-16's off the shelf that can be produced at one-third of the cost of their plane. After questions are raised about the fairness of the deal, a giveaway of $7 billion in United States technology for something that would approximate between $420 million and $430 million, our share of the development phase of the program, we accept the Japanese refusal to renegotiate and go back to negotiate with ourselves.

After negotiating with ourselves, we come up with the idea of amending the draft license and technical assistance agreement, which is the company-to-company agreement implementing the order to restrict the flow of technology to the Japanese—we come up with this idea knowing it has failed in the past and obviously it is going to fail in the future.

Finally, we accept the flat refusal of the Japanese to talk to us about a guaranteed share of FSX production. Now State and Defense Departments tell us they cut the best deal they could. Mr. President, it is a bad deal. It should not go through. It is vital to our national security to proceed with this program, they say. Well, some of us think it is vital to our national security that we not proceed with this program.

This Senator, for one, has no faith that the wonderfully flexible folks in State and Defense will not give in at some later time after Congress has allowed this program to begin.

Once that happens, if you ever find out that it has happened, it is a dead issue. Then there will be some other issue on the front burner and the American people will not care and the Japanese will get advanced aerospace technology for a song.

Mr. President, I predict, if that continues, what we will see take place is a sacrificing of American jobs which should not be sacrificed because we can build that plane better, cheaper, more cost efficient, more cost effective. I say it is about time that we begin to see what is good for America, what is important for America, instead of trying to find ways to justify this incredible agreement, an agreement that in my opinion does grievous damage to America, its interest economically and particularly as it relates to technological know-how and production capacity in the future.

I predict a decade from now we will have the Defense Department saying we have got to buy this Japanese plane because they can now produce it better and cheaper than we can in the United States. I predict that the markets that we have and the surpluses as related to the sale of military aircraft in Europe—and that is one of pluses we have—will be lost to the Japanese. We will be buying Japanese planes and Japanese technology that we have helped supply with 7 billion dollars' worth of American taxpayers' money. If we cannot stand up to this issue, then I suggest to you it seems to me that things are going to get worse, trade imbalances are going to grow deeper, that we may have won the battle but it certainly appears to this Senator that we have lost the war as it relates to protecting America, the rights of people to work, and certainly our productive capacity. I thank the Chair.

The PRESIDING OFFICER (Mr. ROBB). Under the unanimous-consent agreement, the Chair recognizes the Senator from Nebraska, Mr. EXON, for 2 minutes.

(The remarks of Mr. EXON pertaining to the introduction of legislation are located later in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

DEPOSITORY INSTITUTION AFFILIATION ACT

Mr. CRANSTON. Mr. President, Senator D'AMATO and I are jointly reintroducing the Depository Institution Affiliation Act. This legislation provides for a new regulatory structure to govern our Nation's financial services industry. The Depository Institution Affiliation Act permits different financial services functions to be offered in separately capitalized subsidiaries under an umbrella holding company. It contains strong and effective safeguards to protect insured institutions, while affording all companies equal opportunities to become integrated providers of financial services.

Thus, both financial and nonfinancial organizations would be allowed to own, or be affiliated with, banks and other depository institutions. This will encourage the creation of diversified financial services companies that have the financial and managerial resources needed to inject new capital and vitality into an American industry whose preeminence has consistently been eroding over the last decade.

Under this proposal, separate subsidiaries of the holding company will have their activities regulated along functional lines without regard to ownership or affiliation. At the same time, this revitalized regulatory structure will provide adequate safeguards to insulate insured depository institutions from their nonbanking affiliates.

This insulation will not, however, prohibit cross-marketing or act to impose other artificial, anticompetitive restrictions that inhibit the synergy which would benefit the American consumer. The advantages of this type of structural reform program are significant and particularly timely. Take, for example, the present FSLIC debate. In many respects the very nature of today's FSLIC crisis is but a microcosm of the systemic problems facing our entire financial sector. Stated another way, the thrifts are the first victims of an antiquated and inefficient regulatory scheme. As we work toward what will almost certainly be the most massive Federal bailout in our history, we must also consider long-term measures that will prevent the problems from reoccurring or spreading to the commercial banking industry and the FDIC.

While it is still too early to predict the outcome of the debate, one fact should be clear. If all depository institutions, banks and thrifts alike, were given the opportunity to affiliate with any and all other firms, they would benefit from being part of a dynamic group with new and diversified sources of income and capital.

For years now, the financial industry has demonstrated that diversification lends stability to the system. And this premise has served us well. For example, savings and loans that are experiencing the greatest difficulties are not those affiliated with diversified unitary holding companies like Ford Motor Financial Services or Household International. Quite the contrary. Those in trouble are the specialists and the undercapitalized firms which serve only a narrow market segment. Whether you are talking about the thrift segment, the banking segment, the securities segment or the insurance segment, it is necessary to attract more highly capitalized, publicly oriented companies to a broadly defined financial services industry. That is the only way for financial institutions to provide a wide variety of services, enhance the capital of the system as a whole, and ensure a safe and sound financial industry. The maxim bears repeating—diversification means stability. The more diversified the parent company, the greater the strengthen of the underlying subsidiaries, and the less likely any one sector of the industry is to suffer a debilitating loss.

Of course, appropriate firewalls must be placed between depository and nondepository institutions, and they must be policed carefully. And if the depository institutions subsidiary

should fall below minimum capital requirements, it should be subject to mandatory recapitalization or divestiture. This will protect depositors and the deposit insurance funds against the risk of loss. Measures such as these might prevent the FSLIC disaster from coming back to haunt us. Perhaps most importantly, structural reform will benefit consumers. The increased competition will lead to better pricing structures, a resurgence of service, and the safety and soundness consumers need in these volatile times.

It is hoped that our bill will serve as a response to section 203 of the Competitive Equality Banking Act which declares that it is the intend of the Banking, Housing and Urban Affairs Committee to conduct a comprehensive review of banking and financial laws and the need for financial restructuring legislation before the expiration of the moratorium on thrifts exiting the Federal savings and loan insurance fund. The moratorium will probably be extended because of the long-term nature of the FSLIC fund crisis that the banking committee is presently considering.

However, I think that the restructuring inherent in the FSLIC resolution proposal will set the stage for overall restructuring of the financial industry. We are at the crossroads of opportunity. We can continue to sit back and watch while the world changes without our input, or we can take control and be sure that change takes place in a rational, legal structure, that meets the policy goals we have established in light of the expanding global financial system around us.

IMPLEMENTATION OF CLEARINGHOUSE ON STATE AND LOCAL COMPETITIVENESS INITIATIVES

Mr. BUMPERS. Mr. President, I am delighted to find that the Council on Competitiveness has recommended that the Bush administration "fully implement the provision of the omnibus trade bill to create a clearinghouse for State and local technology initiatives."

As my colleagues may know, the Council on Competitiveness was founded in 1986 as an outgrowth of the Young Commission. It is chaired by John A. Young, CEO of Hewlett Packard, and its membership includes leading executives from industry, organized labor, and higher education. Its overriding objective is to improve the ability of American companies and workers to compete in world markets.

The council report that endorses the clearinghouse is entitled "governing America: A competitiveness Policy Agenda for the New Administration" and it was issued earlier this year.

The report explains its recommendation as follows:

State technology programs fill a niche that the Federal Government cannot: small-scale, grassroots efforts involving local businesses, universities and governments. The clearinghouse should collect and disseminate information on State programs, develop methods to evaluate these programs and provide technical assistance and advice. At the very least, the Federal Government should make sure that its programs do not duplicate or compete with those established at the State level. (Report at page 22.)

I was the author of the provision of the trade bill that created the clearinghouse.

The clearinghouse provides us all with an opportunity to learn from the initiatives of State and local governments. They are taking the lead in fashioning a competitiveness strategy for the country. They are experimenting with new policies, new programs, and new approaches.

I have confidence that the administration will fully implement the clearinghouse and I expect to be working closely with the administration to see that this occurs.

THIRD INTERNATIONAL CONFERENCE ON ORAL REHYDRATION THERAPY [ICORT III]

Mr. KASTEN. Mr. President, in December of last year here in Washington, DC, over 400 people, most of them from developing countries, met under the auspices of the Agency for International Development [AID] to discuss oral rehydration therapy [ORT] and what it would take to sustain ORT programs in the 1990's. Oral rehydration therapy uses a simple solution of water, sugar, and mineral salts which quickly corrects the chemical imbalance created by diarrhea. It also involves continued breastfeeding, appropriate supplemental foods, and referral of severe cases. Diarrheal diseases currently kill an estimated 5 million children in the developing world every year, and experts at AID and the World Health Organization estimate that more than half of these deaths could be averted through the use of ORT.

Ten years ago, ORT was virtually unknown. Today, 96 developing countries have diarrheal disease control programs; approximately 60 percent of LDC populations have access to ORT; and ORT is used in almost one quarter of all cases of diarrhea. The Agency for International Development has played a major role in the promotion of this simple therapy internationally. It sponsored the first conference on ORT-ICORT I—in June 1983 to publicize information about this lifesaving therapy. In December 1985 AID sponsored ICORT II, which brought together over 1,000 health professionals to share their experiences in implementing ORT programs. And thus it was fitting, as AID began to look at development assistance programs and priorities in the 1990's, that it convened a third conference—ICORT III—to draw attention to sustainability of ORT programs in the years ahead.

From all reports, ICORT III was a remarkable success, and I ask unanimous consent to include in the RECORD the address which Ambassador Alan Woods, Administrator of AID, made to the participants on December 16, 1988.

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

CLOSING ADDRESS BY AMBASSADOR ALAN WOODS, ADMINISTRATOR, AGENCY FOR INTERNATIONAL DEVELOPMENT

Good Morning, ladies and gentlemen—we have come to the close of a remarkable three days. I'm pleased that our discussions during this conference have been candid and creative.

We have heard some remarkable examples of program challenges and—we have solid evidence of program success.

Dr. Magda Mohamed Ali from Sudan and Dr. Mkerenga from Tanzania told us about important work that is being done of health worker training.

Dr. Mota and Dr. Gabr shared with us their experiences in Mexico and Egypt—where they achieved successful collaboration between the government and the private sector.

Dr. Ahmed—reflecting on Pakistan's experience—reminded us of the importance of marketing and communications. Speaking broadly—Dr. Bengston warned us of three formidable obstacles to sustainability: Ignorance, Prejudice, Poverty.

Over the past three days we have heard oral rehydration therapy described as everything—from a "ten cent cure"—to a "social movement."

But what is more important—we have heard of dramatic successes—in Egypt—Indonesia—Malawi—Haiti—and elsewhere.

That success is measured in terms of:

Increasing knowledge and use of oral rehydration therapy;

Fewer hospitalizations for dehydration;

Lower costs for government programs—and,

Lower family health expenditures.

Most important—success means that more children will be saved.

We have also heard some very practical recommendations:

First—bring oral rehydration therapy into the hospitals: We will see pay-off in the way mothers and medical professionals view ORT—and in reduced medical care costs.

Second—work through existing communications and distribution channels—even informal and traditional channels—where this is the best way of reaching people;

Next—at every step of the way—maximize, self-reliance—on the part of the mother—the family—and the community; and

Finally—we must build bridges to other elements of the society and economy—do not ignore the role that educational, religious, and commercial organizations can play.

Ladies and gentlemen—we know oral rehydration therapy works. It is a simple, cost-effective, life-saving therapy.

I strongly agree with Dr. Bengston's observation—that the control of diarrheal diseases is not only a major objective in its own

right—but also a means to revitalize—strengthen—and energize the entire health system.

Let me repeat his observation that: "We have taken the opportunity to do battle against diarrhea as also an opportunity to combat inefficiency, laziness, corruption, and a host of problems not unique to the health sector—but particularly dangerous because of the human lives that are involved."

Oral rehydration therapy works. Yet, the more we have learned, the more we have appreciated the complexity of the problem that sustainability poses for all of us.

There are, indeed, challenges to sustainability.

Sustainability requires commitment, patience, and time: Time to plan, time to influence health behavior, time to reach beyond the public health infrastructure to encourage a much more active role for private service providers.

Unfortunately, time is not necessarily on our side. In countries that are failing economically, the situation is going to get worse—no matter how many campaigns we mount to combat specific diseases.

If we look beyond the year 2000—we see demographic trends that will magnify every health problem developing countries face.

The world's population continues to explode.

We are now five billion strong, and we are growing exponentially.

Most of the growth is coming from the developing world: Where basic systems—such as health, education, and water—are already strained to the limit.

Finding sustainable solutions to health care problems is the central challenge we face as we move forward.

We need to examine what steps can be taken by families and by private businesses in developing countries to address health care needs.

Now I don't want to suggest that there is no role for ministries of health and public health care providers—because there certainly is.

But if we focus only on what the public sector can do to improve health standards in developing countries, we will not succeed.

I believe that if we want health care improvements in developing countries to become permanent, we need to focus on several things:

First, general economic growth—the creation of the domestic means to finance health care services.

Second, more pluralistic health care systems. Countries need to strive for a better balance between private care and government programs.

Third, families must be encouraged to become more involved in their own health care.

We know that even the poorest households are spending some money on health care.

In fact, the resources families spend are already much greater than public expenditures on health.

We need to think about how we might help families get more for the money they spend on health care.

So—we must recognize that health programs have to wear a new face in the 1990s. They must reflect rapidly changing economic, political, and demographic trends.

We must be prepared to learn, and to change. New problems arise, as do new opportunities.

The family itself is changing. More mothers are working outside the home.

Older girls who traditionally helped their mothers with child care and household chores are now in school. We need more of this.

Isolated rural households now have access to radio and in many cases television—and they know that life can be different for them and their children.

The world is changing—but it seems to me that what must be preserved at all costs is the ability of a family to act in its own self-interest. There is ample evidence that where health services, schools, and jobs are available, families will make extraordinary sacrifices to take advantage of these opportunities.

It is fair to say we've only begun to tap the potential of oral rehydration therapy.

ORT represents a life-saving therapy;

ORT is a method that has energized a wide range of institutions—both public and private—in the fight for better child health, and

ORT is a program that has paved the way for the introduction of new health technologies.

Thus, it is an extremely cost-effective child health technology. It is also a model that opens the door to new approaches to child health.

We share an ambitious goal—to make oral rehydration therapy and immunizations available to virtually every child in the countries where we work.

We share a similar determination—that children should not die from dehydration or from diseases that could easily be prevented.

Finally, we share a high regard for human life. As parents—we believe that every child born into this world deserves the chance to live without pain and suffering.

In 1985 we set important goals for ourselves. And there is ample evidence that these goals are now being achieved. We will not abandon our commitment.

With that in mind, let's take this opportunity to rededicate ourselves to our child survival goals.

We must work to maintain our enthusiasm and concern—while planning for the future.

We must work to sustain—and add to—the remarkable accomplishments we have achieved to date.

We must use the methods we now have—recognizing that new tools will be needed as well.

I believe this investment will pay off: For countries, for communities, for families, and most important of all—for children—they are our future.

Thank you.

WILLIAM E. JACKSON

Mr. CRANSTON. Mr. President, at one point in the course of the Tower nomination proceedings, the reliability of William E. Jackson—a senior fellow at the Fulbright Institute at the University of Arkansas—was called into question by a Senator.

I have known Bill Jackson for 15 years, 3 of which he served as a senior legislative aide and foreign policy expert on my staff.

I want to state for the record that I have always found Mr. Jackson to be a most knowledgeable person, and a man of truthfulness and integrity.

I doubt that he would ever deliberately mislead or misinform a Senate committee.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Republican leader.

Mr. DOLE. Are we on the Tower nomination?

The PRESIDING OFFICER. We are to begin, yes.

EXECUTIVE SESSION

DEPARTMENT OF DEFENSE

The PRESIDING OFFICER. Under the previous order, the Senate will now go into executive session to resume consideration of the nomination of John G. Tower to be Secretary of Defense.

The clerk will report the nomination.

The assistant legislative clerk read the nomination of John Goodwin Tower, of Texas, to be Secretary of Defense.

Mr. DOLE. Mr. President, I just take a minute at this time to again indicate, as I did in my earlier remarks, that this is going to be a very close vote. On this side, we want to make certain we do not offend anybody on the other side who has not yet decided. There is a difference between undecided and undeclared because I still believe the nomination will be confirmed and should be confirmed. But I would ask the question as I did yesterday—I happened to watch NBC News do a little hatchet job on John Tower last night. They had all the information about this latest strike force that went down to Texas.

But the minority does not have the information yet. NBC was able to get it but we are not able to get it. This is the PSI Subcommittee staff. Nobody else has the information. How did NBC get it? It is not available to the Republicans. It is not available to John Tower. It is not fair. We hear last night on a major network all this story about some stewardess and some other thing that nobody knows anything about except the people who investigated it, and the PSI Subcommittee, the Permanent Subcommittee on Investigations.

We have been saying from the start this is a question of fairness. I think if we are looking at things from certain people, people ought to say, go back and have more hearings. We ought to have more witnesses—along with this bad stuff that is coming. That is apparently OK.

I would just again make the plea. Let us treat John Tower fairly. What is wrong with John Tower? Why all the hostility toward John Tower? What has he done to deserve it except

serve in this body with honor for 24 years? Twenty-four years is a long time.

He served on the Tower Commission with honor. He was arms negotiator with honor. He is smart, and was one smart Senator when he was here. He is a good arms negotiator, and would be a good Secretary of Defense. But every time he makes a step forward, there is another leak out there and people start talking about new allegations. Then they go on to tell you about them. They have not told us about them. They have not told John Tower about it. They have not told the White House about them. They tell NBC about them.

Maybe that is the way it has to be. But I have to believe there are enough fairminded men and women in this Chamber, and will continue to be long after this debate on both sides, who are going to say that is not fair to start leaking new allegations that have not even been made available to Members of the Senate, with no chance for cross-examination, anybody's motives, there they are right out in public, right out in print. I must say I do not know how you stop it. Due process is important—fairness, right to cross-examine, impartial tribunal, all the things that make up due process I think ought to be accorded to the nominee. It is not a trial. It was not supposed to be a trial. But it has sort of been a trial by leak and innuendo. I think we have had enough.

But I would say, as I said to the majority leader, we want to vote. We are not delaying the vote. That was also part of the NBC's coverage—the Republicans delaying the vote. We are not delaying the vote. We have to overcome all of these leaks that are going out early on, garbage after garbage dumped on John Tower. It takes a while for the American people to understand that this man has not been treated fairly. The fact that he was a former Senator does not mean that he ought to be treated any differently. He ought to be treated fairly.

So I hope we can vote this week. We are not delaying for any reason. We want to convince, yes, Senators and change the minds of the American people. We want to do what we can to make certain that the President has a right to nominate and determine the fitness and competency of nominees. I think that is what the Founding Fathers had in mind. Never in history has a President been turned down on a nominee at this stage of his Presidency.

Has anybody risen to this floor and said Senator Tower is incompetent, John Tower does not understand defense, John Tower does not understand the Senate or the Congress, or understand the budget? No. Not one. It has all been these tangential issues that somebody read a report somewhere and it said he was drinking excessively. He said it himself in the early seventies.

Someone said he made too much money or he is too tied to defense contractors. I put in the RECORD last night what he made in 2 years. One year he made $100,000, less than Senators make when they add up their honoraria. Last year he made $160,000. It was not just John Tower. It was Tower & Associates.

So I just suggest that we are going to continue to debate this nomination, hopefully at a high level. We are going to correct the record wherever we need to correct the record. We are not going to let anybody on either side trample on the rights of John Tower, and we are not going to let them trample on the rights of anyone else—not let someone stand up and read some outlandish conclusion. I think that is an obligation we all have.

So we are going to continue the debate. I must say there have not been many delays, and there have not been many quorum calls. It has been solid debate. We are prepared today, as I understand, with a number of speakers, I am advised by the ranking Republican on the Armed Services Committee. So we will be trying to meet the majority leader's wish, and stay in this evening. If we can figure out a way to vote tomorrow, we will do it. We are not trying to prolong it. But we are trying to make certain that when the verdict is in, whatever the verdict is, at least the American people will say he was treated with some fairness, someone stood up for his rights, others trampled them, but some stood up for his rights. That is what is important—not John Tower's rights necessarily, but the next nominee or the next nominee or 10 years from now or 20 years from now. Maybe it will be a Democrat and maybe a Republican. Then those of us who stood up here and defended John Tower are going to have to stand up and defend that person for the same reasons, if the same reasons are applicable then.

So I hope we will have a good discussion of John Tower's merits on this side as to why he should be the Defense Secretary. Is he qualified? Does he understand? I think if we can focus on that for a while instead of on who can make the most extreme statement, then we might get this debate back into focus. That is our responsibility. George Bush is a Republican. So we have a special responsibility to keep this debate at a high level. If we veer from that, I am sure someone on the other side will call us to task.

We are prepared at the majority leader's request to debate it today. I told him I would be in touch with him later today or tomorrow, as soon as I can find out when we can vote so Members can be here. It probably will not be Friday. So it cannot be tomorrow. It will be next week. But I know Members on both sides who cannot be here Friday, not that they do not want to be. We have one with a death in the family on this side who cannot be here on Friday, and I am certain there may be other constraints on the other side.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the majority leader.

Mr. MITCHELL. Mr. President, in his remarks, the distinguished Republican leader alluded to establishing a precedent for the future with respect to this nomination. That, of course, raises a question of the past. There appeared today in the Washington Post an interesting article entitled "How Tower Used His No Vote," which recounted the record of Senator Tower in opposing many nominees of the other Presidents.

We have been told repeatedly in the debate here by Senator Tower's supporters that he should be approved because the President should have his own man. The distinguished Republican leader said over and over again the President won the last election, and therefore he is entitled to have his own man. But if one views the record and looks at Senator Tower's own record on nominees, one can only conclude that his supporters now want the Senate to apply to Senator Tower's nomination a standard different from that which Senator Tower himself applied to Presidential nominees when he was a Senator.

He voted against Paul Warnke to be head of the Arms Control and Disarmament Agency. He voted against Ray Marshall to be Secretary of Labor. He voted against William Usury to be Secretary of Labor. He voted against Paul Nitze to be Secretary of the Navy. In every one of those instances, he did so simply because he disagreed with some of their policy positions. He did not challenge their suitability. He did not challenge their experience. He did not challenge their ability. He did not challenge their effectiveness. He simply said he disagreed with their views, and, therefore, he was voting against them, a position far more extreme as to the relative powers of the Senate and the President than any opponent of Senator Tower has advocated in this debate.

Many of the statements we have heard here by Senator Tower's proponents sparked my interest in the views of some of these Senators when the President was a Democrat and the nominee was a Democrat. If any Senator would like to engage in some interesting reading of history, he or she ought to go back and take the statements made in 1977 when President Carter sent Cabinet nominations up to the Hill and contrast them with the

statements being made during this debate by the very same Senators.

Every one of us, if we stay in the Senate long enough and make enough speeches, will inevitably contradict ourselves. We will meet ourselves coming around the corner on some issue. But nowhere have I seen a more dramatic reversal in position than the statements made by many of the Republican Members of the Senate in 1977, when they were considering the nomination of a Democratic President, when they were telling us how expansive the powers of the Senate were, how Senators ought to vote against nominees simply for disagreeing with them on a policy position.

There was no talk then about the President having his own way. There was no talk then about the President winning the last election. There was no talk then about the future of the confirmation process. There was no talk then about the fairness of the process. Over and over again, Republican Senators, many of whom are still in the Senate, many of whom have made speeches this past week, saying the President ought to have his own way, and we are somehow threatening the future of the presidency by not confirming this nomination, took exactly the opposite position when the President was a Democrat and the nominee was a Democrat.

Indeed, if one were looking to compile an analysis of the opposing points of view on the proper constitutional powers of the Senate in confirmation, one need only compile the speeches of Republican Senators in 1977, put them on one side of the page, and then take the speeches by the very same Senators in 1989 and put them on the other side of the page. You would have exactly opposite arguments on what are the proper roles of the President and the Senate in the confirmation process.

Mr. President, I am having these statements compiled and will be placing them in the RECORD later for the ready reference of all Senators. It will not take very long for the Senators on the other side to conduct similar research and find that the same thing is true of many Democratic Senators.

I am going to yield to the Senator from Rhode Island in just a moment, because I know he has a tight schedule; but I will just close this moment by making the point that I wanted to make. Let us refrain from self-righteousness. Let us refrain from dire predictions about the future of the Presidency and relations between the President and Congress. Let us not inflate the importance of our own words and views. Let us all recognize, as I said earlier, that if we stay here long enough and make enough speeches, we are going to find ourselves on opposite sides of the same issue.

On this one, Mr. President, many of my colleagues on the Republican side have made the most dramatic reversals of positions imaginable on this issue, and I predict to them that if and when there ever again is a Democratic President, a proposition of which there is much doubt among many people, they will be back on the other side of the issue, where they were in 1977. Do not get too locked into your present views; you may be holding another one very soon.

Mr. WARNER. Mr. President, will the distinguished leader yield to accept one question, a brief question?

Mr. MITCHELL. I yield.

Mr. WARNER. I thank the Senator.

As we look at these windows of history, depending on whether there is a Democrat or a Republican in the White House, indeed we can come up with statistics as the majority leader represents, but let us take the big window, 200 years in which we have had 540—I will correct the record to be exact—nominations by a President for members to serve in the Cabinet. Yet, only eight have been rejected by the U.S. Senate. What is it about this case that elevates or lowers it, whichever way one wishes to go, to the category that he would be the ninth?

Mr. MITCHELL. The case against is stronger than the case against was when you opposed Democratic nominees.

I thank the Senator, and yield the floor to the Senator from Rhode Island.

The PRESIDING OFFICER (Mr. BRYAN). The Senator from Rhode Island is recognized.

Mr. PELL. I thank the majority leader for his courtesy.

Mr. President, the decision on the nomination of Senator Tower is a very difficult one for me because the arguments pro and con are so evenly balanced.

On the one hand, he is the choice of our President, and he is unquestionably competent and highly experienced in matters of defense and arms control.

On the other hand, however, his relationship with the defense industry has clearly compromised his position and reflected adversely on his judgment; not only has he realized substantial personal gain on the basis of his prior Government service, but he has established business connections with such a broad range of defense contractors, that it would be difficult for him to perform as Secretary without at least an appearance of conflict of interest.

I also fear that the fallout of protracted debate over this and other problems would deprive Senator Tower, were he to become Secretary of Defense, of the respect and regard that the men and women of our armed services should accord to that office.

I very much regret that this debate has become so partisan in nature. While I fully honor the desire of our colleagues on the other side of the aisle to support their President's nomination, I do feel that many of us on this side have genuine doubts on the matter that should transcend any considerations of partisanship.

In this regard, I take note of the restraint and sensitivity with which Senator NUNN has comported himself as has the majority leader, Senator MITCHELL, and indeed as has the President, our President, I would add, of all of us.

On balance, while I would normally vote for the President's choice, particularly when that individual is an old colleague and friend, in this case I do believe it is in our Nation's best interest for the President to make another choice and should the nomination come to a vote, it is my intention to vote "no."

I thank the Chair.

The PRESIDING OFFICER. The acting Republican leader.

Mr. WARNER. Mr. President, I wonder if our distinguished colleague would stand for just a question. I have had the privilege for a decade here now of serving with the distinguished chairman of the Foreign Relations Committee. We have made many trips together and we have debated the history of this institution. We have covered many subjects together.

But was I correct in taking a note down in the Senator's opening comment he felt that the pros and cons of this case were evenly balanced? Was I correct in that note?

Mr. PELL. I hope the Senator was not. What I meant to say was it was so evenly balanced.

Mr. WARNER. I beg the Senator's pardon.

Mr. PELL. It was so evenly balanced.

Mr. WARNER. Depict the scales there.

Mr. PELL. Depict them like this and on balance I think I come out negatively.

Mr. WARNER. I judged that from the Senator's conclusion but the question——

Mr. PELL. It was to keep you guessing.

Mr. WARNER. The question that I would ask my distinguished colleague is, if history reflects that only eight times this institution has seen fit to veto the judgment of a President of the United States over the course of these 200 years, I think you can infer from that that it takes just more than a degree or two off the scales, but indeed it has a heavy burden, a heavy burden of factual evidence, and yet as I listened to my distinguished colleague, I heard the refrain it was evenly balanced.

Mr. PELL. So evenly balanced.

Mr. WARNER. That even strengthens my case. It was so evenly balanced.

Wherein was that burden that took the scales down to that level to equate this case to become No. 9 in the history of the United States?

Mr. PELL. My recollection is I voted in the past once, maybe twice, against nominees for the Cabinet and, as I said, on balance, and with an inadequate computer, which is my mind, I come out against the nomination.

Mr. MITCHELL. Mr. President, will the Senator yield?

Mr. WARNER. I thank my distinguished colleague.

Mr. PELL. I yield.

Mr. MITCHELL. The fact that it has only been eight or nine times is not for lack of trying by Republicans during Democratic administrations to defeat Democratic nominees. You were not successful but you tried very hard.

So, that is the central issue in this debate. It is not the result. It is the effort. It is the standard that was applied by the very same people who are today saying the President should have his way but who when the President was a Democrat said the President should not have his way even if the nominee is qualified, even if the nominee is experienced, even if the nominee is capable just because we disagree with one of his positions.

So, the central issue is not the result. It is the effort that was made and the standard that was applied by the very people who are today applying exactly the opposite standard. That is the central question.

Mr. WARNER. Mr. President, at a later time I will respond.

The PRESIDING OFFICER. The majority leader has the floor.

Mr. MITCHELL. No. I yield.

Mr. WARNER. At a later time I will respond to the majority leader because I have taken up more than my allocation of time. But I shall come back with a body of statistics, because he is here saying it is just a political decision at this point which troubles me greatly, if we simply recite times when the Republican side simply went after the Democratic President and his choice.

Mr. MITCHELL. No. The Senator misunderstands me. I said exactly the opposite in my remarks here. I said that it would be very easy and take but a short time for the Senator from Virginia or any other Republican Senator to go back and research the record on this side and find many Democrats whose views have undergone an identical although reverse transformation, and I do not dispute that for a moment, and I am certain that you can find that.

Mr. WARNER. I thank the majority leader.

We will do that research.

The PRESIDING OFFICER. The Chair recognizes the Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I hope the majority leader will remain on the floor to carry forward on the discussion that he initiated for a few moments.

Mr. MITCHELL. I have a whole line of people waiting in my office. I will be back on the floor in a while and I will be glad to engage in any discussion with the Senator from Pennsylvania at that time.

Mr. SPECTER. I understand the majority leader has a busy schedule.

I raise two distinctions with what the Senator from Maine has contended here.

It is not really a matter of what individual Senators may say as they seek to advance their particular cause but it is really the judgment of the Senate which is critical, and the judgment of the Senate is embodied in the fact that on only eight occasions in the history of this country has the President's choice for an executive branch subordinate official have been rejected.

As the Senator from Maine, the distinguished majority leader, has pointed out, you can find statements of principle on both sides as it may be argued on one occasion by Republicans that the President ought to have great latitude in selecting his Cabinet officers and denied by the Democrats and then the shoe may be on the other foot in 1977 as the majority leader has argued.

But the critical aspect I submit is not what individual Senators argue as they may want to advance their own particular cause at a particular point in time but rather it is the judgment of the Senate which has been articulated in the conclusion that on only eight occasions we have come to the result that the President's nominee for a Cabinet officer has been rejected.

So you may have a partisan point of view or a specific point of view by a Democrat or a Republican on one occasion or another.

But it is not those views that establish the precedents. The precedents are established by what the Senate has done, and on all of the occasions when Senators have risen, including Senator John Tower, to oppose a nominee, when Senator Tower rises to oppose the nomination of a variety of individuals, and on some of those I would candidly disagree with him as he did on Mr. Nitze, for example, but it is not what John Tower, the Senator, did which is the precedent which the Senate ought to follow; it is what the Senate has done.

I would make one additional very important distinction from the generalizations of the majority leader to the facts of this case because so many of the Senators on the other side of the aisle who now oppose Senator Tower have been specific in their praise of Senator Tower, and I am sorry that Senator PELL had to leave the floor, and I know everybody has busy schedules, because I would have welcomed an opportunity for Senator PELL to have dealt with his previous evaluation of Senator Tower.

Back in 1984, on October 11, there were quite a number of comments made by Senators near the occasion of Senator Tower's retirement, and it may be that Senators were somewhat more profuse in their congratulatory message on that particular occasion. But however that may be, the fact is that Senators did speak about this man.

Senator PELL has come back to the floor. If I may have his attention, I was just about to make a reference to a comment which he had made about Senator Tower in the past. I do not pose this in the form of a question, but it may be that the Senator would care to make some response, and if so, I will be glad to yield for him to do so.

I had said that, in commenting on the argument made by the majority leader, I thought there were two sharp distinctions from his contention. One was that it was not what individual Senators had said which may differ from one occasion to another, depending on what result they seek to achieve, but rather it is the judgment of the Senate which on only eight occasions in the history of our country rejected a President's choice for a Cabinet appointment.

And then the second major distinction which I cited was the fact that as to this nominee, aside from the generalizations as to what range of discretion the President ought to have, quite a number of Senators had been effusive in their praise of John Tower which made this case very different. I was about to quote a comment which Senator PELL had made as it appeared in the CONGRESSIONAL RECORD on October 11, 1984, to the following effect:

> It has been my pleasure to know John personally since he came to this body in a special election in the spring of 1961 just a few months after my first election to the Senate.

I might interject here that I think Senator PELL has had the opportunity to know more about Senator Tower than perhaps virtually anyone in the Senate today, perhaps with the exception of Senator BYRD, maybe Senator THURMOND, and perhaps a few others.

Then Senator PELL's comment goes on to this effect:

> I have always been profoundly impressed by his knowledge of government and the way he approaches all the problems with a keen analytical mind. In his four terms here, he has won the respect and admiration of all who have served with him.

Now, as I said before, it may be that there is some greater occasion for complimentary statements, but that is a forceful statement, that is a strong statement in support of this man, which I think suggests that the generalizations on the President's latitude that the majority leader had cited do not really quite fit this case where so many people have spoken so forcefully in support of Senator Tower.

I note my colleague looking at his watch. If he would care to make a comment, I would be glad to yield to him for that purpose provided that I do not lose my right to the floor.

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

Mr. PELL. The Senator is right. Senator Tower and I were friends over a period of many years. In fact, early in his time as a Senator, he came up and visited me once in Rhode Island. When I made the remarks that you mentioned, it was just as he was winding up his tour of duty in the Senate before he had moved into the Defense Department matrix, which really is one of the principal reasons, as I mentioned and said in my statement. One of the principal reasons why I found myself coming out opposed to him is the, to my mind, the lack of judgment or taste or whatever you want to call it where he moved into the defense industry and then moved back. And I think that revolving door was carried a bit to an extreme.

I must agree with you that the main advantage he has in the imperfect computer that is my mind is the fact that the President nominated him, his choice. But I also recall voting at least once before against another Cabinet choice of the President's and I think you have to weigh what is the greater good of our Nation, more than any other single consideration. That is why it is pretty evenly balanced, but I had to come or did come out negatively.

I thank the Senator for this imposition.

Mr. SPECTER. I thank the Senator for his comment. Just by way of a very brief reply, I had made a compilation of some 100 Senators who have left this Chamber in recent times. And they have gone to a variety of professions, but they were all seeking to utilize skills which they have acquired during the course of their tenure in the Senate.

There has been great concern expressed about how much money John Tower earned as a consultant. Senator DOLE, I think, has corrected the record by pointing out that, after expenses and after associates, it was really not so much. As he said on the floor earlier today, about $100,000 then.

I recall when our distinguished colleague, Senator Baker, the majority leader, left the Senate at exactly the same time that Senator Tower left the Senate. Senator Baker was reported to have earned in excess of $800,000 in the first year that he left. And there must have been skills which he learned in this body. Other Senators have gone to law firms, other Senators have undertaken a variety of activities. So that it seems to this Senator that there is nothing so unusual when Senator Tower becomes a defense consultant.

The issue is not really what he did by way of using his specific talents, but the issue is: Did he do anything wrong? Did he divulge classified information? Did he violate any law? Did he violate any ethical rules? Did he violate any code? And the record is plain, as conceded by the majority report, that Senator Tower did nothing improper. But they only come down on the issue of the appearance of impropriety.

I would say that when you talk about appearances that is really a retreat position when there are no facts to criticize a person on. And that it is really fundamentally unfair to have a shifting standard for confirmation which is tailored especially to John Tower.

The Armed Services Committee has articulated a new standard which has never been applied before to any other nominee. There has been extensive comment about the uniqueness, or peculiarity, or some have said unfairness, in structuring a new standard for John Tower. Why should John Tower be gauged by a standard which has not been applied in the past? There are rules, there are laws, there are ethical standards. No one can point to a single violation by John Tower of any of those rules. The majority report quotes extensively from questioning by Senator LEVIN and it comes down to the conclusion only on the question of appearance, not as to anything specifically having been done wrong.

When you talk about the role that Senator Tower played on the strategic arms reduction talks, it seems to this Senator, having participated in the events at Geneva and having participated on the Intelligence Committee on the ratification of the INF, that there is really precious little that John Tower could say, even if he wanted to. And I think that we know John Tower well enough to know that he would not disclose confidential information. The committee report concluded that he had not.

But the strategic arms reduction talks were very much in midstream. They could not be concluded because of the very difficult issues of verification. Those issues still confront the strategic arms reduction talks. They could not achieve significant progress until there was some resolution of the issue of defense in space and what would happen with the Strategic Defense Initiative.

At the time that John Tower was a negotiator in Geneva, President Reagan was very forcefully pursuing the strategic defense initiative. So that until that was cleared up the Soviets were not about to make concessions on strategic arms reduction and that whole negotiation was in a state of flux. So that there is a strong reason to conclude that there was not anything special that John Tower had to impart to the people with whom he consulted.

But, Mr. President, it seems to this Senator, as a matter of basic fairness, if he did something wrong he ought to be out. But if he did something wrong, it ought to be proved. And this Armed Services Committee report does not assert any wrongful conduct on the part of John Tower, only the appearance of wrongful conduct.

Mr. President, returning for just a moment or two—and I see my colleague, Senator WILSON, has come to the floor so I shall speak at much greater length—but returning for just a moment to the distinction that I had raised with the majority leader on why this matter differs from the generalizations that he was articulating, it is because so many Senators have spoken so forcefully about Senator Tower's qualifications.

I had a brief exchange yesterday with Senator DECONCINI on the floor. Senator DECONCINI had made some comments in 1984, and I am not going to pursue those at this time. I am going to await an occasion when Senator DECONCINI is on the floor and pursue that subject.

There have been very forceful statements made by quite a number of Senators and I think it most appropriate to wait until those Senators are on the floor before going into them in any detail. I do welcome an opportunity to pursue this discussion with the majority leader when he has occasion to return to the floor later today.

Perhaps it might be appropriate, if I could attract the attention of Senator EXON on this subject, because he is on the floor, to refer to the comments which Senator EXON had made. And I am not asking for any response, but perhaps the distinguished Senator from Nebraska would care to make a response in the context of my argument that this case is different from the generalizations asserted by the majority leader.

Senator EXON made the following statement, Mr. President, on October 10, 1984, and again it is in the context of Senator Tower's departure, so it ought to be fairly evaluated in that specific context, perhaps more effusive praise than otherwise might be in order. But this is what Senator EXON is reported to have said, quoting page S13996 of the CONGRESSIONAL RECORD:

While there have been times when he and I disagreed on some specific issues as we worked toward our mutual goal of insuring a strong national defense. I have always found Senator Tower to be an admirable colleague. As the chairman of the Senate Armed Services Committee, he has been extremely effective in insuring a proper and comprehensive addressal of those critical issues related to our Nation's security. His knowledge of defense issues is impressive and has been instrumental to the continuing influence and effectiveness of the Armed Services Committee. Senator Tower's ability to comprehend and relate so many complex issues is a rare and admirable skill. Displaying firm but fair leadership, he has guided the committee through many difficult times and has always striven to act in the best interests of our great Nation.

Mr. President, I would submit that Senator EXON's statement comes to grips with Senator Tower's integrity, where Senator EXON refers to Senator Tower's efforts to strive "to act in the best interests of our great Nation," and that his comments go to Senator Tower's overall ability to perform the job. And that, in the context of this discussion where so many Senators—Senator GLENN and Senator GORE and Senator NUNN and Senator BYRD and Senator DECONCINI and Senator KENNEDY and Senator BINGAMAN, Senator PELL, and Senator INOUYE—have all spoken out in glowing terms of Senator Tower, and that these facts sharply distinguished this confirmation proceeding from any other, on the generalizations which the majority leader had articulated.

I note my colleague from Nebraska has risen. I would be glad to yield to him if he would care to make a comment at this time if I may do so, Mr. President, without losing my right to the floor.

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

Mr. EXON. I thank my colleague and friend from Pennsylvania. I would simply say, Mr. President, that the conclusion that the Senator from Pennsylvania has reached by searching the file on my comments about Senator Tower, which are accurate—but the conclusion that he reaches from those statements is just as erroneous as his pronunciation of my name. We served together for better than 10 years here, Senator SPECTER and myself.

So, Senator SPECTER, I just simply say that you were incorrect in your assumption. I think the question can be very simply answered. Everything that I said about John Tower at that time was absolutely accurate from what I knew. And I think probably from what I know now about John Tower, I would not have changed, essentially, what I said at that time. Although, I reserve the right to read what I said.

What you are doing is not serving the cause that you espouse. I have said on repeated occasions that when we began the confirmation process, as the second-ranking Democrat on the Armed Services Committee I fully intended to support John Tower because of my previous knowledge of him. I have had no question about his knowledge of the subjects of national defense. I have had no question whatsoever about his dedication to providing an adequate national defense. I consider him one of the experts in that area.

But when I began taking part in those proceedings, while I fully intended to support the nominee, the confirmation process worked. I came to the conclusion, after hearing all of the witnesses and reviewing the FBI report, that I could not in good conscience support this nominee.

There were things that significantly happened after the time that the statement that I made which has been cited by the Senator from Pennsylvania; things that happened and things that John Tower did that I feel now makes him not qualified for this position. I thank my friend for interrupting his remarks to give me a chance to respond. I would just conclude with a reference to the statement that the Senator from Pennsylvania made a few moments ago:

This FBI report contains no reports of wrongful conduct on the part of Senator Tower.

That is what I believe I heard the Senator from Pennsylvania say. If he means to say that, then he had not studied the report or else he comes to a significantly different conclusion than I have. I would simply say that I think making statements like that on the floor of the Senate does not contribute——

Mr. WILSON. Will the Senator yield for a question?

Mr. EXON. May I finish my statement? I would simply say I do not think that contributes much.

Once again I would appeal to the President of the United States, since there is so much question today on what that report contains, that the President of the United States who is the only entity who can release that report, do so and we will let the others make the decision.

I thank my friend for his giving me a chance to respond.

Several Senators addressed the Chair.

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

Mr. SPECTER. I do not object to the comments of my colleague from California as long as I do not lose my right to the floor and as long as Senator EXON does not leave the floor.

Mr. EXON. Mr. President, I object to that because we have tried to work back and forth on this. As soon as Senator SPECTER has finished, and he has the floor, I know that my colleague from California has been waiting. I would object to anyone getting into the debate further at this time.

Mr. WILSON. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Objection is heard. The Senator from Pennsylvania has the floor.

Mr. SPECTER. Mr. President, where the Senator from Nebraska makes the comment that I had said that the FBI report does not contain any evidence of wrongful conduct on the part of Senator Tower, I did not say that. If I may have the attention of the Senator from Nebraska? I believe I now have the attention of the Senator from Nebraska.

The Senator from Nebraska said that I said the FBI report contained no evidence of wrongful conduct on the part of Senator Tower. I did not say that.

What I said was in discussing the issue of Senator Tower's activities as a consultant to the defense industry, that the Armed Services Committee report did not say that Senator Tower was guilty of any wrongful conduct. But the Armed Services report had in fact said that he had not divulged confidential information and the Armed Services Committee based its conclusion on appearances as opposed to any conclusion that there was any misconduct on the part of Senator Tower.

I do not use the term "FBI report" because there is no FBI report. What there is is an FBI file. I hope, and I join the Senator from Nebraska in urging, that we will have some form of a limited waiver so that we can get into the facts of the FBI file.

If, as, and when that occurs, it is the judgment of this Senator, having read the FBI file closely, that I could make the statement erroneously attributed to me by the Senator from Nebraska that the FBI file contains no evidence of wrongful conduct on the part of John Tower.

I label that as a conclusion, my conclusion, after having read the FBI file. And this Senator is convinced that, if we get down to the fine print and to the details and confront the allegations in the FBI file, that the opposition will crumble.

We have a curious rule at work in this body that we are permitted to comment on the Senate floor about what has been in the media, but we are not permitted to comment on the Senate floor as to what is in the FBI file.

There are three instances which have come to the attention of Senators on the floor which have been reprinted in the media. One involves the so-called Russian ballerina incident which totally disintegrated, total fiction, once it was subjected to analysis. The charges made by the Arizona businessman about seeing Senator Tower at the Jefferson Hotel totally

disintegrated in the face of documentary evidence that Senator Tower was not there on the occassions when the Arizona businessman was at the Jefferson Hotel. On one occasion, Senator Tower was in Pakistan. On one occasion, he was in Seattle, and on a third occasion he was on a plane enroute to Dallas. Then the celebrated case of Sergeant Jackson where those allegations have been totally disintegrated.

Mr. President, I hope we come to the time when we get down to the fine print and concern ourselves with the facts as opposed to a Senator's particular form of pronunciation which might have some greater relevancy to the issue before this body.

But I, for one, believe that the comments by the Senator from Nebraska in evaluating John Tower on October 10, 1984, before it became a partisan issue, have great strength in the ultimate conclusion here, when the Senator from Nebraska referred to Senator Tower as being extremely effective, when the Senator from Nebraska referred to Senator Tower's "ability to comprehend and relate to so many complex issues is a rare and admirable skill."

Before this matter became a partisan issue, there were many Senators, and I hope to have an opportunity to discuss with each of these Senators when they are on the floor—Senator GLENN, Senator GORE, Senator BYRD, Senator DECONCINI, Senator KENNEDY, Senator BINGAMAN, Senator INOUYE—the statements which they have made in praising Senator Tower as a man of great capability.

I think these statements, Mr. President, aside from what we all know to be true—well, let me retract from what we all know to be true. That is subject to varying interpretations. These statements made by these colleagues of Senator Tower make the case very different than the generalization of the majority leader, and I hope to have an opportunity to discuss that with him later today when he returns to the floor. I thank the Chair and yield the floor.

Mr. CRANSTON addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from California.

Mr. CRANSTON. Mr. President, I will vote against John Tower to be Secretary of Defense. That statement should really suffice without my going into further detail on the Senate floor. My reasons are much the same as those already presented in considerable detail by many Senators who have preceded me.

I visited S-407, I have studied the documents, I followed the debate with care. My repeating the case against Tower at this late stage could only further inflame an already overheated and damaging controversy, a controversy replete with personal incriminations and attacks on the Senate itself. It is really time to call a halt.

The odds are heavily against John Tower's confirmation. I see no rational purpose in prolonging the agony in the remote hope that enough votes might be changed so John Tower could squeak by a single vote, especially if it turns out to be a single vote margin and nothing more and that single vote is cast by the Vice President, who himself is not a Senator.

Imposing a Secretary of Defense on an unwilling Senate and a skeptical nation could be a very serious mistake. John Tower is a sorely wounded nominee. Wounded, I would point out, by his own hand. At best, he would go into office, if confirmed, too weak to carry the heavy burden that a Secretary of Defense must shoulder. He would not bring to the office the stature and respect someone should have who is to assume duties and responsibilities second only to the President of the United States in the military chain of command. Who can foresee the damage, I ask, to the Nation this could bring about? Surely it could, and I believe would, harm our national defense.

The people have just elected a new President who deserves to get off to a good start. I am not a member of the President's party, but for the sake of the Nation, I wish him well. I can attest that this is also the feeling of other Senate Democrats. I am quite confident it is the feeling of all Senate Democrats.

Two Democrats have announced their support for Tower. This should dispel charges of party line partisanship directed toward this side of the aisle. By contrast, not a single Republican has broken ranks and announced opposition to Tower. Where is a Republican willing to exercise judgment, talk about partisanship, talk about discipline? This is a fight thrust upon us by a nomination that never should have been made or, once made, should have been withdrawn before now.

It is time to bring this issue to a vote. It is time for the Senate to decide yes or no on John Tower and get on with the Nation's business.

Mr. WILSON addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from California [Mr. WILSON].

Mr. WILSON. Mr. President, I do not anticipate that this nomination will come quickly to a vote because it should not. We should take the time that is necessary to try to cure the manifest unfairness of the process to date. And this discussion of John Tower and all of its unpleasant particulars has become a referendum on the process itself, a referendum on the fairness of the process or, more accurately, the lack of fairness.

At the time that the vote was taken by the Armed Services Committee resulting in a straight party line vote—although members of the majority on that committee had been heard by reporters shortly before the vote as indicating no difficulty in supporting Senator Tower—the result proved otherwise. But at the time that vote was taken, there were expressions by the majority that, fair or not, factual or not, a perception had been created about Senator Tower that made it impossible for him to do the job, and that however regretfully they might feel about it, members of the majority were, therefore, compelled to vote against his confirmation.

This is the argument that has stirred such outrage on the part of those not necessarily friends of John Tower, but those who are concerned about fairness. A commentator has recently written: You do not have to love John Tower to be very concerned about the process of fairness in his treatment. And, indeed, what is at stake here is more important even than fairness to this nominee who, in my judgment, is without doubt the smartest, toughest, most knowledgeable, most experienced, best prepared nominee to handle the awesome responsibilities of the Secretary of Defense in the history of this Nation.

But what is more important than John Tower, more important even than, according to a President, his right to his nominee, and never in the history of this Nation have we denied a new President his nominee, what is more important is that we care not just about the process for its own sake, but care enough to cure it of the distortion and the contamination that has infected it. Because what is at stake here is the deception of the American people. They should not be permitted to deal in the kind of misconception that has been foisted upon them by the process to date.

Several polls have indicated that the American people disapprove of Senator Tower. Well, how, Mr. President, could it be otherwise? How could they think anything else than that he is a drunk and a womanizer and someone eager to engage in the lining of his pockets, because that has been what they have heard on the network evening news.

They have read fanciful stories on the front pages of America's major newspapers, stories which, in the due course of time, have proved to be false, and have been dealt with not by retractions exactly, but by presumptively curative stories a couple of days later, not on the front page, but buried in the back of the paper.

Mr. President, it is this syllogism that there is a perception, and that perceptions must govern, that is so pernicious to the process and to the

American people because it is a self-fulfilling prophecy, not in the sense that those who are relying on it necessarily created the false perception, although there have been some very careless statements that clearly have contributed to it, but what we do know is that anonymous allegations representing, in my judgment, the worst kind of moral cowardice, the worst kind of treachery, have resulted in the trashing of a good man's reputation, in a public process that offers him virtually no opportunity for rebuttal.

The American people have heard allegations, and they are not, I think, to be expected to go through the process of trying to test allegations which in fact they cannot test. They can no more cross-examine allegations from witnesses not under oath, not even identified by their real names, than can those of us who have read summaries of the FBI files.

But there is a very grave concern, Mr. President, and it is not shared just by the friends of John Tower. Let me read from a Wall Street Journal editorial of March 6 appropriately entitled "Character Assassination." In the editorial concern is expressed by one of America's leading liberal commentators, a man who in the best traditions of American liberalism is concerned about the fairness of process and clearly from his words concerned about the destruction of reputations by innuendo. The distinguished writer, Anthony Lewis, writing in the New York Times, which was subsequently quoted by the Wall Street Journal said:

> Reliance on untested accusations evokes one of the nastiest periods in our national life, the McCarthy era. Those evil days may sound like ancient history. But the case of John Tower is by no means the only indication that destruction by uncorroborated charges still goes on.

I think he said it with characteristic eloquence, "destruction by uncorroborated charges."

So I would say to my friend from California, my senior colleague, that I disagree, respectfully, with his comment just now that really there need be no more said than that he disapproves of the nomination. To the contrary, with all due respect, I urge that not only he but other Senators be specific, that they state the fact or facts upon which they rely upon in casting a "no" vote on confirmation, because they owe it, if not to Senator Tower and if not to the President, to their constituents, to the American people, because this process has been contaminated and hijacked. It has been corrupted.

To say, as Senators have, in committee and on this floor, that whether fair or not or factual or not, a perception has been created, that appearances have been created, just is not good enough. That is not what we were elected to do. It is not courage. It is not leadership. It is not justice. But it is however a self-fulfilling prophecy. It is an abdication of the responsibility to pursue and seek the truth. And in addition to that it is nonsense.

The idea that because someone has been trashed unfairly they cannot give the kind of leadership—which in fact Senator Tower is daily giving as he goes to the Pentagon and shapes policy, shapes the budget—is absolute nonsense. The fact is, what you need is someone of competence, someone wise enough, experienced enough, tough enough to make decisions that inevitably will have to be made because this administration and this Congress, faced with the responsibility for deficit reduction, will have to cut defense spending. You can do it wisely or unwisely, and John Tower not only knows how to do it wisely; he has the guts to do it. And that is why many people are afraid of him. It is not because he is not good enough; it is because perhaps they think he is too good, including, I am pained to say, some upon this floor.

John Tower was not always Mr. Cordiality, Mr. Congeniality. That is a fact. He rubbed some people the wrong way. He is smart and he is tough. He does not suffer fools gladly. He did not lose many fights on this floor or in committee or in conference. And I have no doubt he left some bruised feelings. Indeed, Members here have been candid enough to so state, and I commend them for their candor. I commend them even more when, like Senator GORTON, who made his feelings very clear, they found that that was no basis on which to cast a vote against confirmation perhaps because they felt, as did Charles Krauthammer, writing in the Washington Post, when he said, "The Defense Secretary's job is not to be a role model for an ensign. It is to keep the ensign armed, trained, and out of war. For that the Secretary of Defense needs to be shrewd, tough, and experienced."

Mr. President, Krauthammer adds, I think, a wise admonition: "The role model theory of government is inane. A country that cannot draw on its reservoir of tough little bastards to fight its battles is a country impoverished." Now, however offensive that may be to some, it is true.

Returning to the quality of the allegations, to the quality of the record that has been assembled in this case, we will understand why the American people disapprove of John Tower. You have already heard, most recently in the last 20 minutes from Senator SPECTER but repeatedly on this floor, about the quality of evidence, about the airline steward who professed to see, as a flight attendant on a flight on which Senator Tower was a passenger, the spectacle of Senator Tower supposedly consuming a fifth of vodka and great quantities of champagne. There is one problem with that story. The man was lying. He flunked a lie detector test on the question of whether or not he had ever observed Senator Tower drink any vodka on that flight.

You have heard about the pathetic tale of the retired Air Force sergeant who was not even on the base at the time that Senator Tower visited it, the fanciful story in which he alleged Senator Tower was so inebriated that in fact he engaged in the fondling of a female crew chief in a formation, in front of some 300 witnesses.

Well, not only does that story not check out, not only is it contradicted by the official records at Bergstrom Air Force Base and by the testimony of other witnesses at the time, it appears that this gentleman has a problem. He spent the last year-plus of his time in the Air Force under medical treatment for what is termed a mixed personality disorder featuring hysterical episode.

It is this kind of fanciful allegation that we have heard about in addition to the absolutely cockamamie story about the Soviet ballerina that was offered by someone who is presumably a plastic surgeon in California, who upon being pressed by the FBI did not want to talk to them. That story ran three nights on the network news. While the plastic surgeon did not want to talk to the FBI, his neighbors did talk and could not give strong character references to the credibility of that source, nor could anybody in the community in Houston wherein this perfectly preposterous episode was alleged by many to have taken place.

Mr. EXON. Point of order, Mr. President. I would just caution my friend from California, and I have been listening very carefully. Some of the things he has said have been publicly printed, and I have no quarrel with that. I would just caution him though on several remarks that he has made that could be in the FBI report but I am not going to attest to it.

I would just like to ask that he be awfully careful not to reveal that report by bits and pieces which I am confident is not the intention of the Senator from California.

Mr. WILSON. Mr. President, in fact, it is my intention to make the whole thing public.

Mr. EXON. The Senator does not have that authority.

Mr. WILSON. Mr. President, I have the floor.

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

Mr. WILSON. I say to my friend from Nebraska that I intend to continue, as I have from the outset of this dirty process, to try to achieve by persuasion or through other committee action, the revelation of all of the record because it is the only way that

I am convinced John Tower can get fair treatment that he is entitled to, and the only way the American people can get fair treatment.

I might say that the gentle admonition is, I think, one the Senator had better address to Members on both sides of the aisle. But frankly it comes much too late.

There has been a total airing of the dirty linen, the unsubstantiated allegations. To say that we are not going to challenge them, I will tell the Senator, is nonsense. We are under a duty to do so. And I intend to follow that duty.

I must say that these and other fantasies have been communicated to the American people ad nauseam. The rebuttal has not. And the argument that we may not identify specific facts or facts upon which to base a vote without contravening the sanctity of FBI records frankly is one that makes me uneasy. I will tell you, Mr. President, we must strip away the cover of confidentiality because it is too easy for Senators to rely upon it, too easy for them to generalize, too easy to engage in the kind of conduct that contributes to the unfairness of this process, and the reliance upon "perception and appearances." But we had better strip away those appearances. We had better strip away the perception and show them for what they are, which is fiction, malicious fiction, and vicious and unsubstantiated rumor. And if we have to characterize these by indirection, and that is the best we can do, then it will take a very long time. But, believe me, we will do it because fairness demands it.

Another example of the kind of quality of evidence we have seen was furnished just the other day by Karen Elliott House writing in the Wall Street Journal, recounting her experience having been questioned by an FBI agent on a story that was 17 years old. She was asked, she writes in the Wall Street Journal, to confirm whether or not she had ever been propositioned by Senator Tower.

She said for the record that she had not, and in fact, she noted the irony of her situation: A reporter who had been unable 17 years earlier to confirm similar rumors was now being asked by the FBI to anonymously confirm rumors about Senator Tower. And it led her to make the following observation, that what she observed in the compilation by the FBI of all these anonymous, unsworn statements to which these anonymous witnesses were not subject to cross-examination, was a process that she described in this fashion:

> A process of rumors begetting rumors offers anyone with the slightest shred of gossip to pass it on through official channels, to instigate additional FBI inquiries and to widen further the web of innuendo in which the Senator is snared.

She observed that she and an associate, Ms. Shelton, had either of them sought to "play a mischievous role" in the nomination process, were afforded ample opportunity to do so, and indeed an FBI invitation to do so. Quoting further from her statement:

> Nothing in this process safeguards the subject of the inquiry from distortions and outright lies except for the possibility that such lies might be leaked to the press, causing the accuser's word to be put on record.

The only thing wrong with her analysis is that that would work where those who are making the allegations are in fact identified. But this is not the case. They are identified only by code names like T-1 or 3, or he/she. That is a license to engage, not just in fabrication, but in the kind of vicious character assassination that has prompted the outrage of an Anthony Lewis, as well as a Karen House, by the concern editorially expressed by the Washington Post, and as well by the Wall Street Journal. And indeed it should. It should concern us all very deeply.

What we have is the leakage of allegations. Too many times I have heard my colleagues on the opposite side remark that there is enough in the record so that reasonable men can differ, enough so that regretfully they are compelled to vote against the nominee's confirmation.

Well, the quality I think we saw yesterday is suspect, the quality of the FBI files. Senator RUDMAN told this body of his own experience as a nominee for confirmation. What he found was that he was opposed by something in an FBI report. It was not until coming to this body, after being elected to it some years later, that he was afforded the opportunity to examine the file against him, and he found that what had prevented his confirmation was the false witness of someone who subsequently was revealed to be a convicted felon, and a habitual liar and a con man. I think those are the words that were used by the Senator.

The FBI report is not critically sifted information. It is not sworn testimony. It is not subject to examination, to cross-examination. Instead it is exactly the process of rumor begetting rumor, affording the opportunity, ample opportunity, for mischief to be done by those who are not identified, that has been described by Karen House in her op-ed article.

So when we come to examine the evidence, Mr. President, it is woefully inadequate. To his great credit, Chairman NUNN, commenting on one of the charges that has resulted in such titillation, that of womanizing, found that there was no reliable evidence of security breaches through sexual liaisons with Soviet ballerinas in Houston or with foreign nationals in Geneva. He found that there was no reliable evidence of sexual harassment of females, either those who are employees or others. And very clearly, I might add, there was a wealth of evidence to the contrary, provided by former employees of Senator Tower, who had served him for years. Not only had they failed to experience it personally; they had failed to observe it, for the reason that it had not taken place.

The only things that the chairman thought with respect to womanizing were that there were some examples of what he termed "indiscreet" behavior. But he found them "not decisive." Perhaps we should simply dismiss those allegations and get on to the real issue, because what has been repeatedly brought to bear in this confirmation process has been the charge that, however brilliant, however experienced, however knowledgeable to articulate American policy and to set forth priorities for the defense of this Nation in the free world, Senator Tower is somehow not to be trusted, because you cannot call him at 2 in the morning and be certain that he will be clearheaded. This is based upon another interesting syllogism. A sort of metamorphosis from butterfly to moth.

Senator Tower has acknowledged that, in the seventies, there were occasions when he drank too much. I dare say he is not alone in being able to make such a statement, among Members or former Members of this body. The question is, rather, does that lead to what has been, in effect, a charge of incapacity, or unreliability?

I want to say that there has not been, until yesterday, a single Member of this body, or anyone else, who has ever charged that they had observed or known of any instance when Senator Tower was, in any way, impaired in the performance of his duty. To the contrary, the testimonials are ringing endorsements of his performance to his Nation.

So what we have by way of evidence that this man has an alcohol problem, is the extrapolation from first having had too much to drink on occasion in the seventies, to a drinking problem, to abuse of alcohol, to a virtual allegation of alcoholism. What we have is the kind of evidence that I will tell you would not last 10 seconds in a court of law. It would be ruled inadmissible. The material might be admitted, but it would be impeached, like the attendant who flunked the lie detector test, like the sergeant who was not present at the time that he alleges Senator Tower engaged in this absurd behavior, like so many other instances which are contradicted by the weight of the evidence.

In the little colloquy between Senator EXON and Senator SPECTER, there was evidently a misunderstanding about what had actually been said. It is not that there are not allegations

against Senator Tower. It is that allegation by the 1 and 13, and he/she, are not just contradicted by the overwhelming weight of evidence, by people who are willing to be identified and people who did not see him once in the bar at the Jefferson, but by people who have known him closely and observed him extensively for years and years, as well as the factual impeachment of those witnesses who, unwilling to be identified, or in some cases were there, have been found, to use Mr. Lewis' words, to have engaged in destruction by uncorroborated evidence.

If you look at the evidence, the most serious arises from, again, the admission, which Senator Tower made in advance of any other public revelation of it, that he did have too much to drink at times in the seventies. A young man on his staff, who traveled with him, has told Senators that he observed Senator Tower in a condition of inebriation. When the FBI asked him about it, he suggested that, yes, that probably did impair his judgment.

Well, I am prepared to stipulate that a drunk is impaired in many ways, that his decisionmaking ability at that moment is certainly suspect, not someone you would want to rely upon for a decision, even as to which toothbrush he will choose. But the fact of the matter is, the observation, uncontested, that someone witnessed Senator Tower inebriated twice during a period of 8 years, more than 10 years ago, is not the portrayal of someone with a drinking problem, someone who abuses alcohol, someone who in fact is not reliable, who cannot be relied upon when called at 2 o'clock in the morning in a moment of crisis. That is not true. It is not fair.

What we do know is that those who have had the opportunity to work with this man and who have observed him closely—not just in the seventies, at a time before he gave up drinking scotch, but since then, from individuals who have seen him under pressure, working the longest hours—have a very different view of him. I am not going to go through all the Senators on both sides of the aisle who have given tributes to John Tower. I am not talking just about their rating of his quality of performance. I am talking about the fact that six members of the Armed Services Committee, Democratic members, had no problem in terms of the Senator having an alcohol problem, when they were interviewed by the FBI. I will not enumerate all of the Senators. But there is a Senator whom we all know, a former Senator, one for whom we have tremendous regard, and his name is Howard Baker. Howard Baker spent the better part of two decades serving alongside John Tower. Howard Baker is renowned within this Chamber and outside it, celebrated for his unquestioned fairness and integrity. His public pronouncement has been that to suggest that John Tower has a drinking problem or an alcohol problem is ludicrous. The ringing endorsement given by Max Kampelman, who had the opportunity to work for Senator Tower for 14 months that he served as the chief negotiator for the U.S. START talks in Geneva, totally rebuts allegations that Senator Tower abused alcohol during that period.

In fact, there are really only three alleged percipient witnesses to Senator Tower's abuse of alcohol during the period of the eighties. There is no contradiction of his having given up scotch. It is well known that when he married Lila Tower, his life changed, that he was persuaded to greatly alter his drinking habits.

There were three witnesses who claim that they have observed firsthand his abuse of alcohol during the 1980's. First was Mr. Weyrich, whose statements upon review I think really invite cross-examination; It would seem that he did nothing else on those occasions but spend the entire evening observing Senator Tower. But let us assume for the sake of argument that there is one witness who thinks that from his table across the room, he was able to observe something. Second there is the other man who has been talked of this morning by Senator SPECTER who furnished three specific dates in which he claimed he saw Senator Tower inebriated in the bar of the Jefferson and, of course, the Senator was not within the city on those three dates. And finally there is the discredited airline steward who cannot pass the lie detector test.

Against these individuals you have the testimony of Howard Baker. You have the testimony of Max Kampelman. And you have literally dozens and dozens and dozens of Americans of both parties, as indeed Howard Baker and Max Kampelman are respectively Republican and Democrat, who give not just an endorsement to this nomination, but specifically rebut the charges that John Tower cannot be relied upon.

Yesterday a dear friend of mine and a colleague took the floor to announce with regret that he could not support Senator Tower. And in the course of his remarks he used the phrase "under the influence of alcohol." My friend, the senior Senator from Arizona, used that phrase. He said that he had observed Senator Tower on this floor under the influence of alcohol, which stirred some resentment in Senator RUDMAN, Senator SPECTER, and I confess, in me, observing it on closed-circuit television.

I was shocked to hear my usually careful and precise friend use a phrase which is very clearly imprecise. The phrase, I just say, was most ill advised because it is imprecise when fairness demands that Senators not imply but state clearly the facts upon which they will base this most important and serious vote for or against confirmation.

What did the Senator mean by his use of the phrase "under the influence?" Is he saying that he has seen Senator Tower on the floor inebriated, incapacitated, unable to participate rationally in debate or to cast a sober and careful vote?

I hope that is not what he meant, and I do not believe that it is because in fact I do not think that he or anyone else can even begin to make that statement because it is not true.

If he has information to the contrary, I challenge him or any other Senator to come to this floor and recite the date, the vote, and the facts upon which that charge is leveled.

But I do not think that is what he meant. If what he meant was simply that he has come to this floor and seen Senator Tower participate in the work of this body after he has had a glass of wine, I am prepared to accept that because it is probably true of about 85 percent of his colleagues. There are some teetotalers among us.

But how many times, I ask my friends, have we witnessed the return to this floor of a whole gaggle of Senators coming back in black tie from one of those innumerable black tie dinners that are endemic to this city, where they have been participating in one good cause or another when they have seen colleagues who have had a glass of wine with dinner, perhaps two, or perhaps a cocktail before? And do these Senators upon the return, do they refrain from voting on these occasions? And indeed should they? It is a proper question.

Now you may say, this is not the same as dealing with an international security crisis at 2 o'clock in the morning. Well, no, it is not. But I assume that every Member of this body takes very seriously the vote he casts on any substantive matter. And I will tell you that some of the most serious votes we have cast, some of the most important, have been cast late at night or early in the morning, and during this time I have never seen a Senator disqualify himself nor herself nor did another Senator seek to disqualify a colleague because he or she had had a glass of wine off the floor. It happens virtually every afternoon that there is some worthy organization holding a cocktail reception within steps of this Chamber, and this has been true in Republican and Democratic majorities. We have not forbidden the serving of alcohol in this building. To the contrary, almost every afternoon Senators attend such receptions being honored by some group or another. They are served alcohol, not to excess. And they return to this floor and cast votes. And

I do not think that I have seen anybody that I though should not have done so. But I will tell you this: I have never ever seen John Tower come to this floor when he was not at the top of this game, able to give better than he got in debate, able to conduct articulate, well-reasoned, forceful arguments, perhaps too forceful. The fact of the matter is no one has seen that because it has never happened.

So the question is not whether or not someone is under the influence, if that is your definition of having a glass of wine at a reception or at a dinner and then having returned to vote. The question is: Were you impaired? And John Tower never has been, not on this floor, not in a conference at 2 or 3 in the morning with the House of Representatives Armed Services Committee. No one has seen him in that condition.

And that is the proper focus of this investigation. And to say that someone who in a moment of relaxation has had too much to drink more than 10 years ago twice over a period of 8 years is thereby disqualified as having a drinking problem, that makes him unreliable, that is nonsense on its face. It is palpably unfair.

Mr. President, if it seems to you and others that you have heard anger in the tone of this Senator and others on this floor, you are correct. What you heard is outrage at the trashing of not just a good and decent man, one who may have rubbed some colleagues the wrong way on occasion—have we not all?—but what you have heard is outrage and fear at the prospect of setting a very ugly and dangerous precedent.

The precedent is that a false perception is created by the leakage of allegations anonymously and in cowardly fashion to assassinate the character of a nominee and then Senators rely upon that very perception as their excuse for voting against his confirmation.

Mr. President, the American people expect better of us. They are entitled to it.

What we are focused upon is the fitness or this candidate, and it has come down to a single question as it relates to the so-called alcohol problem.

Can he be relied upon in a moment of crisis? It is right to ask. It is right to say and legitimate to require that he be ready at any moment, because the Secretary of Defense is never off duty. It is for that reason, then legitimate, for Senator Tower to have undertaken an extraordinary step, one that goes far beyond clearly anything that we impose on ourselves in this body. He has made certain that he will be able to discharge his responsibilities at any hour of the day or night by taking a vow of total abstinence. He will not drink during the period for which he serves as Secretary of Defense.

Can he be relied upon to keep that pledge? There have been a number of snide innuendos that you cannot trust a drunk.

Well, I am going to conclude, Mr. President, with a statement that I think bears directly and with great relevance upon that precise question. Before I read this letter, let me explain why I am introducing it into the RECORD. It comes from someone who had an opportunity to observe Senator Tower perhaps more closely than anyone else over a longer period, a member of his staff who served him in one capacity or another for over two decades with the exception of the period of 3 years that he served in the Army in Vietnam.

Philip A. Charles has special testimony to which Senators should pay special attention. He has had the courage to come forward and put in writing, authorizing me to put his letter into the RECORD, an extraordinary statement. Philip Charles is a recovering alcoholic. He is recovering because John Tower insisted that he had a problem, insisted that he seek treatment. And Philip Charles today thanks God that John Tower had the moral courage to insist that he do so.

This is the statement from Philip Charles:

DEAR SENATOR WILSON: As a staff member for Senator Tower from 1964 until his retirement in 1985, I am moved by the tone and direction of the ongoing Senate debate to lend my opinion as to his fitness to become Secretary of Defense.

I will not iterate the considerable skills and qualifications which make Senator Tower eminently suitable for this critical post; those criteria were established early on in the confirmation process. Rather, as an individual who had a longer and closer relationship with him of any of the staff, both as a legislative assistant and principal travel aide, I feel competent in addressing the notion of alcohol abuse which has figured so prominent in the debate over Senator Tower's fitness to serve.

Without belaboring the point, I state simply that I am unaware of any instance when Senator Tower's judgment or ability to render reasonable and cogent decisions on matters of import was impaired owing to alcohol abuse or dependency.

And listen, my friends, closely to this next sentence:

My observations in that regard are from the perspective of a recovering alcoholic who sought treatment for my alcoholism in 1979 at the insistence of Senator Tower and who has maintained sobriety since that time. In my view, Senator Tower does not now, nor did he in the past, manifest those characteristics of dependency which typify the alcoholic.

While, for obvious reason, I seek to avoid the notoriety which has attended the confirmation proceedings, I have no reservations in your identifying me as the author of these comments to your colleagues.

Mr. President, I admire Philip Charles because, like most Members on this floor, I admire courage—physical courage, moral courage. I think he has demonstrated both, first, in seeking the very difficult treatment that led to his ability to abandon alcohol. Second, I admire him for coming forward with his statement. He did not have to do so. He felt a moral compulsion to do so. And while he is not a licensed medical practitioner expert in problems of alcoholism, he does bear a certain amount of credibility and the expertise of one who has had to deal with the problem of alcoholism himself, who understands what dependency is, who recognizes it in others.

Most former, or I should say most alcoholics, those recovering and those recovered, are quite adept in finding the traits in others. And I repeat that in the judgment, in the observation of this witness, who was with John Tower for two decades other than his service in Vietnam, who traveled with him more than anyone else, that John Tower does not now nor did he in the past manifest those characteristics of dependency which typify the alcoholic.

Mr. President, it has become necessary to say these things. It has also become necessary for Senators to be honest with themselves and their constituents to say what evidence they find reliable as a basis for denying confirmation to a man whom they almost without exception have lauded as a man of extraordinary capabilities and who has the preparation for the responsibility as Secretary of Defense. If he has all that going for him, it seems that they have this terrible desperate regret that they cannot support him because they cannot call him at 2 o'clock in the morning and be certain that he will be clearheaded.

What is the evidence, Mr. President, that that is true? We have been through the evidence, and what has been presented would not hold up in a court of law. It should not hold up in the court of public opinion. But public opinion has been so completely contaminated by the leakage of allegations that we can hardly expect the American people to understand the truth because it has not been presented to them.

It is our responsibility on this floor because we have access to the materials that the public does not have to see to it that we cure the defects in this contaminated process. However Chairman NUNN may have sought, through the rigors of a systematic examination of evidence, to protect against that contamination, someone, someone, Mr. President, has succeeded in corrupting the process. And Senators dare not succumb to the temptation for whatever reason to ignore the truth, whether it be in the form of the inadequacy of testimony of witnesses who have been impeached or discredited or found to be lying. We cannot say of those who make these anonymous

allegations that they have no known motive to lie when we find them lying.

The best cure for the defects of this contaminated process would be the release of the full record. And I think perhaps I was the first Member on this floor to call for that.

I will tell you that I do not think we should ever go through another confirmation for this post at least for Secretary of Defense without swearing witnesses and affording the opportunity for cross-examination. If Senator RUDMAN had been afforded such an opportunity, he may have been in this city, perhaps not as a Senator, but in an appointive capacity far earlier. To deny the American people the truth is to corrupt this process and to create a dangerous and ugly precedent.

I personally think we ought to reopen the hearings. I think we ought to call witnesses and swear them and cross-examine them. But I will tell you this, Mr. President, I doubt that T-1 or 13 or he/she would be willing to come forward and subject themselves to that process.

I do not think they would have the guts because I think there is reason to suspect that they are not telling the truth.

Mr. President, one of the things this body had better do very soon is address the problem—and that understates it considerably—the very, very serious problem of the kind of leakage that has, in fact, contaminated this process. It will be more than dangerous if this body finds that it cannot engage in what have been time-honored and traditionally respected processes because, in fact, those processes are undermined. We will destroy truth, Mr. President. And in what is supposed to be the world's most exclusive club, the world's greatest deliberative body, at the very least we and our constituents should be able to expect that each Member will set his or her word as his or her bond, and treasure that above all else.

Mr. President, this has been an ugly business. No one has enjoyed it. No one is really enjoying the prolongation of it. But it is necessary to take what time shall be required in order to set the record straight. This record simply does not allow the conclusion that John Tower is not fit to be Secretary of Defense. To the contrary, it bellows that the detractors have no legitimate evidence upon which to base that contention and we will do the most serious disservice if we allow this process to remain contaminated and corrupt.

I would hope, Mr. President, that this body values the integrity of this Nation above all partisan considerations. I would hope that would be true. Perhaps, if we can make plain what is contained in this record and the American people have an opportunity to learn the truth, perhaps then John Tower will be vindicated as, in fact, he deserves to be vindicated. But what is more important, again, than John Tower or than the President's right to his nominee, is that this process be cleansed. It is not at this moment a clean process. It has been contaminated by forces presumably outside this body. But it is possible for this body to correct that deficiency and I plead with my colleagues, with great respect and affection for each, that they will do so.

Mr. STEVENS. Mr. President, will the Senator yield just for a request?

Mr. WILSON. I yield. I am happy to yield without losing my right to the floor.

Mr. STEVENS. Mr. President, yesterday I referred to some statistics that were provided to me from the Library of Congress. I have now received the complete statistics.

I ask unanimous consent that the memorandum to me and the enclosures from Rogelio Garcia of the Government Operations and Management Section of the Government Division of the Library of Congress be printed in the RECORD without interrupting the Senator's speech.

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

MARCH 7, 1989.

To: Hon. Ted Stevens. Attn: Michelle Stone.

From: Rogelio Garcia, Analyst in American National Government, Government Operations and Management Section, Government Division.

Subject: Senators Who Later Served in Cabinet Positions.

This memorandum is sent in response to your inquiry and our subsequent telephone conversation for a list of all U.S. Senators who later served in Cabinet positions.

Since the beginning of Federal Government, eighty-four Senators subsequent to their service in the Senate have served in Cabinet positions (sixty-six in the 19th Century and eighteen in the 20th Century).

Nearly all the nominations were confirmed either on the same day as or within a few days of their nomination date. Approximately ten percent of the nominations, however, have taken longer than ten days to be confirmed. In the 19th Century they included: Louis McLane to be Secretary of the Treasury (thirty-seven days), Edward Livingston to be Secretary of State (twenty-six days), Return J. Meigs to be Postmaster General (twenty-three days), Albert Gallatin to be Secretary of the Treasury (twenty days) and Levi Woodbury to be Secretary of the Navy (twenty days). In the 20th century they included: Nicholas F. Brady to be Secretary of the Treasury (thirty-five days) and James H. McGrath to be Attorney General (sixteen days).

The names of the Senators, their cabinet positions and the years involved was provided by the Senate Historical Office. The dates the Senators were nominated and confirmed for the Cabinet positions were compiled from the *Journal of the Executive Proceedings of the United States Senate*, vols. 1-128. Assisting in compiling the nomination and confirmation data were the following members of the Government Division: Kevin J. Coleman, Gary Galemore, Denis S. Rutkus, and James V. Saturno. Gregory Harness of the Senate Library also provided data on confirmations and nominations.

The data are provided below. Listed first are Senators who served as Cabinet Members in the 19th Century, followed by those with Cabinet service in the 20th century. If I can be of further assistance, please call me at 707-8687.

SENATORS WHO HAVE SERVED AS CABINET MEMBERS

Senator	Senate years	Department	Date— Nominated	Date— Confirmed
19th Century:				
Adams, John Q	1803-08	State	03/05/1817	03/05/1817
Armstrong, John	1800-02			
	1803-04	War	01/08/1813	01/12/1813
Barbour, James	1815-25	War	03/05/1825	03/07/1825
Barry, William T	1814-16	Post Office	03/09/1829	03/09/1829
Bayard, T.F., Sr	1869-85	State	03/05/1885	03/05/1885
Berrien, John M	1825-29	Justice	03/09/1829	03/09/1829
Bibb, George M	1811-14	Treasury	06/15/1844	06/15/1844
Blaine, James G	1876-81	State	03/05/1881	03/05/1881
		State	03/05/1889	03/05/1889
Branch, John	1823-29	Navy	03/09/1829	03/09/1829
Breckinridge, John	1801-05	Justice	12/20/1805	12/20/1805
Browning, Orville H	1861-63	Interior	07/27/1866	07/27/1866
Buchanan, James	1834-45	State	02/26/1845	03/05/1885
Calhoun, John C	1832-43	State	03/05/1844	03/06/1844
Cameron, Simon	1845-49			
	1857-61	War	03/05/1861	03/05/1861
Campbell, George W	1811-14	Treasury	02/08/1814	02/08/1814
Carlisle, John G	1890-93	Treasury	03/06/1893	03/06/1893
Cass, Lewis	1845-48	State	03/06/1857	03/06/1857
Chandler, Zacharian	1857-75	Interior	12/09/1875	12/09/1875

SENATORS WHO HAVE SERVED AS CABINET MEMBERS—Continued

Senator	Senate years	Department	Date— Nominated	Date— Confirmed
Chase, Salmon P	1849–55	Treasury	03/05/1861	03/05/1861
Clayton, John M	1829–36	State	03/05/1849	03/06/1849
Conrad, Charles M	1842–43	War	08/15/1850	08/15/1850
Corwin, Thomas	1845–50	Treasury	07/20/1850	07/20/1850
Crawford, William H	1807–13	War	03/02/1815	03/02/1815
		Treasury	03/05/1817	03/05/1817
Creswell, John A.J	1865–67	Post Office	03/05/1869	03/05/1869
Crittenden, John J	1817–19			
	1835–41	Justice	07/20/1850	07/20/1850
Davis, Jefferson	1847–51	War	03/07/1853	03/07/1853
Dexter, Samuel	1799–1800	War	05/12/1800	05/13/1800
		Treasury	12/30/1800	12/31/1800
Dickerson, Mahlon	1817–29			
	1829–33	Navy	06/28/1834	06/30/1834
Dix, John A	1845–49	Treasury	01/09/1861	01/11/1861
Eaton, John H	1818–29	War	03/09/1829	03/09/1829
Ewing, Thomas	1831–37	Treasury	03/05/1841	03/05/1841
		Interior	03/06/1849	03/07/1849
Fessenden, William	1854–64	Treasury	07/01/1864	07/01/1864
Fish, Hamilton	1851–57	State	03/11/1869	03/11/1869
Forsyth, John	1818–19			
	1823–27	State	06/27/1834	06/27/1834
Frelinghuysen, F.T	1866–69			
	1871–77	State	12/12/1881	12/12/1881
Gallatin, Albert	1793–94	Treasury	01/06/1802	01/26/1802
Garland, Augustus H	1877–85	Justice	03/05/1885	03/06/1885
Graham, William A	1840–43	Navy	07/20/1850	07/20/1850
Grundy, Felix	1829–38	Justice	06/30/1838	07/05/1838
Harlan, James	1855–57			
	1857–65	Interior	03/09/1865	03/09/1865
Howe, Timothy O	1861–79	Post Office	12/20/1881	12/20/1881
Johnson, Reverdy	1845–49	Justice	03/06/1849	03/07/1849
Key, David M	1875–77	Post Office	03/07/1877	03/10/1877
Kirkwood, Samuel J	1866–67			
	1877–81	Interior	03/05/1881	03/05/1881
Lamar, Lucius Q.C	1877–85	Interior	03/05/1885	03/06/1885
Livingston, Edward	1829–31	State	12/07/1831	01/02/1832
McLane, Louis	1827–29	Treasury	12/07/1831	01/13/1832
		State [1]	1833	
Marcy, William L	1831–33	War	03/05/1845	03/05/1845
		State	03/07/1853	03/07/1853
Meigs, Return J	1808–10	Post Office	02/25/1814	03/17/1814
Monroe, James	1790–94	State	11/13/1811	11/25/1811
		War	02/26/1814	02/25/1814
		State	02/27/1815	02/28/1815
Morrill, Lot M	1861–69			
	1869–76	Treasury	06/21/1876	06/21/1876
Niles, John M	1835–39	Post Office	05/18/1840	05/18/1840
Ramsey, Alexander	1863–75	War	12/10/1879	12/10/1879
Schurz, Carl	1869–75	Interior	03/07/1877	03/10/1877
Seward, William H	1849–61	State	03/05/1861	03/05/1861
Sherman, John	1861–77	Treasury	03/07/1877	03/08/1877
	1881–97	State	03/05/1897	03/05/1897
Southard, Samuel L	1821–23	Navy	12/08/1823	12/09/1823
		War [2]	1824	
		Treasury [2]	1825	
Teller, Henry M	1876–82	Interior	04/05/1882	04/06/1882
Toucey, Isaac	1852–57	Navy	03/06/1857	03/06/1857
Van Buren, Martin	1821–28	State	03/06/1829	03/06/1829
Walker, Robert J	1835–45	Treasury	02/26/1845	03/05/1845
Webster, Daniel	1827–41	State	03/05/1841	03/05/1841
Wilkins, William	1831–34	War	02/15/1844	02/15/1844
Williams, G. Henry	1865–71	Justice	12/14/1871	12/14/1871
Windom, William	1870–71			
	1871–81	Treasury	05/05/1881	05/05/1881
	1881–83	Treasury	03/05/1889	05/05/1889
Woodbury, Levi	1825–31	Navy	12/07/1831	12/27/1831
		Treasury	06/27/1834	06/27/1831
20th Century:				
Brock, William E	1971–77	Labor	04/17/1985	04/26/1985
Byrnes, James F	1931–41	State	07/02/1945	07/02/1945
Brady, Nicholas F	1982	Treasury	08/10/1988	09/14/1988
Dulles, John Foster	1949	State	01/20/1953	01/21/1953
Fall, Albert B	1912–21	Interior	03/04/1921	03/04/1921
Hull, Cordell	1931–33	State	03/04/1933	03/04/1933
Kellog, Frank B	1917–23	State	02/14/1923	02/16/1923
Knox, Philander C	1904–09	State	03/05/1909	03/05/1909
McGrath, James H	1947–49	Justice	08/02/1949	08/18/1949
Muskie, Edmund S	1959–80	State	05/05/1980	05/07/1980
New, Harry S	1917–23	Post Office	02/27/1923	02/27/1923
Saxbe, William	1969–73	Justice	12/14/1973	12/19/1973
Schweiker, Richard	1969–81	HHS	01/20/1981	01/21/1981
Schwellenbach, L. B	1935–40	Labor	05/24/1945	05/31/1945
Seaton, Frederick A	1951–52	Interior	05/28/1956	06/06/1956
Swanson, Claude	1910–33	Navy	03/04/1933	03/04/1933
Weeks, John W	1913–19	War	03/04/1921	03/04/1921
Weeks, Sinclair	1944–44	Commerce	01/20/1953	01/21/1953

[1] Although appointed Secretary of State, there is no record in the Journal of the Executive Proceedings of the Senate of Senator McLane's nomination or confirmation to the position.
[2] Served in an ad interim (temporary) category and was not nominated for the position.

CABINET AND OTHER HIGH LEVEL NOMINATIONS THAT FAILED TO BE CONFIRMED, 1789-1988

(By Rogelio Garcia, Analyst in American National Government, Government Division, March 3, 1989)

SUMMARY

When considering a Presidential nomination, the Senate is sometimes placed in a difficult position if it finds serious fault with the nominee. It is expected to ensure the quality, competence and integrity of the nominee, but it is also expected to respect the President's prerogative to choose his advisers. Occasionally, the expectations clash and a struggle ensues between the Senate and the President. The end result may be, and sometimes is, a nomination which fails to receive Senate confirmation.

This report provides a brief historical overview of failed nominations to the Cabinet and, where Senate opposition was discernible, to positions in charge of independent agencies and agencies within Executive Departments. Background information is provided on eight Cabinet nominations that were rejected on the floor of the Senate, four that were withdrawn, and two that died in committee. Comparable information is provided on four nominations to head independent agencies and two nominations to head agencies located within Executive Departments. Not included in this report are failed nominations to the Federal Judiciary, to regulatory and other multi-bodied boards and commissions, and to part-time positions.

Finally, the report includes a section listing the reported reasons for the rejection or withdrawal of each of the nominations.

THE ADVICE AND CONSENT ROLE OF THE SENATE

Under Article 2, Section 2 of the Constitution, the President is given the power to appoint, with the Advice and Consent of the Senate, "Ambassadors, other public Ministers and Consuls, Judges of the Supreme Court, and all other Officers of the United States . . . ." The Constitution does not impose any requirement on the President to justify why he makes a particular nomination nor on the Senate to justify why it refuses to confirm a nomination. Practical political concerns, however, generally prompt spirited justifications from both the President and Members of the Senate in defense of their actions.

In *"The Politics of Presidential Appointments,"* G. Calvin Mackenzie states that the set of public expectations under which the Senate operates are "diverse and often contradictory."

"On the one hand, the Senate is expected to exercise vigilance in ensuring the quality, competence, and integrity of presidential appointees. On the other hand it is expected to defer to the President's right to select his own subordinates in order that he may be held accountable for the operation of the executive branch."[1]

Historically, in fulfilling its advice and consent function, the Senate generally has accepted the view that the President should have the subordinates he wants to advise him. This deference has limits, however, and no President can assume that all nominations will be regularly or routinely confirmed.

Through the years public concerns have led to the development of a set of criteria by which the Senate attempts to determine the acceptability of Presidential nominees. These criteria focus on four factors—conflicts of interest, character and integrity, professional competence and relevant experience, and impact on public policy.

While a consensus exists on the need for honest, competent, experienced, and conflict-free nominees, "there has rarely been much agreement on what those terms mean or on the stringency with which they should be applied."[2]

Moreover, a nominee's possible "impact on public policy" is primarily a political determination. Consequently—

"Policy and constituency considerations dominate the confirmation process because they are the dominant concerns of the Senate and because the confirmation process provides useful and often unique opportunities for expressing and implementing those concerns."[3]

Periodically, the Senate has refused to confirm a nomination. Failure to confirm may take one of several forms. Rejection of a nomination on the floor of the Senate is the most visible, but the least common way to defeat a nomination. Generally, a nomination is defeated in committee, either by committee vote or by committee inaction. In that situation the nomination has usually been withdrawn by the President or returned to him when the Senate takes a long recess or adjourns at the end of the session. Finally, the political context, expected policy consequences, or other factors such as perceived or voiced Senate opposition can block a nomination even before it is submitted.

The nominations discussed below cover the period 1789-1988. Included are all of the Cabinet nominations that were rejected on the floor of the Senate, that were withdrawn and that died in committee. Also included, in a separate section, are failed nominations to head an independent agency or an agency within a department; identified here is one nomination that was rejected on the Senate floor and several others which were withdrawn because of Senate opposition. Nominations that might have been withdrawn or returned because of opposition within the Senate are not included where CRS was unable to find readily available evidence to confirm that opposition. Nor does this report examine failed nominations to the Federal Judiciary, to regulatory and other multi-bodied boards and commissions, and to part-time positions.

The data were compiled from the following sources: "Journal of the Executive Proceedings of the Senate," "Congressional Quarterly Almanac," "Congressional Quarterly Weekly Report," "National Journal," "The Politics of Presidential Appointments" by G. Calvin Mackenzie, "The Advice and Consent of the Senate" by Joseph P. Harris, and various newspapers (primarily the Washington Post), and the writings of various Presidents, historians and legal scholars (all cited hereinafter).

CABINET NOMINATIONS THAT FAILED TO BE CONFIRMED

Since 1789, fourteen Cabinet nominations have failed to be confirmed. Eight have been rejected on the floor of the Senate, four have been withdrawn, and two have died in committee. One of these was a former Senator, Thomas Ewing, Sr., whose nomination to be Secretary of War died in committee. Of note, in 1945 the nomination of former Vice President Henry Wallace to be Secretary of Commerce was defeated in the Commerce Committee but confirmed on the Senate floor. The names of the nominees and the reasons they were not confirmed are found in the final section of this report. The Departments involved were Commerce, Housing and Urban Development, Justice, and Treasury, and Navy and War. (The last two were merged into the newly established Department of Defense in 1947).

Of the eight Cabinet nominations disapproved, six were rejected in the 19th Century (one three times on the same day), and two have been rejected in this century (one twice within one week). Six of the rejections resulted primarily from conflicts between the Senate and the President, one from a perceived conflict of interest, and one from a variety of factors including congressional-executive comity and personality conflicts. (Table 1)

TABLE 1.—CABINET NOMINEES REJECTED ON FLOOR OF THE SENATE

Nominee	Department	Date rejected	Vote	President
Roger B. Taney.	Treasury	June 24, 1834	18–28	Jackson (1829–1837).
Caleb Cushing	do	March 3, 1843	19–27	Tyler (1841–45).
Caleb Cushing	do	March 3, 1843	10–27	Tyler (1841–45).
Caleb Cushing	do	March 3, 1843	02–29	Tyler (1841–45).
David Henshaw.	Navy	January 15, 1844	08–34	Tyler (1841–45).
James M. Porter.	War	January 30, 1844	03–38	Tyler (1841–45).
James S. Green.	Treasury	June 15, 1844	[1]nr	Tyler (1841–45).
Henry Stanbery.	Justice	June 2, 1868	11–29	Johnson (1865–69).
Charles B. Warren.	do	March 10, 1925	39–41	Coolidge (1923–29).
Charles B. Warren.	do	March 16, 1925	39–46	Coolidge (1923–29).
Lewis B. Strauss.	Commerce	June 19, 1959	46–49	Eisenhower (1953–61).

[1] No recorded vote was taken.

Four Cabinet nominations have been withdrawn (all in the 19th Century). Of the four, one nomination was withdrawn because of opposition in the Senate, two were withdrawn because the nominee did not want the position, and the fourth was withdrawn because the nominee did not wish to leave his ill mother. (Table 2)

TABLE 2.—CABINET NOMINATIONS WITHDRAWN

Nominee	Department	Date nominated	Date withdrawn	President
Lucius H. Stockton.	War	Jan. 13, 1901	Jan. 16, 1901	Adams (1797–1801).
Henry Dearborn.	War	Mar. 1, 1915	Mar. 2, 1915	Madison (1809–17).
Edwin D. Morgan.	Treasury	Feb. 13, 1965	Feb. 13, 1965	Lincoln (1861–65).
Benjamin H. Bristow.[1]	Justice	Dec. 1, 1973	Jan. 8, 1974	Grant (1869–77).

[1] Nominated to be Secretary of the Treasury on June 1, 1974, and confirmed on June 1, 1974.

Two Cabinet nominations have died in committee, one in the 19th and the other in the 20th century. A conflict between the Senate and the President killed the first nomination; the fact that less than two weeks remained in the President's term helped to kill the second. (Table 3)

[1] Mackenzie, G. Calvin. The Politics of Presidential Appointments. New York, The Free Press. 1981. P. 186.

[2] Ibid., p. 187.

[3] Ibid., p. 188.

TABLE 3.—CABINET NOMINATIONS THAT DIED IN COMMITTEE

Nominee	Department	Date nominated	President
Thomas Ewing, Sr.	War	Feb. 22, 1868	A. Johnson (1865–69).
Robert C. Wood.[2]	HUD	Jan. 9, 1969	L.B. Johnson (1963–69).

[2] Nominee serving as Secretary of Housing and Urban Development under recess appointment; Administration's term expired Jan. 20, 1969.

NOMINATIONS OF HEAD OF INDEPENDENT AGENCIES OR AGENCIES WITHIN DEPARTMENTS THAT FAILED TO BE CONFIRMED

At least four nominees to head Federal independent agencies have failed to be confirmed. All four nominations were withdrawn (two were never formally submitted) after it became apparent that they would face considerable opposition on the floor of the Senate. One of the three, never officially sent to the Senate, was withdrawn on the first day of the hearings. Two of the nominees were opposed because of questionable action they had taken while in office; a third was opposed over a question of conflict of interest; the fourth was opposed because of his personal views and inexperience.

At least two nominees to head a Federal agency within a department have failed to be confirmed. One nomination was rejected, and the other was withdrawn after questions were raised regarding actions the nominee had taken while serving as head of the agency under a recess appointment.

TABLE 4.—NOMINATIONS OF HEADS OF INDEPENDENT AGENCIES AND AGENCIES WITHIN DEPARTMENTS THAT FAILED TO BE CONFIRMED

Nominee and Agency	Date nominated	Date withdrawn or rejected
Independent Agencies		
Andrew E. Gibson, Federal Energy Administration		[1]
Theodore Sorenson, Central Intelligence		[2]
Donald J. Devine, Office of Personnel Management	Mar. 8, 1985	July 24, 1985.
Robert Gates, Central Intelligence	Feb. 3, 1987	Feb. 10, 1987.
Agencies Within Departments		
Aubrey W. Williams, Rural Electrification Administration	Jan. 22, 1945	[3] Mar. 23, 1945.
Patrick L. Grey III, Federal Bureau of Investigation	Feb. 21, 1973	Apr. 17, 1973

[1] Nomination announced on Nov. 2, 1974, but never formally submitted to Senate; on Nov. 12, 1974, President announced that nomination was being withdrawn.

[2] Nomination announced on Dec. 23, 1976, but never formally submitted to Senate; at first day of hearings on Jan. 17, 1977, the nominee announced that he had asked President to withdraw his nomination.

[3] Nomination rejected by vote on Senate floor.

REPORTED REASONS FOR FAILURE TO CONFIRM

Cabinet Nominees

Caleb Cushing—rejected in 1843 to be Secretary of the Treasury because of some Senators' personal dislike for the nominee and the struggle between the Senate and President Tyler over a national bank and other issues. (Louis C. James. Senatorial Rejections of Presidential Nominations To The Cabinet: A Study In Constitutional Custom. Arizona Law Review. V. 3, Winter 1961, p. 248. Hereafter cited as James.)

Benjamin H. Bristow—nomination in 1874 to be Attorney General was withdrawn after nominee wrote to President Grant asking that the nomination be withdrawn. Bristow was later nominated and confirmed to be Secretary of the Treasury. (Letter from Bristow to President Grant dated December 22, 1873. Copy of letter in possession of Professor Ross A. Webb, author of Benjamin H. Bristow, Border State Politician. Lexington, University of Kansas Press, 1969.)

Henry Dearborn—nomination in 1815 to be Secretary of War was withdrawn one day after it was submitted because of opposition based on the nominee's perceived incompetence as a military commander in the War of 1812. In a letter to Dearborn, President Madison noted that he had withdrawn the nomination because of opposition in the Senate. (Letter from President Madison to Dearborn dated March 4, 1815. A copy of the letter is found in Gaillard Hunt, ed. The Writings of James Madison. 9 Vols. New York, G. P. Putnam's Sons, 1908. V. 8, pp. 331-332.

Thomas Ewing, Sr.—nomination to be Secretary of War died in committee in 1868 because of the struggle over Reconstruction between the Senate and President Johnson and the former's opposition to the removal of Edwin M. Stanton as Secretary of War. Ewing was a former Senator (Whig-Ohio) who served in the Senate from 1831 to 1837 and from 1850 to 1851. (Impeachment and the U.S. Congress. Washington, Congressional Quarterly, March 1974. pp. 3-4.)

James S. Green—rejected in 1844 to be Secretary of the Treasury because of some Senators' personal dislike for the nominee and the struggle between the Senate and President Tyler over a national bank and other issues. (James, p. 248.)

David Henshaw—rejected in 1844 to be Secretary of the Navy because of some Senators' dislike for the nominee and the struggle between the Senate and President Tyler over a national bank and other issues. (James, p. 248.)

Edwin D. Morgan—nomination in 1865 to be Secretary of the Treasury was withdrawn on the same day it was submitted because nominee, who was in the Senate, did not want the position. (Autobiography of Thurlow Weed. Edited by Harriet A. Weed. Boston, Houghton-Mifflin, 1883. p. 620-22.)

James M. Porter—rejected in 1844 to be Secretary of War because of some Senators' dislike for the nominee and the struggle between the Senate and President Tyler over a national bank and other issues. (James, p. 248.)

Henry Stanbery—rejected in 1868 to be Attorney General because of the struggle over Reconstruction between the Senate and President Andrew Johnson as well as a dislike for the nominee, who had earlier resigned the position to help President Johnson in his fight against impeachment. (James, p. 253.)

Lucius H. Stockton—nomination in 1801 to be Secretary of War was withdrawn at the nominee's request three days after it was submitted to the Senate. In a letter to President John Adams, Stockton stated that he had to decline the position because of his mother's illness and for other "cogent" reasons, which he did not explain. (Letter from Stockton to President Adams dated January 20, 1801. Letter is with Adams Papers at the Massachusetts Historical Society.)

Lewis L. Strauss—rejected in 1959 to be Secretary of Commerce because of his policy views, his personality, and perceptions of his disdain for the Senate, and evasiveness during the confirmation hearings. (Congressional Quarterly Almanac: 84th Congress, 1st Session . . . 1955. p. 553.)

Roger B. Taney—rejected in 1834 to be Secretary of the Treasury because of the disagreement between the Senate and President Andrew Jackson over the fate of the Bank of the United States. In 1836 Taney was nominated by President Jackson to be Chief Justice of the Supreme Court and he was confirmed. (James, p. 239.)

Charles B. Warren—rejected in 1925 to be Attorney General because of the perception following the scandals of the Harding Administration that his close association with the Sugar Trust would prevent him from impartially enforcing the antitrust laws. (James, p. 261.)

Robert C. Wood—nomination in 1969 to be Secretary of Housing and Urban Development died in committee apparently because it was submitted to Congress on January 9, only eleven days before the end of President Johnson's Administration. Yet, Joseph W. Barr was nominated to be Secretary to the Treasury also on January 9 and he was confirmed on the same day. (Journal of the Executive Proceedings of the Senate. Vol. 111, Washington, U.S. Govt. Print. Off. 1969. pp. 19 and 21.)

Nominations To Head Independent Agency and Agencies Within Departments

Donald J. Devine—renomination to a second term as Director of the Office of Personnel Management was withdrawn on July 24, 1985 during hearings because of disclosure that before his first term expired he had delegated to himself authority to run the agency while he served as Executive Assistant, pending his confirmation, to the Acting Director. (Devine Drops Out. Congressional Quarterly Weekly Report, V. 43, June 8, 1985, p. 1135.)

Robert Gates—nomination to be Director of Central Intelligence was withdrawn on March 10, 1987 during committee hearings because of questions about his role in the Iran-Contra affair while he was serving as Deputy Director of Central Intelligence. (John Felton. Gates Nomination to Head CIA Withdrawn. Congressional Quarterly Weekly Report, V. 45, March 7, 1987. p. 418 and 420)

Andrew E. Gibson—nomination, which had not officially been submitted to Senate, was withdrawn on November 12, 1974 following a report that nominee had been promised $880,000 in severance pay from his former employer, an oil shipping company with whose activities he would have to monitor. (Congressional Quarterly Almanac 93rd Congress, 1st Session . . . 1974. V. 30. Washington, Congressional Quarterly, 1975. p. 953)

L. Patrick Grey III—nomination to be Director of the Federal Bureau of Investigation in the Department of Justice was withdrawn on April 17, 1973 during hearings because of his concerns regarding his lack of independence from White House pressure and his actions as Acting Director during the Watergate investigation. (Congressional Quarterly Almanac 93rd Congress, 1st Session . . . 1973. V. 29. Washington, Congressional Quarterly, 1974. 376).

Robert A. Rowland—nomination to be Administrator of the Occupational Safety and Health Administration in the Department of Labor was withdrawn on May 31, 1985 because of opposition to his policy decisions while serving as Administrator under a recess appointment, and questions about his financial holdings. (Robert A. Rowland. National Journal, V. 17, June 1, 1985, p. 1316.)

Theodore C. Sorenson—nomination to be Director of Central Intelligence which had not officially been submitted to Senate, was withdrawn on January 1, 1977, the first day of confirmation hearings, because of opposition to his "inexperience in foreign affairs, his allegedly casual attitude toward the use

of classified material and his request in 1948 for draft classification as a non-combatant." Congressional Quarterly Almanac 95th Congress, 1st Session . . . 1977. V. 33. Washington, Congressional Quarterly, 1977. p. 48-A)

Aubrey W. Williams—rejected in 1945 to be Administrator of the Rural Electrification Administration in the Department of Agriculture, because of questions about his experience for the position and attacks upon his political and religious views. (Congress and the Nation 1945-1964, Washington, Congressional Quarterly Service, 1965, p. 751.)

Mr. STEVENS. I thank the Senator for yielding to me.

Mr. WILSON. I thank my friend for the valuable contribution. I am pleased to yield to him so he may supplement the material he has already offered.

Mr. President, I will have more to say on specific points, but at this time I yield the floor.

(During the preceding remarks by Mr. WILSON, Mr. BYRD assumed the chair.)

Several Senators addressed the Chair.

The PRESIDENT pro tempore. The Senator from Tennessee [Mr. GORE] is recognized.

Mr. McCONNELL. Would the Senator from Tennessee yield just for a question? Is it his intention to speak at this point?

Mr. GORE. Mr. President, I do intend to speak. It is my intention to speak. It is not intended to be a lengthy address, for the planning of the Senator from Kentucky. I would simply say I would not expect to go more than 15 or 20 minutes.

Mr. McCONNELL. I thank the Senator from Tennessee. I was just curious as to what the procedure was. I would ask the Chair. Will we rotate from side to side?

The PRESIDENT pro tempore. The procedure is we follow rule XIX which requires the Chair to recognize the first Senator who seeks recognition.

Mr. McCONNELL. I thank the Chair.

Mr. GORE. Mr. President, we just heard a speech which referred, in part, to a contamination of the process and leakage by forces, presumably outside the Senate. Let us be clear about what has happened. I wish to refer to an article in the New York Times of Sunday, February 26; the Sunday before this debate began. The article says, in part, "White House officials * * * outlined their plan to draft a 6- or 7-page summary of the secret 300-page FBI report," et cetera. "The—White House—official went on to describe 7 of the 12 allegations."

This article then goes on to provide a lengthy summary, including voluminous details taken directly from the FBI report, presented by a person who identified himself to this newspaper reporter, Bernard Weinraub, as a White House official.

We are all familiar with the fact that the White House first presented the FBI report in a partisan forum to Republican members of the committee in a meeting to which Democratic Senators were not invited and of which they were not made aware. It is not my purpose in stating these facts to express anger about those events, which have long since been analyzed and discussed thoroughly on the floor of this body.

But I offer that incident again as a counter to the implication on the part of some of my colleagues that this process has somehow been contaminated by the committee itself or by the majority in this body.

Mr. President, there are a lot of issues that need discussion in this debate. They have all been discussed. This Senator is ready to vote. I believe this body is ready to vote. I believe the country is ready for us to vote.

This has gone on too long. But, since our colleagues on the Republican side of the aisle continue to serve notice that they want to drag this out and have even more time devoted to it, I will discuss the issues as I see them.

First of all, the issue involving the charge of partisanship. Others have noted the record, but let me refer to it briefly. We have had 21 nominations sent to the U.S. Senate by President Bush. Twenty of them have been voted upon. All 20 of the nominations have been approved in committee by a unanimous vote of every single Democratic Senator. All 20 of them have been approved on the floor by unanimous vote of every single Democratic Senator.

One of the nominations had one abstention in committee, when a Republican member of the committee abstained. One of the nominations had one opposing vote on the floor of the Senate when a Republican Senator voted against the nomination.

Most all have been by votes of 100 to nothing, or 99 to nothing. It is not, Mr. President, a record of partisanship. For anyone to suggest that we have dealt with the nominations of this President in a partisan fashion is for that person to simply ignore the record, which is overpowering on that point.

Why is it that the nomination of John Tower is being treated differently from all of the other 20 nominations that have been sent to us? I would answer that question, Mr. President, with another question. Why is it that President Bush himself treated this nomination differently from all of the other nominations that he has sent to the U.S. Senate?

President Bush has known John Tower probably longer than anyone in this body. He has been a close personal friend and political ally of John Tower for a long period of time, dating, I am told, back to the late 1950's. In spite of that friendship and political alliance, Mr. President, President Bush was evidently wracked by doubts as to whether or not it was wise for him to nominate John Tower. If the merits of this nomination are so crystal clear, as our Republican colleagues and some of our Democratic colleagues would have us believe, why then did President Bush require as much time to consider the nomination as the Armed Services Committee required to consider whether or not to give its assent to the confirmation?

We all know the answer. He was uncertain about whether this was the correct nominee. And, Mr. President, when he finally rejected the advice of many in his circle of advisors who said, "Don't nominate John Tower; he's not the man for the job," when President Bush finally decided to reject their advice, finally decided to discard his own doubts, finally decided to resolve the matter in favor of his longtime personal friend and political ally, he had, at that point, seen only the first of the seven volumes of information that were later presented to the Armed Services Committee.

So, Mr. President, when I hear some of our colleagues express amazement that anyone could consider opposing this nomination, or anyone could look at the record and find some legitimate basis for doubt, I am moved to wonder what in the world was going on in President Bush's mind all that time when he was trying to figure out whether or not he could go forward with the nomination of his close friend.

Nevertheless, after President Bush finally resolved his doubts and sent the nomination to the committee, it was clear that Democrats on the committee anticipated a favorable vote to confirm this nomination. Some have pointed to the laudatory statements on the opening day of the proceedings that most every member of the committee made. I made such a statement, and, Mr. President, I fully anticipated supporting the confirmation of Mr. Tower. I entered the process supporting him, liking him personally, believing that he had all the requisite experience and skill to be highly effective. That was before any of the evidence had been presented.

When did things start to change? Mr. President, I, along with some other members of the committee, was genuinely surprised and then concerned at the scope of the business arrangements to which Senator Tower testified in the early part of the proceedings. I was surprised and then concerned at the rapid sequence of Government service, followed by employment as a consultant for the defense industry, to be quickly followed again by Government service in the highest possible capacity relating to defense.

A confirmation hearing is not a court of law. Members of the Senate do not function as a judge and jury when they give advice and consent to important nominations. They are exercising political judgment, often under very uncertain conditions. That is true of Senators in both parties.

I heard our distinguished President pro tempore describe a statement made by a Senator 200 years ago when the very first nomination was sent by President George Washington to the Senate. This Senator 200 years ago was troubled by the effect that his vote would have on his relationship to the new President. A member of President Washington's political alliance proposed that the vote be held by secret ballot because, he said, a Senator who casts a vote against the wishes of the new President would be deprived of the Presidential sunshine. A wonderful phrase, Mr. President, 200 years old and yet more descriptive of a basic political motivation than any phrase that I have heard in this debate 200 years later.

A new President taking office, about to make hundreds of appointments; indeed, thousands of appointments when one looks at State administrators of the Farmers Home Administration, regional heads of the Department of Housing and Urban Development, is a member of that President's own political party going to place some value on deprivation of Presidential sunshine in such circumstances? If one casts a vote on that basis, is it a partisan vote?

One of our colleagues on the other side of the aisle was quoted on the front page of one of the Nation's leading newspapers as saying in response to the question, "Why are you supporting the Tower nomination?" said, "Because I'm a good Republican." Mr. President, is that a partisan motivation?

Let ms just describe my own motivation because I have detected during this debate, and it is not my purpose, believe me, Mr. President, to in any way add to the friction which has emerged in the Senate during this debate, but I have detected occasionally a feeling that it is inconceivable that a Member of the Senate on this side of the aisle might find any legitimate basis for opposing this nomination and that a no vote is just obviously partisan in character, while a vote in his favor is noble and dedicated to the public interest.

Mr. President, is any Member of this body not concerned about the perception by the American people of what has been going on in the Department of Defense? How many of us have been at a town hall meeting or an open meeting or a Rotary Club meeting when someone has stood up and asked a question about the unhealthy relationship between defense contractors and the Defense Department? How many of us in response, on both sides of the aisle, have said, "We're going to stop those $600 toilet seats. We're going to have reforms in the Pentagon. We're going to get somebody in there who can really do the job, who will get tough with those who have abused the contracting process."

Mr. President, we are right now in the midst, with the ill-wind investigation, of the biggest scandal in the history of the Department of Defense. This scandal has been caused in large part by the so-called revolving door. One of the central figures in this case, Melvin Paisley, went through that revolving door. He was nominated by the President. The nomination was sent to the committee when Senator Tower was the chairman of the committee. Maybe he should have read the FBI report. He did not. It is not my purpose to indict him on that basis. My purpose is to show that these imperfect investigations can sometimes shed some light on the merits of a particular nomination. If Senator Tower at that time had bothered to read the correspondence to the committee, he would have found clear warnings from people who wrote in and said, "This guy's crook," saying in effect if you confirm him, he will steal the public blind in the Department of Defense.

Well, the nomination was confirmed. Democrats as well as Republicans now readily acknowledge being remiss in not taking the confirmation process as seriously at that time as it has been taken in this case.

Mr. President, I will just say as one Senator, I have had it up to here with this revolving door in the Pentagon, and I believe it it time to straighten out the mess in the Pentagon.

How can we do that with a Secretary of Defense who left one day as our chief arms control negotiator, went immediately to work for one of the biggest defense contractors, received more than a million dollars in approximately 2 years, and then immediately went back into Government service pledging publicly in the confirmation hearings that he would not recuse himself when matters affecting his former clients and employers came before the office of the Secretary of Defense? Is that a prescription for restoring public confidence? Is that a prescription for straightening out this process which is so in need of reform? What about the American men and women who come to meetings in our home States and ask us what we are going to do to straighten out this mess? What should we tell them? "Oh, well, Senator Tower, after all, was a member of the club. He ought to be confirmed in spite of this appearance and in a spite of this conflict."

Mr. President, it was common knowledge within the defense industry during the 2 years preceding the Presidential election that there was a high likelihood, if George Bush became President Bush, John Tower would become, or seek to become Secretary Tower—common knowledge. Every one of us knows it. During that period of time, they lined up to give him lucrative contracts in return for which he agreed to answer their telephone calls and provide them analysis from time to time. The committee asked for documentation of exactly what kind of services were performed just so that we could get a better sense of exactly what his role was in connection with these companies. The response was that no such documentation existed at all—an occasional conversation from time to time and a steady willingness to remain near a telephone so that when advice was needed, it could be provided.

The normal practice is for someone who has served in the defense industry to be regarded as having special experience and valuable knowledge which could be brought to bear in Government service after his or her appointment, but the normal practice also is that that person recuses himself when matters affecting his principal employer or client come before his office for judgment and for decision.

Senator Tower has stated that he felt such an arrangement, though traditional, could not be employed in his case because the companies which have employed him are the major contractors, and there are several of them, so that most of the Pentagon's business would be ruled off limits.

It is true that he is not required by law to recuse himself in such instances, but it is equally true, Mr. President, that the American public is fed up with the way the Pentagon is being run and are rightfully demanding that we reform these procedures, insisting that we find someone who is capable of harnessing and focusing their legitimate outrage in a constructive manner so as to straighten out these problems.

What are we to tell them? "Oh, overlook the fact that he is speeding through the revolving door in record time. Overlook the fact that he is not even planning to employ the traditional and standard protection of recusing himself when matters affecting a former employer or client come up." He has said that he would recuse himself if there was a disciplinary action, a narrow case.

I understand the distinction between a disciplinary action and a contract award, but if any Member of this body was in a similar situation, if two companies were competing for a billion dollar contract and one of them had been the employer and had paid hundreds of thousands of dollars, and the other company seeking the same contract had not, would there not be a de-

cision to recuse? Of course there would, but Senator Tower is saying that he does not intend to take that approach.

Mr. President, I think that we need another nominee. Most of the discussion here has been on the conflict issue. I think it is the most important issue by far. And I think that we need someone in the Defense Department who can straighten out the Defense Department.

Even though turning to the issues that have received the most debate, even though we may feel that personal issues such as reported difficulties with alcohol ought to be kept out of consideration, unless brought into play by conclusive and overwhelming evidence, these issues have nevertheless made their mark.

Mr. President, one thing above all is apparent to me. The country requires that the next Secretary of Defense restore public confidence in the management of the Department. Senator Tower, if confirmed, might eventually do that but he would begin with an enormous burden of proof having to do not with defense issues but with himself. It is genuinely unfortunate but in the end I believe another candidate is needed and I hope this body will soon come to a vote and reach that same conclusion.

This is not a time for our country to be having the political equivalent of a high school food fight. We just do not have the luxury especially in the field of defense, especially given the need, the urgent need, for clear thinking and leadership. In the Soviet Union today, we face an adversary undergoing change in ways and at a rate no serious student would have thought possible.

There is not one single thing we can say with absolute certainty regarding the future of the Soviet Union in the midterm. No one can say how the upwelling of the nationalism in the Soviet Republics will be addressed. No one can say how far the Soviet experiment with openness and public debate will take them from their old certitudes about the future and their own Messianic beliefs in a single destiny. No one can say whether economic restructuring will work. No one can say how Soviet economic and security relationships with Eastern Europe are going to develop.

In terms of the military threat, the announced retention of Soviet conventional forces are clearly big enough to affect our calculations about security. But no one can say where the Soviets will be when they complete the announced restructuring of their forces in accordance with the doctrines of defensive defenses and sufficiency. Our allies want to know how we are analyzing these questions of such historic import.

I just returned yesterday from England and a meeting on the global environment. But during that time, I had an opportunity to meet with the British leaders. The Minister of Defense in England has just canceled his visit to the United States to consult on these and other questions. Why? Because the Department of Defense is leaderless, rudderless, directionless. The longer this debate is dragged out, the longer our allies will have to wait for meaningful consultations.

In the Federal Republic of Germany changes are taking place, and the allies do not know how to approach the question of short-range nuclear forces. The Department of Defense has no voice in the interagency deliberations, nor in the dialog with Ministers of Defense in our allied nations.

Historic talks just began on Monday in Vienna on conventional force reductions. In the preparation of the U.S. position in those talks, the Department of Defense had no powerful, coherent voice. During the latter part of the second Reagan administration, the Soviet behavior in arms control already amounted to one surprise after another as they stormed and occupied the high ground which used to be ours on reductions and even on issues of verification.

In the face of this onslaught, our Government and the governments of our allies have been made to look as though they are opposed to progress or even fearful of it. Right now, what worries me more than anything else is that the indecision which flows from this dilemma is badly eroding, and I speak of the dilemma of how we confront the Soviets. This dilemma is badly eroding the legitimacy of Western policies in the eyes of Western voters. It is not that Western proposals lack intellectual merit, but rather that they lack flair and lack clarity.

Above all, Western governments have made too little effort to explain the fundamental terms of the security debate to their own people.

We might be able to handle all these uncertainties on the Soviet side of the equation given enough effort. But the level of complexity is compounded by our own collision with the budget deficit. And some Senators have come to the conclusion that the single most likely outcome of the developing impasse on the budget may be a sequester. That sequester would have its greatest impact on the Department of Defense. How is the Department of Defense planning to deal with that? Again, it has no leadership—no one who speaks for the Department with the Congress.

There is no question that during this period we will have to negotiate among ourselves to some extent but we should be looking for some equilibrium between what the traffic will bear in defense costs and what the country peering at the future through all this fog thinks it needs for defense. It is true that the administration has come in with a defense budget set at zero real growth but that represents an increase over last year when the pressure of the deficit forced agreement to cut by minus 1 percent in real terms.

The difference between a curve drawn flat and a curve going up at 2 percent a year can be very profound on scale with the defense budget. It is the difference between thinking you can scrape through until better times by handing a handful of sacrificial cuts and a view which says the hard times are here for a long time and long-term adaptations must be made.

We need a Secretary of Defense while these matters are being considered. We can adapt to life with a rapidly changing Soviet Union. We can maintain coherence and solidarity with our allies. We can even deal with the budget. But we have to get serious. We have to have a confirmed Secretary of Defense.

It has been clear for quite some time there was substantial doubt about the outcome of this matter. It is not for this individual Senator to advise President Bush or Senator Tower about the better course of action. But the country's policy is suffering the longer this matter is dragged out.

If the President has reason to believe that the outcome is nearly certain, he would be best advised to get on with it and ask those who are helping him in this debate to allow us to vote to get this matter behind us.

The administration is doing no more than desk doodling on major issues of policy. And in the area of national defense, with all of the matters that I have just described and many others as well, we cannot afford desk doodling. We need to get on with it.

Meanwhile, President Bush's most important asset is being squandered. There was, despite the misgivings on the part of some about the last campaign, a readiness to suspend disbelief and to hope for an era of genuine bipartisan effort on critical issues facing the Nation. We can still have it. This entire process is putting it at risk, unfortunately.

Mr. President, in conclusion, we need to get on with the Nation's business. But in order to do so, we need some help from the President of the United States, who can now do the country two big favors. The first is to cool the rhetoric in and around John Tower's nomination by every means at his disposal. I do not simply mean his rhetoric. I mean the rhetoric of those who are speaking for him. The second: If the Tower nomination does not survive in the Senate, it is for the President to accept that loss gracefully and get down to working along with us.

The Nation needs it; Democratic Members of the Senate are ready for it; the country is ready for it. This debate ought to end; we ought to vote, whatever the outcome, and get on with it.

I yield the floor, Mr. President.

Mr. McCONNELL and Mr. WARNER addressed the Chair.

The PRESIDENT pro tempore. The Senator from Kentucky [Mr. McCONNELL].

Mr. WARNER. Mr. President, will the Senator yield for a moment?

Mr. McCONNELL. I yield briefly, without losing my right to the floor.

Mr. WARNER. For a question to my distinguished colleague.

The PRESIDENT pro tempore. Without objection, the Senator will retain his right to the floor.

Mr. WARNER. I thank the distinguished Senator.

Mr. President, we tend to become emotional about our rhetoric here, and I just want to ask my good friend a question, because he is a distinguished and valued member of the Senate Armed Services Committee, and he stood here and he said that "the Department of Defense"—and I quote him back because I paid good attention—"is rudderless and leaderless."

Now, put yourself in the suit of a U.S. naval person in the Arabian Sea or the Persian Gulf, or put yourself in the uniform of a soldier in the Polar Cap. Those men and those women are taking risks today, and they might well see on tonight's television a member of the Armed Services Committee say that this Department is leaderless and rudderless.

I say to my good friend that I believe what he intended was the long-range policy decisions, the budgetary decisions, which quite naturally await the confirmation by the Senate, hopefully, of John Tower to be Secretary of Defense. But in terms of the day-to-day management, we have a thoroughly trained and sound individual, William Taft, as the Deputy Secretary. We have a Chairman of the Joint Chiefs of Staff, Admiral Crowe, who is respected by every single Member of this Chamber, so far as I know, in the years he has been there. We have service chiefs with proven capability.

Mr. President, I think that perhaps my good friend would like to clarify his statement that the Department is rudderless, in terms of the day-to-day operations and the ability of these young men and women to look back at the Nation's Capital and know and have a sense of security that the risks they are taking are risks that are being watched over night and day by careful and competent hands, beginning with the Commander in Chief of the United States, President George Bush.

Mr. GORE. Mr. President, I ask unanimous consent that I might be able to respond, without the Senator from Kentucky losing the floor.

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

Mr. GORE. I wonder if the Senator from Virginia can speculate as to why he believes the Minister of Defense of Great Britain has just canceled his visit for consultation to the United States. It is my understanding that the reason is that we have no Secretary of Defense; that, while there is a very great difference between answering the telephone and saying, "Acting Secretary," and saying "We need some more stationery," or, "We need some more ammunition," on the one hand, and making decisions on policy on the other hand, it is on the decisions of policy that the Department of Defense will have to make its bed for these budget problems, for the challenges that we are confronting with the Soviet Union, with the stresses and strains in the alliance.

Yes, there are individuals who can make the day-to-day, small, routine decisions. But the more important questions of the kind that must be addressed are not being addressed. In that sense, I repeat, Mr. President, my belief is that the Department of Defense is leaderless and rudderless and directionless, and we share in the responsibility for it by dragging out this debate and by not going forthwith to a vote on this nomination. I am ready to vote right now. It is at the insistence of Senators on the Republican side of the aisle that we drag it out and continue talking, continue delaying, continue discussing one thing after another—the conduct of the process, conduct of the debate, this issue and that issue. The American people want us to get on with a vote, largely because we need a Secretary of Defense to provide leadership in the Department.

I thank my colleague for yielding.

Mr. WARNER. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Kentucky continue to yield?

Mr. McCONNELL. Mr. President I will be happy to yield for 30 more seconds, having waited patiently for an hour.

Mr. WARNER. I think my question was answered.

The PRESIDENT pro tempore. The Senator from Kentucky [Mr. McCONNELL].

Mr. McCONNELL. Mr. President, I listened with a good deal of interest to the observations of the Senator from Tennessee.

I might say, at the outset of my remarks, that our European allies surely must understand that justice is sometimes not a speedy process. We could speed the process and trample the rights of an individual, but the Western World is quite concerned about the rights of every single individual in the free world. Let me give an example.

Right now, the Western World is united to stand behind the rights of one individual, Salman Rushdie, to publish a book. One person, one book out of all the many books that are published every year, and it has the Western World in an uproar. Why? Because of the right of one person to express himself. Diplomatic relations are being broken off with Iran, and the Western World is in an uproar.

I say to my friend from Tennessee, as he leaves the Chamber, that I expect that our allies can tolerate a delay of a little while longer while we try to get fairness for one individual.

Salman Rushdie is entitled to be protected in his right to express himself, and certainly we are entitled to see to it that there are two sides to the story of John Tower.

That is the only observation I would make in regard to this rudderless, leaderless observation. I think our allies can wait for a few days while we determine the fate of this fine man.

Mr. President, yesterday, my mother called me up. She said: "Son, this John Tower sounds like a terrible person, sounds like a perfectly terrible person. Where did you find him?"

I said: "Mom, it's no wonder that you think that, because all you're seeing on television and reading in the newspaper are all these unsubstantiated leaks of an FBI file about a man who served in the Senate for 24 years with distinction; and I'm not surprised that you may feel that way, because you have not heard both sides of the story."

Mr. President, with all due respect to everyone in this body, I say that is what this debate is all about: fairness for one of our over 200 million Americans, the opportunity to have both sides of the story told.

Last Saturday, I was in Hazard, KY, which is in the mountains of eastern Kentucky, to speak to a sportsmen's group. The sportsmen's group was not exactly preoccupied with the Tower nomination. As a matter of fact, almost no one outside of Washington is.

I covered the issues that I thought were of concern to them. I said I think there is something else going on that is important to America and I want to talk to you about it, and most of you may disagree with me. And I proceed to tell them what I wish to say to the Senate today about the Tower nomination.

Unfortunately, our body is awash with hypocrisy and it is frustrating to see us make up a standard and apply it retroactively to a good and decent man in order to deny the President an opportunity to pick his own Secretary of Defense. I think it is really an unfor-

tunate episode in the history of the Senate.

I do not know John Tower very well. I did not serve with him. He left the Senate just as I was coming here. I am also not a member of the Armed Services Committee. But I have followed this debate with a great deal of interest. I typically do not turn up the sound on the television monitor in my office and listen to Senate floor debate because frankly I have better things to do on behalf of my people at home, but frequently during the course of this debate I have listened to the observations of Senators on both sides of the aisle because what we are in the midst of here is a truly historic event in the life of the Senate.

There is an effort being made on the part of some of us to try to bring to bear some fairness and balance on this issue. I am not one of those who think that Senators ought to weigh the mail to decide how to vote, but I think there is an interesting trend that some of us are experiencing for those few of our constitutents who are following this issue. I had my office compile letters and communications that we had received on the Tower nomination by periods. It is interesting that in the period prior to February 24, the ratio of communications on this issue from Kentucky was 12 to 1 against Senator Tower. It was a period during which my mother no doubt reached her initial conclusion about this issue. Then in the period after that up until yesterday, the ratio dropped to 2 to 1 still against but from 12 to 1 down to 2 to 1.

So what is going on here I think is important. We are trying to provide an opportunity for the American people to understand the other side of the story or as Paul Harvey would say, we would like to go to page 2 and give people an opportunity to see both sides of this most important story.

We may not prevail. I really do not know. I have not been involved in the head counting on this. But this is a terribly important issue. It says a lot about ourselves. As we all know, most of us could not meet the standard that has been made up for John Tower. Many members on the Armed Service Committee and off accept honoraria from defense contractors, accept PAC contributions from defense contractors. I wager that a good many Members of this body at one time or another maybe even as recently as the seventies may have gotten drunk once or twice. I suspect that probably more than 50 percent of this body could not pass the new standard that we set up for Senator Tower. I guess there are some of us who are just hoping that maybe there will be some pause for thought before we go this far.

Is this really what we ought to do? Is this the kind of precedent we want to set?

I say that in the most respectful way. I am not here to cast stones at anyone, but rather to hope that maybe we will pause and reflect upon what we are about to do here.

Will those who served with Senator Tower take their own observations over a period of years and give them less credence than unsubstantiated allegations in an FBI file? Does that make sense?

How many of us would like it if we had been the nominee and we made an enemy or two along the way and when the FBI guy came around they thought, "Gee, this is an opportunity to get a clean shot. I don't have to be cross-examined. I don't even have to give my name. I can nail this guy."

Politics is sort of a combat sport. We get into a lot of fights. We make a lot of enemies, make them whether we try to or not, just trying to do our job.

How many of us if given the opportunity to be Secretary of Defense could run this new gauntlet?

Mr. President, I suspect that we are making a big mistake and I must say a number of Members on the other side, some of whom have already announced their positions, said to me privately they are extremely uncomfortable with this. They are not at all sure it was the right thing to do.

The debate has gotten almost to the point of being ruckus, and I think that is unfortunate.

But I think the reason the passions are so high is because what we are dealing with here, unlike most issues that come before us, we are dealing with someone's reputation. Normally in this body when we have disagreements and frustrations it is over policy. Should we have SDI or not? Should we aid the Contras or not?

It has not been this kind of thing that has divided us in recent years, at least not since I have been here, but this has been intensely personal in a country which evaluates the rights of every single individual, a country which preaches that we should not rely on unsubstantiated accounts of an individual's behavior. We have, I fear, gone right down that road.

I do not know—it would be up to the leadership obviously when we will vote on Senator Tower. But as for myself, I hope we will take the time to adequately express to the American people the other side of the issue.

I have only been around Senator Tower a few times. Frankly, I do not recall that he treated me very nicely, so I have no particular personal allegiance to him and do not know him very well.

But even if we had a complete stranger before us, even if we had someone before us who had not been a Member of the Senate, he would be entitled to fairness.

This process has gone, I guess, about as far as it can go with Senator Tower, but I think we ought to take a good, hard look at where we go from here in the future. How much should we rely on FBI reports? Should we require the witnesses to be sworn and an opportunity for cross-examination if they are going to say something truly devastating about a nominee? I think fundamental fairness in our society dictates that.

So I think we ought to, once this is behind us, decide whether this is going to be an aberration or whether it is going to be the norm, because if it is the norm, an awful lot of well-qualified Americans both in and out of Congress are not going to be able to be part of our Government.

Without questioning the motivation of anyone involved in this debate on either side, I honestly and sincerely feel this is an unfortunate precedent. I hope that there will be some effort on behalf of those who are also concerned on both sides of the aisle to begin to structure some way that we can look at future nominations in a manner that any reasonable person could conclude was a fair and equitable manner.

I must say I do not think that passions that have come forth in the course of this debate would have come forth had there been a widespread feeling that the process had indeed been fair. There are many on this side of the aisle who do not feel it has been fair. I suspect there are a great many on the other side who have not felt it has been fair and have not said that.

It is difficult for an inherently political body such as the Senate to rise above partisan fanfare and reach a fair, impartial, and sound decision on Presidential nominees. The difficulty is compounded by the Democrats' control of Congress, squaring off with a Republican administration. However, it is an essential test of our statesmanship and measure of our commitment to the constitutional principle and responsibilities of advice and consent that we rise above partisan politics and pass judgment on the President's choice to be Secretary of Defense.

The decision we make about the President's choice should reflect our view of the nominee's qualifications, the demands of the job, and respect for the President's constitutional right to select a Secretary of Defense.

This debate will decide more than the fate of one man: It speaks to the President's determination of who is qualified to lead the Defense Department, advise him on American defense policy and priorities, and guarantee this Nation's security.

The President's nominee should be judged on performance—past, present, and future—not politics.

JOHN TOWER'S PERFORMANCE AND QUALIFICATIONS

Let's begin at the beginning: John Goodwin Tower is the son and grand-

son of Methodist ministers, no ordinary moral starting point from my perspective.

His patriotism and commitment to this Nation emerged at the early age of 17 when he enlisted and served on a Navy gunboat in the Pacific during World War II.

He continues to wear the Badge of Service with honor as a master chief petty officer in the U.S. Naval Reserve.

Many Members have called into question John Tower's ability to serve as a model for our service men and women. I think the fact that he's been one, that he understands the grueling stress and demands of combat from firsthand experience, and has risen through the enlisted ranks will be an inspiration to every young recruit.

What more could a young person hope for than to believe in the dream that just like a kid from east Texas, an enlisted guy, that someday he too might run the Defense Department.

Senator Tower's record of achievement and commitment to this Nation is also reflected in 24 distinguished years of Senate service. When he left the Senate, it was with critical acclaim and praise few have enjoyed.

Senator KENNEDY said, "his knowledge of the myriad, complex defense issues * * * is unsurpassed."

Senator DECONCINI said, "he has maintained a loyal, hard-working responsible demeanor. * * *"

Senator JOHNSTON claimed, "Senator Tower served * * * with distinction and dedication * * * devotion and wisdom. * * *"

Senator EXON noted "Senator Tower's ability to comprehend * * * complex issues is a rare and admirable skill."

As recently as December, Senator GORE thought John Tower did an "outstanding job" as the U.S. START negotiator and viewed his performance as "exemplary in every way."

Finally, Senator NUNN expressed the hope in 1984 that Senator Tower would "continue to involve himself in the defense arena * * * [because] he has the background and knowledge that are indispensable. * * *"

It is my view that John Tower's service in the Senate was not only a reflection of his dedication to country and state but also provided the substantial education and experience that he will bring to bear on his job as Secretary of Defense.

As a Member, then chairman, of the Armed Services Committee, Senator Tower made tough decisions, exercised leadership and strengthened the foundation of our Nation's security.

In 24 years of Senate service not one person ever questioned his integrity, judgment, impartiality, and expertise while he held a job of sensitivity and enormous demand; in fact, a job vital to the health of our national security.

Senator Tower left the Senate and continued to serve at the President's call as his strategic nuclear arms negotiator, another crucial, demanding position. He held the rank of Ambassador and was confirmed in that position—without contest or question—by the Foreign Relations Committee and the Senate.

In sum, Senator Tower has served his fellow Texans, his State, his Nation, several Presidents, his countrymen, and the Senate with dedication, seasoned judgment, and skill—as every one of his former colleagues has at some point noted.

No one has ever challenged his knowledge, competence, self-discipline or commitment as he has proceeded and succeeded in his career in public service.

The charges he now faces in this confirmation process are not based on a fair assessment of the man's strong qualifications and accomplishments.

In fact, Members have chosen not only to disregard his record, but also the high praise and tribute they have paid to Senator Tower.

This can only lead to the conclusion that some Members of the Senate have chosen once again to unfairly politicize a Presidential decision and appointment—at constitutional and national peril.

Let's examine some of the charges levied against the President's choice as Secretary of Defense.

CONFLICT OF INTEREST

Some say, John Tower's professional judgment will be clouded by the fact that he was paid consulting fees by defense contractors.

Virtually every Member of the Democratic majority on the Senate Armed Services Committee has either received fees or political contributions from defense contractors: No one has questioned their integrity and independent voice on defense issues.

I would rather not proceed Member by Member, noting contributions from defense contractors and asking whether their professional judgment or independence in voting was compromised by taking money.

I would rather not point out who has taken advantage of defense contractors' hospitality in Hawaii, Florida, or dozens of other resort spots.

I doubt one Senator was influenced by any fee, contribution, or paid vacation, but let's not impose a double standard.

John Tower's ability to maintain his impartiality and integrity is no more an issue for him than it is for every member of the Senate Armed Services Committee Democratic majority: There is no issue.

A few Members have moved the target a little and questions the amount of money involved.

This reminds me of the story about the fellow who asked a young woman if she would spend the evening with him for $1 million dollars. She said certainly. "Well," he said, "how about for $5?" She was indignant, "Absolutely not, what do you think I am?" He said, "Madam, we have already established what you are, we are now simply quibbling over price."

Senator Tower was paid fees as a consultant after he left public office; Members accept contributions while they are deeply engaged in the process of debate, decision, and voting on major defense issues.

Again, I caution my colleagues against a double standard.

DRINKING

Senator Tower has done everything short of having an autopsy done to address allegations about his personal attitude toward and use of alcohol.

He has said he will talk to anyone at any time about any concern they may have or be aware of.

He has submitted a doctor's clean bill of health.

And, in an unprecedented step, he has sworn off any consumption of alcohol during his service as Secretary of Defense.

What more can he possibly do? There appear to be no answers to this question, which once again raises the question: Is this just politics?

Everyone has read a recent story in the Wall Street Journal cataloging discrepancies in the accounting of an unfortunate 1964 accident involving a Member of the Senate. It is painfully easy to see how innocent differences of opinion over small details can be blown out of proportion and misrepresented to appear sinister, deliberately deceitful and self-protecting.

John Tower should not be subjected to such smear tactics.

Senator Tower has been the victim of a squalid campaign of rumor and whispers: As hard as he has tried to answer each question, there is always one more story, one more piece of uncorroborated gossip.

This is not an afternoon tea party. The Nation's leadership and security are at stake.

Judgment of a Presidential nominee should not be based on idle, unconfirmed gossip. The nominee deserves better, the President deserves better and it has always been my opinion that the Senate is better than that.

CONCLUSION

Senator Tower has capably served this Nation with distinction and skill as repeatedly noted by his former Senate colleagues upon his departure.

At no time during his career in public service did a colleague or anyone else question his judgment, integrity, discipline, or honor.

He has been a leader in the Senate as well as been confirmed by the Senate.

He should not be victimized by idle, uncorroborated gossip, nor a double standard of ethics.

The President's nominee should be judged on his competence and qualifications, which are unparalled.

We should also be mindful of the President's constitutional prerogative to form his Government and select his Cabinet.

It is my view that if the Senate lives up to its constitutional obligation to provide impartial and objective advice regarding Senator John Goodwin Tower's outstanding qualifications, that we will consent and confirm him as Secretary of Defense.

I yield the floor.

The PRESIDENT pro tempore. The Senator from Iowa [Mr. GRASSLEY].

Mr. GRASSLEY. Mr. President, I have had an opportunity to very carefully follow the debate on this nomination. My own understanding of the issues has been crystalized by all the arguments made by my colleagues here on the floor. This debate helped me formulate what I believe to be neutral principles, which transformed a very troubling question into a confident solution.

As much as any Member of this body, I have had my policy differences with Senator Tower. Of course, that is no secret. Whether the issue was the size of the defense budget or acquisition reform, our positions were often irreconcilable. Our public debates are indelibly recorded in the CONGRESSIONAL RECORD for all to see. Our private debates were equally sharp.

Notwithstanding our incompatibility on the issues, I found John Tower a formidable opponent, and a knowledgeable and capable expert on defense matters. I think few, if any, would contest that.

As I considered John Tower's fitness to serve as Defense Secretary, two issues rose above all others: defense reform and personal conduct.

I would like to address these two issues, Mr. President, and how I came to resolve them in my own mind.

First, the issue of reform. On this issue, Mr. Tower and I have been on opposite sides of the fence. That was some years ago. More recently, John Tower has pledged to clean up the Pentagon management problems. Perhaps only a John Tower can clean up the Pentagon. Or, as President Bush has said, only an ardent foe of communism like Richard Nixon could open relations with China. I will work with John Tower to achieve real defense reform.

But more important than John Tower's pledge to reform the Pentagon is the President's own repeated commitment on this issue. He promised it to the American people during the campaign, then again when he nominated John Tower, again when he spoke before the joint session of Congress, and most recently through senior aides with whom I met recently to discuss these matters.

The relevant point here, Mr. President, is that defense reform is too important a goal, and the Pentagon is too large a monster for any Secretary of Defense to handle by himself. Rather, defense reform will occur solely through the commitment and actions of the President of the United States. I draw the line on this issue not with Secretary-designate Tower, but rather with the Commander in Chief—the very top of the chain-of-command. Only he can keep the Pentagon's feet to the fire.

Once the President has left no doubt about his commitment to defense reform, the question remains: Who is the President's choice to lead the reform of the Pentagon? That man is John Tower.

Mr. President, although I have placed significant weight with the President's own commitment, I do not consider John Tower-the-person with any less significance.

John Tower-the-person is important in another context, in my view. And that context is related to the allegations of personal misconduct found in the FBI report. It is to this second important issue that I now turn.

I have long abhorred the actions and consequences of alcoholism. And I strongly disapprove of "womanizing" and sexual harrassment of women employees. As I anticipated reading the FBI report, I braced myself for a shock to my sensibilities, having been conditioned by numerous and dramatic news accounts.

And then I read the report.

Mr. President, I must say in all candor that I truly was shocked.

But just beneath the veneer of the sensational, I found the FBI report remarkable for its ambiguity, and lacking in the kind of evidence required for any fair-minded Senator to oppose Mr. Tower.

My view of the report is consistent with the statement made on this floor last week by a Democratic colleague, who said there is no smoking gun in the FBI report, just a lot of smoke. The FBI report is indeed little more than a receptacle for unsubstantiated and uncorroborated, multiple hearsay. It is raw data and focuses on "appearances," "perceptions," and vague rumors. In no way does it represent evidence consistent with American traditions of justice. Indeed, more questions are raised in this report than are answered.

History is replete, of course, with examples of man's failures to honestly question the integrity of allegations—sometimes with tragic consequences. Consider the trial of Socrates by the citizens of Athens in 399 B.C. As Plato recounts in his dialog "The Apology," one of Socrates' accusers concludes there must be guilt, given all the smoke. Let me quote from "The Apology":

The accuser says to Socrates: "What has given rise to these prejudices against you? You must have been doing something out of the ordinary. All these rumors and reports of you would never have arisen if you had not been doing something different from other men."

Athens wrongly convicted and sentenced Socrates based on false allegations. This miscarriage of justice was an act of self-indictment by the city-state of Athens. Inasmuch as John Tower is "on trial" here, I submit that the Senate is equally "on trial." To wrongly condemn Senator Tower is actually self-condemnation by this body.

Even Socrates had the right to face his accusers. Thus, Mr. President, I would, as have a lot of my colleagues, urge that Senator Tower be allowed to represent himself here on the Senate floor so he is not merely "sparring with shadows" in his defense. Traditional standards of justice and fairness demand he be allowed to face his accusers and respond to their charges.

Mr. President, I have no right to impose my own strict code of private morality on other public servants. I am not equipped with the wisdom of Solomon to decide which sinners shall pass. Nor do I have the right to arrogate for myself the President's constitutional prerogative to select his own nominee.

I particularly want to commend my two colleagues from the other side of the aisle for their display of courage and conscience. It can be lonely when you openly oppose your President and your party. I know. I have done it for eight years on a variety of issues. But, Mr. President, we are sent here to be leaders, not followers.

As the Des Moines Register from my home State recently editorialized, the people have entrusted us to use independent judgment—not to succumb to the exercise of raw politics.

I have searched my conscience and the record with this principle in mind, Mr. President—accordingly, I intend to vote for John Tower. And I urge my colleagues to do the same.

Mr. President, I yield the floor.

The PRESIDENT pro tempore. The senior Senator from Maryland [Mr. SARBANES] is recognized.

Mr. SARBANES. Mr. President, I did not intend to speak at this point, but I was listening to the distinguished Senator from Iowa and I must say, first of all, there is not a trial taking place in the Senate. The reference to Socrates was interesting, but the penalty that Socrates suffered was death. We are talking about whether a nominee by the President ought to be confirmed as a member of the Cabinet.

Such nominees in the past have not been confirmed by the Senate.

There is no entitlement to be a member of the Cabinet. The Constitution framers, when they devised this system, gave to the Senate a major role to play in providing advice and consent. It is our responsibility, as Members of the Senate, our constitutional responsibility, to exercise our best judgment in considering the President's nominees.

I subscribe to the proposition that a President, when he is choosing people to serve in the executive branch, ought to receive from the Senate some degree of accommodation in the sense that these are the people he wants to help him run the executive branch of the Government. In fact, I, in my own thinking, make a distinction between the executive branch and the judicial branch.

In the judiciary, where you are dealing with a third, independent branch of Government, it seems to me that the President's nomination is the vehicle that places the name before the Senate. It represents the President's judgment about who should go on the court and that obviously should be taken into account. But then the Members of the Senate have to consider whether, in our best view, this person should receive a lifetime appointment to serve on the Federal bench.

When it comes to executive branch appointments, I am prepared to defer further than that toward the President, in the sense of recognizing that he is trying to put together his executive branch team, and we need to provide some accommodation for that. But that accommodation does not mean that we forgo our judgment or evaluation. Otherwise, the provision in the Constitution that we should pass on such nominees becomes meaningless. It becomes meaningless under those circumstances.

The charges against former Senator Tower were not made by the Members of this body. We are evaluating the record. The charges have been made by many others. If, in fact, it is felt that Tower should be heard from, all of these witnesses should be heard from. If that is the kind of hearing that people want, that is the nature of what that hearing should be.

The Constitution does not prescribe the specifics that Members of the Senate should consider on passing on a nomination. It is interesting, as was observed yesterday by some of my colleagues, that Senator Tower himself, when he was a Member of this body, voted against a Cabinet nominee of the President. So, obviously, he himself in exercising his responsibilities as a Senator did not accept the proposition that the Senate should simply rubberstamp or approve any Cabinet nominee submitted to it by the President. Otherwise, why did he himself vote against such a Cabinet nominee?

So, by his own exercise of his responsibilities when he was a Member of this body he clearly took the position that a President's nomination to the Cabinet is not automatically to be approved by the Members of this body. Each of us has to reach our own evaluation. No one pretends this is an easy decision. These decisions are never easy and it is made more difficult in this instance by the fact that John Tower was a Member of this body for many years. In fact I would submit to you, had he not been a Member of this body for many years, this debate would have ended much sooner than now. The decision would have been rendered. And the President would now be in the process of finding another nominee to submit to the Senate.

It seems to me we should think carefully about that, in terms of that observation, because I fail to understand why a Member, former Member, of this body or current Member, ought to have some presumption over and above someone else submitted to the Senate for confirmation.

I know there is a lot of talk in the country about "the club," and so forth and so on. But in the end we are called upon to make an evaluation and render a judgment. I do not think that judgment has been made lightly by anyone who has registered their opinion. I took that responsibility very seriously before I publicly indicated that I would not support John Tower to be Secretary of Defense. I have worked carefully through the record. I have read more than once the report of the committee, both the majority and the minority report of the committee. I listened to some of the debate on the floor before announcing a decision. Not all of it, because I announced the view a few days ago.

It is my view that, given the nature of this position and its importance, I cannot conclude that I should cast my vote to confirm John Tower.

Let me say just a few words about the nature of the position and its importance. The Secretary of Defense is in the national command authority. He is in the chain of command with the use of American military force. In fact, some on this floor have referred to him as the deputy commander in chief. And that is not an inapt description, in my view.

In that position he has responsibilities which are different from, in significant measure, those held by any of the other Cabinet secretaries.

Most, if not all of the decisions of the other Cabinet secretaries, have a margin of error. They have a timeframe in which they work that permits the decision to be recalled or reversed.

If, for example, just to use an illustration, a Secretary of the Interior some evening, not fully thinking things through and clearly perceiving them, should sign an order that there should be drilling of oil in the middle of Yellowstone National Park, he can go to the office the next morning in the cold light of day and he can retrieve that decision. He can reverse that decision. It is a retrievable, reversible decision.

The Secretary of Defense is, on occasion, called upon to make a decision, and within minutes after it is made, things happen; actions are taken; consequences flow from that. And that decision cannot be retrieved. It cannot be reversed. It becomes an irreversible decision. I think it is very important to keep that in mind as we consider this nomination.

Second, it is very clear that one of the major responsibilities of the new Secretary of Defense is going to be to address the procurement problems which have plagued the Department of Defense, which raise serious questions about the operation of the Department and casts a pall over the services. It, in fact, unfortunately in many respects, has cast a pall over the private sector that interrelates with the armed services, unfairly to many people in that sector. Nevertheless, that is the case.

Here we have an instance on the record, on the public record of a classic revolving-door problem. It is the public testimony and the clear factual statement on the record. I do not have to get into any debate now of this FBI file.

We are talking about what is right out on the public record that former Senator Tower, within weeks of completing his role as a very sensitive negotiator in the arms talks, became a consultant. In the course of the questioning before the committee, it was indicated that he consulted with those companies on the very issues, amongst others, that had been the subject of his work as a strategic arms negotiator.

Senator Tower was very explicit in saying that what he provided in that consultative arrangement was his informed judgment, his informed opinion, and that at no point did he reveal any classified information. I accept that statement, but it is not the revealing of classified information that is at the base of the concern. Even revealing an informed opinion, an informed judgment after just having held that position, it seems to me, raises very serious concerns about the nominee and, in my mind, contributed to my own thinking with respect to reaching the decision that he ought not to be confirmed.

We have been on this subject now for a number of days. I would hope

that we could go to a vote sometime in the near future. I know that is not in control of the majority, and I know that the minority leader has indicated, apparently, his intention to continue to carry this thing along. In fact, some have even said for weeks and weeks. It is hard for me to understand how that benefits the country, how it benefits Senator Tower or the President or the national interest of the United States. It would seem to me that in very short order we ought to go to a vote on this matter and decide it up or down, one way or the other. I think most Members are prepared to do that, and I would hope that at some point in the near future we could have an indication from the minority leader that he is prepared to do so as well.

In an effort to get John Tower across the line, there has developed what I have perceived over the last few days this attack or assault on the Senate itself. It is not quite clear to me what purpose that is intended to serve. The Senate is charged by the Constitution with a certain responsibility, and Senators are trying to discharge that responsibility as best they can.

I, in fact, want to commend Senator NUNN and the Armed Services Committee for their efforts in this regard. Well before we were ever presented with the name of a nominee for Secretary of Defense, namely in the fall of last year, well before, in fact, we even knew who the next President of the United States would be, Senator NUNN and Senator WARNER, the chairman and ranking minority member of the Armed Services Committee, had already focused their attention and the attention of the committee on the need, in effect, to try to provide a higher standard within the Department of Defense as to the nominees who would be coming from the next President.

If I am not mistaken, and I will ask the distinguished chairman of the committee, it is my recollection that a communication was sent both to then Vice President Bush and to Governor Dukakis, who were the two candidates for the Presidency, before the election expressing the concern which had motivated the actions of committee members in this regard and, in effect, indicating the necessity to approach the Department of Defense, given some of our recent problems, with a different attitude than had perhaps prevailed in the past. I yield to the chairman to respond to that.

Mr. NUNN. The Senator from Maryland is entirely correct. Senator WARNER and I did join together, and we did send that letter to both Governor Dukakis and Vice President Bush. I believe it was in early October 1988.

The letter set forth the standards that we felt should be applied not only to Secretary of Defense, but to the whole array of defense officials. We confirm some 46 defense officials in our committee after the President takes office.

So the Senator is absolutely correct, we did set down a list of criteria because we felt, and still feel, that we have to turn around the perception, to some extent the reality, that the Department of Defense is not being appropriately managed. That perception and, again, I think there is too much reality to it, does undermine the public confidence in the Department of Defense and the willingness of the taxpayers to sustain a strong Department of Defense and a strong defense for the Nation. So the Senator is exactly right.

Mr. SARBANES. Mr. President, I think it is important to recognize that that was a concern that was on the record which was being acted upon before not only did we not know who the nominee for Secretary of Defense would be, we did not even know who the President would be who would nominate him.

It is my own perception that the committee struggled with this. I think it is fairly obvious that at the outset when Senator Tower's name was sent, the assumption on the part of most was that it would be approved. It is only over time as the process unfolded that more and more doubts grew up about this, grew around this nomination and moved more and more Members finally to the conclusion that he ought not to be confirmed as the Secretary of Defense.

But I simply want to close by commending the committee and its chairman for really carrying out the work in a very responsible and conscientious fashion. There have been charges on this floor of approaching this in a partisan manner. There has been no appeal on this side of the aisle to try and decide it on a partisan basis. In fact, the majority leader, the distinguished Senator from Maine, was very explicit in his own public statement and in communications with his fellow Democrats, that each person ought to make their own judgment as individuals and, in fact, that has obviously happened on this side.

There has been nothing comparable to a broadside appeal to stick together on a party basis or to stick together simply to support the President. I think the framework in which it has been cast by the majority leader is the appropriate framework in which he said each Member has to weigh and consider the matter carefully and responsibly and reach their own judgment. I want to commend the majority leader for taking that view.

Mr. President, I yield the floor.

Mr. BENTSEN addressed the Chair.

The PRESIDENT pro tempore. The senior Senator from Texas [Mr. BENTSEN] is recognized.

Mr. BENTSEN. Mr. President, 6 weeks ago I introduced John Tower before the Armed Services Committee and said he was qualified to be Secretary of Defense. Since then, I, along with almost every other Senator, have gone up to room S-407 in the Capitol to examine in detail the FBI reports on the personal life of John Tower. We had a lot more to do than just read. We had to scrutinize the detail of that report.

John Tower and I served together in the Senate from the same State for 14 years, but sometimes you have to set aside questions of personal friendship when you are talking about the nomination of a person to a position that can affect the national security of our country.

I have made my decision, but before I announce that decision I would like to speak on a few issues in this case that have given me some concern. First, on this issue of partisanship, that the distinguished Senator, my friend from Maryland, has been discussing. This has been a rancorous few weeks, and when you look at the Armed Services Committee vote and the bitterness of some of the debate, you can be pardoned for thinking that it is a debate that is shaped by politics. Has politics spilled over into our discussion, influenced some of the votes on both sides? Probably. But I am convinced that the conclusions reached by this body have been overwhelmingly on the merits of the issue. They have been formed by different perspectives, different backgrounds, by different Members as they read those FBI reports and tried to interpret them in light of their own experiences. I have had too many discussions with Senators on the floor of this Senate, in the cloakroom, personal discussions with them apart from rhetoric, apart from politics, to think anything else.

I think a lot of credit goes to our majority leader, the distinguished Senator from Maine. I think he has shown extraordinary patience as he has dealt with this issue, and I think he deserves a good measure of what civility has been able to be retained in this debate.

A great deal of credit goes to my friend, the Senator from Georgia, the chairman of the committee. I have worked closely with the Senator from Georgia. I know of no person more patriotic in public life today. There is no way that he would let partisan politics interfere with his passionate desire to serve this country. He would react no other way. His concern is evident to any person who has set down and talked with him about it.

These are simply issues on which well-meaning men and women can arrive at different conclusions. They are not trivial issues. The question of alcoholism is particularly troublesome. After all, the job of the Secretary of

Defense is not 9 to 5. He has to be ready to make decisions that can affect thousands of lives and he may be called upon to make those decisions when he is called out of a banquet, awakened at 2 o'clock in the morning out of a dead sleep.

Does such thorough investigation of every aspect of one's personal life worry me? You bet it does.

Some have argued that disqualifying public servants because of their public lives is wrong, as wrong as refusing to look at a painting by Gauguin because he was a man that went off and left his family. Furthermore, the tradition of respect for the privacy of an individual is important in American life, and I think at some point we go far too far in the exploration of every peccadillo in the private lives of public figures.

We expect a lot from public servants, though. For me, as long as we examine only the private conduct that affects public policy we are acting correctly. And character is important. It is a legitimate issue.

The areas examined in this debate, alcohol, propriety of defense consulting, those are important issues and they have to be examined and resolved. The personal issues raised by the Senator from Georgia, the chairman of the Armed Services Committee, needed evaluation and needed study, and so did the President's prerogative. The President, in my opinion, deserves the benefit of the close calls when it comes to picking those people for his Cabinet to run his administration, but not even John Tower has voted for every Presidential nominee. I can recall his voting against a Presidential nominee from Texas in the past. So why should we act any differently? The Senate has the right to advise and consent, and that has to be protected.

Now, having said that, I found the allegations about John Tower's personal life without enough basis to deny the President his choice. They were contradictory. I found myself comparing the John Tower in the FBI reports to the John Tower I have known for years and worked with on Texas projects in this Senate. They were not the same man. I also found myself reassured by John Tower's pledge of abstinence, and furthermore I doubt he could get by with breaking it.

I have been in public life for a long time. Last fall I learned first hand what it means to have reporters go back into your hometown, go back 60 years, talking to your friends about everything that you might have done that you would not be too proud of today. And even asking you what you had for breakfast that morning. I doubt that John Tower could get by with putting an olive in a glass of milk without it being observed. I think the scrutiny of John Tower, if he becomes Secretary of Defense, will be intense and perhaps sometimes at a point where he will wonder why he wanted the job. I believe him when he says he will not touch a drop of alcohol and that if he does he will resign from the job. I also believe the President should and would demand it.

So why do I differ from many of my colleagues on my side of the aisle on this particular issue? Possibly because few in this body have had an opportunity to get to know John Tower as well and no one has had to view him through the special lens of another homestate Senator.

In the 14 years that John Tower and I have worked together to represent our State and this Nation, we have developed an excellent working relationship, especially when it came to those issues important to our State. Sure, we came from different political parties, moved in different social circles, with different voting records, but we worked together in a spirit of cooperation, and that was enhanced over the years. It was what I learned about John Tower during those years that made me willing to present him before the Senate Armed Services Committee: what I knew about him and his intellect, his experience, his knowledge of defense issues and his unquestioned patriotism.

This event, so painful to John Tower and his family, has been difficult for me as well.

In the passion of debate, pundits writing editorials in the isolation of their offices, writing speeches, sometimes have a tendency to forget that public officials have personal feelings also. We have seen witnesses have their sanity, their integrity impugned as they try to reach back to try to remember facts in the record of things that happened years ago. And we have seen every imperfection in an essentially good man dragged into the pitiless glare of television while his lovely daughters sit there and were subjected to it. It has been a high price to pay for public service.

I will support this nomination. I will vote for John Tower's confirmation. And I hope that the next time when I get a chance to talk to John Tower about how important it is to keep the defense of this country strong, I will be talking to him in his office in the Pentagon.

Mr. President, I yield the floor.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER (Mr. KERREY). The Chair recognizes the Senator from New Mexico.

Mr. DOMENICI. Mr. President, might I say to the senior Senator from Texas how pleased I am to find myself on the floor at this time. Many Senators on both sides have literally taken 10 times as long to express themselves as he did, and I believe few have done it as well. I think in his own way he has disposed of this issue in a way that should have a significant impact on those who may yet be undecided.

Mr. President, I came down here today thinking that I would talk a while about what was most disturbing about this whole 2½-month history. I hope I do not talk too long. But let me just talk about a few things that have become important to me as I look at this.

First, I am sure there are some people who are wondering why, with all of the information that has come out in whatever manner, verified or unverified, did the President nominate Senator Tower. I hope everyone remembers what the President knew when he made this nomination, which was supported by many members of the Armed Services Committee who recommended that he appoint him. They said he was qualified and that he would be a good Secretary of Defense. I am not going to go into a lot of that history. But I think it is important that we remember that a number of distinguished Senators, some of whom have spoken here including the Chairman, my good friend, SAM NUNN, they told the President before the President completed that act of sending Senator Tower's name up here that he would be a good Secretary of Defense, that he was qualified. So I think clearly we start with that.

Second, the way we relate with the people of this country, either in our States or in this Nation, the way we expect to respond to the people in our States and in the country is very important. Some would say that the vote here on this issue should not be affected by what people think. But I submit that if the overwhelming numbers of the American people favor John Tower—some might think differently. I am not suggesting that should be a test. But I want to make a point.

I remember at least one distinguished Senator indicated that a constituent in the home State had almost assaulted him in saying, "Don't you approve John Tower."

Mr. President, if there is anything I am certain of is this: If again the U.S. Senate is going to look at the behavior of a candidate, the personal conduct of a candidate, I am certain that we will never again do it this way. We may not confirm John Tower and we might. But I am certain that a good lesson was learned.

Senator Tower's nomination is here. The Armed Services Committee has voted. The Senate has been debating. Just last night, one of the major networks, indicated that there are new charges, then outlined what they probably are. You see, Mr. President, that constituent is getting an image of John Tower from that event last

night, from at least five like it, one even more severe. And the real problem with this process is that we are not going to be able to assure the American people, one way or the other, that those allegations they have heard and they have read about are true or not. That is not good. I have heard it spoken here as due process.

I heard my friend from New Hampshire speaking of the civility, of the American system with its individual rights. It just seems to me simply common decency that you do not build that kind of momentum against someone when most of it is untrue. And I do not want to violate our ethical commitment to the FBI files, which are just a series of questions to people, no affirmation, no verification, no cross-examination. One will say "A," and then five will say "B." And you read them all. Who are you supposed to believe? I can tell you it is unique, at least for this Senator, to try to find out how I am going to vote, go up to room 407, and almost have to take an oath that even if I write any notes about what is there I must leave those notes there. If we even use a word from the reports we are violating some kind of rule.

Mr. President, how is anybody going to know what was right and what was wrong? How is anybody to know how much evidence that is credible is on the side of the excessive use of alcohol, which is the principal accusation here. I assume it would impair him from accomplishing the duties of the Secretary of Defense. How is anybody going to know that there is not enough evidence?

I heard the distinguished Senator from Texas say it very nicely. Most of us down here talk lawyer talk. We said the President deserves a presumption. What the Senator from Texas said was much easier to understand. He said he read it all, much of it contradictory I would add that some of the allegations that were out there in the United States, already heard by millions of Americans, are absolutely disapproved in the report. I am not going to burden the RECORD with a list of them.

I only wish we could to back and have an equal presentation of those to the American people from the ballerina, to the Office Secretary, and so on—now unequivocally disproved in that record.

It seems to me he said it right—the Senator from Texas. He said, you read it and it is a close call. I guess that means there is some evidence both ways. But do you know what he said? He said, "I know him." Is that not something? "I know him," he said. The President knew him, too. Max Kampelman knew him, too. He wrote us a letter. When did the impairment we are worried about start? I mean, the chief arms negotiator was over there with him in Geneva for month after month. Those meetings lasted more than 15 or 20 minutes a day.

There is evidence that everybody socialized while they were there and, yet, his letter says—I am paraphrasing—Senator Tower never seemed impaired to him, and Senator Tower did an exceptionally fine job as negotiator. That is another person who knew him in a very difficult arena.

So, Mr. President, as I look at this, with no aspersions on any Member of the Senate—and Senator NUNN from Georgia knows it is not directed at him, because I have had occasion to speak with him privately about this procedure—but I want to repeat that I hope that if this epidode means anything and stands for anything, it stands for the proposition that we are not going to do this kind of scrutiny again. We may do the same kind, but we will not do it this way.

We cannot again look into the personal life of a nominee and have only one witness in public say, "He drinks too much," and from that, build a file.

Anyone can stand up here and say they read that file, with hundreds of pages of FBI agents interrogating a witness, as I have indicated, and many have, unsworn, no cross-examination. You can find a statement to support either side. If you want to stand up here and say, "I saw enough in there," somebody else can get up and say that is not the case. But there is very little evidence that he has ever been impaired in his official duties.

Then we have a Senator who worked with him for 14 years come here and say, "I knew him."

That is why we should not go through a process of this type again, I have said my share. I read the file. I was amazed, to tell the truth, because I started looking for those episodes which had been dramatized on American television and on the front pages of the papers, and I found them, with a little effort. I am very sorry that I cannot bring them down here. They are disposed of. They are not even questioned, when you finish up the report.

In one case, you have somebody known as a habitual liar, another one known to be mentally ill, incompetent. They were disposed of quickly. Then I read questions and answers, and somebody says it this way, and five others say it the other way. So I am left in much the same position as the distinguished senior Senator from Texas; I do not think there is any question but that, based upon his performance, whenever he was called upon to perform an official duty or function for the United States, be it Senator, be it negotiator, be it commissioner, he did it well, and that there is no evidence of impairment.

Second, I think it is unequivocal that he is capable, qualified, knows plenty about the Defense Department and America's defenses, and would have the capability in that regard to be as good as any we have had.

So I come down on his side. I have even heard some Senators say, personally, they would have chosen someone else, or they would look for somebody with a different perspective. I do not believe anyone in this Chamber really thinks that is an issue. If that were an issue, we would never get anybody confirmed. We could not get enough votes for anyone's nominee, because we all think we know how to do it better, or we think somebody is better.

That is why the President makes recommendations, and that is why, over the scope of history, far more times than not, his candidates are approved. That is why, in the scheme of history, almost every U.S. Senator who has been recommended has been approved—not all, but almost all. The distinguished President pro tempore is in the chair at this time. He gave us a history lesson on that at one of our sessions.

From the last century to this, any Senator who was recommended was confirmed, many of them rather quickly, I think. I do not think that necessarily is conclusive, but I do believe that there has been a great deal of evidence out there for the American people to pass judgment on, to help their political leadership pass judgment, and they have an influence. I really believe that most of it, when it comes to the issue of his character with reference to the use of alcohol, for the most part—that which became very dramatic for our people—has been disproved. There is no question in my mind that if you use the presumption, or if you use what Senator BENTSEN did, you can find some evidence both ways, but why do you not decide based upon what you know? I really do not understand how we, 71 of us, do not know. Senator BENTSEN said he worked with him intimately as a fellow Senator for 14 years. There are some Senators who worked with him his entire time here, on committees with him, observed him. I do not know that anybody has said they saw him impaired.

So, Mr. President, it is with real regret that I must say our process did not work this time. It worked to injure a family. It worked in a very unfair way, albeit unintentional, and a sense it permitted almost anyone to say that they found some evidence on whatever side they wanted to come down on.

I really do not think we ought to be doing business that way when we are dealing with a matter as serious as this one. I will vote for him, and I hope the Senate will confirm him. I hope, because I really have grown to love this institution and its precedents and procedures, its history and its relevancy

in the life of this great Nation, I hope we never do this again.

Mr. FOWLER addressed the Chair.

The PRESIDENT pro tempore. The Chair recognizes the junior Senator from Georgia.

Mr. FOWLER. Mr. President, I rise to commend the senior Senator from Texas on his statement, the manner in which it was made, the thought that went into it, and the judgment that is behind it.

In the midst of what has been an emotional and rigorous debate, Senator BENTSEN's statement today reflected the finest tradition of not only civility and political judgment, but also should be an example for all of us as to how thoughtful judgment and decisions must be arrived at, if we are to uphold our constitutional obligations in the highest traditions of debate in this Chamber.

I do not agree with Senator BENTSEN's judgment, but I not only respect that judgment, I do not quarrel with the soundness of the opinion that went into making that judgment.

I think admist these cries of partisanship, in our judgment, when you see one of the two standard bearers for the Democratic Party, a man who does not look for Democratic solutions or Republican solutions, but the best solutions to the problems that face our country, make the kind of thoughtful, opinionated—yes, there is no way to separate opinion from judgment—rationally developed judgment that he has made, I hope it will be a hallmark for the way we conduct our decisions and our debate in the future.

I also commend Senator BENTSEN for the words that he said about our new majority leader, the Senator from Maine [Mr. MITCHELL], and my senior colleague from Georgia, the chairman of the Armed Services Committee [Mr. NUNN], both of whom, amidst all of the emotion and supercharged opinions of this debate, have also retained their calm, their dignity, and have never let their emotions control the calmness and the rationality of their debate on this most important issue.

We have a constitutional obligation to make our individual decisions as to whether or not Senator John Tower should be entrusted with one of the highest constitutional responsibilities affecting the lives of thousands and thousands of men and women in the Armed Forces of the United States.

There is no easy way, there is no one way for us to render that informed judgment except to try to look at the facts with a dispassionate eye, to put party and politics behind us, to not be seduced by the power of our own oratory, and to give every Member of this body the credit that they will look at each one of our colleagues with respect, that they will put America and Americans in the Armed Forces first when they render this decision.

Though I cannot name every name of my colleagues on both sides of the aisle who have done this, unquestionably GEORGE MITCHELL, SAM NUNN, and LLOYD BENTSEN are at the top of the list even though they reached contrary decisions. I hope we will remember that after this matter has been decided, however it is decided.

They have set the example for informed and rational debate, informed and rational judgment, and the Senate of the United States and its traditions is the richer for their contributions.

Thank you, Mr. President.

Mr. LEAHY. Mr. President, will the Senator yield?

Mr. FOWLER. I am glad to yield to my colleague.

The PRESIDENT pro tempore. The Senator from Georgia yields to the Senator from Vermont.

Does the Senator from Georgia yield the floor?

Mr. FOWLER. I yield the floor.

The PRESIDENT pro tempore. The Senator from Vermont is recognized.

Mr. LEAHY. I thank the Chair.

Mr. President, I wish to concur in the comments made by the distinguished Senator from Georgia [Mr. FOWLER].

I have spent a considerable amount of time during this debate on the floor or in my office watching the debate on television. Much of the debate that has really reflected what is best in the Senate has been Senators on both sides of the aisle expressing strongly held views based on material they have read and reviewed, coming to different conclusions.

I think in many ways it would have been instructive of the country to have seen all the debate here, the debates that have taken place in the Cloakrooms, the Senators' dining room, in the Senators' gym, and certainly along the Halls and corridors.

I serve on three major committees, Appropriations, Agriculture, and Judiciary. In every single meeting Senators have discussed the same issue.

I do not think that this debate has just broken down to a partisan fight, a fight between the President and the distinguished chairman of the committee, or between one group of Senators on one side of the aisle and the other. It has been an issue where Senators have been deeply troubled, where they have in many, many instances started out intending to vote one way at the beginning of the whole episode and after careful reflection and study, deciding to vote another way.

I say that in the best possible way because they have done it based on the evidence that they have seen and discussed.

I, of course, respect and admire all 99 of my distinguished colleagues. I hold to myself the ability to differential among levels of respect, and even the level of distinguishment of my distinguished colleagues.

I must say that among those with whom I am most proud to serve in this Chamber is the distinguished Senator from Texas, Mr. BENTSEN. I campaigned all over this country for Senator BENTSEN during this past fall. I had the privilege to see parts of the country that I had never visited before while there on his behalf. I did it with a great deal of pride and a great deal of respect.

If I were called upon to go and campaign again for him tomorrow, I would do it with an equal degree of pride and equal degree of respect.

He and I happen to differ on this vote, and in my 15 years there have been a lot of votes on which we agreed, and on other votes we disagreed.

My respect for the Senator from Texas has not waivered one iota during that time.

But I think he has demonstrated probably as well as anyone can here today that each Senator has to make up his or her mind on this issue based on the facts as they read them, as they know them, as they understand them.

I think Senators on both sides of the aisle have done that probably with more thoroughness than I have ever seen on an issue.

I have seen Senator after Senator up in room S-407 reading all the reports the times I have. Others have gone back and read and reread and reread, just as we have discussed it among ourselves on and off the floor.

I would hope people would listen carefully to what is being said. There might be momentary flareups on either side of the aisle, and those look very good on the evening news.

Those people in my State and every other State who stayed home and watched carefully this whole debate probably have a good understanding of what we are discussing here. I only wish they could watch the debate as it continues off the floor because it would show Senators who hold first and foremost their oath of office and to uphold the Constitution, which, after all, speaks of advice and consent.

In my 15 years here there have been very, very rare instances where the advice-and-consent procedure has been so deeply held and so carefully considered and so adequately debated as in this issue.

Mr. President, I just wanted to make that comment. I do not know if there are others seeking the floor. I do not intend to hold it longer.

I see the distinguished Senator from Alaska on the floor and so I will yield the floor.

The PRESIDENT pro tempore. The junior Senator from Alaska, Mr. MURKOWSKI, is recognized.

Mr. MURKOWSKI. I thank the Chair.

Mr. President, I rise on the issue of the nomination of John Tower to be Secretary of Defense.

I came to the U.S. Senate having been elected by my constituents in Alaska in the year 1980. I did not know John Tower well. To me John Tower was the senior Member of this body, the chairman of a committee and a rather cold, aloof individual who seemed to be managing very well with his expertise in matters of defense and his seniority in this body.

But I had an opportunity to observe John Tower during the time he was a Member of this body and there was nothing during that time that this Senator observed that would make him unfit for the nomination to head up our Nation's Department of Defense.

Now I have, as my colleagues, gone into room S-407 and read at great length the material there concerning Senator Tower.

Mr. President, as ranking member of the Veterans' Affairs Committee, I also had the obligation to review extensive reports on our President's nominee for the first Secretary of Veterans' Affairs, Mr. Ed Derwinski.

Perhaps myself and the senior Senator from California, Senator CRANSTON, are a few of the Members who have had that obligation in that we have had more than just the nomination of Senator Tower but again another nominee who was a former Member and an issue that involved extensive FBI reports and examination.

First of all, Mr. President, it is perhaps inappropriate to reflect on what might have been. But this process that we go through is terribly unrealistic and terribly unfair. I have seen instances time and time again, in reviewing the reports in S-407, referencing interviews made by the FBI and those interviews were later transcribed by the FBI agent or representative. And the individual being interviewed did not sign off on that transcription, did not see that transcription and that individual does not have the right to the information in that file.

So we, as Members of this body, may go up there and paw through it, but we cannot debate it on the floor. That issue has been well covered in this debate. We do not have the opportunity to quesion the individual nominee, Senator Tower. So we are left with a one-way communication.

As I indicated in the debate that occurred here on the floor concerning the nomination of Mr. Derwinski to be Secretary of Veterans' Affairs, anybody that is subject to deposition would be very, very foolish not to have a tape recording of what was said so he would have, he or she, some record in order to defend themselves if they are ever in a precarious position like this. Now I think there is a parallel, Mr. President, because in that sense, it is very unfair.

Now the material in the reports, in a general nature, at least this Senator from Alaska is satisfied, are hearsay. Firsthand evidence is noticeably lacking. And I could go on at great length and add to the extensive statements from both sides and what is in that report.

But I think that you can construe the report whichever way you wish. If you want to condemn John Tower as being unfit for the nomination to be the Secretary of Defense, that can be easily done. On the other hand, if you want to justify that John Tower meets the requirements for the office to which the President has appointed him, why that as well can be done.

Let us make no mistake about it, Mr. President. This is a political body. We are good friends, but seniority and numbers control the agenda, control the committee function, and of course, that is as it should be.

I am not going to belabor the point on the issue of politics involved in this nomination, but I think it is fair to recognize that there is a rather close count currently; it may be in the area of 47 votes on one side and 50 on the other, with a few left undecided. So we are down to a critical area of two or three votes. I do not know what the leadership is going to decide with regard to the timeframe, how much longer we are going to reflect on the issue, how much more arm-twisting is involved, how many more times the President is going to contact individuals.

But I think we have learned something from this experience, I certainly hope so, in my short tenure. We have not allowed, each side, for a graceful way out. You know, there is a custom in Asia that is to save face. There is no save face left on this issue for the majority or the minority, in the opinion of the junior Senator from Alaska.

I hope that from this we have learned to allow the dignity, before things get too far out of hand, to ensure that both sides have an alternative for a compromise. Because since I have come to this body, Mr. President, I have been advised time after time that this is a body of compromise. We adjudicate in a spirit of compromise. Well, we do not adjudicate, but that for all practical purposes is what we are doing now.

So that boils down to how you evaluate the responsibility that we have as Members on the nominee John Tower. Well, as I have indicated the material is there. You can interpret it any way you want. You can go back, as my senior colleague has done, Senator STEVENS, and reflect on the years that he has worked with John Tower. And I think it is fair to say that TED STEVENS and John Tower have not always seen eye to eye. But, nevertheless, the senior Senator has indicated his support based on his own evaluation.

I have not been around here that long, but I know something about management, Mr. President, and the principles of management. And I am making my decision on the basis of the principle that we have a chief executive officer, the President of the United States. The President should have the right to name his specific designees in his Cabinet. It is an historic right.

The Senate has its duties, too. I know my friends can interpret that if we feel that there is a lack of qualification, we have the obligation to override the President. But I think that is a narrow line that we individually have to interpret. And I am interpreting my position in support of John Tower on the basis that you hold the Chief Executive Officer responsible for the activities of his policymakers. That is the premise that the Senator from Alaska is coming down on.

I hold the President of the United States responsible for selecting John Tower as his Secretary of Defense. If John Tower does not do the job, I hold the President of the United States responsible.

So, as we look across the board at the various reasons for our actions here, I want the record to state that in the conventional management style that I am familiar with—and not just familiar with, Mr. President, a management style that is not just conventional but a management style that works—that is the basis of our capitalistic system.

So for that reason, Mr. President, the junior Senator from Alaska supports our President and hence supports the nomination of John Tower for Secretary of Defense.

I yield the floor.

Mr. KERREY addressed the Chair.

The PRESIDENT pro tempore. The Chair recognizes the junior Senator from Nebraska [Mr. KERREY].

Mr. KERREY. Mr. President, I rise to deliver my maiden speech. The subject, I must point out, falls far short of my expectations.

I expected to be standing here before this body ready to launch into a full scale attack on one of America's great problems. I expected to be waxing poetic about our national security, fiscal or trade deficits, the status of our farms and ranches, the quality of our health care system, or the emergency which exists in our schools.

Like all occassionally immodest individuals, I hyped my expectations with great imaginings. I imagined that I would weave in moving, personal anecdotes. I imagined that I would stun my colleagues with the accumulation of an impressive array of facts and the recitation of quotes from previous

masters of public speaking or thought. I imagined that people throughout Capitol Hill would be rushing to their television sets to witness history in the making.

But, Mr. President, not in my wildest imaginings did I dream I would be standing here to announce my opposition to Presidential Cabinet nomination. Such matters have never made it onto the list of preferred topics upon which I could stand and deliver.

But I am here to declare what I have stated now for some time: The evidence of the FBI report and the previously generated comments have caused me to conclude that John Tower should not be confirmed as Secretary of Defense.

A central issue for me in alcohol use—past, present, and future—and the potential that it could impair the judgment of one who assumes command responsibilities like Secretary of Defense. It is the potential—based not only upon witnesses in the FBI report but upon the witness given by John Tower himself—that concerns me. In the end I conclude the risk to be too great.

I have heard many distinguished Senators, including the distinguished minority leader—who I admire a great deal—say they have never seen John Tower impaired by alcohol. I have heard them declare that they have traveled with him on important missions and have seen him perform admirably and without impairment.

I respect my senior colleagues and do not challenge their motivations. However, Mr. President, I have also heard John Tower himself—not the FBI report, not secondary witnesses, not the hot breath of the rumor mill—but John Tower himself declare that he had a drinking problem in 1970's at precisely the same time that many of my colleagues now declare that they did not see a drinking problem.

Mr. President, the safeguards which have been mentioned by President Bush—namely the 26,000 employees of the Department of Defense—are not sufficient. And with all due respect, this proposed safeguard would fail most private sector tests of sufficiency as well.

I do not choose to belabor the point. It pains me enough that I am in many ways wasting my first speech on this topic, but I would like to comment on the uniqueness of this nomination.

Mr. Tower is the only nominee of 20 so far to receive any negative votes by Senators of the majority party. He will not—if he is not confirmed, as has been pointed out—be unique in American history.

However, also I must respectfully suggests that John Tower is unique in that the origin of the doubts about his qualifications do not lie with Senator NUNN, as has been suggested. In fact, 2 weeks ago Senator NUNN was being criticized for making no public judgments at all.

No, Mr. President, the source of doubt is President Bush himself who from the time that it was clear that John Tower would be the nominee until his name was sent to this body, indicated that he intended to select some good management people to fill key under secretary slots. The negative editorial comment began before John Tower's name arrived before the Armed Services Committee.

John Tower was the only nominee where such advance doubt was created by the President himself. He was also the only nominee about whom a mountain of tales and stories about drinking were generated.

Let me also declare my hope that we vote soon and that we put this matter behind us quickly. I believe that the ill feelings this debate has generated will make this exceptionally difficult. However, Mr. President, I believe it is time for us to stop the noble effort of standing by our man and take up again the more noble effort of standing by our Nation.

The PRESIDENT pro tempore. The senior Senator from Nebraska [Mr. EXON].

Mr. EXON. Mr. President, I would like to congratulate my colleague from Nebraska. I am somewhat saddened by the fact that his maiden speech on the floor was on a subject that he probably would not have preferred to talk about, as he expressed very well. But we saw in BOB KERREY for the first time on the Senate floor what has made him particularly attractive to Nebraskans; how we have revered him as a Vietnam Medal of Honor winner; how we revered him as an outstanding Governor. And I want to compliment him for his well put remarks on the matter at hand.

I yield the floor.

The PRESIDING OFFICER (Mr. SANFORD). The Senator from Virginia [Mr. WARNER] is recognized.

Mr. WARNER. Mr. President, it would be my hope that in the closing hours of this debate, as those few remaining Senators indicate their disposition on this critical matter, that the tenor of this debate, the balance of this debate can remain as established by this historic speech given by the senior Senator of Texas. Irrespective of how we may feel individually on this matter, that in my judgment will go down as one of the greatest speeches that I have heard in this Chamber. Not just because it perhaps favors the position as the Senator from Virginia has espoused, but the manner in which it was delivered, the intensity and uniqueness of the circumstances.

Mr. President, I would like to speak on issues which could be similarly addressed by many of my colleagues in the Senate today. Seventy Members of this body served with John Tower, many for much longer than I served with him. Those of my colleagues know full well the dedicated service of our former colleague, our friend, the U.S. Senator from Texas, to this body and to the Nation.

Let me recount John Tower's outstanding record of accomplishment during the 6 years I served with him on the Armed Services Committee. In 1979, when I came to the Senate, I joined the committee under John Tower's able leadership as its ranking minority member. That year, Senator Tower led the Congress in granting a sizable increase to the Defense budget at a time when our Armed Forces were underfunded and seriously deficient in training and readiness. Senator Tower was, and remains, a strong and effective advocate for adequate levels of Defense spending. Through his leadership in dealing with both the administration and with his congressional colleagues, Senator Tower helped to fashion spending compromises that allowed real growth in Defense spending levels, to permit our Armed Forces to emerge from the so-called decade of neglect with the prospect of a modern, fully ready force. The vastly improved effectiveness, readiness, and spirit of our men and women in uniform today is due in no small part to Senator Tower's leadership of the Committee on Armed Services during a critical period of national recovery.

In 1980, then ranking minority member Tower led a bipartisan group of members of the Senate Armed Services Committee in insisting that the committee examine the important military and security issues raised by the SALT II Treaty. The committee's report revealed serious causes for concern relative to the treaty and showed that the treaty would allow the Soviets to continue their military buildup while at the same time making it difficult for the United States to maintain a balance. The report went on to remind us of the importance of viewing arms control from a national security point of view and, as such, was a turning point in terms of raising the standards for future arms control agreements. Senator Tower's leadership in the SALT II debate is responsible in large measure for effecting this change, that we experienced.

In 1981, when Republicans gained a majority in the Senate, Senator Tower undertook a number of initiatives as chairman of the Armed Services Committee. As a first step, he reorganized the subcommittee structure of the Armed Services Committee to implement review of Defense budget and policy issues oriented along mission requirements rather than budget categories.

Through Senator Tower's chairmanship, the five-part strategic modernization program proposed by the Reagan

administration in October 1981, received the strong and continuing support of the Congress. Today, our deterrent is stronger as a result, and we are engaged in arms reduction talks at the very moment we are here in this Chamber debating his nomination, now from a position of strength due in large measure, to the leadership of our former chairman.

Senator Tower was critical of one aspect of President Reagan's strategic modernization program, and that was its failure to provide for a survivable ICBM. He supported measures to provide survivable basing for ICBM's, and as Secretary of Defense-designate, he has expressed a continued willingness to consider all options to provide such survivability.

Senator Tower supported development of the Complementary Expendable Launch Vehicle, known as CELV, at a time when many of his colleagues were committed to sole reliance on the shuttle for our Nation's access to space. The Challenger disaster has proven the wisdom of Senator Tower's support for a complement to the shuttle. The CELV, now Titan IV, will be flying soon, years before it would otherwise have been available, to place critical military space payloads into orbit, another hallmark of Chairman Tower's foresight.

Senator Tower had strong views on the role of Congress in the conduct of foreign policy. Consistent with these views, Senator Tower, as chairman of the Committee on Armed Services, successfully led the fight to keep a large number of unilateral constraints on the U.S. negotiating positions from becoming law. The wisdom of his views has become apparent with the signing of the INF treaty, and the progress that has been made in START and in other arms control arenas because the United States has been able to negotiate from a position of strength. John Tower recognized as a Senator, and saw firsthand as a negotiator, that United States interest are not served at the negotiating table if the Soviets can obtain through legislation what they are unable to secure through negotiation.

While chairman of the committee, Senator Tower also proposed several initiatives in the area of acquisition reform. In 1981, Senator Tower led the fight to give the Department of Defense the authority to enter into major multiyear defense contracts. This contracting technique has provided necessary funding stability for selected major programs since 1982. Secretary of Defense Carlucci reported in January of this year that multiyear contracting will have saved the taxpayers over $9 billion from fiscal year 1982 through the end of fiscal 1989.

And in 1983, responding to the results of internal DOD investigations on abuses in spare parts procurement, Chairman Tower inaugurated a series of investigative hearings on Defense Department procurement practices. In 1984, he authorized the creation of the Senate Armed Services Committee Task Force on Select Defense Procurement Matters chaired by Senator Quayle, now Vice President of the United States. The task force reviewed a large number of legislative initiatives for improving DOD buying practices for spare parts and other items. These initiatives have resulted in increased competiton in defense procurement and billions of dollars of savings to the American taxpayer.

Under John Tower's leadership, the business of the Armed Services Committee was conducted in a timely and effective manner. I submit for the RECORD a brief summary of major legislation and other actions undertaken by the committee during Senator Tower's 4 years as chairman. Mr. President, I ask unanimous consent that this brief summary be printed in the RECORD.

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

ACCOMPLISHMENTS OF THE SENATE ARMED SERVICES COMMITTEE (SASC) UNDER THE CHAIRMANSHIP OF SENATOR JOHN TOWER

A. THE 97TH CONGRESS (1981-1982)

1. Legislation Reported and Enacted Into Public Law

During the 97th Congress, the SASC reported and enacted into public law the following 15 pieces of legislation:

Authorization of Supplemental Appropriations for Fiscal Year 1982

Authorization of Appropriations for Fiscal Year 1982

Authorization of Appropriations for Fiscal Year 1983

To Amend the Titles 10 and 37 of the U.S. Code to increase the pay and allowances and benefits of members of the uniformed services

Authorization for Military Construction for Fiscal Year 1983

To Amend Title 10 of the U.S. Code to provide standards for determining the amount of space to be programmed for military retirees and their dependents in medical facilities

Authorization of Appropriations for the Department of Energy for National Security Programs for Fiscal Year 1982

Authorization of Appropriations for the Intelligence Community and their Activities for Fiscal Year 1982

Authorization for Military Construction for Fiscal Year 1982

To make technical corrections to the Defense Officer Personnel Management Act

Authorization for the Secretary of the Army to return to the Federal Republic of Germany certain works of art seized by the U.S. Army at the end of World War II

To Amend Title 10 of the U.S. Code to improve the Military Justice System

Authorization for Appropriations for the Intelligence Community and their Activities for Fiscal Year 1983

To Revise and codify the provisions of law relating to Military Construction and Military Family Housing

Authorization to transfer certain excess naval vessels to foreign countries

2. Annual Authorization Bills for Fiscal Years 1982 and 1983

a. During 1981: 44 hearings held in Committee; 3 days spent on Senate floor debate; 16 amendments considered on the floor.

b. During 1982: 59 hearings held in Committee; 7 days spent in Senate floor debate; 47 amendments considered on the floor.

3. Nominations

The SASC acted on 29 statutory nominations in 1981 and 15 such nominations in 1982.

In addition, the Committee considered nominations for promotions in the armed services. In 1981, the Committee considered 101,583 such nominations. In 1982, 76,218 nominations were considered.

B. THE 98TH CONGRESS (1983-1984)

1. Legislation Reported and Enacted Into Public Law

During the 98th Congress, the SASC reported and enacted into public law the following 12 pieces of legislation:

Authorization of Appropriations for the Department of Defense for Fiscal Year 1984

Authorization of Appropriations for the Department of Defense for Fiscal Year 1985

Foundation for the Advancement of Military Medicine

Military Construction Authorization Act for Fiscal year 1984

Military Justice Act of 1983

Authorization of Intelligence Activities for Fiscal Year 1984

Transfer of the U.S.S. Albacore

Use of Proxies by the Board of the Panama Canal Commission

Competition in Contracting Act of 1984

Military Construction Authorization for Fiscal Year 1985

Small Business and Federal Procurement Competition Enhancement Act of 1984

Authorization of Intelligence Activities for Fiscal Year 1985

2. Annual Authorization Bills for Fiscal Years 1984 and 1985

a. During 1983: 47 hearings held in Committee; 13 days spent in Senate floor debate; 65 amendments considered on the floor.

b. During 1984: 64 hearings held in Committee; 10 days spent in Senate floor debate; 99 amendments considered on the floor.

3. Nominations

The SASC considers all nominations for the Department of Defense positions requiring the advice and consent of the Senate. The SASC acted on 12 statutory nominations in 1983 and 17 such nominations in 1984.

In addition, the Committee considered nominations for promotions in the armed services. In 1983, the Committee considered 52,587 such nominations. In 1984, 37,725 nominations were considered.

4. Department of Defense Organization

In 1983, Senator Tower initiated a comprehensive review of the organizational relationships and decision-making procedures of the Department of Defense. As part of this project, the Committee held a series of 12 hearings in which it took testimomy from 31 witnesses. In addition, Senator Tower directed the staff to prepare an objective evaluation of the structure and functions of the Department of Defense.

This effort, begun under Senator Tower's direction, resulted in the Goldwater-Nichols Department of Defense Reorganization Act of 1986.

Mr. WARNER. Mr. President, over the past 30 years, I have gained a deep admiration for John Tower's dedication to his country and for his outstanding service to his country. John Tower has devoted virtually his entire adult life to the service of his country, beginning with his enlistment in the U.S. Navy at the age of 17 during World War II, as an enlisted Naval reservist until February of this year, as a U.S. Senator from 1961-85, as U.S. negotiator to the START talks in 1985-86, and as Chairman of the Special Review Board on the Iran-Contra Commission. John Tower's understanding of national strategy and the issues and problems facing our military today is unparalleled.

The bottom line is this—Senator Tower has the knowledge, the experience, the intelligence, and the dedication to be an effective and, indeed, excellent Secretary of Defense. I urge my colleagues once again to consider your personal experience with Senator Tower, and I urge you to review his record of 24 years of dedicated service as a member of this body. In the course of my association and service with John Tower, I have observed him under a wide variety of circumstances, here in the Senate, at public and private functions in Washington, and on trips to military installations in the United States and abroad. Not once have I seen John Tower indulge in any way in terms of his personal habits that would reflect anything but the highest honor and credit upon the U.S. Senate and the country that he loves so dearly and has served so long.

That is my personal observation. I have talked with every single Senator who served with him in this institution and who is here today, as well as many of those who have gone on to retirement and other ventures. Not one single U.S. Senator—not one—who served with John Tower has recalled a single instance when any of his personal habits ever interfered with the performance of his duties to this Nation.

I especially urge my colleagues to consider the more far-reaching implications of this debate. At stake is not only John Tower's confirmation as Secretary of Defense, but also his personal and professional reputation and judgment. Unfounded statements and uncorroborated allegations from anonymous or confidential sources have been dragged into the public view which impugn the character and reputation of a fine American. Whether or not he is confirmed by the Senate, John Tower's public and private career and his personal life—including that of his family and friends—have been irreparably harmed. I, for one, deeply regret that result.

I will vote for confirmation of John Tower's nomination to be Secretary of Defense. By doing so, I will make it clear to my colleagues and to the American public that the public villification of John Tower over the past months was unfounded and unfair. I will make it clear that I have the utmost confidence in John Tower's ability, his dedication, and his integrity—and his ultimate qualification to serve as our President's and our Nation's Secretary of Defense.

Mr. CHAFEE. I wonder if the Senator from Virginia might yield for a question?

Mr. WARNER. Yes.

Mr. CHAFEE. I listened to the comments here on the floor of several Senators who have said that John Tower himself said he had a drinking problem. Am I not correct that the statement that Senator Tower made was, "I drank to excess"; he never once said anything about a drinking problem; am I not correct in that?

Mr. WARNER. The Senator raises a question which would require a response from documents which at this time are now in S-407.

Mr. CHAFEE. It has been said on the floor several times here that Senator Tower himself said he had a drinking problem. I never read anything like that.

Mr. WARNER. To the best of this Senator's recollection, having examined the entire record, both in S-407 and listening carefully to statements made on this floor referring to that and other sources of information, I know of no instance in which the Senator from Texas, Mr. Tower, said that he had a drinking problem. He characterized his use with alcohol during the periods of the seventies in other ways.

Mr. CHAFEE. That is right.

Mr. WARNER. Never can I recall, and I think I have seen everything that has been stated, read and I cannot recall, and I will go back, but I cannot recall ever the use of that term by the Senator from Texas.

Mr. CHAFEE. I agree with that. He said something to the effect he drank to excess. There is a world of difference. One is a subjective view. One is an individual stating about his own consumption, as he saw it. It is like somebody saying, "I eat too much," or "I'm overweight." That is a subjective view. It may be to the outside world that that individual is not overweight at all or has not eaten too much. But from his disciplined point of view, he characterized it as he drank to excess. There is a world of difference between that and any statement that somebody had a drinking problem.

This is not hair splitting. I believe this is important because I have heard several Senators get up on this floor, as recently as just a few minutes ago, and say one of the reasons they are voting against Senator Tower is because he himself admitted he had a drinking problem, which is absolutely untrue. And thus they go on to say that demolishes the entire argument that all the Senators who have known him for 24 year did not realize what he himself realized.

The point is that he did not have a drinking problem. The people who served here, such as you did, I have, and the distinguished majority leader and everybody on the floor at present who saw Senator Tower in all those years, a good portion of them never saw him incapacitated or unable to function in a perfectly normal and satisfactory fashion, meeting all his responsibilities. Am I not correct in that appraisal?

Mr. WARNER. Mr. President, the Senator from Rhode Island is correct. I would reply that not only is the point well taken, but it would be my view that any Senator who wishes to predicate his or her decision in part or in all on that part of the record should not seize upon just a word here and there like "alcohol abuse" or "drinking problem." but go back and reexamine what the Senator from Texas actually said, and then look at the circumstances around which those statements were made. Again, it will reveal the fact, as you have said, now the Senate knows him, the distinguished Senator from Texas momentarily stated and we cannot find that record which can substantiate a basis on which to reject this distinguished American by a virture of alcohol.

Mr. CHAFEE. I want to say to the distinguished ranking member of the Armed Services Committee, that it is absolutely beyond me how Senators can stand on this floor and say, "I saw Senator Tower all those years, and in every instance he conducted himself in a very sober, precise manner and bringing credit always on himself and the position he held, but because there is some report somewhere in the legendary room 407 that somebody said something, based on that, I am going to jettison all I personally know and change my views that have been made over many, many years and vote against the individual."

Now, to me it makes no sense and it is terribly unfair to a man who we have served with for many, many years in this Chamber.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Republican leader.

Mr. DOLE. Mr. President, I want to follow on that line briefly. I know the Sentor from Arkansas is waiting to speak and I will just take a minute or two. But I picked up the Daily News today. It said, "I saw Tower drunk in the Senate." A picture of our colleague, the Senator from Arizona, Senator DECONCINI, and there is a bigger story inside, and then "DeConcini: Tower tipsy in Senate."

And then I went back to recall what Senator DECONCINI said last Sunday

on the Brinkley show. He said, "I have seen John Tower with a few drinks under his belt but not inebriated." That was Sunday. Yesterday he said, "I have seen Senator Tower under the influence of alcohol. If my colleague wants to know have I seen him under the influcence of alcohol? The answer is yes."

Which is it? Which is it? Is there a difference between inebriated and under the influence? I think most people would think so. Is there no decency in the Senate? When do we stop the character assassination? He went on to say that there were others, too. Maybe he is going to name the others. Maybe he is going to name the date. Maybe he is going to give the year. Maybe he is going to give us all the information. Maybe he will give us all the information on 2 consecutive days.

My view is we have been a little out of hand here. I do not know where it is going to end. John Tower is our friend. He has many friends on the other side of the aisle. I heard a statement today by a colleague of mine, Senator BENTSEN of Texas, that brought tears to your eyes because he knows John Tower.

I remember I was in a little trouble with some of my Republican friends when Senator BENTSEN was put on the ticket. I said, "There is a good man. There is a good choice. There is a man who would make a good President." But I was right, and he demonstrated it again today.

As he said on this floor, he has read the file, but he relied on his relationship with John Tower like some of the rest of us ought to do. He has worked with him on the floor, worked with him on Texas projects. He is relying on his judgment.

As I said earlier today, we walk a fine line on this side because we want to attract support on both sides of the aisle. We do not want to lose any on this side.

Some would say, "Well, that is party line if you do not lose any Republican." I say no, that is not party line. That is a recognition that George Bush was elected last November. He won the election and with that election came the right, his right, to name his Cabinet, unless there is some overwhelming reason to do otherwise—some overwhelming reason to do otherwise. I have not detected it.

I met with the President twice today. I am going to see him a little later today. I think it is fair to say he feels rather strongly about this nomination. I think it is fair to say, as he told us this morning, he did not pick John Tower because he was from Texas or because he knew him well. Those were factors. But the important thing is that John Tower is qualified by experience and in every other way to do the job. George Bush promised when he ran for President he was going to have the best people he could find in Government.

It is troubling. I know some of the Tower family has been listening in the gallery to this debate today. Somebody stands up and says, "Well, he's got a drinking problem." Who said he had a drinking problem?

That is another thing that made me proud of Senator BENTSEN. He said this man has a family. He has three daughters. When they read this or they watch the NBC hatchet job last night, what do they think?

So we are still hopeful and we are still optimistic. We still believe the American people are changing their minds. We believe they are beginning to understand that this is an exceptional standard we have raised for John Tower in the face of the fact he has taken a pledge, and I have always found John Tower's word to be good. I think everybody has. I do not know anybody here who would say, "Well, he gave me his word and he reneged." He said he would treat that sobriety pledge as he would treat the pledge to uphold the office according to the Constitution.

But it is hard to combat it when somebody walks on the floor, having said on Sunday, "I have never seen him inebriated," on Tuesday and says, "I have seen him under the influence." Which story got the play? The one yesterday. That got the play. That got the headlines. That made all the evening news.

Again, I plead with my colleagues for fair play. Is it too much to ask to give a former colleague who served for 24 years with honor and distinction fair play? I do not think so. I urge my colleagues who have made a tentative judgment to give us a chance to make our case. If we do not make our case, that is one thing. And we are trying to make our case.

I am proud of the people who have spoken today in the right way. Nobody is out here attacking anyone. We are going to correct the record. We are not going to be trampled on. We are going to deal with statements that we do not believe are true. And we will agree that you can read the record and different people can have different opinions and reach different conclusions.

As I have indicated, some will say, "Well, John Tower is just one person. Who cares about one nominee. You will get another one. It will all be forgotten." Maybe by us, but what about John Tower? What about his three daughters and what about his friends? I think we lose in the process, too, because we will have lost an opportunity to have an outstanding Secretary of Defense.

So we are hoping that we are having some impact. I am glad the Senator from Virginia put in the record what John Tower did as chairman of the Armed Services Committee. We have not had much debate on whether he is fit or competent. Everybody understands he is. But it seems to me the drinking thing now is the big focal point. Some say, "Well, he was too cozy with defense contractors." I put in the RECORD yesterday some information that said in 1987 he made $100,000 net, Tower and Associates. It was not just John Tower. He had rent to pay and other things. In 1988 about $160,000. That is $260,000 in 2 years. That is not as much as Senators in this body earn when they make honoraria of $35,000.

So I hope we could continue to be positive in our approach to this nomination. We are willing to and will do the best we can to make certain when it is ended the American people, if they want to read the CONGRESSIONAL RECORD, will know that it is fair, balanced. We have only rose to defend John Tower when we found some inaccuracy. We do not think he needs somebody to defend him. He needs somebody to make the case that he is qualified, he is fit, and he is competent, and George Bush made that nomination as he had a right to do. Understand, never in 200 years has a nominee in a President's first term at this stage been rejected by the Senate, not in 200 years, and there have been thousands of nominations.

Now, if somebody in this body had gone back and studied every one of those nominations and said, well, it is different than this nomination or that nomination—I have not heard any of that—it is different, all right. We have raised the standard so high that this Senator is not certain we can achieve it, if we want to start spending as much time as we have spent with the FBI and other investigating efforts, on any nominee.

So I just say to my colleagues keep in mind that John Tower is a human being. Keep in mind that John Tower has feelings. Keep in mind that John Tower would not like it, does not like it any more than we would like it if we had this harangue all day long about "his drinking problem." If you are on the other end watching this on television, wherever you may be, and somebody was attacking one of us, I think you would not feel very kindly toward the person who was speaking. That does not mean we could not state the truth, nor state the facts. That does not mean we have to rally around John Tower because he is a former colleague. We have already demonstrated that is not the case.

But we do not have to try to make a record of how deep we are going to bury the man either. Two more votes will give us a Secretary of Defense, maybe this week, someone who can work with the chairman, someone who can work with the ranking Republican, somebody who understands the

committee, the Congress, the Pentagon, the defense industry, somebody who knows we are going to have to make spending restraints in the defense budget like everything else.

He is ready to go to work, and he has been at work.

We want to win not because we are Republicans and he is a Republican. We want to win because we believe we are right. We believe the President made the right decision. So if there is anything we have left unturned, if we have offended anybody, we apologize to everybody all at once.

If you want to talk with John Tower man to man, he will be here. If you want him to come to the well of the Senate, he will be here. If you want him to call you on the telephone, he will do that. If you want to see the President, the President is available. He will even buy your lunch or dinner.

So we are serious about this. I appreciate the fact that three colleagues on the other side have indicated a willingness to support Senator Tower for the right reasons. I hope others will follow.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I ask unanimous consent that I be permitted to yield to the senior Senator from Nebraska for 2 minutes without losing my right to the floor.

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

Mr. KERREY. Mr. President, in my remarks I indicated that John Tower by his own statement has a drinking problem, and I accepted it. The Senator from Iowa pointed out that John Tower never said that.

Mr. President, I do not wish to focus undue attention upon Senator Tower's drinking. I had indicated in fact in my remarks that the doubt of the President of the United States was the original seed that grew in me. That doubt was reinforced by reading the FBI report. I reached the judgment not to vote to confirm. It does not delight me that I am examining the life of another human being, and I feel indeed an invasion of privacy that I do not relish.

But I tried in fact in my statement to be kinder, and not to say exactly what it was that John Tower said. I converted a statement that said "I drank to excess" in the 1970's to "I had a drinking problem" in the 1970's. I would be glad to amend the record to show that he said "I drank to excess" instead of a "drinking problem."

Mr. President, perhaps drinking to excess was not a problem in the 1970's. But in the 1980's, it is. Mr. President, to observe someone drinking to excess is not always to observe an impairment of judgment immediately. And I find myself ending at that point because I do not wish to go further in examination as to Mr. Tower's life because I am aware that he and his family are watching. I am aware that they do not take kindly to these kinds of remarks, but I do not expect that.

I have reached a judgment not to vote to confirm, and I put confidence in that judgment. I am not confident that this has been a good process or has been good for Senator Tower.

I would be glad to answer any other questions about this matter. I believe that I was treating the matter kindly by referring to it as a problem rather than saying drinking to excess.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. EXON. Will the Senator yield for 10 seconds for an insertion in the RECORD?

Mr. BUMPERS. I would be happy to.

Mr. EXON. Mr. President, the majority leader today referred to a Washington Post article on "How Tower Used His 'No' Vote." I ask unanimous consent that, along with a related article, "Placing a 'Check' on the President; Framers Believed the Senate Should Share Appointments," be printed in the RECORD.

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

[From the Washington Post, Mar. 8, 1989]

HOW TOWER USED HIS "NO" VOTE

EX-SENATOR NEVER SHIED AWAY FROM SCRAPS OVER NOMINEES

(By Dan Balz)

"The suggestion has been made that the people should trust the president to make the right appointment," the senator said during floor debate over a controversial national security nomination early in a new president's first term. "I think that ordinarily we do around here. But after all, the Constitution has vested in us the responsibility for advice and consent, and it is one that we should exercise."

The man who spoke those words, then-Sen. John G. Tower (R-Tex.), never shied away from exercising that responsibility—or from questioning the wisdom of presidents' appointments. He got into a number of scraps over Cabinet and sub-Cabinet nominations during his 24 years in the Senate—although none was as bitter as his own nomination to be secretary of defense has become.

Tower made his comments about the Senate's role 12 years ago during debate over President Jimmy Carter's nomination of Paul C. Warnke to become head of the Arms Control and Disarmament Agency and chief SALT negotiator.

Tower opposed that nomination unsuccessfully—as he had done in several other cases. In January 1977, he opposed Carter's nomination of fellow-Texan Ray Marshall to be secretary of labor. During the Ford administration, he opposed the nomination of William J. Usery to be secretary of labor. And in 1963, he opposed the nomination of Paul H. Nitze to be secretary of the Navy.

Two factors generally guided Tower in his decision to oppose these various nominations: his belief that the Senate should use its own judgment—and ideology.

In Warnke's case, Tower thought the nominee was too liberal. He accused Warnke of "grievous errors in judgment" on U.S. weapons systems, and he said he feared Warnke would be even more mistaken in his judgments about Soviet weapon systems as a negotiator.

His opposition to Nitze in November 1963 was for similar reasons. Nitze was nominated by President John F. Kennedy and immediately ran into opposition on the Senate Armed Services Committee for views expressed in a 1960 California speech and the product of a 1958 conference in Cleveland. The battle is described by author Strobe Talbott in his book on Nitze, "The Master of the Game."

In the California speech, Nitze had suggested that the Strategic Air Command be put under the control of NATO and that the United Nations be given control over the use of nuclear weapons. Nitze attempted to explain his views to the committee, but was clearly on the defensive.

After Kennedy's assassination, President Lyndon B. Johnson pressed committee Chairman Richard Russell (D-Ga.) to bring the nomination to a vote. Tower was one of a handful of senators (including Republican Sen. Milward Simpson of Wyoming, the father of Senate Republican Whip Alan Simpson of Wyoming) who opposed Nitze.

Invoking his own service in the Navy, Tower said he opposed Nitze "because of his views on disarmament, his views on our military posture and his views on the disposition of the military forces."

Tower and Nitze eventually ended up on the same team, as part of President Ronald Reagan's arms control negotiation team in 1985-86.

Tower's longtime fight with organized labor led him to oppose Marshall in 1977 and Usery the year before. In Marshall's case, he spoke at length on the Senate floor about labor's influence in public policy and his fear that Marshall would simply be a rubber-stamp for its views.

"I hope to have a labor secretary who can view those issues more objectively and not from the official union point of view: who could advise the president in a more objective way," he said.

For a man now accused by some of his critics of being too close to the defense industry, that opposition to Marshall has a ring of irony.

PLACING A "CHECK" ON THE PRESIDENT

FRAMERS BELIEVED THE SENATE SHOULD SHARE APPOINTMENTS

(By Al Kamen)

It probably would not happen very often, Alexander Hamilton wrote 200 years ago, but it would happen every now and again that the Senate would reject a presidential nominee. That was not a bad thing, Hamilton said.

In fact, "it would be an excellent check upon a spirit of favoritism in the president," Hamilton wrote in Federalist 76, "and would tend greatly to preventing the appointment of unfit characters . . . ."

Hamilton was not referring to the president's Cabinet because no idea of a Cabinet is in the Constitution. He was explaining the provision that gives the president the power to nominate officers of the government with the "advice and consent" of the Senate.

That provision in Article II of the Constitution, a compromise brokered 202 years ago, is at the heart of the controversy over

former senator John G. Tower's embattled nomination to be secretary of defense.

Some of Tower's supporters have argued that the Senate has some sort of constitutional obligation to approve presidential nominees. But that view is based on tradition, rather than the Constitution or the debates involved in its ratification, according to experts.

Delegates to the Constitutional Convention in Philadelphia believed strongly that certain powers should be shared by the Senate and the president, especially the appointment power. Throughout most of the convention, delegates held that the authority to appoint many high officials, including Supreme Court justices and ambassadors, should be retained exclusively by the Senate.

Late in the debates, those powers and the power to name "officers" was given to the president, but with the condition that they be subject to the advice and consent of the Senate. The delegates made no exception for Cabinet officers; neither did they establish up any criteria or offer any guidance for when a nominee should be rejected. Nothing in the original language would prevent the Senate from rejecting a nominee for any reason or no reason.

The notion of the Senate having appointment power may seem strange now, but many of the states apportioned authority that way at the time—the Virginia legislature still appoints judges—and the drafters drew on their experiences back home.

That "advice and consent" provision was not found in every draft of the Constitution and was not included in an earlier subcommittee report.

But after the language was later added, James Wilson, a delegate from Pennsylvania, tried on Sept. 7, 1787, to have the advice-and-consent clause removed, giving the president sole appointing authority across the board. Wilson said that the presidential responsibility for appointments would be "destroyed" by letting the Senate have a role.

But he was voted down. "As the president was to nominate, there would be responsibility," said Gouverneur Morris, "and as the Senate is to concur, there would be security." Morris, also from Pennsylvania, meant that the Senate would act as a check to ensure nominees were qualified.

The contours of the Tower battle are determined by politics, not by the Constitution, experts on both sides agree.

"Whenever I see a member of the Senate solemnly intone that there is a serious constitutional question involved here I have to laugh," said Duke Law School Prof. Walter Dellinger, a former adviser to Democrats on the Senate Judiciary Committee. "There is not a serious constitutional question that they may reject the president's choice. This is a question of prudence and policy."

Dellinger said that, as a policy matter, the Senate may consider both political philosophy and fitness when it reviews judicial nominees, but that, "as a practical matter, the president should have the final choice as to the political philosophy of his [Cabinet] appointees."

Gary McDowell, vice president of the conservative National Legal Center for the Public Interest, agreed that "a senator has a right to consider anything he wants" in assessing a nominee. "It is not inappropriate for the Senate to consider personal traits," he said.

Still, Hamilton was right in his prediction that it was "not very probable that [a president's] nomination would often be overruled"; the Senate has rejected only eight Cabinet nominees and only about a dozen Supreme Court nominees.

Mr. BUMPERS. Mr. President, I had intended not even to speak on this nomination and certainly no minds are being made up. A lot of eloquent things have been said, a lot of acrimony on the floor, and certainly it is my firm belief right now that John Tower is not going to be confirmed. And I think the minds are made up.

As I say, one of the reasons that I had decided not to speak was because I am a trial lawyer, and I have always believed as I was taught in law school that everybody is innocent until proven guilty. When you are dealing with a man's life such as John Tower, as has been alluded to by the minority leader, it is always painful. I served with John Tower for 10 years. I never had any kind of a personal relationship with him. And we never saw each other socially. I never paid much attention to him on the floor except when we were engaged in debate.

It gives me no pleasure to talk about the problems of anybody that has a family. As a trial lawyer, I used to point to some poor defendant and say to the jury, "There, but for the grace of God, go you." It was a great trial technique. It worked.

But in this debate I hope most of the acrimony is over. Today I must say the comments have been much more civil in the attitudes by Senators on both sides of the aisle, and I think it reflects more credit on the Senate when we conduct ourselves in an open and honest way, not in a way impugning each other's motives constantly. But I will tell you this debate sounds to me like that old story about the politician who said, "They are telling a bunch of lies on me. What is worse, they are proving them."

You have one side saying that this report is just filled with unfounded rumors, unsubstantiated allegations and everything has been repudated. On this side of the aisle we say no, that is not true. They are not unfounded. They have not all been repudiated.

I will come back to that in just a moment. I want to start off by saying I have certainly supported every single nomination the President has sent over here, except this one, and I fully anticipate supporting a whole host more.

But I want to start by making a statement, not a defense of the distinguished chairman of the Armed Services Committee, the senior Senator from Georgia, Senator NUNN.

I started to have my staff go back and review the record and pick out all of the encomiums that have been delivered about this fine man since he has been in the Senate. He came 2 years before I did.

I believe that I can say almost from memory that in my 14 years in the Senate, every person on both sides of the aisle, at some time or another, has said that SAM NUNN is the most knowledgeable, he is the most purely motivated, he is the person without rancor, and he is the most knowledgeable man on defense issues and, above all, he is a man of absolutely unimpeachable integrity.

Now, what has changed? There has been plenty of character assassination around here, and it has not all been John Tower. Some of the unkindest cuts of all have been directed at the motivations—not the integrity, really, not the knowledge of the Senator from Georgia, but his motivation in opposing this nomination.

I will tell you what changed; two things: SAM NUNN's mind, during the course of the hearings, and, number two, his vote against John Tower in committee, which evoked all of this sudden outcry about a man from Georgia who before, and for 16 years in the Senate, was considered a man without peer in this body.

I know for a fact that SAM NUNN was strongly predisposed to vote for John Tower when his nomination was sent over here. Nobody has disagreed in this body with SAM NUNN, I believe, more than I have. I have argued with him privately in the Cloakroom, and I have debated with him on the floor of the Senate about what I saw as an unsustainable buildup of our defenses, to an unsustainable level. He knows that. We have honest differences on that. But as this committee began to do its work, these allegations started pouring in, especially about John Tower's drinking. It is my firm belief that this came as something of a surprise to the chairman of the committee, and the allegations just kept coming and kept coming.

Finally, it seems to me, John Tower had never made a conscious decision to stop what he called "excessive drinking." He made a conscious pledge to himself to do that and live with it, and he told the committee that he did drink to excess in the seventies, and yet many of the allegations did not just include the seventies; many of the allegations included the eighties. So, finally, the chairman, Senator NUNN, said that he could not vote for him. Probably like me, he might have been willing to roll the dice, if this were for Secretary of Labor or some other much less critical position which does not go right to the heart of the security of America.

So, Mr. President, I say to my colleagues, before they chastise Senator NUNN or impugn his motives again, let me ask them this question: Read the FBI report again, and then ask yourself, if you had had the responsibility of the chairmanship of that commit-

tee, and all those allegations were out there—not all of them repudiated, not all of them unfounded rumors, and some of them, indeed, very serious—if you had been in the chairman's responsibility, what would you have done, knowing tht if you voted for the nominee, he was probably going to come through here with about 20 or 25 no votes at most, but also knowing that most of those allegations over the next few months would almost certainly surface in the press and the evening news?

Ask yourself, if you were chairman of the committee, how you would feel, having put your stamp of approval on something as awesome as that nomination, and knowing that those allegations were going to make it into the public domain, and ask yourself even further, if you were chairman of that committee, what you would have done, knowing that these allegations were out there, with no really significant evidence that the problem we were talking about had been resolved. Ask yourself what you would have done, knowing that 3, 4, 5, 6 months down the pike there is going to be an attack in the Persian Gulf, an innocent airline shot down, or at 2 o'clock in the morning, a call, "Our computers show the Soviets have launched," and it might be false, or that the Libyans have attacked an American warship in the Mediterranean, and minds were not clear when that happened. Just ask yourself.

The minority leader asked us to put ourselves in the position of John Tower. I ask you to put yourself in the position of the chairman of the Armed Services Committee, SAM NUNN, under the scenario that I just gave you. As I said, I think John Tower, being in the nuclear chair of command, was a paramount consideration.

The Senator from Rhode Island, I think, put a very fine point on excessive drinking by saying, "It is like excessive eating." I do not see it that way.

I read the same report he did, and I came to a different conclusion from the one he reached. On the floor of the Senate, he says, "Excessive drinking is not an alcohol problem. It is just like excessive eating." I do not see it what way, Mr. President.

Here are the statements; here is a chronology on that point.

February 1, open session, Armed Services Committee. Senator NUNN: "Do you have a drinking problem?"

"I have none, Senator. I am a man of some discipline."

February 26, "This Week With David Brinkley":

> Twelve years ago, I gave up spirits. I used to be a pretty good scotch drinker, and I gave that up. I haven't tasted scotch in 12 years, and after that I had only wine and perhaps an occasional martini, occasionally a little vodka with smoked salmon or caviar, something like that, but that was just occasionally. I really, essentially, have been a wine drinker, and now my only consumption is wine at meals. I don't drink unless I am eating.

"Face the Nation," March 5: "I am not alcohol dependent. I have admitted to excessive drinking in the 1970's, yes * * *" In response to Leslie Stahl's question: "Yes, but I have said excessive drinking, not alcohol abuse." Incidentally, that is another fine point. Leslie Stahl: "The story I have heard is that you promised your second wife you wouldn't drink anything but wine anymore. Then they asked you if you had kept that promise, and you said, 'Only when she was present.' Is that an accurate story?" Senator Tower: "No, it is not entirely accurate. I did, for the most part, express my intent to her, and I did, and since that time, I have been essentially a wine drinker, not a spirits drinker, only occasionally drinking of spirits. But I think that this sort of thing between man and wife is a two-way street."

No. 2, is the President entitled to his man? I promise you, Alexander Hamilton would be whirling in his grave if he heard some of the statements made on this floor about the President being entitled to his man. SAM NUNN did not believe that, and he voted against Paul Warnke. The minority leader, Senator DOLE, does not believe that. He voted against Paul Warnke. John Tower does not believe that. He voted against Paul Warnke, as well as a host of others.

I do not want this to sound self-serving, but I am proud of it: I do not give the President an awful lot of weight on his nominees. All things being equal, if a man is qualified, sure. James Watt came to see me in my office, and I visited with him about 10 or 15 minutes, and that is just how long it took me to make up my mind that I was not going to vote for him.

I led the charge, incidentally—and I want that on my epitaph—against James Watts' nomination and got 11 big votes, and the argument that defeated me so overwhelmingly was that the President is entitled to his man.

If we had taken the same vote on James Watt 2 years later, he would not have gotten 11 yes votes.

This is an awesome responsibility, I say to my colleagues, that our Founding Fathers put on us.

You go back and read the Federalist Papers. Here is what Hamilton said:

> There is nothing so apt to agitate the passions of mankind as personal considerations, whether they relate to ourselves or to others who are to be the objects of our choice or preference.

And in Federalist Paper No. 76, Hamilton said:

> The rejection of a Presidential nominee "would be an excellent check upon a spirit of favoritism in the President. It would be an efficacious source of stability in the administration.

The Senate has denied the President his choice thousands of times in the last 20 years, usually not by a vote of rejection but by inaction, just refusing to act on it.

Where were the "President-should-have-his-man" people on those nominees? There were over 13,000 nominations which died during Jimmy Carter's administration alone. And so many times someone says, "We can't bring that nomination up because Senator so-and-so has a hold on it."

But the point I want to make is the Founding Fathers debated this issue extensively when they put the advise-and-consent clause in the Constitution. If you can find in there where it says the President is entitled to his man, I will vote for John Tower and everyone else the President sends over here.

Every word in that Constitution is sacred to this Senator and, if you read the Federalist Papers and Madison's history of the Constitutional Convention, you will see that those words on the Senate's advise and consent role were put in there after great deliberation and debate, and I take that responsibility very seriously.

Third, that infamous FBI report—it takes hours to read and I must say most of it is dull, boring stuff, repetitious. It belongs to President Bush. It is his property. I can see both sides of the argument on this. The Republicans say he is unfairly accused. Senator after Senator said, "I want justice for my friend; I want fairness for my friend."

We have to stand here and say, "We are giving him justice."

"You are? Then tell us why you are opposed to him."

"Well, we can't." You cannot, even as one Senator said, take notes in S-407 and walk out with those notes.

It is unfair to John Tower in a sense but it is also my understanding that the chairman of the Armed Services Committee asked Senator Tower, "Do you want to confront your accusers? We will bring them in." John Tower said that he did not care to do that.

Those who say they know others who oppose this nomination must remain silent on why they oppose him.

I try to be as judicious and circumspect as I can even in private conversation about this because I so strongly believe in the rights of every individual. The thing that makes our Constitution stand out, the thing that makes us the greatest living democracy, is that document. If you are going to sum up in one sentence what the Constitution says, it would be, "Each one of us counts."

Madison wanted to provide the maximum individual liberty to people in this country commensurate with making sure the majority did not run roughshod over the minority. Some-

times you have to chuckle when people say: "Well, I don't understand. A democracy means a majority rules."

That is not what a democracy means. A majority of the people in my beloved South, 95 percent, thought slavery was fine. And for almost 100 years after the Civil War we thought it was fine for black children to go to separate schools. That was never right. It was never fair.

As I said a moment ago, I was a trial lawyer for 18 years before I got into politics and I have tried some, and you know it is an interesting thing talking about some of the personal attacks across this aisle. We used to stand there and scream at each other in front of the jury and go out and have lunch together, and everybody thought some kind of deal was being cut. We were advocates. We were advocates for our clients and what we did in front of our jury did not bother our personal relationships one whit. And I suspect all these wounds will heal. They were unnecessary, but they will heal.

But in the 18 years I tried lawsuits, I learned to evaluate testimony, too. I used to read deposition after deposition without seeing the person who was being deposed and, when you get all that experience under your belt, you evaluate it and you can pretty well tell who is telling the truth and who is not. I never tried a lawsuit that did not have two sides to it. That is what lawsuits are about—one person standing up solemnly swearing to tell the truth and telling it and someone else who took the same oath telling a 180-degree different story.

All I am saying is I have had a little experience in evaluating testimony, weighing it, determining people's credibility. And when people say to me as I read that report that it is nothing but unfounded rumors and unsubstantiated allegations, and every one of them have been shot down, I want to say that you did not read the same report I read. And even if you did, I have a right to my conclusions just as anyone else in this body does. They are my own. I did not ask another Senator for his advice or his thoughts about it. I read the report for myself and I reached my own conclusions, and every Senator in this body not only has a right but a duty to do the same thing, and he has the right not to have his motives impugned once he has honestly done that.

As I started to say a moment ago, I just simply cannot hope and pray that if this man is confirmed, that all minds will be clear in case of a crisis. I am not willing to roll the dice. I have absolutely no personal animosity for or unkind feelings toward John Tower. But I do not really believe he has been treated all that unfairly.

I think some of the acrimony here has been unfair. Every statement, it seems to me, for the past 2 weeks has been to evoke some kind of sharp ad hominem personal attack on somebody else.

Mr. President, for those reasons and others which I will not belabor, I intend to vote "no" on John Tower's nomination.

The minority leader said, it is not just getting another name. Yet it is. If we reject John Tower, the President has to send another name, and I promise you that some of these arguments here and personal attacks will be forgotten. I regret and I am sincerely sorry for the scars that will be left on John Tower either way. But that is the way it is, and I hope that they will heal with time and I hope because there are no minds yet to be made up that we can vote on this nomination and get it over with.

Mr. President, I yield the floor.

(Several Senators addressed the Chair.)

The PRESIDING OFFICER. The Chair will have to recognize the acting Republican leader, the Senator from Maine.

Mr. COHEN. I thank the Chair.

Mr. President, there is a time for deliberation and there is a time for debate. And there is also a time for decision, and whether it be fair or unjust or whether it is based on files rather than facts, on the weight of allegations rather than on the weight of evidence, on loyalty to a party or to a President rather than loyalty to due process, whether it is based on polls or perceptions rather than the unwritten but well known principle of fair play, there is a time to decide, and I believe that time is very near if not quite here at this point.

There should be no confusion about what the Republicans are seeking to do. We are looking for what I would call five tough pieces, five members of the Democratic Party who are willing to say that the President is entitled to have his Cabinet choice confirmed unless there is clear convincing evidence that the nominee is unqualified, unworthy, or unfit to hold that office. Three have declared their intent to support John Tower. We are looking for two more.

It should come as no surprise that there may be some Democratic Members who would look to support President Bush and John Tower provided he loses, enabling them to gain the good will of the White House while engendering no ill will with their colleagues. And there may be some Republican Members who would like to vote with John Tower provided he wins and vote no if it is clear he is going to lose. That is nothing new to any of us. Each of us is constantly called upon to weigh loyalty to party, to Presidents, to friendship, to constituents, to principle in reaching our decisions.

Now, two of the five Democrats that the Republicans hope will support the President and his nominee are freshmen. They have been here only 2 months and it is not going to be an easy decision for them.

While they are troubled by the process involved in the judging of John Tower, they are also under pressure from their constituents, who have read no evidence but hold very strong opinions. They are under pressure generated by the thought of cutting against the grain of the majority of their own party—the majority leader, the former majority leader, the distinguished chairman of the Senate Armed Services Committee, who holds the respect of all of us. They are necessarily concerned with their future within their party if they vote for President Bush's nominee.

I can only say to those Senators that I have been there before. It is not a pleasant experience. There are doubts that always flutter inside during those solitary moments. It requires you to ask why you came here, what you hope to accomplish, what you hope to do, and who you hope to remain.

It has been said that all mirrors are magical because they never reveal ourselves. And while the mirror may distort and flatter, there is a voice inside that no one else can hear that whispers to us the truth about ourselves. There is that "small circle of pain within the skull that must tramp and tread one endless round of thought to justify our actions to ourselves."

I have been there before and I have known that small circle of pain. I cannot offer any comfort to those freshmen Members, other than saying that you were not sent here to make easy decisions, because anyone can do that. You were not sent here to put a wet finger in the wind to determine the direction of public opinion, because anyone can do that. You were sent to search for the truth, to exercise judgment, to answer to the voice inside, the voice that no one else can hear.

Now, that is not going to be easy for those who still hold doubts about the fairness of the process, about the weight of the allegations and, indeed, the weightlessness of the evidence.

Last week, Senator Tower gave a sterling performance before the National Press Club, discussing substance, exhibiting style. And yet the headline in one of my papers back home read "Tower Admits Infidelity" in bold print. And inside it, in slightly smaller print, it said: "Cohen Supports Tower."

And I could see the political opponents sharpening the long knives on the whetstone of a nasty headline. And I have had reporters come down from Maine this week, as a matter of fact several are in town, asking why

am I defending John Tower; why risk my reputation for a man who carries so much heavy baggage and, besides, is he not going to lose?

Well, it is possible. John Tower may lose this fight. I hope not. But the Senate can claim no victory; no laurel wreaths can be worn if he should.

But why, do I risk my reputation for him? Well, because I know him; because I admire what he has done and tried to do for his country; because I think he has much to offer, just as he has offered much; because I am offended by the way in which he has been mugged by those who purport to be disinterested, who claim to have no motive to lie but, in fact, have lied.

Now, the majority of the committee made much of the fact that the FBI file—and I stress the word "file" and not "report"—contains allegations of misconduct by those who have no known motive to lie. How do we know about motives? How do we judge motives? Many of those witnesses whose statements are contained in the FBI files are still unidentified. How do we determine motivation?

There are a number of witnesses who are identified who give specific times, and places and dates of alleged misconduct. In several instances their names were reported in the newspapers. We had in the Washington Post the name of a man involved in that so-called Russian ballerina story; we had the name of a man who claimed that Tower was inebriated during a visit to a base in Texas; we had the name of an Arizona businessman who claimed that Tower made three phantom visits to the Jefferson Hotel. All of those stories were leaked to members of the press.

The question I have to ask is: Why did not those who engaged in this insidious tactic ever disclose the background of those making those charges? Why was that never disclosed or reported in the press? Why was it not disclosed to the American people that the so-called disinterested Arizona businessman was a Democratic pollster or, should I say, a pollster for the Democrats?

Just because a person has a political bias, it does not necessarily mean that he was not telling the truth or that he was not mistaken. But would it not have at least raised some concern of objectivity, of disinterestedness? Would it not have been an important factor for Democrats to know if a well-known Republican pollster made allegations against a member of their party? Would they have not raised questions? Yet, nothing was said about that.

Now, much has been said about appearances—the appearance of damaging statements by those who "appeared" to be disinterested. Shelley once said that poets are the true legislators of the world. Of course, Shelley had a conflict of interest, or, I should say, by today's standard, the appearance of a conflict of interest.

Last week, I quoted from "Murder in the Cathedral." I was hoping there might be something in there that I could cite that would help us in the discovery of truth about ourselves. Archbishop Thomas Beckett had angered the king and the king's knights went off to chase him down and they murdered him in a cathedral. I went through and reread that again because it contained a wonderful summation by the four knights who committed the act of murder.

The third knight in justifying his act, said the following:

> * * * I might as well say it at once. It is this: in what we have done, and whatever you may think of it, we have been perfectly disinterested. [The other KNIGHTS: 'Hear! Hear! '.] We are not getting anything out of this. We have much more to lose than to gain. We are four plain Englishmen who put our country first.

And it goes on to say: "When you come to the point, it does go against the grain to kill an archbishop."—call it a Cabinet nominee, instead—"especially when you have been brought up in good church" or "Senate"—"traditions."

> I am awfully sorry about it. We realized this was our duty but all the same we had to work ourselves up to it. * * * King Henry—God bless him—will have to say, for reasons of state, that he never meant this to happen; and there is going to be an awful row; * * * I had a tremendous admiration for him—you must have noticed what a good show he put up at the end—they won't give us any glory. No, we have done for ourselves, there's no mistake about that. So, as I said at the beginning, please give us at least the credit for being completely disinterested in this business. I think that is about all I have to say.

The fourth knight went on.

Mr. JOHNSTON addressed the Chair.

Mr. COHEN. I do not intend to go into the fourth knight of the evening, but it will take me about another 15 or 20 minutes.

The fourth knight replied:

He—

Thomas Beckett—

> He used every means of provocation; from his conduct, step by step, there can be no inference except that he had determined upon a death by martyrdom. Even at the last, he could have given us reason: you have seen how he evaded our questions. And when he had deliberately exasperated us beyond human endurance, he could still have easily escaped; he could have kept himself from us long enough to allow our righteous anger to cool. That was just what he did not wish to happen; he insisted, while we were still inflamed with wrath, that the doors should be opened. Need I say more? I think, with these facts before you, you will unhesitatingly render a verdict of Suicide while Unsound Mind. It is the only charitable verdict you can give, upon one who was, after all, a great man.

Well, John Tower could have withdrawn. He could have barred the doors of the Senate. He could have saved himself from the wrath of those disinterested knights who had done him in. He could have barred those doors. But, even knowing how angry the Senate was, he insisted upon a vote and does insist upon a vote, refusing to submit to a process that is so, in my judgment, palpably unfair.

Last night, following the deliberations, the debate, Senator RUDMAN and I went down to the Monocle Restaurant, I must say with great trepidation. That restaurant has nearly achieved the prominence of the Watergate Hotel. Business appeared to be up last night. Maybe they were hoping to see what activity might take place at that restaurant.

There was a table of about a dozen men and, as I recall, one woman. Their voices were loud. There was a great deal of laughter, some of it boisterous. Cocktails were being served. They were having a good time.

Mr. President, they were also quite sober. I might point out that they happened to be, coincidentally, from Maine and New Hampshire, unbeknownst to Senator RUDMAN and myself at the time. But I thought about the situation. I thought, suppose someone in that restaurant was offended by loud laughter or a group of people enjoying cocktails before their meal. They could say that in their judgment these people were under the influence of alcohol or were engaging in conduct that was unbecoming.

And what if a Member of the U.S. Senate happened to be sitting at the table at that time? Could the same charge not be made?

I thought about my own appearance. I had three drinks in less than 15 minutes. Ice water. Three glasses of ice water. And the thought occurred to me, suppose someone sitting at a distant table watched me swallow three glasses of water and they concluded that it may have been gin or vodka instead of Perrier or Poland Spring Water, preferably, from Maine.

And some haloed soul, who was sitting over at that distant table who only enters the Monocle to eat and observe other people, came to that conclusion. And, if I laughed too loud at one of Senator RUDMAN'S stories or jokes or appeared off balance, as I struggled to get from the table that was fairly tight, how should I presume? How should I presume that my conduct would be construed at a later time?

Would I one day find Rumor, that ancient bird with an eye under every feather, had recorded by condition; saved it up for 15 years and 1 day in a moral frenzy, declared that I saw Senator COHEN, I saw Senator RUDMAN,

under the influence of alcohol at the Monocle? I saw them touch the Devil.

Hypothetically preposterous? Is this the product of deliberately induced paranoia?

Karen Elliott House—remember her name, Mr. President. A rumor persisted for 17 years because John Tower invited her and her colleagues for jazz and eggs, following a banquet 17 years ago. And her article appeared in yesterday's Wall Street Journal. It was entered in the RECORD. I will not take the time to do it at this point.

She was asked to respond anonymously to an anonymous rumor. She was invited to provide damaging information under the security blanket of secrecy.

It this what the Senate has come to? Is this what Justinian meant about giving every man his due?

Yesterday the senior Senator from Arizona cited a retired general who opposed John Tower. I believe it was General Graham. Fair enough. Fair enough. But let us weigh it. Let us weigh General Graham's opinion of John Tower against the weight of Gen. P.X. Kelley. He was cited yesterday; Gen. Bennie Davis, Admiral Holloway. Let me read to you what they had to say about John Tower. We have heard that John Tower simply cannot serve as a role model for the men and women in our military.

At a press conference General Kelley, Admiral Holloway, and Admiral Davis all appeared and this is what they had to say:

As a matter of fact, I've supported John Tower for the position of Secretary of Defense ever since we asked the Republican Administration as a possibility. I supported him because of his intellect, his intelligence, integrity, his experience, and his toughness.

I was delighted when President Bush nominated him for the position of Secretary of Defense. I have to say that I've become shocked and disillusioned and outraged at the slanderous allegations that have jeopardized his nomination. I've never seen John Tower under the influence of liquor, I've never seen John Tower conduct himself with impropriety toward a woman. I'm absolutely convinced he is in every respect, the best qualified person today to serve as our secretary of defense. And I'm here right now to offer my full support on John Tower's behalf because I frankly consider it to be my public duty. Thank you.

That is the former commandant of the Marine Corps.

General Davis, said at this press conference:

I am shocked to read some of the allegations, I am shocked to hear of those allegations, because in my over 20 years of intimate, knowledge of John Tower's behavior I consider John Tower a moral man, a man of great integrity, and certainly the finest candidate to be secretary of defense of any person that I've know over the last 35 years.

That is General Davis.

A question was put to General Kelley by the press:

Q. General Kelley, it appears that by organizing this news conference that you talked to either John Tower or the White House and coordinated in some way what you're doing, and with that they're doing in support of Tower.

General KELLEY. The only three people I talked to to put together this news conference, with the exception of calling the Associated Press and UPI, the only three people I talked to are the two gentleman who are up here with me, and Julie who reserved the room for me, which by the way, all three of us are paying for.

Finally, Admiral Holloway:

From the perspective of the military, I think we are saying we have quite a different view than the present Chairman of the Senate Armed Services Committee and we're up here to tell you that, that we think our view is important and that you should hear it.

My colleague and good friend from Maine wants to know if I am engaging in filibuster. I want to assure him that I am not. I was so inspired by Senator BUMPERS' eloquence that I felt that I should say a few words on behalf of Senator Tower.

I, furthermore, have been so inspired by my colleague's energized activity in the last day or so that I felt that in fairness, I should at least offer some balance to the debate.

So I ask, Mr. President, that the comments by General Kelley, Admiral Halloway, and General Davis be printed in the RECORD at this point.

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

General P.X. KELLEY. Good afternoon ladies and gentlemen. First, I would like to thank you very much for being here on such short notice. I'm P.X. Kelley, former Commandant of the United States Marine Corps. With me are Admiral James Holloway, former Chief of Naval Operations and was also a member of the very prestigious Packard Commission and General Bennie Davis, former Commander in Chief, Strategic Air Command and who I have officially known over two decades.

First, I'd like to read a telegram that was sent to our Commander in Chief, the President, this past Wednesday—copies of which I have given you.

To the President:

We have served as Generals and Flag Officers in the Armed Forces of the United States.

We commanded the military forces upon whose successful performance the security of the American people depends.

We know John Tower well, and have known him for many years.

In our relationships with John Tower, we have found him to be superbly qualified in every respect, both professionally and personally, to serve the Nation as Secretary of Defense and in the chain-of-command. We would be honored to serve under him, and the uniformed men and women of our country would unquestionably benefit from his leadership.

We strongly support your nomination of this exceptional American.

This telegram was signed by 19 retired Generals and Admirals, and I'd just like to quickly run through their names to give you a flavor of just who they were.

General Robert H. Barrow, USMC (Ret.). My predecessor as Commandant of the Marine Corps, an exceptional combat hero in three wars.

General Richard E. Cavasos, USA (Ret.). A very, very well respected member of the Hispanic community.

General Bennie L. Davis, USAF (Ret.). Standing to my left who I have mentioned as former Commander in Chief of our Strategic Air Command.

General Raymond G. Davis, USMC (Ret.). Assistant Commandant of the Marine Corps, a resident of the State of Georgia, and Medal of Honor winner from Korea.

I've known John Tower since 1974, and I would keep the same elaborations that appeared regularly before the Armed Services Committee to testify. And from that time I was impressed with John Tower's ability as a member of that Armed Services Committee. After my retirement, I maintained an association with John Tower. I consider myself a good friend, and my respect for his abilities, his leadership, has grown as I have observed him as Chairman of the Armed Services Committee. As a matter of fact, I've supported John Tower for the position of Secretary of Defense ever since we asked the Republican Administration as a possibility. I supported him because of his intellect, his intelligence, integrity, his experience, and his toughness. I was delighted when President Bush nominated him for the position of Secretary of Defense. I have to say that I've become shocked and disillusioned and outraged at the slanderous allegations that have jeopardized his nomination. I've never seen John Tower under the influence of liquor, I've never seen John Tower conduct himself with impropriety toward a woman. I'm absolutely convinced he is in every respect, the best qualified person today to serve as our secretary of defense. And I'm here right now to offer my full support on John Tower's behalf because I frankly consider it to be my public duty. Thank you.

General DAVIS. I too have known John Tower for many, many years. I first encountered John Tower back in 1968 when I was flying combat in southeast Asia. John Tower, who I am sure most of you know, made one of his many trips to southeast Asia to provide that [inaudible] presence among the troops who were then deployed and in combat. I have known John Tower for over more than 20 years, very closely, when I headed Air Force Personnel and John Tower as a Senator provided the necessary support for all of our people programs. He was one of the first spokesman to increase the use of women in the service, and in particularly the United States Air Force. At the Air Force Training Command, which is headquartered in Texas, San Antonio, Texas, and its base structure is in Texas across the southeast, John Tower made many, many visits to my bases. I have never seen John Tower inebriated. I have never seen John Tower on anything but on his best behavior. John Tower is an example, an example that should be followed by all of us. When I was Commander in Chief of the Strategic Air Command, John Tower was mightily interested in the strategic nuclear deterrence of this nation. I can say without reservation, it would be my pleasure to serve in a command chain that had John Tower in it. I don't think there's any question about his superb intellect, in what he brings to the job, with his great knowledge of foreign affairs, with his great knowledge of nuclear matters, and with his great knowledge

of alliances throughout the world. I am shocked to read some of the allegations, I am shocked to hear of those allegations, because in my over 20 years of intimate, knowledge of John Tower's behavior I consider John Tower a moral man, a man of great integrity, and certainly the finest candidate to be secretary of defense of any person that I've known over the last 35 years.

Thank you very much.

General KELLEY. We'd be very happy right now to take any questions that you would like to ask of any of us.

Q. What effect do you think the delay and controversy is having on the Pentagon now, and what lingering damage?

Admiral HOLLOWAY. I don't believe that. As a matter of fact, I don't believe that because as we all know, he is participating in policy discussions, in budget discussions, and full discussions with the Pentagon and laying out the policies that have been enunciated by the President.

Q. Do any of you feel that even if he wins this battle and is confirmed, the Pentagon's budget fight [inaudible] victims would be damaged because they would have a wounded Secretary of Defense

General KELLEY. Absolutely not, John Tower is not wounded by anybody or anything. John Tower is a very strong, very tough individual, and John Tower will lead the Department of Defense with leadership that will be unparalleled.

Q. Let me just add that there seems to be a feeling that this would be John Tower's budget?

General KELLEY. This is the President's budget. This is the President's program. John Tower as Secretary of Defense is responsible for enunciating that program to the Congress and he already is aware of the President's positions, his priorities, and is well prepared to carry that message forward.

Q. General Kelley, it appears that by organizing this news conference that you talked to either John Tower or the White House and coordinated in some way what you're doing, and with what they're doing in support of Tower.

General KELLEY. The only three people I talked to, to put together this news conference, with the exception of calling the Associated Press and UPI, the only three people I talked to are the two gentlemen who are up here with me, and Julie who reserved the room for me, which by the way, all three of us are paying for.

General DAVIS. I think that there is some indication that we had no prior coordination is the fact that the President's Press Secretary is speaking at the same time.

Q. Gentlemen, how do you view the current Chairman of the Senate Armed Services Committee's position that John Tower is unfit to serve in a chain of command?

General DAVIS. Well, we certainly disagree with that position, but everybody is entitled to their own views, and we all know and respect Senator Nunn. I've known Senator Nunn for at least ten years, and have appeared before him many, many times in hearings, but we disagree on that point. We think that John Tower is the best qualified person that we know of to be secretary of defense.

Admiral HOLLOWAY. Let me point out that we're coming before you as experienced military leaders. I, for example, during the period that I was head of the Navy, served under three secretaries of defense. I believe that I have an appreciation for the requirements of that job, and I also consider that I have an understanding of what it takes to make that job effective. From the perspective of the military, I think we are saying we have quite a different view than the present Chairman of the Senate Armed Services Committee and we're up here to tell you that, that we think our view is important and that you should hear it.

Q. Gentlemen, I got here late, but if in fact you believe that some of the allegations against Mr. Tower, including his excessive drinking in the 70's and 80's, was solid enough, would you then have questions about him being in a position of—a chain of command—in terms of the nuclear aspect.

General KELLEY. You're asking a real hypothetical question. What we have said, and you did indeed come in late, we said we have 19 General Officers and Admirals who have never seen John Tower under the influence of alcohol.

Q. You still didn't answer the question sir, would someone with an alcoholic problem, or is shown to have one, be unfit based on what you know the military code to be, to be in a position—chain of command—dealing with nuclear weapons?

General DAVIS. I probably had the most direct experience with nuclear weapons over 14 years, four of those as Commander in Chief Strategic Air Command. We had said, and we reiterate, we have no problem with John Tower in a leadership position, no problem with John Tower in the chain of command. John Tower is a man of great integrity, great morals, great honesty and we think he is the best man for the job.

That's it. That's all.

General KELLEY. Thank you all very much.

MARCH 6, 1989.

Hon. WILLIAM S. COHEN,
U.S. Senate,
Washington, DC.

DEAR SENATOR COHEN: Last Wednesday, 19 retired Generals and Admirals from the Army, Navy, Air Forces, and Marine Corps, all of whom have known the Honorable John Tower for many years, forwarded a telegram to the Commander-in-Chief of the Armed Forces, strongly supporting the nomination for Secretary of Defense of this exceptional American. I believe that this act is unprecedented in the history of our Country, and have attached a copy of the text for your examination.

I have known Senator Tower professionally, socially, and personally for over a decade, and one of my sincerest regrets is that I retired before having an opportunity to serve under him while he is our Secretary of Defense. It is my strong conviction that history will identify him as one of the greatest patriots and statesmen of our generation.

I urge you to judge Senator Tower on his unique professional qualification to lead our defense establishment. The young men and women who today are serving in the uniform of their Country deserve to have John Tower at the helm.

I am sending this same letter to all members of the United States Senate.

With warmest best wishes, I am.

Most respectfully,

P.X. KELLEY,
General, U.S. Marine Corps (Ret.) 28th Commandant of the Marine Corps.

ATTACHMENT

Text of a telegram sent to the Commander-in-Chief of the Armed Forces by 19 retired senior officers on March 1, 1989, in support of the Honorable John Tower for Secretary of Defense.

"To the President:

"We have served as General and Flag Officers in the Armed Forces of the United States.

"We commanded the military forces upon whose successful performance the security of the American people depends.

"We know John Tower well, and have known him for many years.

"In our relationships with John Tower, we have found him to be superbly qualified in every respect, both professionally and personally, to serve the Nation as Secretary of Defense and in the chain-of-command. We would be honored to serve under him, and the uniformed men and women of our country would unquestionably benefit from his leadership.

"We strongly support your nomination of this exceptional American."

Signed:

General Robert H. Barrow, USMC (Ret.), former Commandant of the Marine Corps.

General Richard E. Cavazos, USA (Ret.), former Commanding General, Forces Command.

General Bennie L. Davis, USAF (Ret.), former Commander-in-Chief, Strategic Air Command.

General Raymond G. Davis, USMC (Ret.), former Assistant Commandant of the Marine Corps and Medal of Honor recipient.

General Charles A. Gabriel, USAF (Ret.), Chief of Staff of the Air Force.

Admiral Thomas B. Hayward, USN (Ret.), former Chief of Naval Operations.

Lt. Gen. James F. Hollingsworth, USA (Ret.), former Commanding General, 1 Corps, Korea.

Admiral James L. Holloway III, USN (Ret.), former Chief of Naval Operations.

General Samuel Jaskilka, USMC (Ret.), former Assistant Commandant of the Marine Corps.

General Paul X. Kelley, USMC (Ret.), former Commandant of the Marine Corps.

Admiral George E.R. Kinnear II, USN (Ret.), former U.S. Representative, NATO Military Committee.

General William A. Knowlton, USA (Ret.), former U.S. Representative, NATO Military Committee.

Admiral Wesley L. McDonald, USN (Ret.), former Supreme Allied Commander, Atlantic and Commander-in-Chief, Atlantic.

General Bryce Poe, USAF (Ret.), former Commander, Air Force Logistics Command.

General John Roberts USAF (Ret.), former Commander, Air Training Command.

Lt. General Thomas R. Stafford, USAF (Ret.), former Astronaut.

General William C. Westmoreland, USA (Ret.), former Chief of Staff of the Army.

General Louis H. Wilson, USMC (Ret.), former Commandant of the Marine Corps and Medal of Honor recipient.

Admiral Elmo R. Zumwalt, Jr., USN (Ret.), former Chief of Naval Operations.

Mr. COHEN. The Democratic majority cites not one shred of evidence, and I say this to my colleague, a former judge, not one shred of evidence that John Tower has ever discriminated against or in any way abused any staff member. There is not a shred of evidence in any record, any file, any report to that effect.

Yet the committee report concludes that the Members are concerned that he would not treat women in the military fairly.

I want to weigh the total absence of evidence, admittedly the total absence of evidence, against a letter that I am now going to offer in the RECORD. It is dated March 7 and I will read it. Not all the names, just the letter.

DEAR SENATOR: We are staff members who have worked for Senator John Tower during his 30 years of public service. We have had unequalled opportunities to observe his personal and professional conduct, and we believe our experiences with him are relevant to the current debate. We know John Tower very well.

John Tower is a man of honor, integrity, discipline and courage. The son and grandson of Methodist ministers, he is a principled man of uncommon talents and extraordinary character. He is a workaholic—not an alcoholic.

Three times in the past four years John Tower has answered the call of Presidents to serve his country. Though he ended his distinguished Senate career with modest financial resources, he was willing twice to leave his private firm to further serve our nation. John Tower's entire career has exemplified a willingness to place public service above financial gain.

We write to you out of respect and affection for John Tower. In deciding how you will vote on his nomination we encourage you to ask: Could the man described by his critics as an abuser of alcohol, a "womanizer" and an unprincipled businessman retain the loyalty, admiration and respect of so many of his former employees—so many who know him so well?

John Tower is eminently qualified in all respects to serve as Secretary of Defense. We urge you to permit John Tower to continue to serve his country.

It is signed, I would guess, by at least 150 past members of his staff.

I ask unanimous consent it be printed in the RECORD at this point.

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

MARCH 7, 1989.

DEAR SENATOR: We are staff members who have worked for Senator John Tower during his 30 years of public service. We have had unequalled opportunities to observe his personal and professional conduct, and we believe our experiences with him are relevant to the current debate. We know John Tower very well.

John Tower is a man of honor, integrity, discipline and courage. The son and grandson of Methodist ministers, he is a principled man of uncommon talents and extraordinary character. He is a workaholic—not an alcoholic.

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John Tower is eminently qualified in all respects to serve as Secretary of Defense. We urge you to permit John Tower to continue to serve his country.

Respectfully,

J. Patten Abshire, Lawrence A. Adams, David S. Addington, Dick Agnich, Louise Albin, Mrs. Lamar Alexander, Scott P. Anger, L. Wayne Arny III, Carolyn Bacon, Joan B. Baldwin (Jodi), William L. Ball III, James L. Bayless, Jr., Richard D. Billmire, Jeffrey M. Hudson, Theresa Vasquez Irwin, Elizabeth Vogelpohl Jacobson, Marcia Jennison, Georgia Jones, Jeffrey M. Judson, Alton G. Keel, Jr., Lou Philpot Kendrick, Nancy Kennedy, Martha Kirkendall, Tom Kowolski, Sven Kraemer, and Keneth J. Krieg.

Allen Blakemore, Rinelda G. Bliss, Bonnie Brewer, Thomas Brooks, Susie Brown, Boone Boies Bullington, Mike Burns, C. Mike Butler, Herbert L. Butrum, Ken Carroll, Phillip A. Charles, William M. Christian, Tony Cluff, Tom Cole, Larry Combest, M.C., John Craddock, Gregory A. Daniels, John Daniels, Robert J. Daugherty, Diane Dawson, Rhett B. Dawson, Dottie de la Garza, John de la Garza, Norma Delgado, Rob Dixon, Michael B. Donley, Walter Droskie, and Robert J. Einhorn.

Bob Estrada, Joleen Evans, Rosemary Fahey, Tom Fahey, Zack Fisher, Max L. Friedersdorf, Jerry W. Friedheim, Frank J. Gaffney, Jr., Joe Gardner, Jr., Kimberly A. Garven, Susan Gifford, Pam Gillespie, Jill Harbaugh Goss, Briana M. Gowing, Doug R. Graham, Patricia M. Gray, Bill Gribbin, Stephen J. Hadley, Stephen R. Hanmer, Drew A. Harker, Deborah K. Harnesberger, William J. Haynes, Monica Hearn, Linden Heck, Sallie Griffis Helms, J. Michael Hemphill, J. French Hill, Linda Hill, and Brenda K. Hudson.

Belinda Burkhart Lake, Ronald F. Lehman II, Tom Loeffler, Karen A. Love, Patricia Mahan, Michele Markoff, Carolyn Poteet Martin, David Martinez, Jose Martinez, Fred McClure, Harriet McClure, Robert C. "Bud" McFarlane, James F. McGovern, Mattie Mae McKee, Cynthia Root Moran, Mary Pat Mueller, Mary F. Nugent, Jackie O'Grady, Mike O'Grady, Patricia O'Keefe, Kelly O'Shieles, Richard Parker, Karen Pettigrew, Theresa Pugh, Molly Pryor, Shan Pickard Rankin, Gordon G. Riggle, and Amanda Rose.

Lindy Russell, Sylvia Santos, Inga B. Schoonover, Becky Shaw, Victor A. Sherlock, Joyce Thompson Sibley, Win Skiles, Carl M. Smith, W. Lamar Smith, Margaret Spearman, Joseph Staley, Christian A. Steed, Joseph R. Straus III, Priscilla B. Thompson, Richard K. Thompson, Kitty Vetter, Terry Ware, Jessica Buhler Weillan, Elizabeth Stroup Welch, Kristi White, Toni White, Suzanne E. Williams, Betty Williamson, Joe Winkleman, Ann Winniford, Elva Wood, Gary Wood, Joan M. Wright, and Alan Yuspeh.

Mr. COHEN. Mr. President, some Members of the majority cite public opinion polls as evidence that John Tower does not hold the confidence of the American people. To that I can only say, if you dump garbage on a man for 2 months and then take a poll asking people whether they are offended by the odor, it should come as no surprise that 56 percent of the people say they are. But that is exactly what has taken place during the past 2 months with leak after leak after leak.

The majority leader this morning cited this article that has been printed in the RECORD that appeared in today's Washington Post how John Tower has voted no in the past against several nominees for positions in an administration. The majority leader is now saying John Tower is asking for a different standard to be applied to him than he applied to others.

That is not how I read this article. That is not how I interpret what John Tower did. John Tower voted no on two or three occasions based on deep philosophical opposition to the nominees. On one occasion, Mr. President, he joined not a partisan onslaught against Mr. Warnke; he joined Scoop Jackson. It was Scoop Jackson, a Democratic leader, who led the effort against Paul Warnke. It was based on a deep philosophical opposition to the positions adopted by Mr. Warnke and others.

That is consistent with what Anthony Lewis wrote about in the New York Times last week. That is consistent with what the chairman of the Judiciary Committee has stated, JOSEPH BIDEN, who is offended by the process by which we rely upon FBI files in order to reach our judgment.

If you are going to oppose him on philosophy, say so, but let us not do it on the basis of unconfirmed, uncorroborated unexamined, uncross-examined statements to the FBI.

What we have is opinion, not based on facts, based on files, raw, unevaluated, uncross-examined statements. We cannot point to the weight of the evidence; we can only point to the weight of the allegations.

I listened with great interest to my colleague from Arkansas. He is a distinguished Member of the Senate, a gifted orator, a gifted trial lawyer by all accounts, and he said he had tried cases for 18 years, many times basing his judgment just on reading depositions. Well, I have to ask a question, Mr. President, another student of the law: Why is it that a court of appeals never reverses on a finding of fact but only on a point of law? Why is it the courts never reverse on a factual finding, only on a point of law? Because the jury observed the witnesses. You cannot tell from a printed page whether someone is lying or mistaken or ma-

licious or mad. With all due respect to my colleague from Arkansas, a great trial lawyer, I have read another great trial lawyer, Louis Nizer, one of the best in this century.

Louis Nizer had a chapter in the book worth reading, "How To Tell A Liar." You have to observe a witness, that is what Mr. Nizer says. You have to look at body language when you observe that witness as to whether he appears to be truthful, forthcoming and candid, or whether he is uncomfortable in the chair, and whether that discomfort is due to just nervousness or whether he is trying to conceal something, hide something, or distort something. Body language.

The eyes, Mr. President, are said to be the windows into the soul. They can be the site of confusion or dishonesty or candor. We have to look at the eyes.

And how about speech? Is it halting? Is it calculating? Is it just nervousness?

Finally, about sincerity. Nizer says, looking at the totality of the body language, the eyes, the speech, the mannerisms, sincerity. He says that character is the letter of credit written on the face. Character is the letter of credit written on the face. That is how we determine whether someone is telling the truth or lying or is simply wrong.

We had two witnesses—two witnesses—against John Tower appear before us in public. None of the others appeared before the full committee. None. Maybe we were lax and did not press hard enough. I must tell you, at the conclusion of Mr. Weyrich's and Mr. Jackson's testimony, I heard my colleagues say to the press, "I haven't heard anything here that will stand up in a court of law," and I agreed. Of course, now we are told we are not a court of law, we are just the U.S. Senate. So maybe we were lax in not pressing further.

Mr. President, I am defending John Tower for all the reasons I have cited in the past few moments, but more than John Tower, I am defending something called due process, that intangible concept that embodies the very soul of the American way, that unwritten but unmistakable rule of fair play.

I am defending the right of any individual, each one of us, anyone who wants to come into public service, not to be stabbed in the dark by hooded men and women who wish to leave no fingerprints.

I am defending us against a process which minimizes our personal experiences and observations and gives great weight to the unsworn, the unidentified, the uncross-examined.

I am defending against a moving ecclesiastical finger that points in every direction but our own.

Mr. President, one of our Members has stated that if John Tower is rejected, he will amount to little more than a footnote in our history books. Maybe so. Few of us will be more than footnotes in the long tally of time, but the manner by which we have conducted his confirmation proceedings and charged him with being unfit for high office I believe will remain an indelible stain upon the pages of the Senate's Journal. It is my fervent hope we will not commit this injustice. Mr. President, I yield the floor.

The PRESIDENT pro tempore. The Chair recognizes the senior Senator from Louisiana [Mr. JOHNSTON].

Mr. JOHNSTON. Mr. President, I do not recommend that my colleagues wait late in the process of a confirmation to declare their opinions. I have done so only because I have been, up until now, undecided. Frankly, I hoped that like Saul on the road to Damascus a shaft of light might come down on this case and make it clear. I hoped to find vivid hues of black and white from the evidence which would convince me beyond a reasonable doubt. I had hoped to gain the same kind of convictions that some of my colleagues on both sides of the aisle have about this case—to be able to get out with great feeling and argue one way or the other on this case. I thought perhaps that would happen to me.

It has not, Mr. President. I see this case in dull hues of gray where the evidence is not clear, where the evidence is troubling, but not shocking. Indeed, I think even the White House found it troubling. It took them a month to resolve their own concerns about this nomination. They made their decision, but, nevertheless, Mr. President, it is a troubling case.

There are three bases for challenging Senator Tower. First, ethics. Frankly, Mr. President, the ethics part is troubling to me, but Senator Tower did nothing illegal. Indeed, it does not violate any existing ethical standard and ethical considerations have been very much on the mind of this Congress. With all our attention on ethics, if Senator Tower's behavior violated no ethical standard then it seems to me we should not deny him the position of Secretary of Defense on that basis. Perhaps this year we will articulate a more clear, more discernible, a more consistent standard to which we can all adhere.

There has been a charge of womanizing, Mr. President. I think the committee, as I read their report, did not take that seriously. At least they did not take that as the basis for their judgment. Indeed, the word I found was "indiscretions."

I tend to take the same attitude toward that that the committee did, Mr. President, believing that Senator Tower's actions constitute indiscretions. I would personally not deny Senator Tower an appointment based upon those indiscretions. I think they are relevant, though, Mr. President, from the standpoint of what they say about his ability to handle alcohol. It is on the alcohol issue that I find serious question.

There are three things about the evidence. I guess we would call it the evidence. Certainly it is not legal evidence. It was not adduced in a court of law. It was not subject to cross-examination. It was not there to be judged by a judge nor subject to legal objections. But, Mr. President, it is nevertheless a formidable body of evidence. Some evidence is not even in the record—phone calls that come in. Indeed, just yesterday in my office a phone call came in, from a person who claimed to have personally observed two incidents involving Senator Tower. And I realize it is somewhat unfair to even say that, and I would not do so on the floor if the die was not cast on this issue. But it has influenced me because I talked to the person who described two separate events.

With respect to the alcohol, the formidable body of evidence shows this. First, frequency in the use of alcohol. Second, consumption of great quantities of alcohol—that is, drunkenness as opposed to simply regular drinking. And third, and most important, Mr. President, is a change in conduct when using alcohol or when abusing alcohol.

Now, by that I mean, Mr. President, the evidence indicates that a personality change occurs in Senator Tower when he abuses alcohol. This personality change manifests itself in a certain social recklessness.

Now, Mr. President, many people can drink alcohol, and we have heard many descriptions of Churchill. I just finished reading three books on Winston Churchill. I know that he would get up in the morning and start with Johnny Walker Red and he would have wine and sometimes champagne with lunch and maybe a brandy after lunch and maybe another after his nap. He would have a great dinner party and would finish off the evening with brandy. About 11 o'clock he would begin dictating until 3 o'clock in the morning and do so with great clarity of mind. I must say I admire many qualities of Churchill, that included.

Nevertheless, some who use alcohol do suffer from a change in conduct, a loss of judgment, a recklessness, and such behavior is unmistakably present in this evidence. It is clearly there, Mr. President. I would like to say it is not, but it is there. I will not quote from the evidence—I know that all of my colleagues know. One of the incredible aspects of this affair is that Senators have not witnessed that change of behavior. They say that based on the John Tower they know, the John

Tower I know, such behavior is inconsistent with his character. The John Tower we know would never do these kinds of reckless things—social abuse of people or abusive language. These actions are not a crime and do not of themselves constitute reason to reject a nomination. But evidence of an alcohol abuse problem which, in his case, alters his judgment, is reason to do so.

Now, there is no doubt that there exists a problem, Mr. President. It has been admitted by Senator Tower himself. He has admitted that, I think, before the committee. He has stated it on public talk shows. There is just no doubt that there is that problem. And in my view there is no doubt that when the problem asserts itself there is this change in judgment.

Nonetheless, this is a very troubling case, Mr. President. Let's address the question of fairness. Is this fair? No, it is not fair. Several things are not fair about it. Senator Tower does not deserve this. After 24 years of public service, he just does not deserve it. The FBI report is not credible evidence in the sense of legal evidence. It is not subject to cross-examination, in some instances it is based upon hearsay, and is based upon unreliable statements in many respects.

My colleague from Maine talked about the need to see a witness and hear him testify. That is important. Every trial lawyer knows that. But one cannot ignore the weight of evidence, the number of instances cited; the amount of evidence here simply cannot be ignored and cannot be denied.

We are told there is a double standard, that we Senators come to the floor with grape and grain on the breath. There is no doubt, Mr. President, that the use of alcohol is not infrequent in this town. Republican administrations, Democratic administrations, and the White House itself use alcohol. I have observed Presidents who drank wine in the White House. That is no revelation to anyone, of course.

The PRESIDENT pro tempore. The galleries will be in order.

Mr. JOHNSTON. We have all observed wide ranges of people using alcohol in this town. I will say, Mr. President, that I think Senators are as careful and controlled and responsible in their use of alcohol as any group I have seen. If there is abuse in this body, I do not know about it. But that does not mean it does not exist because, frankly, I did not know about the abuse by Senator Tower.

Nevertheless, there is the question of a double standard. I do not believe there is a double standard involved because it is not a question of a double standard. It is a question of a different standard. We Senators have shared responsibility. The Secretary of Defense has sole responsibility. I heard former Secretary McNamara on television the other night talking about the Cuban missile crisis and he was talking about the troops under "my" command. He was describing the whole Armed Forces of the United States. He then corrected himself and said "under the President's command." But the fact is under the national command authority it goes from the Commander in Chief, the President, to the Secretary of Defense, who is really the operative commander in the field of all the forces. He is the sole commander. We in the Senate share authority.

But the second difference between Senators and the Secretary of Defense is that we are a group who bears responsibility on only a part-time basis and he is always on call. By "sometimes" I mean when the Senate is in session, or when we are in committees, when we are on official duties. At those times our judgment is to be exercised for the United States. But if we are at home with our families, basically our time is our own. No one is going to call us at 3 a.m. and say "come make a decision about whether to respond to the firing of a Libyan rocket." But the Secretary of Defense is subject to that call. It is a different standard. Even if there was clear evidence of abuse of alcohol in this body, which I deny, we could not escape our responsibility for making a judgment about the nominee for Secretary of Defense. We must determine the qualifications of a person who must be consistently and unerringly responsible in his judgment.

Mr. President, finally, there is this question of the no-drink pledge. That, too, is troubling. On a moral level I believe in the right of redemption. I believe Senator Tower is a man of integrity. So when he makes a pledge, it is important evidence. But the fact is he has not yet demonstrated his ability to exercise that unerring judgment; that is to say, he has not demonstrated that he can be alcohol free.

We know enough about the abuse of alcohol that if abusers have one drink they frequently cannot control their appetite for others. Does that mean I think Senator Tower is an alcoholic? I do not mean to use that word because I do not know. I know he is an abuser. I think he speaks of it in terms of being an excessive user at one time.

But, Mr. President, they tell me it is characteristic of the problem that you do not solve an alcohol problem until you admit that you have an alcohol problem—facing up squarely to that problem, not by deflecting it, not by saying I am a disciplined man, I can use it or take it or leave it, but by saying I have a problem. Senator Tower has not done that. Am I certain that he has to do that? Nothing is certain in this record. As I say, there are dull hues of gray all over this record. But I come finally to the conclusion that we have a burden of proof problem here. If this were a criminal trial, I would be the first to say not guilty. If this were a civil trial, I would be the first to say judgment for Senator Tower because the plaintiff has not proven his case by a preponderance of the evidence. But this is neither of those, neither a criminal nor a civil trial, Mr. President.

It is a judgment of the most serious position or one of the most serious positions in this whole land; the person who can determine the very future of the world, whose unerringly consistent judgment is of more vital concern than that of the pilot of the airplane we will next catch. It is not only our future, but the future of the whole world which is at stake. And the burden of proof, when there is a problem unquestionably presented, ought to be on the nominee or on the administration. They must prove that the man is able, without question and at all times, to adequately discharge the duties of his office.

Does this mean that John Tower is not a good man? Not at all; that he is not a loyal American? Not at all; that his service for 24 years in this body was not of a very high standard? Not at all. Does it mean that he is not a very able man on defense, able to give great advice, great judgments, be a great administrator? It does not even mean that. It does not even mean that his character is not of the highest level. All it means, and this is the vital, important and crucial test to me, is that in the nuclear age we cannot afford to take a chance on the man who holds in his hand the future of the world.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, we go through phases in our national politics. I can remember when it was usual to ask, How will it play in Peoria? I suppose if you are the President now, it is nice to know, Will they like it in Lubbock? In my personal case, I like to test it in Tupelo, and all across the State of Mississippi, to see what the reaction of the people is to a particular problem or issue.

In that connection, I had a call from someone in Mississipppi who asked me, "Thad, what in the world is going on up there?" And I said, "Well, I think it is a lot like mud wrestling." I have never seen mud wrestling but I have heard about it. Inevitably, the people involved on both sides end up getting dirtied up or muddy. When it is over, it is hard to tell who has won and who has lost.

As a matter of fact, sometimes it is hard to find a place to stop. It just keeps going until the participants are worn out. It seems to me, Mr. Presi-

dent, that this situation does resemble mud wrestling in some ways. It is a time in the life of the Senate when we have abandoned our rules of fair play with a President, and our credibility is being eroded by the way in which this nomination is being handled by the Senate.

I have not been privy to all the conversations between the White House and the Armed Services Committee concerning this nomination. I have been in the Senate long enough, however, to understand the confirmation process well enough to know the ingredients in a President's decision to nominate a person for a very important position in the judiciary or in the executive branch. The Senate is consulted. That is what the Constitution requires the President to do. The advise and consent power of the Senate has the word advise preceding consent. The Senate shall advise and consent. Well, in the exercise of that power in this instance, Mr. President, I submit that the Senate did not play fairly with the advice that it gave the President when he was considering this nomination.

While I was not privy to the conversations between the President and Members of the Senate in advance of the decision to nominate John Tower for Secretary of Defense, I know from my own personal experience that the President consults. He seeks the advice of those in key positions in the Senate to determine whether or not the President's potential nominee is likely to be confirmed.

The initial manifestation of that advice was the testimony at the hearings of the distinguished senior Senator from Texas, Mr. Bentsen, along with the presentation that was made by the other distinguished Senator from Texas, Mr. GRAMM, both of whom, without any reservation, gave a clear and convincing endorsement of the President's nomination of John Tower to be Secretary of Defense.

At that time I assumed—if I am incorrect in this assumption, I am sure Senators will point out that I am incorrect—that Senators on the Armed Services Committee, including the chairman of the committee and the ranking Republican Senator, the distinguished Senator from Virginia, Mr. WARNER, had been consulted concerning their reaction to the nomination of John Tower to be Secretary of Defense.

I am assuming that the President, as he is bound to do under the Constitution, solicited the advice of these key Senators to see what their reaction would be to his nomination of John Tower.

I do not know what those Senators told the President. I have not asked the President if he has had those conversations.

I have not asked Senators if they have spoken with the President. Those conversations, I am sure, are best left to the knowledge and control of the Senators who were party to those conversations. I assume, however, knowing the procedure that is followed and knowing the constitutional requirements that are imposed upon a President in this instance, that the President was convinced by the reactions he received from these distinguished Senators, who had worked with Senator Tower for years, who had observed him in many situations, both in the Senate and outside the Senate, who knew his record as a negotiator on behalf of our country in Geneva, in the arms talks with the Soviet Union, and as chairman of the Tower Commission that John Tower would be approved by the Armed Services Committee.

The Senate had confirmed Senator Tower before, as a matter of fact, and had approved him as a person well qualified to represent our country in these sensitive negotiations with the greatest military power in the world other than the United States.

It is not as if the Senators were engaging in some sort of guessing game when they gave their reaction to the President of the United States with respect to this nomination. If the Senate is to have credibility as an institution or if individual Senators are to have credibility in this process of advise and consent, it is important for us to be reliable. It is important for the President to be able to rely upon the statements made by Senators in reaction to an intended nomination of a person to a position of this importance.

I am assuming that the President was convinced, because of things that he heard from Senators, that his nomination of John Tower would be acceptable to the Senate and that he would be confirmed. While I do not know that of my personal knowledge, knowing the process as I do, and as any Senator who has served here for any length of time must know it, I believe the President was convinced by statements made to him by customarily reliable Senators that this nomination would be well received by the Senate and that John Tower would be confirmed.

It was mystifying to observe that after the development of the hearing record, the vote on the resolution to recommend on this confirmation was 11 to 9. All 11 who voted against John Tower were on the majority side of that committee, and all 9 who voted for him were on the Republican side of the committee. The vote was interesting to me because we all know these Senators to be very intelligent. It was puzzling to see them all view the same evidence, hear the same witnesses, read the same reports, know the same individual nominee, and still disagree so sharply along party lines.

We have heard Senators explain the reasons for their decisions and how they came to reach their conclusions. It is mystifying that educated and well-intentioned Senators could follow the same process and come to different conclusions, as they did, along strict party lines, and then say that these decisions were based on considerations other than party affiliation. It is mystifying.

Now we are at the point where we have to answer whether the Senate is going to continue to be a credible partner with the executive in the process of filling important executive and judicial positions in the future. I hope this is an aberration in the Senate's exercise of responsibility under the advise and consent power of the Constitution.

I could understand it better and would be less aggravated by the way the process has developed if the nominee had been someone unknown to the Senate. If this nominee were someone who had occupied some lesser position in the Government, and the committee staff had perfunctorily checked out the prospective nominee and advised Senators about his background, his competence, his habits, his public and private conduct, and the Senators had misunderstood or not delved deeply enough and said, "Mr. President, that nominee sounds fine to me, we recommend you submit his name to the Senate," I could understand the way this process has developed. But that is not the way it happened.

I am assuming that the President was led to believe this nominee would be acceptable to the Senate. I am just as confident as I can be that is the fact. To see the Senate now throw up its hands collectively in holy horror and say, "Oh, no, you cannot have this nominee confirmed, look what we have found out about him," is incredible. It is truly incredible.

It think the rules of fairness have been set aside, Mr. President, not just in the treatment of the nominee. Others have talked about that. I was not a party to that process in the committee. I did not observe it from close enough range to draw conclusions about the choice of witnesses and the procedures followed.

I do know, however, that there is no question whatsoever about the competence of this nominee, about his knowledge, his expertise, his tenacity, his ability to be a very formidable adversary, to be combative in behalf of the principles and convictions that he holds. He is a man of conviction. He feels very strongly that the United States should be a very capable military power. He feels that very strongly, and some do not like that.

As Secretary of Defense there is no question that he would be in charge of the management of the Department of Defense and would yield to no one in the prerogatives of leadership in the defense of our country, and some do not like that.

There is no question that he would be a combative adversary in the Halls of Congress when dealing with matters relating to the defense budget, and he would know a great deal more than almost everyone in Congress about the budget, the weapon systems, the details of our defense establishment, and some do not like that.

I know there are other things that some do not like about the qualities of this nominee for Secretary of Defense. But, Mr. President, I am convinced from my personal observation of him over the period I have served in the Senate and in the other body, and in following his work as chairman of the Tower Commission and as a negotiator in Geneva, that the nominee is unequaled in his ability to deal with these complicated subjects and to deal with them in an effective way.

I am hoping, that before the Senate completes its consideration of this nomination it will carefully consider the implications of the actions that may be taken here, of the way this nomination process has developed. Mr. President, the rules of fairness ought to be reinstituted—it is not late—to ensure the fairness this institution owes to this President on this nomination and the fairness it owes to the nominee.

When I came to the Senate this afternoon to make these remarks, I saw on my desk a letter written by a number of John Tower's former staff members concerning his qualifications and their opinions of him as a person. I am told that it has been put in the RECORD.

I urge those who have not made a decision on this nomination to take a look at this letter.

Mr. President, I am prepared to yield the floor at this time and simply request the Senate to reinstitute our rules of fairness to this President and to this nominee and to vote for the confirmation of John Tower.

The PRESIDENT pro tempore. The Republican leader is recognized.

Mr. DOLE. Mr. President, I have mentioned a time or two the right of due process as embodied in the fifth amendment to the Constitution which tells us that no person shall be deprived of life, liberty, or property without due process of law, and since John Tower will not be deprived of life, liberty, or property if the Senate does reject his nomination, he is not as a technical matter probably entitled to the due process protections in any event.

Nonetheless, the spirit of procedural due process, a principle that lies at the heart of this Nation's concept of fairness, has certainly been violated by the Senate and the Armed Services Committee treatment of John Tower.

The accepted requirements of procedural due process are as follows: notice, No. 1; an opportunity for hearing, No. 2; impartial tribunal, No. 3; the opportunity for confrontation and cross-examination of witnesses, No. 4; the discovery of evidence, No. 5; and the decision on the record, No. 6.

It seems to me that notwithstanding the best efforts of the committee, John Tower has been denied due process.

I just heard a Senator on the floor, the Senator from Louisiana said he has not proved beyond a reasonable doubt. I did not know we had a criminal trial going here, beyond a reasonable doubt, and I have heard other Senators say beyond a reasonable doubt.

But to satisfy procedural due process, a person must normally receive advanced notice of a charge against him. If we are talking about beyond a resonable doubt, we get into the area where I think we ought to take a look.

There must be notice to enable the person to determine what is being proposed and what he must do to prevent the deprivation of his interest.

Of course, John Tower had not received any advanced notice, has not had access to the FBI file, does not know the nature of the allegations that were gathered over the weekend. He has learned a lot of the charges through television, newspapers, radio. So I think it is fair to say he has not had notice.

And, of course, someone said this is not a trial, but then we hear the words, well, beyond a reasonable doubt, the weight of the evidence. I never was a very good lawyer, but those words used to be used by lawyers that I knew.

And notwithstanding again the best efforts of the Armed Services Committee, there were four witnesses called. None were sworn. As I understand, two more or less repudiated what they said in open session once they were in closed session.

One witness was Paul Weyrich, who sent me a handwritten note last Saturday saying he is still opposed to the Tower nomination but when he was in closed session he asked that John Tower be brought into that room so he could face his accuser, and that right was denied and he does not think that is very fair.

So John Tower does not know today the extent of the charges, and even a common criminal is entitled to know the precise nature of the charges made against him and to respond to these charges in a proper forum.

It has just been suggested by the distinguished Senator from Mississippi maybe the Armed Services Committee vote did not represent an impartial tribunal and again as many in this body know better than I, many are former judges, attorneys general, learned in the practice of law, but one of the most prominent Supreme Court decisions, Goldberg versus Kelley touches on procedural due process and describes the cross-examination requirement as follows:

> In almost every setting where important decisions turn on questions of fact, due process requires an opportunity to confront and cross-examine adverse witnesses.

Did John Tower have the right to do that? No, we have an FBI file. In fact, we have several files—the majority file, which contains a Jackson story, which was later blown out of the water, in it, among other things. Allegations, innuendo, with John Tower given no right, or anybody else for that matter given any right, to cross-examine the witnesses to see what their motives might be. Maybe their memory was faulty. Maybe they perjured themselves. Maybe they were motivated by malice or vindictiveness or prejudice or jealously or politics.

And the accused—and he is the accused—at least ought to have the right of confrontation and cross-examination.

It has already been demonstrated that many of the allegations were based on faulty memories. The allegations of drunkenness by an Arizona businessman, an Arizona pollster, I believe, are prime examples.

And some of the statements may be fact. No one is certain of that. But, notwithstanding that, John Tower has not had one single opportunity, not one, to confront and cross-examaine persons who have challenged his integrity. The Supreme Court has suggested that an individual must be given the opportunity to engage in discovery of the evidence that is used against him. Since he does not have access to the contents of the FBI file, he obviously cannot engage in discovery of the evidence that has been used so brutally to defame his character.

So it seems to me that, though the chairman has said, and I do not quarrel with him, this is not a trial nor can the Senate conduct its review as if it were, I think many Senators who have spoken on this floor have used standards that are normally used in a trial, a criminal trial, beyond any reasonable doubt, as though he were standing charged with some criminal activity, a felony. So somebody who goes up in S-407 and they leaf through all this file, not a report, a file, nobody made a judgment; they put everything in there but the kitchen sink. As the FBI agent told me yesterday, "We don't report, we file, and you get the file."

Now I still believe in fairness, and I think most Senators do, and I am not questioning anyone's motives. But I do not believe any objective observer, any

objective observer who may have watched, say, C-SPAN for the last 5 days will tell you that John Tower has received a fair shake.

I saw a letter today from a former outstanding reporter now retired, who had been watching C-SPAN. I never talked to him much when he was here. He was pretty liberal. He reported for the New York Times. But in that letter, he made some observations. He said he had been watching the debate and he believed that, among the people who were looking at this objectively, not as some partisan on one side or the other, John Tower was a clear winner.

I know the numbers in this body. It is 55 to 45. It takes a miracle at this point for John Tower to be confirmed. Frankly, my responsibility to my President and to my party is to do the best I can to see that he is confirmed. I have tried to use my persuasive powers with my own colleagues and with anybody else who would listen.

I will admit my bias, because I am a friend of John Tower, and because I have worked together with John Tower. I was never close to John Tower; not many people were. That may be one of the problems. But I knew him to be a man of his word, a man of integrity, honesty, diligence, and a good Senator.

I suggested last week the one way to resolve this—you know there are Members of this body who have never seen John Tower except on televison. They never met him, never shaken his hand, never looked him in the eyes, never asked him a question, never heard him speak, never saw him in person. So I have suggested maybe one way to remedy that is to bring him to the Senate; let him stand here in the well; let him make a statement on why he thinks he should be confirmed by some of his former colleagues and some new faces in the Senate; let him make a statement about how he sees the defense picture and what his role would be as Secretary of Defense; let him respond to questions, even though he has not seen the FBI file, in public session.

It has been done before in the U.S. Senate. As I recited last week, it was done by motion, but it can also be done by unanimous consent.

I do not treat that lightly. I think it has been done maybe 6 times, maybe more—the Presiding Officer would know precisely, and probably the dates.

But it has been done. There is precedent for it. It should be done in this case before some make final judgment.

Keep in mind only 20 are on the Armed Services Committee. Eighty Senators are not. Keep in mind 71 Senators served with John Tower; 29 have not. We are talking about 50 votes, 51 votes, hopefully more than that 55, 60.

I have discussed this with John Tower before I suggested it. I would not try to embarrass John Tower or my colleagues or myself. He said he was willing, not only willing to come here, but willing to come to your office, willing to talk to you on the telephone. I think some have been kind enough to talk to him on both sides.

Mr. President, I notified the majority leader on Friday and gave copies to the majority leader on Monday. I learned from the distinguished Presiding Officer—and we worked together—two leaders have to get along, notwithstanding what happens in this Chamber.

But, you do not surprise each other if you are going to be around here a long time. One surprise party could end the relationship.

So I gave copies of the unanimous-consent request to the distinguished majority leader and I would like to propound that unanimous-consent request now.

I have only made one change in the copy I gave the majority leader and he will see what that is. It is just the time agreed upon by the two leaders.

So, Mr. President, I ask unanimous consent that the former Senator from Texas, Mr. Tower, be brought before the Senate at a time agreed upon by the majority and minority leaders for the purpose of answering such questions that may be asked him or to make any explanation he may have in mind on the merits of the proposition before the Senate.

Mr. MITCHELL addressed the Chair.

The PRESIDENT pro tempore. The majority leader reserves the right to object?

Mr. MITCHELL. Mr. President, last Friday the distinguished Republican leader said that he was considering asking unanimous consent that Senator Tower be allowed to personally appear in the Senate to state his case. On Monday, he provided me with a copy of the request that he was considering.

I told Senator DOLE on Friday and on Monday that I would consider the matter and would respond to the request when made. I have considered it. He has now made the request.

For the reasons I will now set forth, I intend to object to the request.

The deliberations over the nomination of John Tower as Secretary of Defense have been going on for a long time. The subject has been discussed at length at the White House and here in the Senate. We are now in the fifth full day of debate on the Senate floor. There has been more than ample opportunity for Senators to consider the nomination, to examine the information available to them, to talk with Senator Tower, and to determine how they will vote. In fact, almost every Senator has already decided and announced how they will vote.

Speculation on Senator Tower as Secretary of Defense began in 1980, in connection with the first Reagan cabinet. It resumed the day he announced his retirement from the Senate in August 1983. It continued throughout President Reagan's second term. It rose sharply after the election last November.

That lengthy speculation was confirmed on December 16, when President Bush announced his intention to nominate Senator Tower as Secretary of Defense. The Senate formally received the nomination on January 20, 1989.

The Armed Services Committee held both public hearings and closed meetings with Senator Tower on January 25, 26, 31, and on February 1, and with outside witnesses on January 31. At those meetings, Senator Tower was afforded the opportunity to make statements and to answer any questions put to him by members of the committee.

In addition, Senator Tower has had personal meetings with each of the Senators on the Armed Services Committee as well as with a number of other Senators, including the leadership, and numerous meetings with the chairman and ranking member of the committee. He has talked by telephone with many other Senators. At each of these meetings, and in each of these conversations, the Senators were free to ask any questions of the nominee and he was free to answer them.

Senator Tower has also conducted a vigorous public campaign for his nomination with interviews in national newspapers and on network television shows and public appearances.

The material compiled by the Federal Bureau of Investigation has been available to all Senators on the Armed Services Committee beginning February 14 and to all Members of the Senate since February 27. Copies of the committee's majority report have been available for review by all Senators since February 27, the minority report since March 1.

The FBI afforded Senator Tower the opportunity to respond to each of the allegations made against him and Senators have been able to read those responses, along with other materials contained in the FBI files.

Senator Tower was also given the opportunity to personally rebut the testimony of the outside witnesses who testified before the committee and to call outside rebuttal witnesses in his defense. He turned down both offers.

Furthermore, copies of the transcripts of the Armed Services Committee's closed sessions, in which Senator Tower was questioned about the allegations made against him, have been

available for review by Senators since early last week.

I know of no Member of the Senate who has been handicapped by a lack of information in forming a judgment on the suitability of Senator Tower to be Secretary of Defense.

I know of no Senator who has not been available to Senator Tower. Recently, up to and including late yesterday, several Senators told me they had received telephone calls from and had talked with Senator Tower.

In summary, there is no indication whatever of an absence of opportunity for Senator Tower to make his case or for Senators to consider his case.

What, then, is the purpose of the request?

In his remarks on Friday Senator DOLE said it would be made so Senator Tower could, in Senator DOLE's, "stand in this well and * * * answer his critics." But of course his critics are those who presented evidence to the Armed Services Committee. Should those persons also be invited to come to the Senate floor to answer questions?

We should also ask ourselves: What kind of precedent would we be setting for consideration of future Cabinet nominees?

Where would we stop?

Would only nominees who had previously served in the Senate be asked to appear?

If a nominee who had not previously served in the Senate received an unfavorable committee recommendation and then asked to appear before the Senate and we say no, could he fairly claim that we gave Senator Tower preferential treatment just because he had been a Senator?

We only ask controversial nominees to appear?

What would constitute controversy?

Would we put the nominee under oath?

If persons other than the nominee were asked to appear, would they be put under oath?

Could a nominee ask to appear?

Could persons other than a nominee ask to appear?

On what grounds would we refuse such requests?

There is also the question of whether such a session would be open or closed. Because it almost certainly will deal with matters in the FBI files that the President refuses to make public, and that in response to the Republican leader's request, cannot be discussed in open session, how could the inquiry be conducted in open session? Or, would the session have to be closed?

These are some of the questions which come immediately to mind. There are, I am sure, many others which could be posed by other Senators. But these few are enough to demonstrate just how unnecessary and unworkable such a process would be.

There is another consideration which the Republican leader and the nominee ought to take into account.

There is no precedent for this request on behalf of a Cabinet nominee, or indeed any nominee. In fact, there have been according to the research of my staff, only five instances in which individuals have been brought before the Senate for questioning, including the two referred to by the Republican leader on Friday. Four of them involved allegations of contempt of the Senate and one involved the disciplining of a Senate employee.

No one has made contempt or disciplinary charges against Senator Tower. Therefore, I believe that it would be inappropriate, and unfair to the nominee, to have Senator Tower come before the Senate based upon these historical precedents.

Our responsibity is to vote on his nomination to be Secretary of Defense. I very much hope that we can do that soon.

Mr. President, for the reasons I have stated, I object to the unanimous-consent request.

The PRESIDENT pro tempore. Objection is heard.

Mr. DOLE addressed the Chair.

The PRESIDENT pro tempore. The Republican leader.

Mr. DOLE. Mr. President, I listened carefully to the distinguished majority leader as he reserves the right to object, and he did object. He expresses concern over precedent, but I would assume the Senate sets precedents from time to time. In fact, we might set one here if Senator Tower is defeated.

As far as I can determine, there has never been a nominee rejected at this point in a new President's term. That is without precedent. That is why it seems to me that the procedure I outlined is relevant in this instance. The fact of the matter is, outsiders have been brought before this Senate to answer questions, or explain what they may have on their mind. I have not gone back to read the questions asked of those five individuals. And there would be some details we must work out—a person brought before the Senate should be sworn, or how he is going to be interrogated, those are all details we can discuss.

It is all right with me if he is sworn. I assume the two leaders or their designees would do the interrogation or perhaps if there is someone who has been wanting to ask a question and never had the opportunity to ask Senator Tower directly—that Senator could pose the questions directly.

No, I did not make the request because John Tower was a former colleague. It seems he has demonstrated if you are a former colleague around here, you are going to get kicked all over the place. I made the request because this nominee has been hurt. There have been phone calls. There are pages and pages and pages of FBI files, some favorable, some unfavorable. I want one more chance to set the record straight.

But I made the request because the basic issue in this instance is fairness. Somebody said today, "Well, this was troubling nomination for President Bush." It was troubling only in the sense that a lot of questions had been raised, and the President wanted to check them out very carefully before he made a nomination. A lot of rumors and a lot of stories motivated by nobody knows what were all over the country, and the President succeeded in trying to check them out, as he should. That takes time. But he was satisfied when he sent the nomination to us, and he is still satisfied as recently as an hour or two ago that John Tower is the best qualified man in America for the job.

It was President Bush in his inaugural speech who extended his hand of friendship and bipartisanship to all of us. But through a systematic, or at least a series of leaks to the press, and wild unsubstantiated stories, John Tower lost a lot of ground—a lot of ground. The polls showed he was down 2 or 3 to 1, that nobody wanted him to be Secretary of Defense. Why would they? If they believe half the stuff that was in print, they would not want him around anywhere.

Whether we debate 5 days or 50 days, this is important. It is not how many days we debate, but how and why we debate.

We are here to debate the merits of this nomination. The Secretary of Defense has a budget of $300 billion. But we have not spent much time on the Pentagon or Packard Commission reforms. The Secretary of Defense oversees America's defense. But we have not spent much time on our men and women in uniform or on force structure. We spent more time on whether John Tower drank excessively which he said he did do at times in the seventies.

There is no doubt in my mind, when it is all said and done, the one issue that bothers Senators is that John may have a drinking problem. He does not have a drinking problem.

I have heard Senator after Senator stand up and say, "I am concerned about allegations and innuendos about drinking." That is what bothers the chairman. It is a matter of concern to others, and I do not dismiss that it is a matter of concern to others.

Those who have known John Tower, and traveled with John Tower, and worked with John Tower in this Chamber for 20 some years, with one exception, have never seen John Tower under the influence of alcohol or inebriated.

So in addition to the unanimous-consent request, I have another option. That would be to move that the former Senator from Texas, Mr. Tower, be brought before the Senate at a time agreed upon by the majority and minority leaders for the purpose of answering such questions that may be asked him or to make any explanation he may have in mind on the merits of the proposition before the Senate. I have indicated to the majority leader I will not make that motion this evening.

Another option would be to move to recommit the nomination to the Senate Armed Services Committee, following up on a suggestion made by the chairman a couple of weeks ago. The committee could then call more witnesses. This time it could call in some witnesses favorable to Tower.

But I am going to suggest something now that I think will be a challenge to all of us. I have listened to a lot of the debate, and I know some of it has been based on serious concerns, and I do not dismiss anything that anyone says lightly. I have listened to, I think, almost every minute, either I do it on the floor or I catch it in my office, or watch it on C-SPAN later in the evening. I refuse to believe that there is hostility toward John Tower in this Chamber. I refuse to believe that there are some in this Chamber who think he is not qualified.

I refuse to believe that the President of the United States should not have his nominee confirmed. He did win the election last November. He did promise us he would send us top-flight nominees, and he has. The majority leader, I might add, has been most cooperative in making certain they were brought to the floor as soon as they were reported by the committee.

(Mr. CONRAD assumed the chair.)

Mr. DOLE. Some have said, "Oh, well, every nominee has been adopted with the exception of one." I am not certain that is relevant. The nomination in front of us now is the nomination of John G. Tower, and it is John Tower who has been treated so unfairly.

I talked with John Tower this afternoon. I told Senator Tower that it does not look good. I told him, as I viewed it, we did not have the votes. I told him, as I viewed it, that the one basic concern expressed by Members whom I respect was drinking, and if that were gone he would be confirmed, not unanimously but with a heavy vote. And I said to Senator Tower, I am going to the floor and make one last suggestion because I believe in you and I believe in the President. And I am going to need your cooperation when I do it. And he said go ahead.

I am going to accept the concerns which people have about drinking. I am going to rely on the good faith of those who have stated that because I have respect for my colleagues. We get carried away sometimes, but we generally get back to Earth in 24 hours.

I told Senator Tower I would go to the Senate floor, and I would tell my colleagues OK, this drinking concern has caused a problem for Senator Tower and for some Senators who would like to vote for him, and for others, who have not made up their mind. I suggest that Senator Tower give President Bush a letter of resignation dated October 1, 1989—in 6 months—and that for 6 months he has a trial period as Secretary of Defense. Then he would come back for reconfirmation.

I understand that Members I respect—and I have had private meetings with some who have raised this issue, and I will not name their names. They are Members on the other side of the aisle in whom I have confidence. We would confirm John Tower. I would hold up a letter of resignation addressed to the President effective October 1. That is 6 months and 2 weeks from now. The President said the Pentagon is going to enforce the sobriety test. Most of us do not believe there is going to be any problem. But it gives this Senate, that I am very proud of, a second opportunity. It addresses the concerns raised by the chairman and by the majority leader and by others. At the same time it gives President Bush under this restraint his choice for Secretary of Defense.

Now, obviously, to make this work some Members have to agree that this man, this nominee, this former colleague, this former arms negotiator, this chairman of the Tower Commission, this chief petty officer, this father—two of his daughters were in the gallery today—deserves that chance.

I have been around for awhile, and I have seen people fail. I have seen people make mistakes, and I have seen people drink excessively. I have found most people, men or women, Republicans, Democrats or independents, were willing to give anyone that second chance.

I have heard speaker after speaker come to this floor and say this is a close call. I heard the eloquent statement of Senator BENSTEN today. I have heard others who came down the other way. But to everyone it is a close call. To some who have not yet spoken I know it is a close call.

If we are concerned about that problem and the chain of command and all the other arguments that have been made, OK let us address it. Let us put the burden on the nominee. I hope that my colleagues on the other side of the aisle would accept what I have said in the spirit it was offered.

I know where the votes are. I know this should not be partisan. We have probably been a bit partisan; the other side has been a bit partisan too. But the bottom line is that John Tower should be confirmed. Someone told me, "He might be there 4 or 8 years." Under my plan he will be there only 6 months, and then he will come back to this body, and the chairman and the ranking Republican and others on the Armed Services Committee, and everyone else who works with the Pentagon, will have ample opportunity to determine his fitness, his competence and anything else about John Tower.

I can also state that I have mentioned this to the President of the United States. I have discussed it with the Chief of Staff of the White House. I have not discussed it with a single colleague on this side. Some may not agree with what I have said, but it seems to me that before a vote is taken we at least ought to give it serious consideration.

If we say under no conditions will John Tower ever be Secretary of Defense, not 1 day, not 1 month, not 1 week, not 6 months, well, we can say that. The majority has the votes. But it would seen to me that this addresses the concerns expressed by many Members of this body, as I said permits the President to have someone in whom he has total faith.

What could be fairer?

Do you all know somebody to whom you have given a second chance in your office or in your home or in your family? Maybe they had a problem. Maybe they were broke. But did you just kick them out and say, "Well, no way"? No, you did not. A lot of us have had second chances because of somebody else, somebody's generosity. And that is what makes America different. If somebody asked me, "Is there any decency left in the Senate?" I would say yes.

After our battles and after all the discussion—and sometimes tempers flare and sometimes people overstate their cases—there is a lot of decency in the Senate.

So I make that suggestion in a spirit of decency and fairness, not because John Tower used to work here, but because John Tower deserves that kind of treatment, so I just leave it to my colleagues. I hope that we might consider it overnight, think about it. I can have the letter here by sometime tomorrow. I encourage my colleagues in every way that I can to give this most serious consideration.

That addresses the primary concern. For those concerned about defense contractors, I think the record is fairly clear that John Tower received about $764,000 gross receipts from defense-related contracts. Tower and Associates received that much, not John Tower. About 60 cents of every dollar went for overhead, rent, and salaries. In 1987, he made about $100,000 from

defense-related contracts, less than most Senators who take honoraria. In 1988 he made $160,000. In 2 years he made $260,000, about the same that he would have made in the Senate with his salary plus honoraria. He is not a wealthy man. He also lectured at Southern Methodist University, had a retirement program, and he had some other income from contracts unrelated to defense. I do not believe that anyone else believes anybody bought John Tower.

One thing that has not been stressed is he did not ask to go to Geneva as an arms negotiator. When he left the Senate, he was prepared to go out in the private sector. But he went at the request of the Secretary of State, George Shultz. He volunteered for 14 more months of public service. Now he is criticized for having done that and then returning to the business he had planned to pursue, working for certain defense contractors.

It has even been hinted by some that he might have divulged secret information. The State Department regulation covers that. It says you do not have to purge your mind of your experience, but you do have to use your good judgment. You do not give away any confidential information. I do not think any record has been made that he did.

I think those are the two key areas, but primarily it gets back to drinking. I have heard colleague after colleague, story after story, leak after leak. It all gets back to drinking. I have listened to statements on the floor all day today.

So for those of us who know John Tower, and know his capabilities, his diligence, his intelligence, and his patriotism, I think we owe it to him to give him that second chance that many of us have had; I have had. I bet others have had second chances too.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Mr. President, our respect for the distinguished Republican leader is such that we should and will give this request, as we should and will give all of his requests, serious consideration. I had not, prior to his speaking the words here, been aware that he was to make this proposal. I will immediately consult with as many of my colleagues as I can to determine what the reaction of other Senators is.

I must say that, as the distinguished Republican leader was speaking, my reaction immediately is to say that the national interest requires that we move promptly with the business of naming a permanent Secretary of Defense. The arguments made in behalf of this nominee have focused to a significant degree upon that need. There is to my knowledge no precedent for a 6-month—what appears to be—probationary period for a Cabinet official. I know the distinguished Republican leader thought about the effect this would have on the Department of Defense and the President, and the Secretary and the manner in which he would or would not be able to conduct the business of that important Department.

But as I have indicated, I do have great personal respect and affection for the distinguished Republican leader, and therefore take seriously whatever proposal he will make now or in the future, and—nothwithstanding my immediate serious concerns about the proposal, and I state that merely because I want to candidly indicate what my immediate reaction is—that I will contact as many of my colleagues as I can, and as the Republican leader suggested, overnight.

But I must say that this has been a very long, contentious process. I believe all but two or three Senators have already publicly announced how they will vote. Those, I believe, will do so very shortly. And my strong reaction prior to the moment when the distinguished Republican leader spoke was that we ought to complete action on this matter, that we ought to vote, that we ought to end it one way or the other, that the deliberation has been very long, very difficult for all concerned, and that at some point a decision must be made.

I will, however, in good faith and good spirit, notwithstanding what my strong feelings were immediately prior to his remarks, consult with some of my colleagues—some are here; they may wish to express their immediate reactions; that is entirely up to them—and discuss it further with the distinguished Republican leader.

Mr. DOLE. Could I say one more word?

The PRESIDING OFFICER. The Republican leader.

Mr. DOLE. I apologize to the majority leader and my colleagues for not addressing the very question he raised. I failed to do that. Six months and 2 weeks would be the end of the fiscal year. That would permit the Secretary of Defense to continue the work that he has been doing at the Pentagon, the Department of Defense, to get to work on the budget, to get to work on other issues that are pending in the Pentagon and demonstrate that for those, whether they made up their mind or not—a lot of times we make up our minds, but then there is a changed circumstance. And this would be a changed circumstance. This would not be a 6-month confirmation. He would be confirmed, the President would have a letter, and he would have to send him back up here again in October.

So before anybody said well, this thing about stability, think about it. If we do not have this nominee confirmed, who has been on the job, who understands it, it is going to be in a couple more months probably before we have a Secretary of Defense. But even more importantly, I am appealing to the institution, the U.S. Senate not to destroy someone, because of the concerns that have been expressed. If they are real, this is an opportunity to underscore our concerns, the Senate's concerns. It is a higher standard, and we mean business to the extent that it is going to be a short leash. It is going to indicate to the President that notwithstanding his right to nominate, we are going to have a right to review.

So I would hope that it would be seriously considered. I offered it in that spirit, and I had a very frank discussion with Senator Tower. I did not have good news for him. He was disappointed, but he is an adult, and he understands that we do make decisions sometimes people disagree with. I thank the majority leader for that indication.

Mr. MITCHELL. I just make one additional comment, which I neglected to make, that I do not want anyone to—and I know that the distinguished Republican leader does not—underestimate the other factors involved in this process. It is true that many of the statements have discussed the issue of excessive drinking, and if you read the newspaper reports, it is largely focused on that. But if you read the statements made by Senators, there is a great deal of concern on the conflict of interest.

I went back and read the statements of all of the Armed Services Committee members, when they voted, and have read almost every statement made on the floor which I have not heard, and I have watched the coverage of those statements. Almost invariably, a Senator who expressed concern on both of those issues was reported, either exclusively or principally, as being concerned with the issue of excessive drinking.

What I am saying is that the focus of attention and the fulcrum of decision for many Senators was largely the conflict issue, which, of course, this would not resolve. Of course, the other aspect of it is that the very feature which makes it attractive from the standpoint of the distinguished Republican leader would make it unattractive for most Members of the Senate, and the only thing worse than having to go through this once would be to have to go through it twice. I think that is something we have to bear in mind, but I want very much to approach this earnestly and in good faith, and I commit myself to do that to the Republican leader.

As I said, I will instantly, upon leaving the floor, begin to contact as many of my colleagues as I can to discuss it,

to consider it, to get reaction, and will then get back to him as soon as I can.

Mr. DOLE. If the Senator will yield for one comment, I do not think it will be a matter of going over it again. Either during that 6-month period Senator Tower would have persuaded his colleagues—demonstrated, not just persuaded—that he was the right person to be in that office, or he probably would not have a nomination to come up here. If he demonstrated during that period that he had all the talent that the President has suggested, as have many of us, there would not be any problem in the nomination. If he failed, he probably would not be the nominee. But it seems to me that—and we have been at this nomination now for a couple of months—it is not a perfect solution. To some, it may not be a solution at all. I did note in my comment that some did have questions about conflict of interest—the Senator from Michigan, for example.

As I listened to the speeches and listened to the comments, the primary concern was the drinking. The former majority leader, the Senator from West Viriginia, had a problem with conflict of interest, he told me.

He did not get into other things, but he would still have a problem. He probably would not vote for that proposal. But as to those whose primary concern was drinking, if that were addressed in that fashion, there would be a clear majority for John Tower, and that was the thrust of my suggestion.

I yield the floor.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I am the junior member of the Armed Services Committee. I have not had very much to say about the nomination. I have listened carefully, however, to what others have said, and I have read the committee reports of the majority and the minority, and the independent and separate views.

My concerns are not just with one area. My concerns include the conflict of interest question. I think this is an effort on the part of the Republican leader, as a valued leader and supporter of his President, and I cannot fault Senator DOLE for that. He has done everything that he could do in support of the nominee, and he is still doing so. I cannot agree with everything that he has said, but he is certainly to be given high marks for following his President, upholding his President, and defending the nominee.

I have had a long friendship with BOB DOLE, and I have a good working relationship with him. That friendship still exists. So what I have to say is difficult, but this has not been easy for any of us. It has not been easy for me to listen to those who speak of the nominee's family. I feel for that family. I feel for Senator Tower's daughters. I feel for the nominee.

Yet, Mr. President, there have been other nominees who have had families. Roger Taney was rejected for Secretary of Treasury in 1843, having been nominated by Jackson. I am not sure that he had a family, but I am sure that if he did have, they were disappointed.

Caleb Cushing was nominated by John Tyler three times on the same day, and was rejected three times on the same day, the last day of the session on March 3, 1843. If he had a family, I am sure they, too, were hurt. He was rejected three times for Secretary of the Treasury.

Charles Warner was named by Calvin Coolidge to be Attorney General, and he was rejected twice within a 6-day period. I am sure that it was painful for him, his family, his relatives.

So we all have to understand that people who are rejected are going to be hurt. All of us have been through campaigns, election campaigns, in which we have been vilified and excoriated. I went through the same thing in 1982 and in 1988.

And there is no balm for the wounds that we carry when the Republican National Committee turns out information that is distorted, misleading, and wrong, and puts it into the hands of our opponents.

I have children. I have grandchildren likewise. And so I know the pain that they are caused by vilification, abuse, and vindictiveness.

But, Mr. President, we Senators asked for this job. We ran for the Senate and we took an oath standing before our colleagues in this Chamber and before the audience in the gallery and before the television audience all over this country to support and defend the Constitution of the United States to the best of our ability, against all enemies foreign and domestic, "so help me God."

That Constitution places a responsibility on us that someone else wrote into that document in 1787. Our forefathers in this body shouldered that responsibility.

It was difficult for William Maclay, the junior Senator from Pennsylvania, in the First Congress, to stand before his colleagues when George Washington sent up to the name of William Short to be Minister to France—it was difficult for Maclay to stand and say that the nomination ought to be decided by secret ballot.

Oliver Ellsworth took the opposite position. Maclay said that the decision ought to be by secret ballot because a Senator would fear that he would lose his place in the Presidential sunshine if he openly opposed the nomination, and conversely, he might vote against his own conscience in order to earn the President's warmth. The motion was debated, and Maclay won. They voted by secret ballot and William Short was confirmed.

These matters were conducted in executive session until 1929 when that requirement was stricken from the rules.

Mr. President, what I am saying is this: It is not an easy task to sit in judgment on a nominee, especially a former colleague. This Senate has already approved a former Senator during this session. We have heard it said in this debate that the Senate is kicking John Tower, a former colleague, around. But Nicholas Brady is a former Senator, and he has already been confirmed by this Senate without a dissenting vote for Secretary of the Treasury.

I think it is our duty not to be swayed from what we know our proper course to be. If we go down this road—I have heard a lot of talk about precedents—this will indeed, be a new precedent and a bad one. We are going to give try-out periods to nominees. Which nominee? Those only who are former Senators? Would that be fair to others?

Mr. President, this proposal is pregnant with all kinds of problems for us and for those Senators who will serve after us. There is no guarantee beyond the 6-month period. What then happens? Once Mr. Tower is confirmed, what recourse does the Senate have? None.

What about those of us who have other legitimate concerns as well as the one concern that has been mentioned here most frequently? What assurance do we have? Who is to be the judge?

Mr. President, if we go down this road, we are going to meet this precedent again in our own time, and those who serve after us will rue the day that we chose to follow this course.

The Constitution says that the President shall—it does not say he may—it says he shall—the President "shall nominate and, by and with the advice and consent of the Senate shall appoint * * *." The President, and only he, has the power to nominate. But there are three phases in the appointment process: the nomination by the President, the assent by the Senate, and the presentation by the President of the commission of appointment.

So the Senate has an equal voice in the appointment. If the Senate does not give its consent, the appointment never goes forward.

Mr. President, there has been much said about fairness. Mr. Tower has had ample opportunities to make his case and we listened. He made his case before the committee in public and in executive session. He has been on the airwaves. He has been on television,

and he has commanded the center of attention in the print media.

I am in my office. If he wants to come and see me, he can come. He has access to every Senator here, and there is no Senator who would turn him away from the door.

But this is a desperation move, and as one Senator, I am not going to go along with it. It is our responsibility to make a decision. We have had ample time to do that, and I think we ought to do it and get on with other business.

So, Mr. President, as far as I am concerned, the majority leader will do what he says he will, he will consider it, and he will talk with other Senators.

The Constitution does not say that any nominee is to be given a trial period. That Constitution does not say that we Senators even have to vote on a nomination.

There have been nominations that have never been voted on and, therefore, never confirmed. There have been some that have been withdrawn. There has been at least one, the nomination of James Green, under President Tyler, for Secretary of the Treasury, where the nominee was rejected but the vote was not recorded.

So we are not mandated to vote. But we owe this nominee a vote. We owe this President a vote. We owe the American people a vote. And we owe ourselves a vote.

We ought to cut it clean. We ought not leave some hazy never-never land out there and leave this thing hanging in the balance for 6 months. And who knows what will happen thereafter.

So, Mr. President, I think the time has come to cast our vote and I would urge all Senators who are on this side of the aisle and who will be contacted by the majority leader and other Senators, if there be Senators on the other side of the aisle who have not made up their minds, I would urge them to take a stand now.

Let us vote this nominee up or vote the nominee down. Let us cut it clean and the President can send up another nominee. There are other potential nominees who are just as able and who do not carry the burdens that this nomination has carried. There are individuals who are preeminently able to carry out the functions and responsibilities of the Secretary of Defense, some of them have already been confirmed by the Senate in years past. It is not that this is the one and only nominee sui generis for the Secretary of Defense.

So, Mr. President, I say the time has come to make a decision, and we ought not further to dawdle, hem and haw, and fool away much additional time in bringing this matter to a conclusion.

Now, I close as I began. I have great respect for Senator BOB DOLE as an individual. I am sorry to have to take this position in opposition to his proposal, but we have been over that course before also. I think the Senate will be making a terrible mistake if it goes for this ostensibly attractive suggestion. I hope we do not go for it, and that we vote tomorrow up or down on the nomination.

Mr. President, I yield the floor.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, for the benefit of our colleagues, after consultation with the distinguished Republican leader, I can announce that there will be no rollcall votes this evening.

It is my intention that we will continue in session until approximately 8 p.m.; that we will return to session tomorrow morning at 9:30, and following the time for leaders and a period for morning business until 10 p.m., we will then return to debate on the Tower nomination. I will be consulting with the distinguished Republican leader with respect further to tomorrow's schedule this evening and tomorrow morning, and hope to announce further plans with respect to the schedule in the morning.

Mr. BYRD. Mr. President, will the majority leader yield very briefly so I might correct the RECORD?

Mr. MITCHELL. Yes.

Mr. BYRD. Roger Taney was rejected in 1834, rather than 1843. I got my figures crossed.

Mr. NUNN. Mr. President, I am delighted to inform the majority leader and our good friend from West Virginia who made that correction, I was about to correct him on that. [Laughter.]

Mr. MITCHELL. Will the Senator yield so I may make a correction?

Mr. NUNN. I am glad to yield.

Mr. MITCHELL. I am just advised that I said 10 p.m. tomorrow. Maybe the number of errors is probably a pretty good indication that we ought to end shortly.

I intended, of course, to say 10 o'clock a.m. tomorrow morning that we would return to consideration of this matter, half hour for the leaders and morning business, and then at 10 o'clock in the morning, back on this.

I thank the Senator for yielding.

Mr. NUNN. Mr. President, I will just take a moment. I know Senator LIEBERMAN has been waiting for a long time.

But, I, too, have great respect for the minority leader. Any proposal he puts forth deserves our serious consideration, so I agree with the majority leader's assessment.

I will sleep on this proposal and come to a conclusion tomorrow about my reaction to it. But I do think that there are serious questions that I will be asking and I think others should also ask, and that is that we are, in effect, being asked to put the Secretary of Defense on a 6-month probation period.

The question I have is how destabilizing this would be to our Department of Defense, to the men and women in the military, and to the people the Secretary of Defense will be dealing with.

The second question I would have is whether we should have a person in the national command authority next to the President, in effect, on probation.

I also would ask the question whether anyone can assure that we are not going to have any kind of a crisis in the next 6 months. Are we going to be given assurance that there is no problem that is going to come up during that period of time? I do not think anyone can do that.

Finally, what will the standing of the Secretary of Defense and, indeed, the Department of Defense be in the international community during that period of time?

So there are a lot of things to consider, but these will be those that I will be focusing on overnight.

Mr. LIEBERMAN. Mr. President, this is the first occasion on which I have had the honor to rise and speak on the floor of this great lawmaking body, the U.S. Senate. I must say to you, Mr. President, that I had hoped that my first speech would be on a less difficult and less controversial issue, but that was not to be.

So I rise today, after much deliberation, to indicate that I have reached a decision on the nomination of John G. Tower to be Secretary of Defense. For me, this has been an extremely difficult and, yes, close call. I have spent many hours reviewing the report and the record of the Senate Armed Services Committee, reading the FBI files and Senator Tower's detailed responses in those files, and observing the Senate's deliberations to date. I have spoken with many of my colleagues, both Democrats and Republicans, as well as with President Bush and Senator Tower. I am deeply grateful for their availability, their thoughtfulness, and their counsel. I must say that I have also listened to my constituents in Connecticut who have offered me advice and letters and phone calls over these last several weeks.

In coming to this decision, Mr. President, I have also studied the historical role of the Senate in the confirmation process. The Constitution, as you know, establishes a clear role for the Senate but does not define the standards for us to apply in exercising that role. Nor has the Senate historically, on the occasions when it has exercised that role, applied a single, clear set of standards. Given the highly charged atmosphere surrounding Senator Tower's nomination and the fact that

I am at the very beginning of my time as a Member of this body, I want to articulate what this Senator, at least, sees as his role under the advice and consent power and the standards that I believe should apply in evaluating a Cabinet nominee.

REVIEW OF THE ADVICE AND CONSENT POWER

The history of the advice and consent power exercised by the Senate is complex. At the Constitutional Convention, Alexander Hamilton and James Wilson expounded the view that a strong and independent executive branch vested with the appointment power was critical to the effectiveness of the new government. Hamilton asserted that, "energy in the executive is the leading character in the definition of good government."

John Rutledge argued the opposing view, that placing the appointment power solely in the President would unduly concentrate power in the executive branch: "The people will think we are leaning too much toward Monarchy."

Luther Martin and Roger Sherman of my own State of Connecticut even argued for placing the appointment power solely in the Senate; no involvement by the President. But, as was often the case at the Constitutional Convention, the two perspectives on the appointment power were compromised in the final weeks. Article II, section 2 thus provides that while the power to "nominate" rests with the President, it is subject to the "Advice and Consent" of the Senate.

Hamilton, in the subsequent Federalist Papers, best summarized the meaning of the compromise. He thought it unlikely that the Senate would refuse to consent to Presidential appointments, except when there were "special and strong reasons for the refusal." He also noted that the confirmation power provided a "powerful" yet "silent" limit on Presidential power. He stated that it "would be an excellent check upon a spirit of favoritism in the President, and would tend greatly to prevent the appointment of unfit characters." He emphasized the benefit of this limited sharing of the appointment power between the legislative and executive branches: "The possibility of rejection would be [a] strong motive to care [by the President] in proposing."

Thus, the "Advice and Consent" power is part of the network of checks and balances that control the exercise of power in our system of government. I believe in a strong President, vested with authority and accountability, and clearly the President is entitled to the benefit of the doubt in his appointments. But the appointment power is in the end a shared power with the Senate. In the very apt words of another convention delegate, Governor Morris, "As the President was to nominate, there would be responsibility, and as the Senate is to concur, there would be security."

Consistent with the constitutional intent, the "Advice and Consent" power has been rarely exercised against Cabinet appointments. Fourteen Cabinet nominees failed to be confirmed between 1789 and 1988. Eight of these nominees were rejected on the Senate floor (six of these in the 19th century), four were withdrawn, and two were not voted out of committee. While actual rejections have been few, in the words of historian George Haynes, "in a sense the Senate's negative on appointments, like the President's veto on legislation, has often been most effective where not actually used: the consciousness of an imminent rejection or veto acts as an ever-present restraint."

THE PROPER STANDARDS FOR THE SENATE

Given this history, I believe that a number of considerations should govern the Senate's review of Cabinet nominations.

First, deference must be given to the President's selection of nominees for Cabinet positions. The standard is not whether an individual Senator would have selected someone else if he or she were the President, or whether in the Senate's collective judgment there is a better person for the job. No, rather, the proper question is whether the Senate can, consistent with its constitutional responsibility to provide advice and consent, find the President's choice acceptable.

Greater deference is due to Cabinet nominees than to any other Presidential appointments. These are the men and women the President selects to work directly with him on the most important issues of the day, and the President is held accountable for their conduct and performance. Judicial nominees, by contrast, are constitutionally buffered from the political processes, serving lifetime appointments that can be terminated only by impeachment.

However, as one distinguished majority leader, Senator MITCHELL, has stated, the President's prerogative to select his own Cabinet "does not mean * * * that the Senate's role in the confirmation process is automatically to approve each presidential nominee." In reviewing Cabinet nominations, the standard applied by the Senate should be based on Hamilton's concept of fitness for the position involved. To determine a nominee's fitness, I believe the Senate must consider the following: First, the knowledge, experience, and qualifications of the nominee for the position; second, the nominee's judgment, as evidenced by his conduct and decisions, as well as his personal behavior; and third, the nominee's ethics, including current or prior conflicts of interest. In unusual circumstances, the Senate might also cautiously consider fundamental and potentially irreconcilable policy differences with the nominee, although that situation is not presented in this case.

It is important to understand that these factors cannot constitute a rigid, clear-cut test that can be uniformly applied to nominees for every Cabinet position. In evaluating a nominee, the Senate must focus on the particular office he will assume and the kinds of problems that he is likely to face. So, in this case, for example, the Senate cannot tailor its standard of review to fit Senator Tower personally. It must tailor its review to focus on the specific responsibilities and problems that the Secretary of Defense will face during this administration.

Finally, we should remember that the test in reviewing Cabinet nominations is not whether the law has been violated by the nominee. If the Senate could only apply a test of whether the law has been violated, there would be effectively nothing left of the power to advise and consent. Nor must the Senate apply criminal evidentiary standards and procedures. We are not bound to prove or disprove criminal conduct.

We must in our best personal judgment determine whether the nominee is acceptable for the position for which he has been nominated. In doing that, of course, the Senate must apply a test of fundamental fairness. We must be fair not only to the President but to the nominee—by giving him an opportunity to present his case. I believe the Armed Services Committee has given Senator Tower that opportunity, as both Senator NUNN and Senator WARNER have previously stated. Senator Tower has been heard at length on the issues during the Committee hearings and since the close of the Committee's proceedings. He has availed himself of the opportunity to comment on each of the specific allegations in the FBI reports. He has also presented his case personally to several Members of the Senate.

EVALUATION OF SENATOR TOWER'S NOMINATION

According to these standards, and based on my review of all of the information available to the Senate, I have decided to vote against confirmation of John G. Tower for Secretary of Defense. As I noted at the outset, this has been an extremely difficult decision for me. I recognize that reasonable people reviewing the same information may disagree, but I am confident that I have reached the right personal conclusion.

The Secretary of Defense today has two great and overriding responsibilities and they relate to my evaluation of this nominee. One is to provide for the security of our Nation in a hostile world. The second is to manage the budget of America's most expensive agency of government.

In the final analysis, I have too many unresolved doubts about Senator Tower's fitness for the position of Secretary of Defense in both of these areas of overriding responsibility for that position. While I do not believe that the evidence concerning Senator Tower's drinking is sufficient to conclude that he is an alcohol-dependent person; nonetheless, the evidence does leave me with too many doubts about whether Senator Tower has the self-discipline and consistently sound judgment that we have a right to expect in our Secretary of Defense. The Secretary of Defense is number two in the chain of command of the United States military operations, including our nuclear arsenal. He may be called upon at a moment's notice, to make split-second decisions that affect our national security. History has shown that international incidents that may require a military response can occur without warning, at any time of the day or night. Tens of thousands of lives may hang in the balance on his judgment.

On the second point, in the management of this great department, in his farewell address, President Dwight D. Eisenhower warned that, "in the councils of Government, we must guard against the acquisition of unwarranted influence, whether sought or unsought, by the military-industrial complex. The potential for the disastrous rise of misplaced power exists and will persist."

I have tried to apply that warning by President Eisenhower, and the standard implicit in it, to my review of the facts in this case. I conclude that Senator Tower's passage through the revolving door from Senator and arms control negotiator to consultant to the defense industries leaves me with too much doubt about his judgment and his ability to be the detached and demanding Secretary of Defense we urgently need at this moment in our history. The Defense Department, as we all know, has an annual budget of $300 billion. As we struggle with our enormous national budget deficits, few things could be more important than the ability of the Defense Department to improve its efficiency and save millions of dollars in procurement costs. Because of wasteful spending and procurement scandals the people have lost confidence in the management of the Department of Defense. We simply cannot have a Secretary whose independence and judgment are subject to question.

I have tried to give the President and Senator Tower the benefit of the doubt, but in the end, there are simply too many doubts about this nominee for this critical position at this difficult moment in our history. And so with the greatest regret I conclude that, in order to satisfy my Constitutional obligation in the confirmation process, I must cast my vote against Senator John G. Tower to be Secretary of Defense. Thank you, Mr. President.

Mr. NUNN. addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. I note the Senator from Connecticut has studied this matter long and hard both in terms of the evidence in the case before us but even more fundamentally in terms of his scholarly approach to the whole question of what is the Senate's role on advise and consent.

I also recognize this is one of his first speeches on the floor of the Senate. Of course, I am pleased he came to the same conclusion that the committee came to, but I am even more impressed with the way he went about it because I know it has been a difficult decision for all. He made his decision based on both the evidence and a scholarly research of the Senate's historical role in advise and consent.

Mr. ROBB addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. ROBB. Mr. President, I join with my colleague, the distinguished Senator from Connecticut, in apologizing for the lateness of the hour and the difficulty that this particular situation brings. I, too, would like to address the question of the nomination of Senator Tower to be Secretary of Defense.

Mr. President, neither the Constitution nor any other document has established precedent that gives us a great deal of definitive guidance on standards on the exercise of our duties to advise and consent on executive department appointments.

Absent guidance from the Constitution or history, each Senator, obviously, must establish personal standards based on his or her own values, conscience and beliefs.

My conscience tells me that this body owes a nominee the duty of fairness. We owe that duty to nominees who enjoy broad support in this body, just as we owe it to nominees with whom we disagree.

I believe the distinguished chairman of the Armed Services Committee, my distinguished colleague and friend, the senior Senator from Virginia, and the distinguished majority leader, in concert with the Republican leader and many others, have done everything humanly possible to make this proceeding fair to Senator Tower.

Unfortunately, in spite of their efforts and the efforts of most of the Members of this body, matters which should have been kept private have reached the public domain, and this has resulted in what, in my judgment, has been fundamental unfairness to Senator Tower.

As someone with a special understanding of how rumor and untruth can take on a life of their own, I genuinely regret the pain that Senator Tower and his family have had to endure.

Mr. President, I hold dearly the conviction that a chief executive has a right to select his subordinates. We hold the President responsible for his advisers, and at the end of the day, history will judge the President at least in part on the basis of the caliber of his appointments.

But this body, as has been frequently mentioned, has a responsibility under the Constitution as well to advise and consent. The advice of the Senate has been unmistakable.

The President, cognizant of the Senate's advice, and presumably, hopefully in possession of all of the information that Senators have based their advice on and more, has persisted in the nomination.

While I have great respect for our President personally, and while I admire the President's steadfast loyalty to a friend, I regret that by stretching out this question, this nomination has taken on some partisan aspects which were clearly not present at the time the Armed Services Committee voted.

Because, Mr. President, when I am presented with a choice between a very substantial deference that I believe is owed to a President and a very firmly held conviction on the part of the chairman of the Armed Services Committee, I must cast my vote with my long time friend and now colleague, the chairman of that committee.

Mr. President, there are two aspects of the record that give me trouble with respect to this nomination of Senator Tower. There is ample evidence of the excessive use of alcohol, not dependency which I believe would be immediately disqualifying, but excessive use.

Senator Tower has pledged absolutely to refrain from alcohol consumption during his tenure, and it troubles me to have a man nominated for the office of Secretary of Defense feel compelled to take such a pledge.

Were it only for the question of alcohol, I would be inclined to decide with the President on this question because of the certainty and the verifiability of that pledge.

But in the area of his professional activities since leaving his post as chief negotiator for the START talks, I find matters which we question his nomination to lead the Pentagon at this crucial juncture in our history.

While there is nothing on the record indicating that Senator Tower did anything illegal or violated any code of ethics, I am concerned that his professional contacts, after leaving his

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post as chief negotiator for the START talks in Geneva, will continue to dog him if he is confirmed, and the necessity of frequent recusal, coupled with repeated questions of conflict of interest no matter what decision is made, would unnecessarily hamper a Secretary of Defense whose hands-on leadership at this particular time in our history is absolutely essential.

Mr. President, as has been noted frequently, this is not just any Cabinet position. The operational control of the Armed Forces of the Untied States, the ability to make decisions putting the lives of our men and women in uniform at stake, and in the case of nuclear weapons, conceivably the fate of the Earth is at stake, in my opinion, demand a higher standard.

Although I regret the ordeal that Senator Tower and his family have had to endure, for that matter the ordeal that this body has had to endure, and while I have been genuinely impressed by the eloquence and commitment of the Senators who have defended him, as well as those who have made the difficult choice to vote against confirmation, when I ask myself if John Tower is the right person at this particular point in our history to manage the Pentagon to restore public consensus for strong and effective defense, I regret that I cannot answer that question in the affirmative.

Mr. President, for the good of the country, it seems to me that the time has come to end this debate which has so distracted this body and much of the executive branch for too long. This nation has many pressing problems—the crisis with the savings and loans institution and the budget to name just two. I hope very much that tomorrow we will be able to conclude the chapter on this particular nomination and get on with the Nation's business. Thank you, Mr. President.

Mr. NUNN addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, having discussed this matter with the Senator from Virginia, Senator ROBB, on several occasions, I can say without any doubt that I do not think anyone in this body has thought in more depth, not only about the Senate's advice and consent role, but about the evidence in question.

I know that he has had a great deal of struggle in his own mind as to what the right answer has been. I know that he has approached it with a great deal of diligence and with a conscientious effort to be fair to the nominee and to the President.

I also know that he was a strong chief executive of the State of Virginia, and being a strong chief executive he believes, as he said this evening, that the Chief Executive should be deferred to in any cases of doubt in terms of the choice of his own people.

So I know how difficult this has been for the Senator from Virginia, and I must say because of my profound respect for him I not only understand the difficulty but it makes me also understand the importance of his decision in his own mind for his own reasons and in terms of his representation of his State.

I also want to say that I agree with him in his assessment of fairness. There have been stories out that should not have been out. In the process here, perhaps it has been unavoidable, but every time one has come out it has given me almost as much pain as it has, I am sure, the nominee—not quite but almost. I hope that we will be able to find better ways to handle this process in the future. The senior Senator from Virginia and I have struggled and struggled. We have asked ourselves over and over again what can we do to make it better, what can we do to make it fair, what can we do to prevent matters from coming out that should not. I think under the circumstances we have done our best, but that does not mean that we ought to be satisfied. It does not mean that we should not look back and determine whether we could have done things differently. It does not mean we cannot learn lessons from this one for the future. I hope we do not have another situation like this in the future. This one has been unique.

But let me close by saying the junior Senator from Virginia has struggled with this one. I know he has. From the point of view of my respect for him, I am gratified that he ended up agreeing with the position of the committee, not simply because his vote is important in this situation but because of the tremendous respect that I have for him and because I know how conscientiously he has approached this decision.

I thank the chair.

The PRESIDING OFFICER. The acting Republican leader is recognized.

Mr. WARNER. Mr. President, I say to my good friend, indeed, it was a vote of conscience, and when a Senator makes a vote of conscience it is accepted. We shall continue our service to our State despite our differences on this most historic of votes in the Senate.

Mr. SARBANES addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Mr. President, there were two articles that appeared today in the Washington Post which I am in just a moment going to ask unanimous consent to have placed in the RECORD. One is entitled "Placing a 'Check' On the President. Framers Believed the Senate Should Share Appointments." It discusses the advise and consent clauses as it appears in the Constitution on the basis of the work done by the delegates at the Constitutional Convention. I think it is very important in considering that power, particularly the placing of its function in the checks and balances, that the impact of that power on the nominating process is not reflected solely in the number of times in which a President's nominee has been turned down. The fact that the power exists, that the Senate will exercise this examination constitutes a very effective influence before the nomination is ever made. I think that needs to be recognized. Therefore, a reassertion of standards is important in that regard.

The other article is entitled "How Tower Used His 'No' Vote. Ex-Senator Never Shied Away From Scraps Over Nominees." It then discusses the fact that during his service in the Senate on occasion Senator Tower opposed nominees of the President of the United States including nominations to the Cabinet, and in fact in 1977 in opposing Ray Marshall to be Secretary of Labor, he took issue with that nomination on the basis of Marshall's closeness to the labor unions and undue influence by them over our policy. He said, and I quote him—this is Senator Tower then speaking—"I hope to have a Labor Secretary who can view those issues more objectively and not from the official union point of view: who could advise the President in a more objective way."

Mr. President, if you simply changed a few words in that statement, it would be equally applicable here today. You could change it to read, "I hope to have a Defense Secretary who can view those issues more objectively and not from the defense contractors' point of view: who could advise the President in a more objective way."

I think it is very important that the Members of the Senate have the benefit of these two articles, and I ask unanimous consent they be printed in the RECORD.

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

PLACING A "CHECK" ON THE PRESIDENT: FRAMERS BELIEVED THE SENATE SHOULD SHARE APPOINTMENTS

(By Al Kamen)

It probably would not happen very often, Alexander Hamilton wrote 200 years ago, but it would happen every now and again that the Senate would reject a presidential nominee. That was not a bad thing, Hamilton said.

In fact, "it would be an excellent check upon a spirit of favoritism in the president," Hamilton wrote in Federalist 76, "and would tend greatly to preventing the appointment of unfit characters. . . ."

Hamilton was not referring to the president's Cabinet because no idea of a Cabinet is in the Constitution. He was explaining the provision that gives the president the power to nominate officers of the govern-

ment with the "advice and consent" of the Senate.

That provision in Article II of the Constitution, a compromise brokered 202 years ago, is at the heart of the controversy over former senator John G. Tower's embattled nomination to be secretary of defense.

Some of Tower's supporters have argued that the Senate has some sort of constitutional obligation to approve presidential nominees. But that view is based on tradition, rather than the Constitution or the debates involved in its ratification, according to experts.

Delegates to the Constitutional Convention in Philadelphia believed strongly that certain powers should be shared by the Senate and the president, especially the appointment power. Throughout most of the convention, delegates held that the authority to appoint many high officials, including Supreme Court justices and ambassadors, should be retained exclusively by the Senate.

Late in the debates, those powers and the power to name "officers" was given to the president, but with the condition that they be subject to the advice and consent of the Senate. The delegates made no exception for Cabinet officers; neither did they establish up any criteria or offer any guidance for when a nominee should be rejected. Nothing in the original language would prevent the Senate from rejecting a nominee for any reason or no reason.

The notion of the Senate having appointment power may seem strange now, but many of the states apportioned authority that way at the time—the Virginia legislature still appoints judges—and the drafters drew on their experiences back home.

That "advice and consent" provision was not found in every draft of the Constitution and was not included in an earlier subcommittee report.

But after the language was later added, James Wilson, a delegate from Pennsylvania, tried on Sept. 7, 1787, to have the advice-and-consent clause removed, giving the president sole appointing authority across the board. Wilson said that the presidential responsibility for appointments would be "destroyed" by letting the Senate have a role.

But he was voted down. "As the president was to nominate, there would be responsibility," said Gouverneur Morris, "and as the Senate is to concur, there would be security." Morris also from Pennsylvania, meant that the Senate would act as a check to ensure nominees were qualified.

The contours of the Tower battle are determined by politics, not by the Constitution, experts on both sides agree.

"Whenever I see a member of the Senate solemnly intone that there is a serious constitutional question involved here I have to laugh," said Duke Law School Prof. Walter Dellinger, a former adviser to Democrats on the Senate Judiciary Committee. "There is not a serious constitutional question that they may reject the president's choice. This is a question of prudence and policy."

Dellinger said that, as a policy matter, the Senate may consider both political philosophy and fitness when it reviews judicial nominees, but that, "as a practical matter, the president should have the final choice as to the political philosophy of his [Cabinet] appointees."

Gary McDowell, vice president of the conservative National Legal Center for the Public Interest, agreed that "a senator has a right to consider anything he wants" in assessing a nominee. "It is not inappropriate for the Senate to consider personal traits," he said.

Still, Hamilton was right in his prediction that it was not very probable that [a president's] nomination would often be overruled", the Senate has rejected only eight Cabinet nominees and only about a dozen Supreme Court nominees.

HOW TOWER USED HIS "NO" VOTE: EX-SENATOR NEVER SHIED AWAY FROM SCRAPS OVER NOMINEES

(By Dan Balz)

"The suggestion has been made that the people should trust the president to make the right appointment," the senator said during floor debate over a controversial national security nomination early in a new president's first term. "I think that ordinarily we do around here. But after all, the Constitution has vested in us the responsibility for advice and consent, and it is one that we should exercise."

The man who spoke those words, then-Sen. John G. Tower (R-Tex.) never shied away from exercising that responsibility—or from questioning the wisdom of president's appointments. He got into a number of scraps over Cabinet and sub-Cabinet nominations during his 24 years in the Senate—although none was as bitter as his own nomination to be Secretary of Defense has become.

Tower made his comments about the Senate's role 12 years ago during debate over President Jimmy Carter's nomination of Paul C. Warnke to become head of the Arms Control and Disarmament Agency and chief SALT negotiator.

Tower opposed that nomination unsuccessfully—as he had done in several other cases. In January 1977, he opposed Carter's nomination of fellow-Texan Ray Marshall to be secretary of labor. During the Ford administration, he opposed the nomination of William J. Usery to be secretary of labor. And in 1963, he opposed the nomination of Paul H. Nitze to be secretary of the Navy.

Two factors generally guided Tower in his decision to oppose these various nominations: his belief that the Senate should use its own judgment—and ideology.

In Warnke's case, Tower thought the nominee was too liberal. He accused Warnke of "grievous errors in judgment" on U.S. weapons systems, and he said he feared Warnke would be even more mistaken in his judgments about Soviet weapon systems as a negotiator.

His opposition to Nitze in November 1963 was for similar reasons. Nitze was nominated by President John F. Kennedy and immediately ran into opposition on the Senate Armed Services Committee for views expressed in a 1960 California speech and the product of a 1958 conference in Cleveland. The battle is described by author Strobe Talbott in his book on Nitze, "The Master of the Game."

In the California speech, Nitze had suggested that the Strategic Air Command be put under the control of NATO and that the United Nations be given control over the use of nuclear weapons. Nitze attempted to explain his views to the committee, but was clearly on the defensive.

After Kennedy's assassination, President Lyndon B. Johnson pressed committee Chairman Richard Russell (D-Ga.) to bring the nomination to a vote. Tower was one of a handful of senators (including Republican Sen. Milward Simpson of Wyoming, the father of Senate Republican Whip Alan Simpson of Wyoming) who opposed Nitze.

Involving his own service in the Navy, Tower said he opposed Nitze "because of his views on disarmament, his views on our military posture and his views on the disposition of the military forces."

Tower and Nitze eventually ended up on the same team, as part of President Ronald Reagan's arms control negotiation team in 1985-86.

Tower's longtime fight with organized labor led him to oppose Marshall in 1977 and Usery the year before. In Marshall's case, he spoke at length on the Senate floor about labor's influence in public policy and his fear that Marshall would simply be a rubberstamp for its views.

"I hope to have a labor secretary who can view those issues more objectively and not from the official union point of view: who could advise the president in a more objective way," he said.

For a man now accused by some of his critics of being too close to the defense industry, that opposition to Marshall has a ring of irony—

(Staff researchers Michelle Hall and Colette T. Rhoney contributed to this report.)

LEGISLATIVE SESSION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate return to legislative session.

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

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Kalbaugh, 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 Committee on Finance.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 2:01 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 148. Joint resolution designating the month of March in both 1989 and 1990 as "Women's History Month."

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. KENNEDY, from the Committee on Labor and Human Resources:

Mr. KENNEDY. Mr. President, for the Committee on Labor and Human Resources, I report favorably a nomination list in the Public Health Service which was printed in full in the CONGRESSIONAL RECORD of January 3, 1989, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar, that these nominations lie at the Secretary's desk for the information of Senators.

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

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. HEINZ:

S. 531. A bill to temporarily suspend the duty on mesalamine; to the Committee on Finance.

By Mr. EXON (for himself, Mr. COCHRAN, Mr. SHELBY, and Mr. HEFLIN):

S. 532. A bill to amend the Congressional Budget Act of 1974 to provide that any concurrent resolution on the budget that contains reconciliation directives shall include a directive with respect to the statutory limit on the public debt, and for other purposes; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one committee reports the other committee has 30 days of continuous session to report or be discharged.

By Mr. REID:

S. 533. A bill to protect the rights of victims of crime and to establish a Federal victim's bill of rights for children; to the Committee on the Judiciary.

By Mr. THURMOND (for himself, Mr. GRASSLEY, and Mr. DECONCINI):

S. 534. A bill to provide criminal penalties for the mailing of unsolicited sexually oriented advertisements, and for other purposes; to the Committee on the Judiciary.

By Mr. LAUTENBERG (for himself and Mr. LEVIN):

S. 535. A bill to increase civil monetary penalties based on the effect of inflation; to the Committee on Governmental Affairs.

By Mr. GARN (for himself and Mr. HATCH):

S. 536. A bill to settle issues relating to Ute Indian water rights and for other purposes; to the Committee on Energy and Natural Resources and the Select Committee on Indian Affairs, jointly, by unanimous consent.

By Mr. RIEGLE (for himself and Mr. SIMON):

S. 537. A bill to require that any calculation of the Federal deficit made as a part of the Federal budget process include a calculation of the Federal deficit minus the Social Security reserves; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one committee reports, the other committee has 30 days of continuous session to report or be discharged.

By Mr. DURENBERGER:

S. 538. A bill to provide that certain provisions of the Internal Revenue Code of 1986 providing special rules for financially troubled financial institutions shall not remain in effect after the enactment of financial institution reform legislation; to the Committee on Finance.

By Mr. BUMPERS (for himself, Mr. CONRAD, Mr. INOUYE, and Mr. STEVENS):

S. 539. A bill to amend the direct and guaranteed student loan programs under the Higher Education Act of 1965 to publicize the current loan deferral program for full-time volunteers with the Peace Corps, VISTA, and tax-exempt organizations and for other purposes; to the Committee on Labor and Human Resources.

S. 540. A bill to amend the direct student loan program under the Higher Education Act of 1965 to provide for partial loan cancellation for full-time volunteer service with a tax-exempt organization, and for other purposes; to the Committee on Labor and Human Resources.

S. 541. A bill to amend part B of title IV of the Higher Education Act of 1965 to forgive guaranteed student loans for student borrowers who volunteer for service under the Peace Corps Act or under the Domestic Volunteer Service Act of 1973 or for comparable full-time service as volunteers with a tax-exempt organization; to the Committee on Labor and Human Resources.

By Mr. LAUTENBERG:

S. 542. A bill to adjust the maximum level of civil penalties under the Consumer Product Safety Act to account for inflation; to the Committee on Commerce, Science, and Transportation.

By Mr. SIMON (for himself, Mr. KENNEDY, and Ms. MIKULSKI):

S. 543. A bill to amend the Job Training Partnership Act to strengthen the program of employment and training assistance under that Act, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. METZENBAUM:

S. 544. A bill to limit the modification of collective bargaining agreements subject to the Railway Labor Act; to the Committee on the Judiciary.

By Mr. PRESSLER:

S. 545. A bill to amend the Agricultural Act of 1949 to permit procedures to produce alfalfa on permitted acres for the 1990 crop, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. WARNER (for Mr. WILSON):

S. 546. A bill to permit the Oakwood Child Development Center, Inc., to use funds received under a grant made under the Community Services Block Grant for certain services for senior citizens, and for other purposes.

By Mr. BOSCHWITZ (for himself, Mr. STEVENS, Mr. CONRAD, Mr. SHELBY, Mr. DIXON, Mr. WARNER, Mr. LUGAR, Mr. HATCH, Mr. METZENBAUM, Mr. LIEBERMAN, Mr. PELL, Mr. DOMENICI, Mr. D'AMATO, Mr. COCHRAN, Mr. THURMOND, and Mr. CRANSTON):

S.J. Res. 73. Joint resolution to designate the week beginning October 29, 1989, as "Gaucher's Disease Awareness Week"; to the Committee on the Judiciary.

By Mr. GORE:

S.J. Res. 74. Joint resolution to designate the month of May 1989 as "National Digestive Disease Awareness Month"; 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. ROTH:

S. Con. Res. 18. Concurrent resolution expressing the sense of Congress that Federal laws regarding the taxation of State and local government bonds should not be changed in order to increase Federal revenues; to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. EXON (for himself, Mr. COCHRAN, Mr. SHELBY, and Mr. HEFLIN):

S. 532. A bill to amend the Congressional Budget Act of 1974 to provide that any concurrent resolution on the budget that contains reconciliation directives shall include a directive with respect to the statutory limit on the public debt, and for other purposes; pursuant to the order of August 4, 1977, referred jointly to the Committee on the Budget and the Committee on Governmental Affairs.

DEBT CEILING REFORM ACT

Mr. EXON. Mr. President, I rise to introduce the Debt Ceiling Reform Act of 1989.

Although I have come to this floor many times to introduce and support legislation to restore fiscal responsibility to the Federal Government, I have been one of the leading skeptics of the Gramm-Rudman law.

In my opinion, there were two fatal flaws in the current budget process. First, the Gramm-Rudman law devised a formula for deficit reduction which is so filled with exemptions and special rules that well over half of the Federal budget is exempt from formula reduction.

The second and most serious flaw and false promise of the budget process as amended by the Gramm-Rudman law is the total reliance on arbitrary economic projections as benchmarks of progress toward the much promised balanced budget of 1993. Under the current budget process and Gramm-Rudman plan, economic forecasts are made for a period into the future, and all attention is focused on making the forecasts meet the deficit target for a single fiscal year.

In such a legislative environment, no holds are barred to make the future target year look as good as possible regardless of the long-term effects of the chosen action. This invites manipulations and procrastination.

My skepticism was again confirmed when President Reagan's 1990 budget proposal revealed that the deficit for 1989 will likely exceed $161 billion, $25 billion above the level mandated by the Gramm-Rudman law.

This revelation came only a couple of months after the President's Office of Management and Budget certified the deficit to be within the Gramm-Rudman targets in the current system, there is no continuous enforcement mechanism to assure that economic estimates are correct or that deficit reduction efforts are sufficient.

In essence, the Gramm-Rudman law does not work to reduce deficits, it works to reduce deficit projections. It should be recognized that there is a difference. The more difficult the target is to meet, the more creative the political branches of Government will be in their search to painlessly reduce the deficit.

The problem is that the Gramm-Rudman process ignores the total debt of the United States. The temporary shifting or spending for a day or so, from one fiscal year into another as the Congress and President have done in the past, may appear to reduce the deficit in a given year, but it has no beneficial effect on total Government spending or the accumulated national debt.

If the Congress and the President are serious about reducing the deficit, we had better focus our attention on both the desired declining annual deficits and on the accumulated national debt.

The debt ceiling reform I introduce today would essentially cap the statutory debt ceiling to match the deficit targets of the congressional budget resolution.

Under recent practice, the House of Representatives has passed its initial debt ceiling legislation under a rule which ties the debt ceiling to the passage of the annual congressional budget, thereby avoiding at least one record vote on a "stand alone" debt ceiling bill. The Senate, of course, more often than not, has engaged in the high debt ceiling politics. The debt ceiling is often a legislative lightning rod.

Historians should note that the search for votes to push the statutory debt ceiling above the landmark $2 trillion level in 1986 was the driving force behind the creation of the Gramm-Rudman law. One can only imagine what new gimmick will be created to push in the debt ceiling over the $3 trillion mark.

Mr. President, prior to the adjournment of the 99th Congress, the Senate broke with tradition and the debt ceiling was incorporated into the annual budget reconciliation bill. The reconciliation bill is the deficit reduction legislation which enforces the terms of the congressional budget resolution. I believe that it made a great deal of sense to link the debt ceiling to the reconciliation process.

If Congress is to approve an increase in the statutory debt ceiling, it should also be required to approve deficit reduction measures to assure that the Congress, at a minimum, keeps its deficit reduction commitments.

The legislation which I introduce today would put debt ceiling legislation into the budget cycle; require that the borrowing aspect of the budget be subject to reconciliation instructions; and require that annual legislation to increase the debt ceiling be included in the annual reconciliation package. The debt ceiling would then be subject to the limited debate rules of reconciliation and prevent the debt ceiling from becoming a magnet for all types of amendments.

In addition, under my proposal a three-fifths vote would be necessary to increase the debt ceiling to beyond the level contemplated by the congressional budget resolution.

Such a procedure would institute continuous enforcement of the deficit targets contained in each year's budget. If Congress sticks to its annual budget and corrects it for changing economic conditions, debt ceiling legislation would be handled in a routine manner under the limited debate procedures of reconciliation.

If the Federal Government borrows funds at a rate faster than contemplated by the annual budget, the Congress would need a three-fifths vote to increase the debt ceiling. Other measures to deal with a budget shortfall, such as reducing spending and/or raising revenue would only require a simple majority. No longer would increasing the national debt be the easiest way for Congress to satisfy its spending appetite.

This procedure would also make it much more difficult for the Congress or the President to employ smoke and mirrors instead of serious deficit reduction. Commitment to deficit reduction would be measured by the national debt in addition to the arbitrary Gramm-Rudman snapshot of the projected deficit for the coming fiscal year. Accounting gimmicks would be discouraged because the accumulated national debt would grow when spending is shifted rather than reduced.

What I propose here is a very tough but workable solution to the faulty budget enforcement mechanism.

Under the legislation I introduce today, the debt ceiling could only be raised beyond the level contemplated by the congressional budget with a three-fifths vote, the same margin required to waive certain Gramm-Rudman points of order. However, only a simple majority is necessary to alter spending and revenue policies to keep the budget on track.

If the Congress and the President could not come to an agreement, the Government would be on a short tether in that Federal spending authority would begin to wind down. If borrowing authority is not extended, we could spend only incoming revenues.

This procedure would require continuous congressional attention to the actual levels of spending rather than annual projected levels.

The reform I propose today, would force Congress and the President to be careful and honest. In addition, it proposed a built-in safety valve for any unforeseen future problems by providing a waiver by a three-fifths vote.

Mr. President, our runaway spending habits will cripple our Nation. We can no longer pass along our bills to our children and grandchildren. Our generation must be willing to pay its way. We need truth, not sleight of hand in the Federal budget.

Mr. President, the Congress must face the fiscal facts and work to reduce deficit spending rather than hide it. I invite my colleagues to support this important budget reform initiative, and 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. 532

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. RECONCILIATION DIRECTIVES TO INCLUDE DIRECTIVE WITH RESPECT TO INCREASE IN STATUTORY LIMIT ON THE PUBLIC DEBT.

(a) IN GENERAL.—Section 310 of the Congressional Budget Act of 1974 (2 U.S.C. 641) is amended by adding at the end thereof the following new subsection:

"(h) RECONCILIATION DIRECTIVES WITH RESPECT TO PUBLIC DEBT LIMIT.—

"(1) Any concurrent resolution on the budget for a fiscal year that contains directives of the type described in paragraph (1) or (2) of subsection (a) for such fiscal year shall also include a directive of the type described in paragraph (3) of such subsection for such fiscal year.

"(2) Any change in the statutory limit on the public debt that is recommended pursuant to a directive of the type described in paragraph (3) of subsection (a) shall be included in the reconciliation legislation reported pursuant to subsection (b) for such fiscal year.".

(b) CONFORMING CHANGE.—Section 310(d)(2) of such Act is amended by inserting "(other than a provision reported pursuant to a directive of the type described in subsection (a)(3))" after "motion to strike a provision".

SEC. 2. POINT OF ORDER.

(a) IN GENERAL.—Notwithstanding the Standing Rules of the Senate, except as provided in subsection (b), it shall not be in order in the Senate to consider any bill or joint resolution (or any amendment thereto or conference report thereon) that increases the statutory limit on the public debt during a fiscal year above the level set forth as appropriate for such fiscal year in the concurrent resolution on the budget for such fiscal year agreed to under section 301 of the Congressional Budget Act of 1974.

(b) EXCEPTION.—Subsection (a) shall not apply to any reconciliation bill or reconcilia-

tion resolution reported pursuant to section 310(b) of the Congressional Budget Act of 1974 during any fiscal year (or any conference report thereon) that contains a provision that—

(1) increases the statutory limit on the public debt pursuant to a directive of the type described in section 310(a)(3) of such Act, and

(2) becomes effective on or after the first day of the following fiscal year.

(c) WAIVERS.—Subsection (a) may be waived or suspended in the Senate by a vote of three-fifths of the Members, duly chosen and sworn.

(d) APPEALS.—If the ruling of the presiding officer sustains a point of order raised pursuant to paragraph (1), a vote of three-fifths of the Members duly chosen and sworn shall be required to sustain an appeal of such ruling. Debate on any such appeal shall be limited to two hours, to be equally divided between, and controlled by, the majority leader and the minority leader or their designees. An appeal of any such point of order is not subject to a motion to table.

SEC. 3. EFFECTIVE DATE.

This Act and the amendments made by this Act shall become effective on the date of the enactment of this Act.

SEC. 4. EXERCISE OF RULEMAKING POWERS.

This Act and the amendments made by this Act are enacted by the Congress—

(1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such they shall be considered as part of the rules of each House, respectively, or of that House to which they specifically apply, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change such rules (so far as relating to such House) at any time, in the same manner, and to the same extent as in the case of any other rule of such House.

By Mr. REID:

S. 533. A bill to protect the rights of victims of crime and to establish a Federal victim's bill of rights for children; to the Committee on the Judiciary.

FEDERAL VICTIM'S SERVICES AND PROTECTIONS COMPLIANCE ACT

Mr. REID. Mr. President, as adults, we are entrusted by children to help them grow and flourish, to protect their innocence, and to keep them from harm. After all, the children today are our hope for the future. I have some serious reservations as to how well we are cultivating that hope. As one parent says, "Children are our future, but we are their salvation."

Today I am introducing legislation to protect victims of crime and to establish a child victims' bill of rights.

The need to respond to our Nation's children has never been stronger. Nightly newscasts are filled with stories of children seized from drug-infested homes and negligent parents. Cases like that of 6-year-old Lisa Steinberg and her baby brother exposed us to atrocities committed against children that are nearly incomprehensible.

A new concept of "high risk children" has been introduced into our daily vocabulary. Frankly, I am not proud about this addition to our dictionary.

My bill responds to a conclusion reached by the 1987 President's Child Safety Partnership. Their report states, "Crimes against children are rarely treated as crimes against adults. The age of the victim should not lessen society's response to crime. Unfortunately, and incomprehensibly, it does."

The child victims' bill of rights requires certain professionals to identify children who they suspect are victims of abuse or neglect. Sometimes we need to listen to children with our eyes. Otherwise, there is too much that goes unsaid. An estimated 2.2 million cases of child abuse and neglect were reported in 1986—how many more went unreported?

Nevada's Governor, Bob Miller, has helped draw attention to child victims' rights. As district attorney of Clark County 10 years ago, he formed the Citizens Committee on Victim Rights.

In 1982, Bob Miller was appointed to the Presidential Task Force on Victims of Crime. This task force found that, when we do listen to children—when we do encourage them to talk about what happened—it is in the context of a courtroom, a large, foreboding room with rows of faceless spectators and attorneys who question and cajole with rhetoric well beyond the vocabularly comprehension of a child. Consider the example of the 8-year-old girl who had to testify after being raped. The courtroom audience laughed when the young girl didn't understand the attorney's questions about the male attacker's anatomy. My bill contains numerous provisions designed to make the courtroom experience much less traumatic for children.

The legislation also calls for allowing children to testify outside the courtroom and by way of recorded deposition. The child's identity will be kept confidential, and the number of interviews to which the child is subject will be kept to a minimum. I will explain, in greater detail, the need for these provisions and others contained in my legislation in the days and weeks ahead. Congress must follow the State governments' lead in listening to our children. At least 12 States have enacted a child victims' bill of rights. Up to 41 States have enacted some type of child-related legislation.

The pressing importance of this issue must be recognized at the Federal level. We need to assume a greater role in developing our children—our hope for the future. By all accounts, sexually abused children have an above-normal incidence of becoming abusers themselves. Neglected children fall by the wayside into the netherworld of drugs, unemployment, and violence. We must help these child victims before they are scarred for life.

I recently spoke to students at a vocational education school in Nevada. These kids who pursue occupations rather than go to college are referred to time and again as the "forgotten half" of young people in this country. Victims of crime are often referred to as the "forgotten people" of our justice system.

What has happened to our memory? How many more will we categorize under the label of "forgotten"? I will continue presenting my colleagues with the necessity for a child victims' bill of rights, and additional protections for all victims of crime. Without action, our hope for the future will steadily, inevitably, wither to despair.

By Mr. THURMOND (for himself, Mr. GRASSLEY, and Mr. DECONCINI):

S. 534. A bill to provide criminal penalties for the mailing of unsolicited sexually oriented advertisements, and for other purposes; to the Committee on the Judiciary.

PENALTIES FOR MAILING OF UNSOLICITED SEXUALLY ORIENTED ADVERTISEMENTS

Mr. THURMOND. Mr. President, I rise today to introduce legislation which will protect Americans from the continued invasion of sexually oriented advertisements. I recently received a letter from a constituent informing me of the fact that he had been mailed unsolicited sexually explicit advertisements. After researching this matter, I found that mailing of unsolicited, graphic sexually oriented advertising is occurring on a daily basis throughout this country. What is even more disgusting is that much of this material is addressed to young children. In addition, parents with young, impressionable children are being forced to confront and discuss sensitive, private subjects such as sex, pornography, and obscenity with their young children well before they deem it appropriate. The fact that children and adults go to their mail boxes and have such unsolicited material forced upon them is simply not acceptable.

Under current law, anyone who does not want to receive such material can request that the Post Office add his or her name to a list which would prohibit mailing such advertisements to them. The addressee must go to the Post Office and fill out a form in order to be put on the list. Those who mail sexually oriented advertisements would only then be subject to criminal prosecution.

Regarding the current procedures, they simply do not work. The postal service is having serious trouble keeping up with the thousands of people requesting that their names and addresses be put on this list. Not only is

this an unreasonable burden on the Post Office, it is an unreasonable burden on the citizens. Why should the burden be on every American to request that he or she be taken off these pornography merchants mailing lists? According to U.S. Postal Service officials, there are currently over 465,000 people on this list and over 130,000 of them are children. In addition, despite the efforts of an addressee to have himself put on the list, he or she may still receive such material for 30 days after the form has been filed with the Post Office. Furthermore, these "smut pushers" often change single letters in the spelling of names or simply address the material to "resident" to avoid prosecution.

This legislation being introduced today would ban the mailing of any unsolicited sexually oriented advertisements or any unsolicited obscene matter to any individual at their place of residence or business. Any person who does so will be subject to a term of imprisonment of up to 5 years, a fine of up to $100,000, or both. In addition, this bill will give the Attorney General the authority to bring a civil action and recover up to $100,000 from those who violate the restriction. Regarding the restrictions, all materials and products may be advertised so long as the advertisement itself is not sexually oriented. Only the manner of advertising to the unsolicited postal patron is addressed. No concerns should exist over what constitutes sexually oriented material since this bill uses the narrowly drafted definition already in current law.

The constitutionality of this legislation is an issue which has been raised in the past. I am confident that this bill stands up to constitutional scrutiny.

Since the Supreme Court case of Miller versus California, it is clear that obscenity is not protected speech under the first amendment of the Constitution. Based upon this decision and others, Congress has passed legislation to prohibit the production and proliferation of obscene material. Recently, Congress continued this effort when it passed The Child Protection and Obscenity Enforcement Act of 1988, legislation I introduced.

Obscenity is not the only form of speech which may be regulated. Speech is regulated everyday. The most obvious and most noted example is the common prohibition against yelling "Fire!" in a crowded movie theater. Indecent speech, like many other forms of nonobscene speech, may be regulated. The Supreme Court has consistently allowed the regulation of indecent nonobscene speech based upon subject matter and context. An example is the Court's decision in Rowan versus United States Post Office Department in which the current law banning the mailing of sexually oriented materials at the request of the postal patron was upheld. Other examples are Young versus American Mini Theaters where the Court upheld zoning restrictions on adult theaters and Bethel School District No. 403 versus Fraser where the Court upheld a restriction on indecent sexually suggestive language in a political speech by a high school student.

The Court in the Rowan case found that a mail sender's right to communicate is not absolute. The right of the addressee must be considered. The Court stated that " * * * the right of every person 'to be let alone' must be placed in the scales with the right of others to communicate." The Court went on to note that nothing in the Constitution compels people to listen to or to view any unwanted communication, despite its merit.

In numerous cases, the Supreme Court has ruled that the Constitution accords less protection to commercial speech than to other protected forms of speech. The protection available for this form of expression depends upon the nature of the expression and the governmental interest served by the regulation of the expression. The regulation must be found to directly advance this governmental interest without being more extensive than necessary. This test was applied in Bolger versus Youngs Drug Products Corp. when the Supreme Court found a Federal statute prohibiting the unsolicited mailing of advertisements for contraceptives to be unconstitutional. Although the advertisements were arguably offensive to some addressees and the prohibition itself may have aided parents' efforts to control the manner in which the children were educated on the subject of birth control, the Court found the statute to be an unconstitutional infringement upon the rights of contraceptive manufacturers. This was because the proscribed information was related to the important decision of whether to have children which amounted to a restriction on the free flow of truthful information.

At this point, I would like to point out the key differences between the statute which was struck down in the Bolger case and this bill. In Bolger, the statute prohibited the unsolicited mailing of all commercial materials dealing with contraception. Relevant ideas, viewpoints, and education were not allowed to be communicated through the mail. This bill, however, would allow a manufacturer to advertise the same materials, unsolicited, so long as the initial, unsolicited advertisement itself was not sexually oriented. The form or manner of the advertisement to an unsuspecting addressee is the subject of the proposed legislation, rather than the material or product advertised. The proposed restriction is far less excessive than the restriction in Bolger. This restriction is not a complete restriction on advertising for those companies which sell sexually oriented materials. The company may still reach the general population so long as the advertisement in and of itself is not "sexually oriented."

In summary, this legislation will protect the right of all Americans to receive mail which is not repulsive and disgusting. It will prevent sexually oriented material from being forced upon those who have no desire to receive it, thereby protecting the legitimate right to be left alone. It will protect our children from those who do not care that they will be exposed to this smut. Finally, it will aid parental efforts to maintain control over the manner in which their children are educated about important and sensitive subjects relating to private matters. This legislation directly advances these important interests without being more restrictive than necessary.

In closing, enactment of this legislation is overdue. I strongly urge each of my colleagues to consider this measure carefully. Its adoption is important and I urge swift consideration.

I ask unanimous consent that the bill be printed in the RECORD.

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

S. 524

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PROHIBITION OF UNSOLICITED SEXUALLY ORIENTED ADVERTISEMENTS AND OTHER MATTERS.

Chapter 83 of title 18, United States Code, is amended by adding the following section:

"§ 1735A. Prohibition of unsolicited sexually oriented advertisements and other matter

"(a) Any person who—

"(1) for himself, or by his agents or assigns, knowingly uses the mails for the mailing, carriage in the mails or delivery of—

"(A) any unsolicited sexually oriented advertisement; or

"(B) any unsolicited obscene, lewd, lascivious, indecent, filthy, or vile article, matter, thing, device, or substance;

to any individual or group of individuals; or

"(2) violates any regulation of the postal service issued pursuant to subsection (e),

shall be imprisoned not more than 5 years, or fined not more than $100,000, or both, for the first offense, and shall be imprisoned not more than 10 years, or fined not more than $200,000, or both, for any second or subsequent offense.

"(b) Whenever, on the basis of any information available to it, the Postal Service believes that a violation of this section has occurred, the Postal Service shall inform the Attorney General. The Attorney General may commence a civil action to recover a civil penalty not to exceed $100,000. Any such action shall be brought in the district court of the United States within the jurisdiction of which the advertisement or other mail matter involved shall have been sent or received.

"(c) All criminal fines or civil penalties collected under this section shall be paid into the Treasury of the United States.

"(d) For purposes of this section, 'sexually oriented advertisement' means any advertisement that depicts, in actual or simulated form, or explicitly describes, in a predominantly sexual context, human genitalia, any act of natural or unnatural sexual intercourse, any act of sadism or masochism, or any other erotic subject directly related to the foregoing. Material otherwise within the definition of this subsection shall be deemed not to constitute a sexually oriented advertisement if it constitutes only a small and insignificant part of the whole of a single catalog, book, periodical, or other work the remainder of which is not primarily devoted to sexual matters.

"(e) The Postal Service shall prescribe such regulations as may be necessary to carry out this section.".

SEC. 2. AMENDMENT TO RICO.

Paragraph (1) of section 1961 of title 18, United States Code, is amended by inserting after "section 1513 (relating to retaliating against a witness, victim, or an informant)" the following: ", section 1735A (relating to mailing of obscene matter or sexually oriented advertising)".

By Mr. LAUTENBERG (for himself and Mr. LEVIN):

S. 535. A bill to increase civil monetary penalties based on the effect of inflation; to the Committee on Governmental Affairs.

FEDERAL CIVIL PENALTIES INFLATION ADJUSTMENT ACT

● Mr. LAUTENBERG. Mr. President, today, on behalf of Senator LEVIN and myself, I am introducing legislation, the Federal Civil Penalties Inflation Adjustment Act of 1989, to establish a mechanism for periodically increasing civil penalties to account for inflation.

Mr. President, this bill is identical to legislation I introduced in the 100th Congress, S. 1014, as favorably reported by the Government Affairs Subcommittee on Oversight of Government Management. The bill would require the President to prepare a comprehensive list of civil penalties and the levels to which each penalty should be increased to account for inflation. These lists would be prepared every 5 years. In addition, the bill calls for improved reporting of the number and amounts of civil penalties assessed and collected.

Mr. President, we in Congress like to talk tough when we set penalties for violating laws. But all too often, once we enact penalties, we forget about them. They get lost in the thick volumes of the United States Code, never to be seen or heard from again.

Many of these penalties are designed to meet important public needs: To protect the environment, to ensure a safe workplace, to provide for transportation safety, and to ensure that consumers are protected from unsafe products.

The problem is that as these penalties sit on the shelf, inflation dramatically erodes their deterrent effect.

Because of inflation, for example, the penalties for violating worker safety and consumer product safety standards have been reduced by about two-thirds since they were last set in the early 1970's.

If it were presented for a vote, would the Senate approve a two-thirds cut in OSHA penalties, when workplace hazards persist? Would the Senate approve a similar cut in consumer product safety penalties, when thousands of children are injured by dangerous products each year? The answer, I think, is no. Yet inaction gives us the same result.

These are not isolated cases. According to a survey of the agricultural laws by the Congressional Research Service, 40 percent of the penalty provisions were over 20 years old. Another 30 percent were over 10 years old.

In fact, many civil penalties are much older than 20 years. Some date back to as early as 1793.

It just doesn't make sense that consumers must cope with price hikes in everything from food to medical care. But those who violate the law do not.

Maintaining the deterrent value of civil penalties will mean safer products, safer travel, safer workplaces and a cleaner environment. It also will ensure that honest businesses will be treated more fairly.

After all, meeting the legal requirements for a safe workplace or for waste control often involves a substantial investment. And honest businesses are making that investment. Sometimes, though, their competitors aren't. And with weak sanctions, they're getting away with it.

As a society, we owe an obligation to the honest, law-abiding business. An obligation to make sure that its competitors can't exploit weakened sanctions to gain an unfair competitive advantage. This bill will help us meet that obligation.

The consumer, the worker, and the honest businessperson—all will benefit by this bill. But there's one more major beneficiary: the taxpayer.

Although civil penalties are designed primarily to deter unlawful conduct, they also help reduce the deficit by producing hundreds of millions of dollars for the Government each year. Periodically adjusting penalties would increase receipts. As then-Deputy OMB Director Joseph Wright testified, the impact on Government revenues would be significant.

Unfortunately, the OMB maintains no detailed central account that tracks penalty assessments and collections and matches them with the laws under which they are imposed. There is no accounting of which laws need updating the most. Apparently, hundreds of millions of dollars is seen as small change that is not worth watching more closely.

This bill requires OMB to maintain a central accounting of agencies' performance and collections. That way, Congress and the public would know whether the laws are being enforced and how much money is being raised from each penalty.

Mr. President, when this bill was the subject of hearings in the Governmental Affairs Committee last year, it attracted support from a variety of groups representing consumers, environmentalists, and organized labor, among others. The Department of Justice also stated that it had no objections to the bill. Unfortunately, due to time constraints, the legislation did not get to the Senate floor. I am hopeful that it will receive timely consideration in the 101st Congress.

I also want to take this opportunity to thank Senator LEVIN and the excellent staff of the Subcommittee on Oversight of Government Management for all their help with this bill in the last Congress. They have spent much time on this legislation, and I greatly appreciate it.

Mr. President, I ask unanimous consent that a copy 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. 535

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 "Federal Civil Penalties Inflation Adjustment Act of 1989".

FINDINGS AND PURPOSE

SEC. 2. (a) FINDINGS.—The Congress finds that—

(1) the power of Federal agencies to impose civil monetary penalties for violations of Federal law and regulations plays an important role in deterring violations and furthering the policy goals embodied in such laws and regulations;

(2) the impact of many civil monetary penalties has been and is diminished due to the effect of inflation;

(3) by reducing the impact of civil monetary penalties, inflation has weakened the deterrent effect of such penalties; and

(4) the Federal Government does not maintain comprehensive, detailed accounting of the efforts of Federal agencies to assess and collect civil monetary penalties.

(b) PURPOSE.—The purpose of this Act is to establish a mechanism that shall—

(1) allow for regular adjustment for inflation of civil monetary penalties;

(2) maintain the deterrent effect of civil monetary penalties and promote compliance with the law; and

(3) improve the collection by the Federal Government of civil monetary penalties.

DEFINITIONS

SEC. 3. For purposes of this Act, the term—

(1) "agency" means an Executive agency as defined under section 105 of title 5, United States Code, and includes the United States Postal Service;

(2) "civil monetary penalty" means any penalty, fine, or other sanction that—

(A)(i) is for a specific monetary amount as provided by Federal law; or

(ii) has a maximum amount provided for by Federal law; and

(B) is assessed or enforced by an agency pursuant to Federal law; and

(C) is assessed or enforced pursuant to an administrative proceeding or a civil action in the Federal courts; and

(3) "Consumer Price Index" means the Consumer Price Index for all-urban consumers published by the Department of Labor.

CIVIL MONETARY PENALTY INFLATION ADJUSTMENT REPORTS

SEC. 4. Within 6 months after the date of the enactment of this Act, and on January 1 of each fifth calendar year thereafter, the President shall submit a report on civil monetary penalty inflation adjustment to the Committee on Governmental Affairs of the Senate and the Committee on Government Operations of the House of Representatives. Such report shall include—

(1) each civil monetary penalty as defined under section 3(2);

(2) the date each civil monetary penalty was most recently set pursuant to law;

(3) the maximum amount of each civil monetary penalty or, if applicable, the range of the minimum and maximum amounts of each civil monetary penalty in effect on the date of the submission of such report;

(4) the amount of each civil monetary penalty described under paragraph (3) other than any such penalty for which inflation adjustment is provided by law, if each such penalty is increased by the adjustment described under section 5; and

(5) a listing of the modifications to Federal law that would be required to—

(A) increase each penalty described in paragraph (1) by the adjustments described under section 5, excluding any penalty for which inflation adjustment is provided by law or that has been increased within the 5-year period immediately preceding the date of the submission of such report; and

(B) provide that any increase in any civil monetary penalty shall apply only to violations which occur after the date any such increase takes effect.

COST-OF-LIVING ADJUSTMENTS OF CIVIL MONETARY PENALTIES

SEC. 5. (a) ADJUSTMENT.—The adjustment described under paragraphs (4) and (5)(A) of section 4 shall be determined by increasing the maximum civil monetary penalty or the range of minimum and maximum civil monetary penalties, as applicable, for each civil monetary penalty by the cost-of-living adjustment. Any increase determined under this subsection shall be rounded to the nearest—

(1) multiple of $10 in the case of penalties less than or equal to $100;

(2) multiple of $100 in the case of penalties greater than $100 but less than or equal to $1,000;

(3) multiple of $1,000 in the case of penalties greater than $1,000 but less than or equal to $10,000;

(4) multiple of $5,000 in the case of penalties greater than $10,000 but less than or equal to $100,000;

(5) multiple of $10,000 in the case of penalties greater than $100,000 but less than or equal to $200,000; and

(6) multiple of $25,000 in the case of penalties greater than $200,000.

(b) DEFINITION.—For purposes of subsection (a), the term "cost-of-living adjustment" means the percentage (if any) for each civil monetary penalty by which—

(1) the Consumer Price Index for the month of June of the calendar year preceding the adjustment, exceeds

(2) the Consumer Price Index for the month of June of the calendar year in which the amount of such civil monetary penalty was last set or adjusted pursuant to law.

ANNUAL REPORT

SEC. 6. No later than January 1 of each year, the President shall submit a report on civil monetary penalties to the Congress which shall include—

(1) to the extent possible, the number and amount of civil monetary penalties imposed pursuant to each provision of law providing for such civil monetary penalties, during the complete fiscal year preceding the submission of such report;

(2) to the extent possible, the number and amount of such civil penalties collected during such fiscal year; and

(3) any recommendations that the President determines appropriate to—

(A) eliminate obsolete civil monetary penalties;

(B) modify the amount of any civil monetary penalty; or

(C) make any other legislative modifications concerning civil monetary penalties.●

● Mr. LEVIN. Mr. President, I am pleased to join my colleague, Senator LAUTENBERG, in sponsoring the Federal Civil Penalties Inflation Adjustment Act of 1989.

Civil monetary penalties [CMP's] are fines assessed by Federal agencies to deter violations of Federal laws and regulations. Thanks to Senator LAUTENBERG's efforts, we have learned that many of these penalties have not been adjusted in a decade, 20 years, or in some cases even a century. The result is that the deterrent effect of many CMP's has been weakened by years of inflation.

Last year, the Senate Subcommittee on Oversight of Government Management, which I chair, held hearings on Senator LAUTENBERG's bill. We learned that CMP's are so numerous that it is difficult even to list them all. It appears that many CMP's are redundant or obsolete. Others have been so eroded by inflation that they no longer have any significant deterrent effect.

Statistics provided to the subcommittee by the President's Council on Integrity and Efficiency indicate that inflation has eroded CMP's set as recently as 1976 by over 100 percent and CMP's set prior to 1970 by more than 200 percent. These same statistics show that 60 percent of all CMP's were last adjusted before 1981 and 30 percent were last adjusted before 1961. These statistics indicate that the problem identified by Senator LAUTENBERG is a significant one.

This bill would address the problem by requiring the administration to provide Congress with a complete list of all statutorily authorized civil monetary penalties, a calculation of the adjustment that would be required for each penalty to keep pace with inflation, and a list of the statutory changes that would be necessary to make these adjustments.

The bill would not provide for any automatic adjustment of the CMP's covered—separate legislation would be required for each change. However, the bill would provide the Congress with a benchmark against which to measure CMP's and ensure that appropriate adjustments are made. In addition, the listing of CMP's should help facilitate the consolidation and elimination of redundant and obsolete penalties by bringing such problems to our attention.

Senator LAUTENBERG's bill promises to make a significant contribution by ensuring that civil monetary penalties are realistic and continue to serve their purpose of deterring violations of Federal law. I commend Senator LAUTENBERG for his efforts and will work for prompt consideration of this bill by the Governmental Affairs Committee.●

By Mr. GARN (for himself and Mr. HATCH):

S. 336. A bill to settle issues relating to Ute Indian water rights, and for other purposes; by unanimous consent, referred jointly to the Select Committee on Indian Affairs and the Committee on Energy and Natural Resources.

UTE INDIAN WATER SETTLEMENT ACT

● Mr. GARN. Mr. President, I am pleased again to join my colleague, Senator HATCH to introduce another important bill relating to natural resources in Utah.

Specifically, today we are introducing the Ute Indian Water Settlement Act which will make the Federal Government keep its word to the Ute people. It will fairly compensate the tribe and honor the Government's legal commitment.

I should make it clear that Senator HATCH and I are introducing this bill upon the request of the tribe and do not agree with every provision contained in it. Neither has the administration or OMB approved of this measure as written. We fully expect a rigorous debate over its contents and cost will occur before final passage. This is as it should be. The process should be allowed to work.

I intend to help steer that debate so that the end result is both fair to the tribe and to the taxpaying public. It is possible to do both, but I imagine it will take a considerable amount of effort before we are through. I urge the Senate to act promptly on this proposal.●

● Mr. HATCH. Mr. President, the introduction of this legislation today is to fulfill a commitment made to the Ute Indian Tribe made by the Federal Government, relating to their water rights. This is an important piece of legislation, and I am pleased to introduce it today along with my colleague,

Senator GARN. As the senior Senator pointed out, this legislation is being introduced in anticipation of a great deal of discussion as it goes through the committee process.

Nevertheless, it is legislation whose subject matter and intent we are committed to and which addresses a matter that is essential to the Ute Indian Tribe and to the State of Utah. As always, I look forward to working with Senator GARN and the appropriate committees on this important issue.●

By Mr. RIEGLE (for himself and Mr. SIMON):

S. 537. A bill to require that any calculation of the Federal deficit made as a part of the Federal budget process include a calculation of the Federal deficit minus the Social Security reserves; pursuant to the order of August 4, 1977, referred jointly to the Committee on the Budget and the Committee on Governmental Affairs.

CALCULATION OF FEDERAL DEFICIT

● Mr. RIEGLE. Mr. President, today I am introducing a bill to help move us toward a more truthful accounting of the Federal budget deficit.

This bill requires that wherever an estimate of the actual Federal deficit appears in any Federal document, an estimate of the deficit without the Social Security reserves must be displayed with equal prominence to other calculations.

Mr. President, I am very concerned that, while we have been focusing a great deal of attention on the Federal budget deficit, the true magnitude of that deficit has been hidden behind the buildup in the Social Security trust funds.

As my colleagues know, Social Security is financed through a dedicated payroll tax. These funds are to be used to pay only for Social Security benefits.

My colleagues are also aware that the number of beneficiaries of the program is increasing. This is in large part a reflection of the aging of our society, a trend which is predicted to increase through the early part of the next century as the baby boom generation retires.

In 1983, the Social Security program faced a financing crisis. At that time, we adopted legislation to build up reserves in the Social Security program to make sure that money would be available for future beneficiaries. Those reserves are now starting to accumulate. In fact, at the end of the current fiscal year, the trust funds will have a balance of $154.6 billion. CBO projects that the Social Security program will add another $68 billion to its reserves in fiscal year 1990.

The problem we face is that, although we took Social Security out of the unified Federal budget in 1985, Gramm-Rudman-Hollings requires the combined on- and off-budget deficits be used as the measure of the budget deficit. This distorts the true picture of the budget deficits. Most projections utilizing this method of calculating the deficit show it decreasing, when, in actuality, if the Social Security reserves are removed, the deficit is increasing. In other words, the reserves mask the true size of the Federal deficit, and even distorts the progress—or lack thereof—we have made toward its elimination. This will continue to be the case at an increasing rate as the reserves continue to grow dramatically over the next several decades.

The practical result of the current accounting method is that the Government borrows the trust fund reserves to finance the deficit operation of the Government. I am concerned about this, because, just as we are building up these reserves, they're being spent. How long can we continue to do this?

If this practice continues, the people who are paying into the Social Security system today, who believe that the money will be there when they are eligible for benefits, will one day be asked to pay into the system again when the time comes to repay the IOU's that are currently sitting in the trust fund from the Treasury. I do not believe we should continue to allow this to happen.

Mr. President, I have heard a number of my colleagues express concern about the decline of savings in this country over the last decade. They argue that if we were to bring the Federal operating budget into balance, while continuing to build up reserves in the Social Security system, the national savings rate would increase. We are all concerned about the implications of this for investment and productivity now and in the future.

I have asked a number of leading economic leaders, including the current Chairman of the Federal Reserve Alan Greenspan and former Chairman Paul Volcker, as well as the new head of the Office of Management and Budget Richard Darman, what they think of this practice. While they differ on how to treat the accounting of the Social Security trust fund reserves, they all agree that we must find a way to increase savings in this country, and that the reserves represent a tremendous source of savings well into the next century.

Mr. President, this bill would help bring about more honest accounting in the budget process, accounting which acknowledges the buildup of Social Security reserves. It also represents a much-needed first step toward reducing Federal deficits, which is essential if we are to increase national savings rates, improve productivity, and secure a high standard of living for future generations.

Mr. President, I ask unanimous consent that the full text of S. 537 be printed in the RECORD.

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

S. 537

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

The Congress makes the following findings:

(1) The Social Security trust funds were removed from the Federal budget by section 710(a) of the Social Security Act as part of the Balanced Budget and Emergency Deficit Control Act of 1985.

(2) The Social Security trust funds are self-financed, through a payroll tax which is earmarked specifically and exclusively for the Social Security program.

(3) The 1983 Social Security Amendments secured the solvency of the Social Security systems by building up reserves in order to provide future benefits for those who earn them. By the end of fiscal year 1989, the balance in the fund is expected to be $154.6 billion and is projected to reach $11.8 trillion by the year 2030.

(4) The Balanced Budget and Emergency Deficit Control Act of 1985 requires that budget documents report the combined on and off budget deficit as the primary measure of the budget deficit. As a result, the statutory removal of Social Security from the budget has been largely ignored in public discussion. Focusing only on the total deficit leads to the erroneous conclusion that budget problems are being solved. In fact, when the Social Security reserves are removed, the deficit is increasing. The reserves are used to mask the true size and course of the Federal operating budget deficit.

(5) The purpose of building up reserves in the Social Security trust funds is to make sure that the Federal Government will be able to meet its obligations to future beneficiaries. If these funds continue to be used to finance deficit spending in general government activities, the Federal government may be forced to increase taxes in the future in order to meet its obligations to beneficiaries. In effect, this would mean requiring workers and beneficiaries to pay twice for these benefits.

(6) Current low savings rates in the United States discourage national productivity and investment, and put the nation at a competitive disadvantage with other major industrial countries that have higher savings rates. Not including the Social Security reserves in our annual deficit calculation will help us reach the goal of an honest balanced budget (creating a true balance between spending and revenue). Only with a clear picture of the true Federal budget deficit will we be able to build up the Social Security reserves, and bring the Federal budget into balance. Taking these steps will help increase national savings rates, leading to higher productivity and economic growth, and securing a high standard of living for future generations.

SEC. 2. INCLUSION OF FEDERAL DEFICIT MINUS THE SOCIAL SECURITY SURPLUS.

Whenever—

(1) the President;

(2) the Director of the Office of Management and Budget;

(3) the Director of the Congressional Budget Office;

(4) the Committee on the Budget of the House of Representatives;

(5) the Committee on the Budget of the Senate; and

(6) any other entity of the Government,

calculates the deficit for purposes of comparison with the maximum deficit amount (as defined in section 3(7) of the Congressional Budget Act of 1974) under the Balanced Budget and Emergency Deficit Control Act of 1985 or calculates the excess deficit for purposes of sections 251 and 252 of such Act for any fiscal year (as provided in section 3(6) of the Congressional Budget Act of 1974), they shall include with such calculation, and give equal prominence to, a calculation of the deficit without including—

(A) the receipts of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund for such fiscal year and the taxes payable under sections 1401(a), 3101(a), and 3111(a) of the Internal Revenue Code of 1986 during such fiscal year in total revenues for such fiscal year; and

(B) the disbursements of each such Trust Fund for such fiscal year in total budget outlays for such fiscal year.●

By Mr. DURENBERGER:

S. 538. A bill to provide that certain provisions of the Internal Revenue Code of 1986 providing special rules for financially troubled financial institutions shall not remain in effect after the enactment of financial institution reform legislation; to the Committee on Finance.

REPEAL OF SPECIAL RULES FOR FINANCIAL INSTITUTIONS

● Mr. DURENBERGER. Mr. President, today I am introducing legislation that would repeal several tax rules that affect financially troubled savings and loan institutions and banks prior to the December 31, 1989, date they are scheduled to expire. I am pleased that a companion bill is being introduced today in the House by Representative FORTNEY PETE STARK.

Mr. President, the dimensions of the financial crisis confronting the savings and loan industry are staggering. By one estimate, if we adopt President Bush's S&L financing proposal or a modified version of that plan, the ultimate cost of the bailout is likely to exceed $157 billion. And the longer we delay action on developing an S&L financing package, the greater the likelihood that the cost of this crisis will continue to escalate.

I believe President Bush is to be commended for addressing this issue so early in his new administration. Yet, despite assurances from the administration and the industry's regulators that the public's insured deposits are safe, there are clear signs that the public's confidence in the integrity of the S&L industry continues to erode. While the net outflow of desposits from S&L's has recently slowed from the record $8.1 billion in December, withdrawals are still far outpacing deposits. If this trend continues, the entire industry could be jeopardized and the cost of saving the industry could go much higher.

Mr. President, not only do we have a responsibility to resolve this crisis as quickly as possible, but we must also make certain that any S&L financing package minimizes the costs to the American taxpayer and insures the future health and integrity of that part of the industry that survives. It is with these principles in mind that I am today introducing legislation that would repeal the special financial institution tax rules on the date of enactment of financial institution reform legislation.

The current tax law contains several provisions that have been specially crafted to take into account the problems confronting financially troubled financial institutions. Among the most important of these provisions are rules that: First, exclude from income payments made to financially troubled institutions by the Federal Savings and Loan Insurance Corporation [FSLIC] and the Federal Deposit Insurance Corporation [FDIC]; second, provide that most reorganizations of troubled financial institutions tax free; and third, relax loss carryover rules. These special provisions are scheduled to expire at the end of this year.

In the past, these special rules may have facilitated the transfer and merger of failed savings and loans institutions, especially when Federal regulators had insufficient direct capital to complete some of these transactions. But after the spate of transactions that took place in December, wherein FSLIC may have transferred more than $8 billion in tax losses, I believe it is incumbent on Congress to reconsider the wisdom of allowing these tax provisions to remain in effect until the end of this year.

From what I have learned about some of the financing packages negotiated by the FSLIC at the end of 1988, it appears that the long-term costs to the Treasury of these provisions may be far higher than was originally anticipated. Moreover, the inclusion of these special tax provisions in S&L financing packages undermines the integrity of our tax base by allowing companies to, in effect, traffic in tax losses in a manner similar to what we witnessed earlier in this decade when safe harbor leasing was the vehicle of choice for zeroing out corporate tax liabilities.

What is even more troubling about transactions involving these tax provisions is that in some instances it appears that FSLIC may have actually transferred failing S&L's to investors whose cash investments were lower than the tax savings involved in the transaction. In such instances, there is little, if any, risk incurred by investors.

And by including the benefit of these special provisions in S&L financing packages, it appears that the regulators may unwittingly be serving to discourage the new S&L owners from operating the merged facility in the most-efficient and cost-effective manner and may undermine the long-term health of the entire industry. As was recently noted in a Congressional Budget Office staff memorandum:

> The tax-exempt status of the portion of the FSLIC assistance provided in the form of yield maintenance agreements can weaken incentives for acquirers to increase the performance of assets covered by such agreements. . . . The tax benefits can also give rise to perverse incentives that may work to the detriment of the thrift industry as a whole. For example, it would be desirable for insolvent thrifts to be acquired by those parties who are likely to operate them most efficiently. Yet, rules that facilitate the use of tax-deductible net operating losses and built-in losses could have the unintended effect of awarding the insolvent thrift to the wrong bidder.

Mr. President, FSLIC currently does not have sufficient capital to continue merging failing thrifts. Before Congress enacts a new recapitalization package for the financial industry's Federal insurance system, I think it is incumbent on us to reconsider what role, if any, these special tax provisions should play in such arrangements. I think these tax provisions have outlived whatever utility they had in the past.

Finally, I would note that when these provisions are repealed we will have to clarify certain rules regarding the tax treatment of payments made by Federal financial insurers in several situations, including those cases where the deposit insurer takes some form of equity interest in the new institution. I look forward to working with the administration in clarifying the technical details in such situations.

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. 538

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REPEAL OF SPECIAL RULES FOR FINANCIAL INSTITUTIONS.

(a) IN GENERAL.—Each of the following provisions are amended by inserting "(or, if earlier, the date of the enactment of an Act to preform, recapitalize, and consolidate the Federal deposit insurance system)" after "December 31, 1989":

(1) Paragraphs (1) and (2) of section 904(c) of the Tax Reform Act of 1986.

(2) The last sentence of section 382(1)(5)(F) of the Internal Revenue Code of 1986.

(b) APPLICATION OF SECTION 265 TO PAYMENTS UNDER SECTION 297.—

(1) IN GENERAL.—Subparagraph (B) of section 904(c)(2) of the Tax Reform Act of

1986 (as amended by section 4012(c)(2) of the Technical and Miscellaneous Revenue Act of 1988) is hereby repealed.

(2) EFFECTIVE DATE.—The amendment by this subsection shall apply to transfers after December 31, 1989 (or, if earlier, the date of the enactment of an Act to reform, recapitalize, and consolidate the Federal deposit insurance system), except that such amendment shall not apply to transfers after such date pursuant to an acquisition occurring on or before such date.●

By Mr. BUMPERS (for himself, Mr. CONRAD, Mr. INOUYE, and Mr. STEVENS):

S. 539. A bill to amend and direct guaranteed student loan programs under the Higher Education Act of 1965 to publicize the current loan deferral program for full-time volunteers with the Peace Corps, VISTA, and tax-exempt organizations, and for other purposes; to the Committee on Labor and Human Resources.

S. 540. A bill to amend the direct student loan program under the Higher Education Act of 1965 to provide for partial loan cancellation for full-time volunteer service with a tax-exempt organization, and for other purposes; to the Committee on Labor and Human Resources.

S. 541. A bill to amend part B of title IV of the Higher Education Act of 1865 to forgive guaranteed student loans for student borrowers who volunteer for service under the Peace Corps Act or under the Domestic Volunteer Service Act of 1973 or for comparable full-time service as a volunteer with a tax-exempt organization; to the Committee on Labor and Human Resources.

STUDENT COMMUNITY SERVICE LEGISLATION

● Mr. BUMPERS. Mr. President, today I am introducing three bills that will provide opportunities for the young of our country to volunteer service to their community and to the Nation.

The legislation reduces the pressure of student loan debt when they provide full-time, low-paid voluntary service to their community as employees of nonprofit community service organizations.

THE NEXT GENERATION

There are many who are wringing their hands about the next generation, worried about what the "world is coming to."

We have even coined a new word for some of the young people in our country—yuppies. And there is a negative stereotype that we assign to yuppies—earnest young people concerned only with their salaries and their possessions.

But, the premise of the legislation I am introducing is that many young do not fit the yuppies stereotype.

I am not one of those who is worried about the next generation. I take every opportunity to meet with young people, and I am impressed with them and with their values.

I believe they want to serve their community as volunteers.

I believe they have a social conscience.

I believe they know that government services are not enough to alleviate the plight of the poor, the sick and the disadvantaged.

They care about the others and they have a charitable spirit.

STUDENT LOAN INDEBTEDNESS

They are willing to devote themselves to serving these needs, but many of our students are saddled with enormous debts upon graduation and believe that they must avoid low-paying jobs. Community service is not a realistic option for them.

We should commend this sense of responsibility for repaying debts and encourage it. But the problem is that once a student takes a high-paying job, he or she has lost a major opportunity to provide services to the community.

PEACE CORPS MODEL

The legislation I am introducing today is based on the model of service provided by the Peace Corps and VISTA.

As I will explain later, we already have a deferment plan and a repayment of student loans plan for students who take full-time low-paid positions with a nonprofit community service organization.

To qualify for the deferment, the service with the nonprofit organizations must be comparable to the service of a Peace Corps or VISTA volunteer. My legislation is an extension of these program concepts into the private sector.

It does not compete with the Peace Corps or VISTA. Some of the other national service proposals provide such generous benefits to young people that they will put competitive pressure on the Peace Corps and VISTA.

IMPLEMENTATION OF DEFERMENT

The first bill I am introducing simply directs the Department of Education to publicize the current deferment for service with a nonprofit organization, just as the Peace Corps and VISTA publicize the same deferment available for their volunteers.

Few students know that when they serve in low-paid, full-time positions with community service organizations they already can defer repayment of all of their Government student loans.

As with Peace Corps and VISTA volunteers, the deferment applies to direct, guaranteed and plus loans. It is available for full-time service for at least a year. All a student has to do to obtain the deferment is fill out a simple one page form certifying that he or she qualifies.

The problem is that the Department of Education has systematically refused to publicize the existence of the deferment or even inform students of the requirements for claiming it. The Department refuses to collect data on how many students are claiming this deferment, so we do not know how many students are using it. We suspect that about 1,000 students are now using this deferment. I have asked the Department to begin collecting data on the utilization of the deferment, and it has refused to do so.

The Department also refuses to provide information—even to me—on exactly which students qualify for the deferment.

I have now written five letters to the Secretary of Education, starting with a letter on March 24, 1987, asking questions about who can claim the deferment.

I even included a directive to the Department in its appropriations bill directing it to provide information about the deferment, and it has ignored the directive.

Finally, on September 1, 1988, the Department did supply me with answers to a series of questions I raised about the deferment, but to this day the Department continues to refuse to tell me or anyone else exactly what the maximum level of compensation a young person can receive under the deferment.

The compensation issue is one on which we need guidance. The legislative history of the current deferment states that the compensation of the student must be comparable to that of a Peace Corps or VISTA volunteer. We need guidance from the Department on exactly what this means in dollars and cents. The refusal of the Department to clarify this issue for students means that they do not know how much they can earn and still qualify for the deferment.

On April 20, 1988, I wrote to the Department requesting its guidance on this issue. In this letter I provided the Department with an extended analysis of the compensation and benefits of Peace Corps and VISTA volunteers and concluded that the Department could set the Federal minimum wage as the maximum compensation level. It could set the level at higher than the minimum wage, but I suggested that it set it at no less than the minimum wage in order to avoid a catch-22 in which the tax-exempt organization might not feel it could employ a student volunteer at less than the minimum wage.

I have yet to receive a response from the Department on the maximum compensation issue.

The refusal of the Department to implement the current deferment program is not due to the potential cost of the program. According to the De-

partment the current deferment costs only $80 per $1,000 of the student's loans per year. This is an incredibly cheap program given the fact that it encourages young people to devote a year or more of their lives to community service.

Its refusal also does not arise from any church-State issues. It has been clear from the beginning that the deferment is available for church-affiliated, tax-exempt organizations as long as the student, "as part of his or her duties, does not give religious instruction, engage in religious proselytizing, or engage in fundraising to support religious activities." (Department regulations.)

The only explanation for the Department's refusal to implement the current deferment is its indifference—or perhaps its hostility—to students who are willing to devote a year or two of their lives to serving the community.

PARTIAL CANCELLATION, DIRECT LOANS

Under current law the direct student loans—Perkins, NDSL loans—of Peace Corps and VISTA volunteers may be partially canceled—up to 70 percent cancellation over 4 years. So the second bill I am introducing would extend this partial loan cancellation to students with loan indebtedness who perform comparable service with the same kind of tax-exempt community organizations.

The partial cancellation provision provides that 15 percent of a volunteer's direct loans will be canceled for each of the first 2 years of service and an additional 20 percent will be canceled for each of the next 2 years of service as a volunteer. This means that a total of 70 percent of a student's direct loans may be canceled.

The partial cancellation provision applies only to new loans taken out by students just beginning their college education. It is not retroactive to loans or students who have previously taken out direct loans. It is an incentive only, with no windfall for students who already are in school. So there is no budget impact until 1993.

The partial cancellation applies on top of the deferment. In other words, the student who serves as a volunteer will not be obligated to begin repaying his or her loans during the term of service as a volunteer and then when he or she does begin to repay the loans, he or she will not have to repay the full amount of the loans.

So, we first had a deferment for Peace Corps and VISTA service. Then we had a deferment for comparable service with tax-exempt community service organizations. Then we had partial cancellation of direct student loans for Peace Corps and VISTA volunteers. Now, I am proposing that we extend this same provision to students who serve with tax-exempt community service organizations.

Each year the Federal Government makes approximately 800,000 direct loans. These direct loans go to students with substantial financial need. They are much more likely to need this partial cancellation to be able to provide the community service.

Extending the partial cancellation provision to students who serve full time in low-paid positions with tax-exempt community service organizations is a simple matter of equity.

PARTIAL CANCELLATION, GUARANTEED LOANS

The current partial cancellation provisions for Peace Corps and VISTA volunteers only apply to direct NDSL loans, so the third bill I am introducing will provide for partial cancellation of guaranteed loans—Stafford, GSL—for Peace Corps and VISTA volunteers and for students who perform comparable service with tax-exempt community service organizations. This loan cancellation applies to both undergraduate and graduate students with GSL loans. GSL loans constitute the bulk of the Federal student financial assistance.

But, there are a great number of students with guaranteed loans who might be inclined to join the Peace Corps or VISTA or take full-time, low-paid positions with tax-exempt organizations if their guaranteed loans were partially canceled. There are over 3 million students with guaranteed student loans, nearly four times as many as have direct loans.

Accordingly, my third bill would provide a partial cancellation of a student's guaranteed loans when he or she joins the Peace Corps or VISTA or serves with a tax-exempt community service organization. This partial cancellation applies to any student with GSL loans.

I am aware that proposing partial cancellation of guaranteed loans raises more complicated technical and policy issues than cancellation of direct loans. With direct loans the Government puts up the capital, but with guaranteed loans private banks supply the capital. To cancel guaranteed loans the Government must repay part of the loan rather than simply writing down part of the loan on its own account.

COST OF THE LEGISLATION

Even though the Government would be obligated to pay a portion of a GSL, these three bills encourage and promote community service at an incredibly low cost.

The current deferment costs only $80 per $1,000 of student loans deferred per year. The average loan balance for students is approximately $5,000, so the current deferment costs approximately $500 for each student who performs service. This is an incredibly low cost for the benefits that these students are providing to the community.

The cost of extending the partial cancellation of direct loans to students serving with tax-exempt organizations is minimal. According to an October 3, 1988, letter from the Congressional Budget Office, the cost of this proposal is $500,000 and the cost does not begin until fiscal 1993. This budget impact does not start until then as the provision applies only to new students and they will only then begin to graduate and to complete their terms of service with the tax-exempt organizations.

It will be more costly to partially cancel GSL loans of Peace Corps and VISTA volunteers and of students who perform comparable service with tax-exempt organizations. A preliminary estimate is that this third bill would cost less than $5 milllion per year. But again, this cost does not begin to be felt until fiscal 1993 because the benefits apply only to new loans taken out by new students.

POLITICAL REALITY

These bills are effective and, equally important, they are politically realistic.

These bills do not involve the Federal Government in organizing the community service. The Government does not secure placements for the students, subsidize their living expenses, pay for fringe benefits, or supervise their conduct.

Student loan indebtedness is the most frequently cited reason why students are unwilling to perform community service upon graduation.

The bills do not require service, directly or indirectly.

The bills do not involve the Federal Government in organizing the service itself or even in placing students in service positions.

The bills do not create any new government agency or bureaucracy. They are directed solely at the private sector.

The bills involve hardly any paperwork. All a student must do to qualify is to sign a simple form certifying that he or she qualifies for the deferment or partial cancellation.

To qualify for these benefits, the students must make a sacrifice. The position must be a low-paid one, meaning that the pay must not exceed the Federal minimum wage. This makes the service with a tax-exempt organization comparable to that of a Peace Corps or VISTA volunteer. It they make the sacrifice, they deserve a break on their student loans.

The bills build on the Peace Corps and VISTA model. They are proven programs and we do not need to experiment with untried service corps models. And, above all, we should do nothing that adversely affects the Peace Corps and VISTA.

The bills do nothing to undermine the availability of Federal financial as-

sistance to students who choose not to serve.

There already exist 50 State and local youth service corps and these bills do not duplicate or conflict with these programs.

Publicizing the current deferment requires no new legislation or appropriations. It can be done now, without any delay by the administration and by Congress. Members' offices can do this with mailings to the universities, colleges, and tax-exempt organizations in their States.

The three bills I have introduced are realistic, effective, and timely.

I ask unanimous consent that the text of the three bills be printed at this point in the RECORD.

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

S. 539

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 "Student Loan Deferment and Community Service Act of 1989".

INFORMATION FOR STUDENTS

SEC. 2. (a) Section 485(a)(1) of the Act is amended—

(1) by striking out "and" at the end of subparagraph (J);

(2) by striking out the period at the end of subparagraph (K) and inserting in lieu thereof a semicolon and the word "and"; and

(3) by adding at the end thereof the following:

"(L) the terms and conditions under which students receiving guaranteed student loans under part B of this title or direct student loans under part E of this title, or both, may—

"(i) obtain deferral of the repayment of the principal and interest for service under the Peace Corps Act or under the Domestic Volunteer Service Act of 1973, or for comparable full-time service as a volunteer for a tax-exempt organization, and

"(ii) obtain partial cancellation of the student loan for service under the Peace Corps Act or under the Domestic Volunteer Service Act of 1973.".

(b) Section 487(a)(7) of the Act is amended by inserting before the period a comma and the following: "particularly the requirements of subsection (a)(1)(L) of such section".

EXIT COUNSELING FOR BORROWERS

SEC. 3. Section 485(b) of the Act is amended—

(1) by striking "and" at the end of paragraph (1);

(2) by striking the period at the end of paragraph (2) and inserting in lieu thereof a semicolon and "and"; and

(3) by adding the following new paragraph after paragraph (2):

"(3) the terms and conditions under which the student may obtain partial cancellation or defer repayment of the principal and interest for service under the Peace Corps Act or under the Domestic Volunteer Service Act of 1973 or for comparable full-time service as a volunteer for a tax-exempt organization.".

DEPARTMENT INFORMATION ON DEFERMENTS AND CANCELLATIONS

SEC. 4. Section 485(d) of the Act is amended by inserting the following before the last full sentence: "The Secretary shall provide information on the specific terms and conditions under which students may obtain partial cancellation or defer repayment of loans for service under the Peace Corps Act and Domestic Volunteer Service Act of 1973 or for comparable full-time service as a volunteer with a tax-exempt organization, shall indicate (in terms of the Federal minimum wage) the maximum level of compensation and allowance which a student borrower may receive from a tax-exempt organization to qualify for a deferment, and shall explicitly state that students may qualify for such partial cancellations or deferments when they serve as a paid emloyee of a tax-exempt organization.".

DATA ON DEFERMENTS AND CANCELLATIONS

SEC. 5. Section 485B(a) of the Act is amended—

(1) by striking "and" at the end of paragraph (3);

(2) by striking the period at the end of paragraph (4) and inserting in lieu thereof a semicolon and "and"; and

(3) by adding the following new paragraph after paragraph (4):

"(5) the exact amount of loans partially cancelled or in deferment for service under the Peace Corps Act, for service under the Domestic Volunteer Service Act of 1973, and for comparable full-time service as a volunteer for a tax-exempt organization.".

S. 540

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 "Perkins Loan Forgiveness and Community Service Act of 1989".

LOAN CANCELLATION AUTHORIZED

SEC. 2. (a) Section 465(a)(2) of the Higher Education Act of 1965 (hereafter in this Act referred to as the "Act") is amended—

(1) by striking out "or" at the end of clause (D);

(2) by striking out the period at the end of clause (E) and inserting in lieu thereof a semicolon and the word "or"; and

(3) by adding at the end thereof the following new clause:

"(F) as a full-time volunteer in service comparable to service referred to in subparagraph (E) for an organization which is exempt from taxation under section 501(c)(3) of the Internal Revenue Code 1986.".

(b) Section 465(a)(3)(A) of the Act is amended—

(1) by striking out "or" at the end of clause (iii);

(2) by striking out the period at the end of clause (iv) and inserting in lieu thereof a semicolon and the word "or"; and

(3) by adding at the end thereof the following new clause:

"(v) in the case of service described in subparagraph (F) of paragraph (2) at the rate of 15 percent for the first or second year of such service and 20 percent of the third or fourth year of such service.".

TECHNICAL AMENDMENT

SEC. 3. (a) Section 464(a)(2)(A)(v) of the Act is amended by striking out "Internal Revenue Code of 1954" and inserting in lieu thereof "Internal Revenue Code of 1986".

(b) Section 465(a)(5) of the Act is amended by striking out "Internal Revenue Code of 1954" and inserting in lieu thereof "Internal Revenue Code of 1986".

EFFECTIVE DATE

SEC. 4. The amendments made by section 2 of this Act shall apply only to loans made to cover the costs of instruction for periods of enrollment beginning on or after thirty days after the date of enactment of this Act to individuals who are new borrowers on that date.

S. 541

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 "Stafford Loan Forgiveness and Community Service Act of 1989".

SEC. 2. (a)(1) Section 427(a)(2)(B)(ii) of the Higher Education Act of 1965 (hereafter in this Act referred to as the "Act") is amended by inserting after "that" a comma and the following: "subject to the provisions of subparagraph (H),".

(2) Section 427(a)(2) of the Act is amended by—

(A) striking out "and" at the end of subparagraph (G);

(B) redesignating subparagraph (H) as subparagraph (I); and

(C) inserting after subparagraph (G) the following new subparagraph (H):

"(H) provides (subject to section 432(f) in the case of any student borrower who, prior to the beginning of the repayment period, agrees in writing to volunteer for service under the Peace Corps Act or under the Domestic Volunteer Service Act of 1973 or for comparable full-time service as a volunteer with a tax exempt organization for the payment by the United States of the percent of the amount of loans specified in section 432(f), and".

(b)(1) Section 428(b)(1)(D) of the Act is amended by inserting after "paragraph" the following: "and subject to subparagraph (V)".

(2) Section 428(b)(1) of the Act is amended by—

(A) striking out "and" at the end of subparagraph (T);

(B) striking out the period at the end of subparagraph (U) and by inserting in lieu thereof a semicolon and "and"; and

(C) adding at the end thereof the following new subparagraph:

"(V) provides (subject to section 432(f)) in the case of any student borrower who, prior to the beginning of the repayment period, agrees in writing to serve as a volunteer for service under the Peace Corps Act or under the Domestic Volunteer Service Act of 1973 or for comparable full-time service as a volunteer with a tax-exempt organization for the payment by the United States of the percent of the amount of loans specified in section 4r32(f).".

(c) Section 432 of the Act is amended by adding at the end thereof the following new subsection:

"(j) PARTIAL CANCELLATION AUTHORITY.—(1) The Secretary shall enter into any agreement with any student borrower described in section 427(a)(2)(H) or 428(b)(1)(V) under which the borrower agrees to serve as a volunteer under the Peace Corps Act or under the Domestic Volunteer Service Act of 1973 or for comparable full-time service as a volunteer with a tax-exempt organization.

"(2) The agreement under paragraph (1) shall contain provisions designed to assure that—

"(A) the Secretary will assume the obligation of paying the percent of any loan made, insured, or guaranteed under this part pursuant to the schedule described in paragraph (5); and

"(B) the student borrower who fails to volunteer for service in accordance with the agreement will assume the obligation of paying the amount of any such loan attributable to the period for which the student borrower failed to comply with the agreement.

"(3) The Secretary shall in each fiscal year pay to the holder of each loan for which the Secretary assumes responsibility under this subsection the amount specified in paragraph (5).

"(4) The Secretary shall waive or suspend any obligation of service or payment of any, or any part of, the loan to which the United States is entitled under paragraph (2)(A) whenever the Secretary determines that compliance by an individual with the agreement is impossible or would involve extreme hardship to the individual.

"(5)(A) The percent of a loan which shall be paid by the United States under paragraph (2)(A) of this subsection is 15 percent for the first or second year of service and 20 percent for the third or fourth year of service described in paragraph (1).

"(B) If a portion of the loan is paid by the Secretary under this subsection for any year, the entire amount of interest on such loan which accrues for such year shall be paid by the Secretary.

"(C) Nothing in this subsection shall be construed to authorize refunding of any repayment on the loan.".

EFFECTIVE DATE

SEC. 3. The amendments made by section 2 of this Act shall apply only to loans made to cover the costs of instruction for periods of enrollment beginning on or after thirty days after the date of enactment of this Act to individuals who are new borrowers on that date.●

● Mr. CONRAD. Mr. President, I am pleased today to join my good friend and colleague, Senator BUMPERS, in introducing this important community service legislation.

There is a growing desire in this country to find ways to enhance the interest and ability of our Nation's youth to serve both their communities and their country. It instills in them a value for public service and pride in their country. It helps them gain an understanding for the interworkings of their communities and government.

The bills we are introducing today will help encourage America's youth to participate in community service. They also eliminate barriers to student participation. Among the most important of these barriers is student indebtedness.

Many of today's youth want to serve their communities, but enormous student loan debts often prevent them from doing so. Just yesterday I spoke with a group of students concerned about how difficult it has become for them, and many of their friends, to pay for a college education. Once they graduate, they are saddled with a debt burden that forces them to concentrate all their energies on repayment. Indebtedness prevents these students from taking lower-paid jobs in fields like community service—and deprives society of the benefits of this work.

Community service promises to receive a great deal of attention during the 101st Congress. We will witness the introduction of a variety of proposals for both mandatory and voluntary service.

The strength of the proposals we are introducing is that for a relatively low cost, they provide opportunities for young Americans to serve their communities without worrying about their college debts. They provide community organizations with a valuable resource and students with valuable learning opportunities.

The first bill directs the Department of Education to publicize a policy that is already on the books. Many are unaware that students who accept low-paid positions with tax-exempt community service organizations may presently have repayment of their loans deferred. It's about time they knew.

Current law also allows for the cancellation of up to 75 percent of students' debt incurred from direct student loans if they participate in the Peace Corps or VISTA. The second bill would make students who perform comparable service with tax-exempt organizations eligible for the same treatment at an annual cost of only about $500,000.

And finally, the third bill will extend the present partial cancellation provisions to guaranteed student loans.

These bills do nothing to change the availability of Federal financial assistance to students who do not wish to participate. They do not involve the Federal Government in the organization of community service, create a new bureaucracy, or duplicate existing state and local service corps programs.

There are many who argue that today's youth have lost their interest in serving our country. I disagree. I have to believe that the escalation of tuition costs and the mounting burden of student indebtedness are important factors.

At the same time, we need national leadership in this area. We must show that as a nation we value the skills and creativity of our younger citizens. We can do this by recognizing that if students choose to serve, they deserve to be rewarded.●

By Mr. LAUTENBERG:

S. 542. A bill to adjust the maximum level of civil penalties under the Consumer Product Safety Act to account for inflation; to the Committee on Commerce, Science, and Transportation.

CONSUMER PRODUCT SAFETY ENFORCEMENT ACT

● Mr. LAUTENBERG. Mr. President, today I am introducing legislation, the Consumer Product Safety Enforcement Act of 1989, to triple civil penalties for violations of the Consumer Product Safety Act and to establish a mechanism for periodically adjusting these penalties to account for inflation.

Mr. President, under current law, any person who knowingly violates provisions of the Consumer Product Safety Act is subject to a civil penalty not to exceed $2,000 per violation, except that the maximum civil penalty for any related series of violations may not exceed $500,000.

Under the bill, the $2,000 civil penalty would be raised to $6,000 and the $500,000 maximum total would be raised to $1,500,000. These increases would restore these penalties to levels close to their real values when they were first established by Congress.

In addition, the legislation establishes a mechanism for periodic adjustments of these penalty levels to account for inflation in the future. Under that mechanism, penalty levels would be adjusted every 5 years based on increases in the Consumer Price Index. Adjusted penalty amounts would be published in the Federal Register at least 1 month before becoming effective.

Mr. President, CPSA penalty amounts originally were set back in 1972. Since then, consumer prices have increased by about 185 percent—that is, almost tripled. Yet penalty levels have remained the same. As a result, lawbreakers are enjoying a needless windfall, the deterrent effect of these sanctions is shrinking, and the Government is losing revenue.

The Senate, back in 1972, already determined that a $2,000 maximum civil penalty for violating consumer product standards was not sufficient. In fact, at that time, the Senate overwhelmingly passed a version of the Consumer Product Safety Act that included a maximum civil penalty of $10,000. The bill enjoyed strong bipartisan support and passed by a vote of 69 to 10. However, the $10,000 penalty was reduced to $2,000 in conference with the House.

Mr. President, the Consumer Product Safety Act is designed to protect the public from unreasonable risks of injury posed by consumer products. Yet the act cannot adequately protect the public if its sanctions are weakened by inflation.

Consumers are not the only beneficiaries of effective product safety standards. Honest businesses also stand to gain. After all, complying with CPSA standards may require significant investments of money. Honest businesses are making these investments. But sometimes their competitors are not. And with weakened sanctions, they are getting away with it.

Mr. President, as a society, we have an obligation to the honest business. An obligation to make sure that its competitors can't exploit weakened sanctions to gain an unfair competitive advantage. This bill will help us meet that obligation.

I also want to emphasize the importance of establishing a mechanism for periodic inflation adjustments of maximum penalty amounts. Although inflation has remained at moderate levels in recent years, there are indications that price increases may be accelerating again—the January increase in the Consumer Price Index was equivalent to an annual increase of over 7 percent. And even that is only about half the 13.5-percent inflation rate we experienced in 1980.

I am hopeful that inflation can be kept under control this year. But even moderate annual price increases quickly translate into substantial reductions in real penalty values in only a few years. An inflation rate of 6 percent—less than the January increase—translates into a 50-percent reduction in real penalty values over only about 7 years.

Mr. President, history has shown that Congress often goes many years without adjusting penalty levels—even when important public goals are at stake. CPSA penalties have been on the books for about 17 years. OSHA penalties have remained untouched for about 19 years. Other penalties on the books have not been adjusted in almost 200 years.

Nor is there any reason to rely on future Congresses to do a better job of updating penalty values. Congress has enough to do without having to act repeatedly merely to reaffirm existing policy and maintain the value of penalties. Each year we struggle to adopt a budget and pass the necessary appropriations bills. Also, even if the congressional leadership makes adjustment of fine levels a priority, a small minority in the Congress—or the President—can effectively block legislation. Why should we allow the amounts of penalties to deteriorate, along with their deterrent values and revenue-generating potential, simply because of congressional inattention or because remedial legislation gets blocked in the political process?

Some may argue that indexing puts the level of consumer safety sanctions on "automatic pilot." Yet this misses the key point: penalties are already on automatic pilot—an arbitrary, unpredictable pilot called inflation. This bill will take policy off this unstable automatic pilot and keep it on the course set by Congress.

Mr. President, several groups have been very helpful in my efforts to index consumer product safety and other civil penalties. In particular, I want to acknowledge the Consumer Federation of America and U.S. PIRG, who last year produced a useful and enlightening study that documented the need for inflation adjustments, entitled "The Deterrence Gap: How Inflation Has Taken the Bite Out of Health and Safety Penalties." The AFL-CIO and Public Citizen, which both testified in favor of indexing civil penalties at hearings last year, have also been helpful. I appreciate the efforts of all these groups and look forward to working with them to see this bill, and other legislation to index civil penalties, enacted into law.

Mr. President, it is vitally important that consumer products are manufactured and distributed in ways that do not jeopardize public safety and health. To ensure safe products, we must deter those who would violate safety standards.

The Consumer Product Safety Enforcement Act of 1989 will restore the strength of existing consumer safety penalties and ensure the continued effectiveness of these sanctions in the future. If enacted, I am convinced the bill will help prevent many serious injuries and save many lives.

I urge my colleagues to support the legislation and ask unanimous consent that a copy 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. 542

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 "Consumer Product Safety Enforcement Act of 1989".

CIVIL PENALTIES

SEC. 2. Section 20(a) of the Consumer Product Safety Enforcement Act (15 U.S.C. 2069(a)) is amended—

(1) by striking out "$2,000" and inserting in lieu thereof "$6,000"; and

(2) by striking out "500,000" each place it appears and inserting in lieu thereof "$1,500,000".

SEC. 3. Section 20(a) of the Consumer Product Safety Enforcement Act of 1989 (15 U.S.C. 2069(a)) is amended by adding at the end thereof the following new paragraph:

"(3)(A) The maximum penalty amounts authorized in paragraph (1) shall be adjusted for inflation as provided in this paragraph.

"(B) Not later than December 1, 1994, and December 1 of each fifth calendar year thereafter, the Commission shall prescribe and publish in the Federal Register a schedule of maximum authorized penalties that shall apply for violations that occur after January 1 of the year immediately following such publication.

"(C) The schedule of maximum authorized penalties shall be prescribed by increasing each of the amounts referred to in paragraph (1) by the cost-of-living adjustment for the preceding 5 years. Any increase determined under the preceding sentence shall be rounded to—

"(i) in the case of penalties greater than $1,000 but less than or equal to $10,000, the nearest multiple of $1,000;

"(ii) in the case of penalties greater than $10,000 but less than or equal to $100,000, the nearest multiple of $5,000;

"(iii) in the case of penalties greater than $100,000 but less than or equal to $200,000, the nearest multiple of $10,000;

"(iv) in the case of penalties greater than $200,000, the nearest multiple of $25,000.

"(D) For purpose of this subsection:

"(i) the term 'Consumer Price Index' means the Consumer Price Index for all-urban consumers published by the Department of Labor.

"(ii) The term 'cost-of-living adjustment for the preceding 5 years' means the percentage by which—

"(I) the Consumer Price Index for the month of June of the calendar year preceding the adjustment; exceeds

"(II) the Consumer Price Index for the month of June preceding the date on which the maximum authorized penalty was last adjusted." ●

By Mr. SIMON (for himself, Mr. KENNEDY, and Ms. MIKULSKI):

S. 543. A bill to amend the Job Training Partnership Act to strengthen the program of employment and training assistance under that act, and for other purposes; to the Committee on Labor and Human Resources.

JOB TRAINING PARTNERSHIP ACT YOUTH EMPLOYMENT AMENDMENT

● Mr. SIMON. Mr. President, today I am introducing a bill to amend the Job Training Partnership Act [JTPA] to strengthen employment and training assistance programs and to improve the targeting of services to economically disadvantaged adults and youth, particularly those served under title IIA and IIB. I want to thank my good friends and colleagues, Senators KENNEDY and MIKULSKI for cosponsoring this bill. I also want to express my appreciation to Chairman HAWKINS, of the House Education and Labor Committee, who was instrumental in authoring the original act. I know he is planning to introduce a bill and I look forward to working with him.

I am introducing this bill because our Nation today is facing the one enemy no peace-time economy has defeated—unemployment. Achieving full employment is the next logical step for a humane society and a society that intends to squarely confront the issues of competitiveness and productivity. We cannot be competitive or productive when 10 million Americans are out of work and represent a debit, rather than a credit or asset to society. We must meet the challenge to put America back to work for a simple reason. We have two opinions—to pay people who are out of work for doing something, or to pay then for doing nothing. I prefer to pay them for doing something.

America's economy is facing two human resource trend lines—the supply of unskilled (and often unedu-

cated) labor is going up and the demand for unskilled labor is declining. Between now and the year 2000, employment in professional and managerial jobs will increase by 5.2 million, while operative and laborer positions will grow by only 1.3 million. Only 10 percent of the new jobs created by 1995 will be in manufacturing, the rest will be in the service sector. Minorities, especially black Americans and Hispanics, dominate this pool of unwanted and increasingly unused labor.

THE PROBLEM

If one thing is clear, it is that the problem can be defined by these startling statistics:

In 1986, of 4 million young adults who were high school drop outs, one in four was unemployed, and many have never even entered the labor force.

Today, 14 percent of all adults in the United States—and 20 percent of all youth under 17—are members of minority groups, and by the year 2000, one-third of all school age children will be black Americans, Hispanic Americans or Asian Americans.

The situation is not always rosy for those who do complete inner city and rurally-isolated high schools. Former Labor Secretary Bill Brock told the Nation in 1986 that 700,000 high school graduates could not even read their own diplomas.

Another 36 million Americans have some form of disabling condition. Two-thirds of those are unemployed and two-third's are trying to find jobs. For black Americans with disabilities the unemployment rate is 83 percent.

On the average, a low-income student can count on receiving about $5,000 per year over 4 years in Federal student assistance to help pay the cost of a college education. That same young man or young woman—if he or she chooses not to attend college—will be eligible for only $1,800 for 4 months of job training and educational assistance under JTPA.

In 1987, New York Telephone Co. had to test 60,000 applicants, many of whom were minorities, in order to hire 3,000 entry-level personnel.

There are now more black college-age young men in America's prisons than in our colleges and universities! Even as the number of black high school graduates grows, the percentage of blacks entering college is declining. Young black males are the hardest hit.

The Pennsylvania State University has estimated that the cost of not educating and training disadvantaged young men and women for employment costs Americans $225 billion each year—in lost productivity and in welfare payments, expenses related to crime prevention and the criminal justice system.

During the past 8 years, both the Reagan and Bush administrations have prided themselves on their efforts to lower unemployment—and it has been reduced—however, at the same time we are seeing alarming increases in the number of homeless, especially among families and those simply discouraged and no longer seeking work. We are seeing an increasing percentage of children born into poverty each year, and rapidly escalating crime and murder rates in our inner cities. I wonder how many of our unemployed are discouraged workers or young males or teen-parents who have never entered the labor force and would be rescued from welfare or incarceration if a meaningful job was in their future?

THE CRITICISMS OF JTPA

The way the JTPA is currently structured, it will not be able to meet the goal of providing a productive and skilled workforce by the year 2000. A program that enrolls 37 percent of its participants in short term training programs, (and a majority of the rest of enrollees are in on-the-job-training and job service programs), will not be able to significantly improve the skilled labor shortage. A program will not succeed in training the "hard to serve" if the program does not provide incentives to serve those participants most in need of training and provide them more comprehensive training services.

CETA was plagued with low placement rates and high cost per placement. In addition, CETA had weak private sector involvement in planning the local training activity. JTPA has attempted to correct the concerns with CETA by providing greater decision-making power at the State and local level and increasing the role of the private sector.

JTPA has accomplished its goals of increased participation in the private sector, higher placement rates and lower costs per placement. Why then is anyone complaining about a program that has achieved such good results? It is because JTPA is failing in its mission of providing job training opportunities for the "most in need" and in meeting the country's needs in keeping America competitive in world markets. There are a number of reasons for this:

The national cost per placement of $4,700 is too low to provide training in most trade and technical programs and longer term basic skills training.

Training programs are increasingly shorter. In 1985, the average training program was less than 12 weeks; under CETA it was 20 weeks.

The emphasis on high placement rates has resulted in concentrating JTPA activity on participants who may have little need of training.

A SIMON SOLUTION

Mr. President, there are five major components to this bill: First, a formula change to improve the targeting of funds to the economically disadvantaged; second, the creation of separate parts under this Title for programs to serve only adults over the age of 24 in title IIA and to serve youth aged 16 through 24 in year-round programs—for youth who also need remedial education services—and summer employment programs in title IIB; third, modification to the present composition of the Private Industry Councils [PIC's], while retaining the requirement that the PIC chair be a representative of the private sector; fourth, the creation of the new "Fair Chance: Youth Opportunity Challenge Grant" program serving youth; and fifth, an increase of $150 million in title IIA funds—excluding those funds now spent on youth that are being transferred to the II youth part—and $150 million in title IIB funds over current appropriations and IIA youth funds transferred into IIB.

In this bill I emphasize education as the foundation for providing training and employment opportunities. Educating America's future work force reaches beyond the classroom. I fully recognize that it is not the responsibility of the JTPA Program to educate our workforce—we spend hundred's of billions of dollars on an education system that, in many cases, and in many areas, is failing. We are not addressing the reform of our education system here, nor am I going to address it in my bill. But, we must still address the problems of the workforce that we have now. It is an unfortunate necessity, but it is one that the JTPA Program cannot ignore.

FUNDING FORMULA CHANGE

One of the major components of this bill is to improve the targeting of limited Federal resources on the "truly disadvantaged," the long-term, hard-core unemployed, and our youth who have never entered the labor force and have no means to do so without the direct intervention of this program. There are studies over the last few years that have documented various shortcomings in the existing program and made various recommendations for strengthening the program and targeting limited Federal resources on the disadvantaged.

Some of these studies include: the ABT study "an assessment of funding allocation under the Job Training Partnership Act;" the National Commission for Employment Policy report "who is served in JTPA programs: patterns of participation and intergroup equity;" the GAO report "Job Training Partnership Act—Summer Youth Programs increase emphasis on education;" the U.S. Department of Labor Office of Audit's "JTPA participant training and services" (Report I—participant training and employment); the Hudson Institute's "Workforce 2000—work and workers for the

twenty-first century"; the Commission on Work Family and Citizenship's report "the Forgotten Half: Non-College Youth in America;" and the Commission on Minority Participation in Education and American Life's "One-Third of a Nation."

The title II program formula does a poor job of targeting funds where large concentrations of eligible, low-income people reside and where small pockets of concentrated poverty exist. To use my own State as an example, I want to better target funding so that we serve more than the 15,000 youth now being served out of the 200,000 income-eligible in the city of Chicago. I also want to hit those pockets of severe poverty in such places as East St. Louis in downstate Illinois.

Presently, both title IIA, the Block Grant Program, and title IIB, the Summer Youth Employment and Training Program, use the same formula for the distribution of funds. The current formula is based on the following numbers—two-thirds on unemployment figures, and one-third on the number of economically disadvantaged individuals. While both programs are designed to serve economically disadvantaged youth and adults, only one-third of the formula is based on the number of economically disadvantaged persons.

This bill would create separate funding formulas for title IIA and IIB and would change the factors on which funds are allotted or redistribute the percentage amounts for each of the existing categories listed below. The State formula will have a 100 percent hold-harmless, based on fiscal year 1989 dollars, in both programs—the within State formula will retain its 90 percent hold-harmless. In title IIA, the State and within State formula is identical and is based on the following factors:

Fifty percent of the amount shall be allotted on the basis of the relative excess number of unemployed adults (raised from 33⅓ percent in current law); and

Fifty percent of the amount shall be allotted on the number of economically disadvantaged adults (raised from 33⅓ percent).

Deletes the 33⅓ percent factor currently allotted for areas of substantial numbers of unemployed.

In title IIB the State and within-State formula is two-tiered and based on different formula factors. The State formula will have a 100 percent hold harmless, based on fiscal year 1989 dollars, and is as follows:

Fifty percent of the amount shall be allotted on the basis of the number of economically disadvantaged youth in the State (raised from 33⅓ percent in current law);

Twenty-five percent of the amount shall be allotted on the basis of the relative number of unemployed youth (lowered from 33⅓ percent); and

Twenty-five percent of the amount shall be allotted on the basis of the relative number of economically disadvantaged youth residing in "areas with substantial numbers of economically disadvantaged youth" in each State as compared to the total number of youth in all such areas in all States. (The term "areas of substantial numbers" means any area with sufficient size and scope to sustain a program in Title IIB and in which the percentage of economically disadvantaged youth population aged 16 through 24 is at least 20 percent. This factor is based on the "areas of substantial unemployment" concept used in the current formula.)

The within-State or service delivery area [SDA] formula in IIB is as follows:

Fifty percent of the amount shall be allotted on the basis of the number of economically disadvantaged youth in the SDA compared to the total number of economically disadvantaged youth in the State (raised from 33⅓ percent in current law); and

Fifty percent of the amount shall be allotted on the basis of the relative number of economically disadvantaged youth residing in "areas with substantial numbers of economically disadvantaged youth" in each SDA as compared to the total number of youth in all such SDAs in the State. (The term "areas of substantial numbers" means any area with sufficient size and scope to sustain a program in Title IIB and in which the percentage of economically disadvantaged youth in the population of youth aged 16 through 24 is at least 20 percent. Also, this factor is based on the "areas of substantial unemployment" concept used in the current formula.)

The two factors based upon unemployment data are deleted from this formula.

PIC MODIFICATION

Another major proposal in this bill is a modification in the composition of the Private Industry Council [PIC]. We must broaden the representation of the PIC if we are going to expect any community-based organization or education, public assistance, economic development, labor, and vocational rehabilitation programs to work more closely with the private sector and the JTPA program at the local level. We also need to ensure that these groups are represented on the PIC in order to improve coordination with the agencies who will be working to implement programs such as Welfare Reform and Vocational Education.

There is also one other reason for expanding the membership and broadening the representation on local Private Industry Councils. The appropriation levels for Titles IIA and IIB have been stagnant for the past 8 years. We will never meet the Nation's training needs if we serve only 4 percent of the JTPA eligibles. Clearly, without more money we cannot reach the "hard-to-serve" nor all of those who could benefit from JTPA. We must have a broader representation of community groups and agencies if we are going to ensure we have more groups fighting for funding for this needed program.

Under current law the PIC must be composed of a "majority" of private sector representatives and the Chair is selected from the private sector. This bill retains this language.

The modification to require a minimum representation of other groups on the PIC is as follows: a minimum of 17 percent of the PIC be representatives from organized labor and community-based organizations, (with a stipulation added that when labor cannot adequately meet the labor representation on the PIC then individuals from unorganized labor may be included on the council to complete the labor representation); and, that a minimum of 25 percent of the PIC be comprised of representatives of all education agencies, rehabilitation agencies, public service and assistance agencies, economic development agencies, and public employment service agencies.

CHALLENGE GRANT

The creation of a new "Fair Chance: Youth Opportunities Challenge Grant" program is based on a proposal described in a William T. Grant Foundation report, "The Forgotten Half: Pathways to Success for America's Youth and Young Families." This program is designed to stimulate the development of an integrated approach for the education, training, and service needs for all youth. The program would fund one to two demonstration programs in each state to target non-college bound youth and offer the services necessary to enable youth to readily access post-secondary education and training opportunities. Each program would be designed to include the following:

A cooperative agreement among youth-serving agencies and public and private agencies to ensure coordination of resources and to avoid duplication;

Outreach and recruitment efforts to target "harder-to-serve" youth;

A case management system to assure each participant the ongoing assessment, mentors and counseling, placement, follow-up, and advocacy needed for success; and

A thorough, independent evaluation of the various program approaches taken to measure their respective costs and effectiveness.

This new "Challenge Grant" program shall be administered by the Secretary of Labor and authorized at $100 million in fiscal year 1990. Under this program, the Secretary would pay 50

percent of the costs of each program on a matching grant basis. The remaining 50-percent match may include funds from other Federal, State, and local sources, including private sector contributions.

ADDITIONAL CHANGES

There are a number of other changes included in this bill. The first of these is an additional "window" of eligibility for services to those who are noneconomically disadvanged in the IIB program. This "window" may also be increased in both programs from the present 10 percent to 15 percent with State approval. This provision would allow noneconomically disadvantaged individuals to receive title IIA and IIB services if they face multiple barriers to employment.

Second, the State set-aside in the IIA program is reduced from 22 percent of funds to 20 percent primarily by decreasing from 8 percent to 5 percent the set-aside for education programs—the remaining 3 percent would be passed on to the SDA level for long-term training, basic skills, and educational services. In addition, 10 percent of funds in title IIA may be reserved, at the SDA's option, for experimental programs to provide services to "hard-to-serve" populations and would be exempt from performance standards.

Finally, some of the performance standards have been amended to emphasize the need for improving basic skills and to emphasize longer term placements in unsubsidized employment. Also, the Secretary will be required to develop separate performance standards for in-school and out-of-school youth assisted under title IIB. Additionally, SDA's will have the option of raising the present 15-percent cap on funds for supportive services to a total of 25 percent with State approval.

CLOSING

I want to work to ensure that this bill will accomplish the employment and training goals on a scale originally intended for this program and I want to do what is right to make sure we are using our scarce Federal resources to properly serve and target those who are jobless and on the verge or hopelessness. I am also pleased to note that the Department of Labor's White Paper Advisory Committee is considering making recommendations to the Secretary for changes to JTPA that are somewhat similar to those in my own bill. These include: better targeting of limited Federal funds; seaprate programs for adults and youth; and a stronger emphasis on education and basic skills.

The Reverend Dr. Martin Luther King, Jr., once said, "In our society, it is murder, psychologically, to deprive a man of a job or an income. You are in substance saying to that man that he has no right to exist." The Nation's highest commitment—our most important national goal—must be to provide a job opportunity for everyone who wants to work.

An opportunity to work gives people self-esteem, something we all need. When self-esteem disappears, alternatives that are not good for society emerge. People without self-esteem cannot convey self-esteem to their children; people without hope cannot give hope to others. After more than three decades of public life and working with people who have every variety of problem, I have learned that the great division in our society is not between black and white, Anglo and Hispanic, Jew and Gentile, or rich and poor. The great division is between those who have hope and those who have given up. There is nothing like a job to raise self-esteem, to feel you are contributing something to society and to your family. For too many in our society, hopelessness and joblessness are one and the same.

If we want people to work, then we must provide the education and training that makes employment and a living wage a reality in their lives. Unemployment is an expensive alternative to providing basic skills, education, and training for our Nation's unemployed youth and adults. Full employment will come only when basic skills, education, and training are available to all.

Mr. President, I ask unanimous consent that this bill be inserted in the RECORD in the full text in addition to the section-by-section analysis.

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

S. 543

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 "Job Training Partnership Act Youth Employment Amendments of 1989".

SEC. 2. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION FOR ADULT AND YOUTH PROGRAMS.—Section 3(a)(1) of the Job Training Partnership Act (hereinafter referred to as the "Act") is amended by—

(1) inserting "(A)" after the paragraph designation;

(2) striking "There" and inserting in lieu thereof "Except as provided in subparagraph (B), there"; and

(3) inserting the following new subparagraph:

"(B) There are authorized to be appropriated $1,223,000,000 for fiscal year 1990 to carry out the provisions of part A of title II and title IV (other than part B of such title) of this Act.".

(b) AUTHORIZATION FOR YOUTH PROGRAMS.—(1) Section 3(b) of the Act is amended by—

(A) inserting "(1)" after the subsection designation;

(B) striking "There" and inserting "Except as provided in paragraph (2), there"; and

(C) inserting the following new paragraph:

"(2) There are authorized to be appropriated $1,574,000,000 for fiscal year 1990 to carry out the provisions of part B of title II of this Act.".

(2) Section 3 of the Act is amended by redesignating subsections (c), (d), (e), (f), and (g) as subsections (d), (e), (f), (g), and (h), respectively; and

(3) by inserting the following new subsection after subsection (b);

"(c)(1) Not withstanding any other provision of this Act, the total amount allotted to each State under parts A and B of title II shall equal or exceed the amount allotted to such State under such parts for fiscal year 1989.

"(2) If the amounts appropriated under subsections (a) and (b) of this section for any fiscal year are insufficient to meet the requirements of paragraph (1), the total amount allotted under parts A and B of title II shall be ratably reduced.".

SEC. 3. DEFINITIONS.

(a) IN GENERAL.—Section 4 of the Act is amended—

(1) in clause (F) of paragraph (8) by inserting "or youth" after "adult"; and

(2) by adding the following new paragraph after paragraph (29):

"(30) The term 'long term recipient' means an individual who has received—

"(A) cash payments made pursuant to part A of title IV of the Social Security Act (relating to the aid to families with dependent children program);

"(B) general welfare assistance to Indians, as provided pursuant to the Act of November 2, 1921 (25 U.S.C. (13)), commonly referred to as the Snyder Act;

"(C) cash assistance and medical assistance for refugees made available pursuant to section 412(e) of the Immigration and Nationality Act; or

"(D) benefits offered pursuant to title XVI of the Social Security Act (relating to supplemental security income programs) and title II of such Act (relating to Social Security Disability Insurance);

for 24 months during the 28-month period immediately preceding application for programs offered under this title.".

(b) TECHNICAL AMENDMENT.—Section 502 of the Act is amended by—

(1) striking paragraph (3); and

(2) redesignating paragraphs (4), (5), and (6) as paragraphs (3), (4), and (5), respectively.

SEC. 4. PRIVATE INDUSTRY COUNCILS.

(a) COMPOSITION AMENDMENTS.—(1) Section 102(a) of the Act is amended—

(A) by striking "and" at the end of paragraph (1); and

(B) by striking paragraph (2) and inserting in lieu thereof the following:

"(2) representatives of organized labor, and representatives of community based organizations who shall constitute not less than 17 percent of the membership of the council; and

"(3) representatives of all educational agencies in the service delivery area, including representatives of institutions of higher education (including private career schools), and public service agencies (including employment service agencies, public assistance agencies, and economic development agencies) who shall constitute not less than 25 percent of the membership of the council.

At least one member of the private industry council appointed pursuant to paragraph (3) shall be a representative of a program or agency providing vocational rehabilitation to people with disabilities.".

(2) Section 102(c)(2) of the Act is amended to read as follows:

"(2) Education representatives on the council shall be selected from among individuals nominated by regional or local educational agencies, vocational education institutions, institutions of higher education (including private career schools) or general organizations of such schools and institutions within the service delivery area.".

(3) Section 102(c)(3) of the Act is amended to read as follows:

"(3) The labor representation on the council shall be selected from individuals recommended by recognized State and local labor organizations. If the State or local labor organization cannot adequately meet the labor representation on the private industry council then individuals from unorganized labor may be included on the council to complete the labor representation.

"(4) The remaining members of the council shall include additional representatives from all sectors represented on the council.".

(b) EFFECTIVE DATE.—No private industry council shall be considered to be in violation of the amendments made by subsection (a) of this section until 3 years after the date of enactment of this Act.

SEC. 5. PERFORMANCE STANDARDS.

(a) PERFORMANCE STANDARDS.—The first sentence of section 106(b)(1) of the Act is amended by inserting "the acquisition of basic educational competency and" after "title II is".

(b) MEASUREMENT OF PERFORMANCE STANDARDS.—The second sentence of section 106(b)(1) is amended to read as follows: "In order to determine whether these basic measures are achieved, the Secretary shall prescribe standards on the basis of appropriate factors which may include—

"(1) acquisition of basic skills and workplace competencies including raising the grade level of reading, writing, and computational skills, as well as acquisition of a high school diploma or a general equivalency diploma;

"(2) placement in unsubsidized employment;

"(3) retention in unsubsidized employment for more than 6 months;

"(4) increase in earnings, including hourly wages; and

"(5) reduction in the number of individuals and families receiving cash welfare payments and the amounts of such payments.".

(c) SEPARATE PERFORMANCE STANDARDS.—Section 106(b)(4) of the Act is amended by—

(1) inserting "(A)" after the paragraph designation;

(2) inserting the following new sentence at the end of paragraph (4)(A) (as redesignated in paragraph (1) of this subsection): "The Secretary shall develop one set of performance standards for hard-to-serve individuals, (including handicapped individuals), and one set of performance standards for all other individuals receiving assistance under this Act. Performance standards for hard-to-serve individuals should not emphasize cost efficiency if such emphasis would impair the effectiveness of programs assisted under this Act."; and

(3) inserting the following new subparagraph at the end thereof:

"(B) The Secretary shall also develop separate performance standards for in-school and out-of-school youth programs assisted under part B of title II of this Act. Such performance standards shall emphasize the development of appropriate outcomes for in-school and out-of-school youth, such as improving basic skills and long term job placement and retention.".

(d) SUPPORTIVE SERVICES.—Section 106(b) is amended by adding at the end thereof the following new paragraph:

"(5) The Secretary shall not prescribe performance standards which penalize service delivery areas for using funds provided for support services pursuant to section 108(b)(2)(A)(iii).".

(e) ADDITIONAL FUNDING FOR SUPPORT SERVICES.—Section 108 of the Act is amended by—

(1) redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively; and

(2) by adding the following new subsection after subsection (b):

"(c) In addition to the funds available pursuant to subsection (b)(2)(A)(iii), an additional 10 percent of the funds available to a service delivery area for programs under part A of title II may be expended for support services if—

"(1) such additional support services funds are spent providing eligible individuals with long term services;

"(2) the request for such additional support service funds is justified in the job-training-plan required under section 104; and

"(3) the request for such additional support service funds is approved by the Governor pursuant to subsection 105.".

(f) SERVICE DELIVERY AREA TRANSFER AND CONTRACT.—Part A of title I of the Act is amended by adding the following new sections at the end thereof:

"SERVICE DELIVERY AREA TRANSFER AND CONTRACT

"SEC. 109. (a) Any service delivery area may enter into a contract with another service delivery area to share the cost of educating, training, and placement of individuals participating in programs assisted under this Act, including the provision of supportive services. Such contract shall include all of the terms and conditions of the agreement between the service delivery areas and shall be approved by an individual representing each private industry council providing guidance to a contracting service delivery area.

"(b) Each contracting service delivery area shall be equally rewarded under the appropriate performance standards.

"CARRYOVER AND REALLOCATION

"SEC. 110. (a) CARRYOVER.—

"(1) In any fiscal year the amount of funds allocated to a service delivery area which can be carried over to the fiscal year following the fiscal year for which the determination is made may not exceed 10 percent of the amount of funds allocated to such service delivery area for the year for which such determination is made.

"(2) The total amount of funds allocated to a service delivery area which can be carried forward to the fiscal year following the fiscal year for which the determination is made may not exceed 20 percent of the amount of funds allocated to such service delivery area for the year for which such determination is made.

"(3) In each fiscal year the Governor shall deduct the amount of funds carried over by a service delivery area in excess of the limitations imposed by paragraphs (1) and (2) from the allocation for such service delivery area for the fiscal year for which the determination is made. Any funds deducted pursuant to this paragraph shall be available for reallocation.

"(b) SERVICE DELIVERY AREA REALLOCATION.—The Governor shall reallot funds available under subsection (a) of this section for reallocation to those service delivery areas that have expended at least 90 percent of the total funds available to such service delivery area. The method the Governor shall use in making such reallocation shall be the same method that was originally used to allocate the funds among service delivery areas within the State.

"(c) STATE REALLOTMENT.—For program years beginning July 1, 1989, and thereafter, the Secretary shall, in accordance with the requirements of this section, reallot to eligible States the funds allotted to States from funds appropriated for such program year that are available for reallotment.

"(d) AMOUNT AVAILABLE FOR REALLOTMENT.—The amount available for reallotment is equal to—

"(1) the amount by which the unexpended balance of the State allotment at the end of the program year prior to the program year for which the determination under this section is made exceeds 20 percent of such allotment for that prior program year; plus

"(2) the unexpended balance of the State allotment from any program year prior to the program year in which there is such excess.

"(e) METHOD OF REALLOTMENT.—(1) The Secretary shall determine the amount that would be allotted to each eligible State by using the same method that was originally used to allocate among eligible States the amount available pursuant to subsection (b) of this section.

"(2) The Secretary shall, by using the same method that was originally used, allot to eligible States the amount available that remains after the allotment required by paragraph (1) of this subsection.

"(f) DEFINITION.—For purposes of this section, an eligible State means a State which has expended at least 80 percent of its allotment for the program year prior to the program year for which the determination under this section is made.".

(g) TECHNICAL AMENDMENT.—The table of contents of the Act is amended by adding after "Sec. 108. Limitation on certain cost." the following:

"Sec. 109. Service delivery area transfer and contract.

"Sec. 110. Carryover and reallocation.".

SEC. 6. ALLOTMENT AND WITHIN STATE ALLOCATION.

(a) ALLOTMENT.—(1) Section 201(b)(1) of the Act is amended—

(A) by striking out subparagraph (A);

(B) by redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively;

(C) by striking out "33⅓" in subparagraph (A) (as redesignated in subparagraph (B)) and inserting in lieu thereof "50";

(D) by inserting "and" at the end of subparagraph (A) (as redesignated in subparagraph (B)); and

(E) by striking out "33⅓" in subparagraph (B) (as redesignated in subparagraph (B)) and inserting in lieu thereof "50".

(2) Section 201(b)(2)(B) of the Act is amended by striking the first sentence and inserting in lieu thereof the following new sentence: "No State shall be allotted more than 110 percent of its allotment percentage for the fiscal year preceding the fiscal year for which the determination is made unless the Secretary waives the limitation imposed by this subparagraph based on a determination that such waiver will result in the ef-

fective utilization of funds and enhance the achievement of the objectives of the program.".

(3) Section 201(b)(3)(B) of the Act is amended by—

(A) inserting after the word "individual" the following: "who has attained 25 years of age but not 73 years of age and"; and

(B) inserting at the end thereof the following new sentence: The Secretary shall to the extent practicable, exclude college students and members of the Armed Services from the member of economically disadvantaged individuals.

(b) WITHIN STATE ALLOCATION.—(1) Section 202(a)(1) of the Act is amended by striking "78" and inserting in lieu thereof "80".

(2) Section 202(a)(2) of the Act is amended—

(A) by striking out subparagraph (A);

(B) by redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively;

(C) by striking out "33⅓" in subparagraph (A) (as redesignated in subparagraph (B)) and inserting in lieu thereof "50";

(D) by inserting "and" at the end of subparagraph (A) (as redesignated in subparagraph (B)); and

(E) by striking out "33⅓" in subparagraph (B) (as redesignated in subparagraph (B)) and inserting in lieu thereof "50".

(3) Section 202(a)(2) of the Act is further amended by adding at the end thereof the following flush sentence:

"The private industry council in each service delivery area may reserve not more than 10 percent of the funds received under this part for experimental programming for groups with special needs to serve hard-to-serve eligible individuals (such as long-term recipients under the Aid to Families with Dependent Children program). Such funds shall be exempt from performance standards. The Comptroller General shall conduct a study to review and assess such experimental programs and shall submit the findings to the appropriate committees of Congress within 2 years of the date of enactment of this Act.".

(4) Section 202(a)(3) is amended by inserting after the first sentence the following new sentence: "No service delivery area shall be allocated more than 110 percent of its allocation for the fiscal year preceding the fiscal year for which the determination is made unless the Governor waives the limitation imposed by this subparagraph based on a determination that such waiver will result in the effective utilization of funds and enhance the achievement of the objectives of the program.".

(5) Section 202(a)(3)(B) of the Act is amended by—

(A) inserting after the word "individual" the following: "who has attained 25 years of age but not 73 years of age and"; and

(B) by inserting at the end thereof the following new sentence: "For the purpose of this subparagraph, and to the extent practicable, the Secretary shall exclude college students and members of the armed forces from the number of economically disadvantaged individuals.".

(6) Section 202(b) of the Act is amended—

(A) in paragraph (1) by striking "Eight percent" and inserting in lieu thereof "Five percent";

(B) in paragraph (1) by inserting the following new sentence at the end thereof: "A State may expend funds provided pursuant to this paragraph only to the extent that an equal amount is expended by other Federal, State, local or private sources to carry out such services.";

(C) by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4) and (5) respectively; and

(D) by inserting the following new paragraph after paragraph (1):

"(2)(A) Three percent of the allotment of each State for each fiscal year shall be forwarded to service delivery areas to carry out long term training, basic skills, and educational services.

"(B) Out of the funds reserved for the service delivery areas pursuant to this paragraph, the Secretary shall provide for an independent evaluation of services provided under this paragraph and the effectiveness of services provided under this paragraph within one year of the date of enactment of this Act.";

(E) in paragraph (3) (as redesignated in subparagraph (C)) by striking "Three" and inserting "Two";

(F) in paragraph (4)(A) (as redesignated in subparagraph (C)) by striking "Six" and inserting in lieu thereof "Eight"; and

(G) in paragraph (4)(B) (as redesignated in subparagraph (C)) by—

(i) inserting "(i)" after the subparagraph designation; and

(ii) adding the following new clause:

"(ii) The Governor may only award incentive grants to service delivery areas which provide long term training or exceed performance standards relating to—

"(I) raising basic skills competencies;

"(II) serving hard to serve adults; and

"(III) providing long term job placement. For the purpose of this subparagraph the term 'long term job placement' means employment for a period of at least 9 months.".

SEC. 7. ELIGIBILITY FOR SERVICES.

(a) IN GENERAL.—Section 203(a)(1) is amended by—

(1) striking "Except as provided in paragraph (2), an" and inserting "An"; and

(2) by adding the following at the end thereof: "In providing services under this title a service delivery area shall give special emphasis to hard-to-serve populations or individuals most-in-need of basic skills and employment training services. A service delivery area shall test a participant's reading and math skills, and review an applicant's employment history in order to encourage the inclusion rather than the exclusion of those most in need of assistance. A service delivery area is not required to test a participant's reading and math skills if the results of a standardized test administered to individuals within 1 year of application of such individual for services under this part for reading and math are made available to the service delivery area for review.".

(b) SPECIAL RULE.—Section 203(a)(2) of the Act is amended to read as follows:

"(2)(A) Up to 10 percent of all participants in all programs in a service delivery area receiving assistance under this part may be individuals who are not economically disadvantaged if such individuals are in 2 or more of the classes of individuals described in subparagraph (B)(i).

"(B) In addition to the individuals described in subparagraph (A), an additional 5 percent of all participants in all programs in a service delivery area receiving assistance under this part may be individuals who are not economically disadvantaged if—

"(i) such individuals are included in 2 or more of the following categories:

"(I) limited English proficient individuals;

"(II) displaced homemakers;

"(III) school dropouts;

"(IV) teenage parents;

"(V) handicapped individuals;

"(VI) older workers;

"(VII) veterans;

"(VIII) offenders;

"(IX) alcoholics;

"(X) addicts; or

"(XI) homeless individuals; and

"(ii) the plan for inclusion of such individuals has been set forth in the job training plan pursuant to section 104 and has been approved by the Governor pursuant to section 105.".

(c) TRANSFER PROVISIONS.—Section 203(b) is amended—

(1) in the first sentence of paragraph (1) by striking out "Funds" and inserting "Except as provided in paragraph (2), funds";

(2) in the first sentence of paragraph (1) by striking "youth and";

(3) by striking the second sentence of paragraph (1); and

(4) by amending paragraph (2) to read as follows:

"(2) A service delivery area may transfer funds provided under this part to part B of this title for youth programs if a description of such transfer is included in the job training plan pursuant to section 104 and the Governor approves the transfer pursuant to section 105.".

(d) DEFINITION OF ADULT.—Section 203(c) of the Act is amended to read as follows:

"(c) For the purposes of this title, the term 'adult' means an individual who is 25 years of age or older.".

(e) TECHNICAL AMENDMENTS.—(1) Section 104(b) of the Act is amended—

(A) by redesignating paragraphs (9), (10), and (11) as paragraphs (10), (11), and (12), respectively; and

(B) by inserting the following new paragraph after paragraph (8):

"(9) the amount of funds transferred pursuant to section 203(b)(2) and the reasons for such transfer;".

(2) The first sentence of section 204 of the Act is amended by striking "youth and";

SEC. 8. PLACEMENT STUDY.

(a) IN GENERAL.—Section 205 is amended to read as follows:

"PLACEMENT STUDY

"SEC. 205. The Comptroller General of the United States shall conduct a study to determine how many and what percentage of adults assisted under this part remain in a job in which they were placed through programs assisted under this part for at least 9 months. The Comptroller General shall submit the findings to the appropriate committees of Congress within 2 years of the date of enactment of this Act.".

(b) TECHNICAL AMENDMENT.—(1) The table of contents of the Act is amended—

(A) by striking "AND YOUTH" in the heading for part A of title II of the Act.

(B) in the item relating to section 205 by striking "Exemplary youth programs" and inserting in lieu thereof "Placement study";

(2) The heading for part A of title II of the Act is amended by striking "AND YOUTH".

SEC. 9. YOUTH EMPLOYMENT AND TRAINING PROGRAM ALLOTMENT.

(a) TITLE.—Part B of title II of the Act is amended by striking out "SUMMER" in the heading of such part.

(b) Section 252(b) of the Act is amended to read as follows:

"(b) Subject to the provisions of subsections (c) and (d), of the remainder of the

amount available for this part for each fiscal year—

"(1) 50 percent shall be allotted on the basis of the relative number of economically disadvantaged youth within each State compared to the total number of economically disadvantaged youth in all States;

"(2) 25 percent shall be allotted on the basis of the relative number of unemployed youth who reside in each State compared to the total number of unemployed youth in all the States; and

"(3) 25 percent shall be allotted on the basis of the relative number of the economically disadvantaged youth residing in areas with substantial numbers of economically disadvantaged youth in each State as compared to the total number of such economically disadvantaged youth in all such areas in all States.

"(c) No State shall be allotted less than 100 percent of its allotment percentage for the fiscal year preceding the fiscal year for which the determination is made.

"(d) No State shall be allotted more than 110 percent of its allotment percentage for the fiscal year preceding the fiscal year for which the determination is made unless the Secretary waives the limitation imposed by this subsection based on a determination that such waiver will result in the effective utilization of funds and enhance the achievement of the objectives of the program.

"(e) For the purposes of subsection (b)—

"(1) the term 'economically disadvantaged youth' means an individual who is aged 16 through 24 and who has, or is a member of a family which has, received a total family income which, in relation to family size, was not in excess of the higher of the poverty level as issued by the Office of Management and Budget or 70 percent of the lower living standard income level. The term 'economically disadvantaged youth' excludes college students and members of the armed forces, as appropriate, and to the extent practical, as determined by the Secretary; and

"(2) the term 'area with substantial numbers of economical disadvantaged youth' means an area of sufficient size and scope to sustain a program under part B of title II of this Act and in which the percentage of economically disadvantaged youth in the population of youth aged 16 through 24 is at least 20 percent.

"(f)(1) The Governor shall, in accordance with section 162, allocate the allotment of the State (under section 252(b)) for such fiscal year among service delivery areas within the State in accordance with paragraph (2).

"(2) Subject to the provisions of paragraph (3), of the amount available for this part for each fiscal year—

"(A) 50 percent shall be allocated on the basis of the relative number of economically disadvantaged youth within each service delivery area compared to the total number of economically disadvantaged youth in the State; and

"(B) 50 percent shall be allocated on the basis of the number of economically disadvantaged youth residing in areas with substantial numbers of economically disadvantaged youth in each service delivery area compared to the total number of such economically disadvantaged youth in such areas in all service delivery areas in the State.

"(3) For fiscal years beginning after September 30, 1989, no service delivery area within any State shall be allocated an amount equal to less than 90 percent of the average of its allocation percentage for fiscal year 1989. The allocation percentage for a service delivery area is the percentage which the service delivery area received of the total amount allocated pursuant to this subsection to all service delivery areas within the State for each such preceding fiscal year. If the amounts appropriated pursuant to section 3 (a) and (b) of the Act are not sufficient to provide an amount equal to at least 90 percent of such allocation percentages to each such area, the amounts allocated to each area shall be ratably reduced.

"(4) No service delivery area shall be allotted more than 110 percent of its allotment percentage for the fiscal year preceding the fiscal year for which the determination is made unless the Governor of the State waives the limitation imposed by this subparagraph based on a determination that such waiver will result in the effective utilization of funds and enhance the achievement of the objectives of the program.

"(5) For purposes of paragraph (2)—

"(A) the term 'economically disadvantaged youth' means an individual who is aged 16 through 24 and who has, or is a member of a family which has, received a total family income which, in relation to family size, was not in excess of the higher of the poverty level as issued by the Office of Management and Budget or 70 percent of the lower living standard income level. The term 'economically disadvantaged youth' excludes college students and members of the armed forces as appropriate and to the extent practical as determined by the Secretary; and

"(B) the term 'area with substantial numbers of economically disadvantaged youth' has the same meaning given that term in subsection (e)(3).".

SEC. 10. USE OF FUNDS.

(a) IN GENERAL.—Section 253(a) of the Act is amended by—

(1) striking "and" at the end of paragraph (1);

(2) striking the period at the end of paragraph (2) and inserting in lieu thereof a semicolon; and

(3) adding at the end thereof the following:

"(3) needs-based payments necessary to participate in the program in accordance with a locally developed formula or procedure; and

"(4) compensation in the form of work experience wages.".

(b) ADDITIONAL SERVICES.—Section 253 of the Act is amended by adding at the end thereof the following new subsections:

"(c)(1) In addition to the services set forth in section 255(2) funds available for this part may be used, where appropriate, to provide the following services to in school, dropout prone youth:

"(A) combined basic and life skills instruction, and work experience during the summer months;

"(B) enriched basic skills and study skills training, including tutoring, during the school year;

"(C) supplemental school year activities such as individual and group counseling, mentoring, career awareness, and social group and educational activities;

"(D) preemployment and socialization skills and behavior training; and

"(E) supportive services necessary to enable individuals to participate in the program.

"(2) For the purposes of this subsection the term 'dropout prone youth' is a youth who—

"(A) is at risk of academic failure or of dropping out of school;

"(B) has high absentee rates in addition to poor grades;

"(C) has disciplinary or school suspension problems;

"(D) is a teen parent;

"(E) is of limited English proficiency;

"(F) is a juvenile offender; or

"(G) is educationally and economically disadvantaged.

"(d) In addition to the services set forth in section 255(2) funds available for this part may be used, where appropriate, to provide the following services to school dropouts and out-of-school youth:

"(1) specialized outreach arrangements;

"(2) basic skills training, including tutoring;

"(3) occupational skills training, work experience, limited internships in the private-for-profit sector, and job development and placement assistance;

"(4) work readiness and life skills training, counseling, mentoring, parenting education, and post-program follow-up services; and

"(5) supportive services necessary to enable individuals to participate in the program.

"(e) Programs under this part may be conducted during the summer months or on a year-round, full-time basis, provided no more than 40 percent of the funds available for this part shall be used for summer youth programs.".

SEC. 11. LIMITATIONS.

(a) IN GENERAL.—Section 254(a) is amended to read as follows:

"(a) Programs under this part may be conducted on a year-round, full-time basis or during the summer months.".

(b) SPECIAL CONSIDERATION.—Section 254(b) of the Act is amended by—

(1) inserting "(1)" after the subsection designation;

(2) striking "Except as provided in subsection (c) individuals" and inserting in lieu thereof "Individuals"; and

(3) inserting the following new paragraphs after paragraph (1) (as redesignated in paragraph (1)):

"(2) Special consideration shall be given to economically disadvantaged youth who experience severe disadvantages, such as—

"(A) school dropouts;

"(B) students with poor academic and attendance records;

"(C) students who are eligible for or receive services under the National School Lunch Act or chapter 1 of title 1 of the Elementary and Secondary Education Act of 1965;

"(D) pregnant or parenting teens;

"(E) handicapped youth;

"(F) limited-English proficient students;

"(G) recipients or members of families who are receiving public assistance; or

"(H) juvenile and other youth offenders.

"(3)(A) Up to 10 percent of all participants in the programs assisted under this part may be individuals who are not economically disadvantaged if such individuals are in 2 or more of the classes of individuals described in paragraph (2).

"(B) In addition to the individuals described in subparagraph (A), an additional 5 percent of all participants in the programs assisted under this part may be individuals who are not economically disadvantaged if—

"(i) such individuals are in 2 or more of the classes of individuals described in paragraph (2); and

"(ii) the plan for inclusion of such individuals has been set forth in the job training plan pursuant to section 104 and has been approved by the Governor pursuant to section 105.".

(c) YEAR-ROUND ELIGIBILITY.—Section 254(c) of the Act is amended by—

(1) inserting "(1)" after the subsection designation;

(2) striking "summer", and inserting after "part" a comma and "with priority being given to those individuals who do not meet established levels of academic achievement and who plan to enter the full-time labor market upon leaving school"; and

(3) inserting the following paragraph after paragraph (1) (as redesignated in paragraph (1)):

"(2) Individuals eligible to participate in year-round programs under this part are—

"(A) youth who are aged 16 through 24;

"(B) economically disadvantaged youth; and

"(C) youth who are deficient in basic skills.".

SEC. 12. REQUIREMENTS FOR YEAR-ROUND PROGRAMS.

(a) IN GENERAL.—Title II of the Act is amended—

(1) by redesignating section 255 as section 256; and

(2) by adding after section 254 the following new section:

"REQUIREMENTS FOR YEAR-ROUND PROGRAMS

"SEC. 255. (a) A service delivery area operating a year-round program under this part shall—

"(1) include in the job training plan a description of the year-round program including—

"(A) goals and objectives to be attained,

"(B) activities and services to be provided,

"(C) linkages established with other local agencies to provide services under the year-round program, and

"(D) service strategies of demonstrated effectiveness on which the provision of services will be based or, where new strategies are undertaken, the design of the program that will allow for rigorous and objective evaluation of the new strategies;

"(2) provide to each participant—

"(A) the development of a service strategy; and

"(B) basic skills assistance; and

"(3) establish linkages with local educational agencies that include, but are not limited to—

"(A) arrangements to ensure that the program assisted under this section supplements existing programs provided by local education agencies to in-school youth;

"(B) arrangements to ensure that the program assisted under this section utilizes existing services provided by local education agencies to out-of-school youth to the extent possible;

"(C) agreements providing that, where feasible, the local educational agencies shall notify the program assisted under this section when a youth drops out of the school system;

"(D) arrangements for obtaining information relating to the literacy levels of participants; and

"(E) other appropriate linkages which enhance the provision of services assisted under this section.

The private industry council in each service delivery area operating a year-round program under this part may establish linkages with local service agencies, community organizations, business and labor organizations, volunteer groups working with at-risk youth, parents and family members, juvenile justice systems, and other training, education, employment, and social service programs, including programs conducted under part A of title II.

"(b) LIMITATION.—Not more than 15 percent of the funds available for year-round programs assisted under this part may be used to pay the costs of administration.".

(b) TECHNICAL AMENDMENT.—The table of contents in part B of title II of the Act is amended—

(1) by redesignating the item relating to section 255 as section 256; and

(2) by adding the following after section 254:

"Sec. 255. Requirements for year-round programs.".

SEC. 13. EXEMPLARY YOUTH PROGRAMS.

Part B of title II of the Act is amended by inserting the following new section after section 256 (as amended in section 12(a)(1) of this Act):

"EXEMPLARY YOUTH PROGRAMS

"SEC. 257. (a) In addition to the services for youth which may be available in accordance with this part, the job training plan may, at the option of those responsible for its preparation, elect to include one or more of the exemplary youth programs described in subsections (b) through (e) of this section, each of which may be modified by the plan to accommodate local conditions.

"(b)(1) The job training plan may provide for the conduct of a 'basic skills for employment program' for eligible youth who have not attained a high school diploma or who have basic skills deficiencies despite the attainment of a diploma, with priority given to high school dropouts.

"(2) The basic skills for employment programs may provide for the maintenance of a network of learning centers offering individualized or group instruction in convenient locations, such as schools, neighborhood organizations, libraries, and other sites, including mobile vans in rural areas.

"(3) The curricula provided by such network shall be designed to prepare the student to meet State and locally determined general education diploma and basic skills competency requirements.

"(4) For purposes of this section, priority shall be given in the selection of service providers to previously funded in-school and community based organization projects which are both cost-effective and of demonstrated success, and which otherwise meet the criteria of this Act.

"(c)(1) The job training plan may provide for the conduct of a 'preemployment skills training program' for youth, and individuals aged 14 and 15, with priority being given to those individuals who do not meet established levels of academic achievement and who plan to enter the full-time labor market upon leaving school.

"(2) The preemployment skill training program may provide youth up to 200 hours of instruction and activities.

"(3) The instruction and activities may include—

"(A) assessment, testing, and counseling;

"(B) occupational career and vocational exploration;

"(C) job search assistance;

"(D) job holding and survival skills training;

"(E) basic life skills training;

"(F) remedial education;

"(G) labor market information; and

"(H) job-seeking skills training.

"(d)(1) The job training plan may provide for the conduct of an 'entry employment experience program' for youth who—

"(A) have completed preemployment skills training or its equivalent;

"(B) have not recently held a regular part-time or summer job for more than 250 hours of paid employment, except that this paragraph may be waived in accordance with criteria established in the job training plan; and

"(C) are enrolled in a secondary school or an institution offering a certified high school equivalency program and are meeting or have met the minimum academic and attendance requirements of that school or education program during the current or most recent term,

with priority given to youth who do not plan to continue on to postsecondary education.

"(2) Entry employment experiences may be up to 20 hours weekly during the school year or full time during the summer and holidays, for a total of not to exceed 500 hours of entry employment experience for any individual. Such experiences shall be appropriately supervised, including the maintenance of standards of attendance and worksite performance.

"(3) Entry employment experiences may be one of the following types:

"(A) Full-time employment opportunities in public and private nonprofit agencies during the summer and on a part-time basis in combination with education and training activities. These jobs shall provide community improvement services that complement local expenditures.

"(B) Tryout employment at private for-profit worksites, or at public and private nonprofit worksites when private for-profit worksites are not available. Compensation in lieu of wages for tryout employment shall be paid by the grant recipient, but the length of any assignment to a tryout employment position shall not exceed 250 hours. Tryout employment positions shall be ones for which participants would not usually be hired (because of lack of experience or other barriers to employment), and vacancies in such positions may not be refilled if the previous participant completed the tryout employment but was not hired by the employer.

"(C) Cooperative education programs to coordinate educational programs with work in the private sector.

"(e)(1) The job training plan may provide for the conduct of a 'school-to-work transition assistance program' for youth who are—

"(A) high school seniors who plan to enter the full-time labor market upon graduation, with priority to seniors in high schools having a predominance of students from families with incomes below 70 percent of the lower living standard income level; and

"(B) dropouts, with followup as immediately as possible after leaving school.

"(2) Transition services include—

"(A) provision of occupational information;

"(B) short-duration job search assistance;

"(C) job clubs;

"(D) placement and job development; and

"(E) followup.

"(3) Seniors and dropouts who are eligible for and in need of training activities may be provided information and, were appropriate, referred to—

"(A) preemployment skills training, entry employment experience, and remedial education and basic skills training;

"(B) adult training activities; and

"(C) the Job Corps.".

(c) TECHNICAL AMENDMENT.—The table of contents in part B of title II of the Act is amended by adding the following after section 256 of the Act (as amended by section 12(b)):

"Sec. 257. Exemplary youth programs.".

SEC. 258. REPLICATION OF SUCCESSFUL PROGRAMS.

(a) IN GENERAL.—Part B of title II of the Act is amended by inserting the following new section after section 257 of the Act (as amended by section 13(b)):

"(a) REPLICATION PROGRAM AUTHORIZED.—From funds appropriated pursuant to section 3(b) of the Act, the Secretary shall, in consultation with the expert review panel appointed pursuant to subsection (c), make grants to national or regional public or private nonprofit organizations which meet the requirements of this section for the provision of technical assistance, and to States and service delivery areas for costs associated with the development and operation of model programs approved by the Secretary in accordance with the provisions of this section.

"(b) APPROPRIATIONS FORMULA.—(1) If the amount appropriated under section 3(b) for any fiscal year exceeds $1,424,000,000 but does not exceed $1,524,000,000 then the lesser of—

"(A) the amount of such excess, or

"(B) $10,000,000,

shall be used for the demonstration programs authorized by this part.

"(2) If the amount appropriated in any fiscal year exceeds $1,524,000,000 then the lesser of—

"(A) the amount of such excess, or

"(B) $20,000,000,

shall be used for the demonstration programs authorized by this part.

"(3) This paragraph shall apply notwithstanding any other provision of law enacted after the date of enactment of this Act, including any appropriations Act, unless this subsection is specifically cited in such provision of law.

"(c) REVIEW PANEL.—(1) The Secretary shall appoint a review panel of recognized experts in the evaluation of employment and training programs for economically disadvantaged youth. Such panel shall select and designate model programs pursuant to the provisions of this section. The review panel shall meet at least once each year to carry out the responsibilities described in this section. No member of such panel shall have a direct financial interest in or affiliation with a potential recipient of funds under the program authorized by this section.

"(2) The review panel shall select and designate model programs and make recommendations to the Secretary regarding those programs the review panel deems likely to be successful in improving the employment prospects of economically disadvantaged youth and which are replicable on a large scale. In selecting such programs the review panel shall consider—

"(A) the size and scope of the program;

"(B) the length of time the program has been operating;

"(C) the nature and reliability of measurable outcomes for the program;

"(D) the capacity of the sponsoring national or regional organization to provide the technical assistance necessary for States and local communities to replicate the program; and

"(E) the likelihood the program will be successful in diverse economic, geographic, and cultural environments.

"(3) Each member of the review panel who is not an officer or employee of the United States shall be compensated at a rate established by the review panel not to exceed the daily equivalent of the annual rate of basic pay prescribed for grade GS-18 of the General Schedule under section 5332 of title 5, United States Code, for each day (including traveltime) during which such member is engaged in the actual performance of duties as a member of the review panel. Each member of the review panel who is an officer or employee of the United States shall receive no additional compensation.

"(d) SPECIAL CONSIDERATION.—The review board shall give special consideration to programs that have the demonstrated ability to integrate or coordinate services through collaborative efforts with other service providers in the areas of basic skills instruction, occupational, and pre-employment and work maturity training programs.

"(e) CRITERIA FOR MODEL PROGRAMS.—The review panel shall consider any program for designation as a model program if such program—

"(1) is designed to improve the employment prospects of economically disadvantaged youth;

"(2) is sponsored or operated by a national or regional public or private nonprofit organization with the capacity to provide the technical assistance necessary to enable States and local communities to implement the program;

"(3) has demonstrated reasonable evidence of success, as reflected in measurable outcomes related to stated program goals and objectives; and

"(4) has operated on a scale sufficient to demonstrate that the program has the potential to be replicated across a wide range of sites and successfully serve large numbers of economically disadvantaged youth.

"(f) APPLICATIONS.—Each public or private nonprofit organization, State, or service delivery area desiring to receive a grant under this Act shall submit an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require. Each such application shall—

"(1) describe the activities and services for which assistance is sought; and

"(2) contain such information and assurances as the Secretary may require to ensure compliance with the provisions of this Act.

"(g) GRANT LIMITATIONS.—(1) In any 3-year period the Secretary shall not approve grants for the same replication activities in more than 10 States or communities. During this 3-year period, the results of such limited replication efforts shall be carefully evaluated and examined by the review panel, which shall submit recommendations to the Secretary regarding the advisability of replicating the model program in more than 10 States or communities or for longer than 3 years. On the basis of such recommendations, the Secretary shall have authority to replicate such programs in more than 10 communities or for longer than 3 years.

"(2) Notwithstanding the provisions of paragraph (2), the Secretary may, upon recommendation of the review panel, waive the limitation set forth in paragraph (1) if immediate replication efforts on a larger scale is warranted by extensive evaluation of the program prior to its designation as a model program pursuant to the provisions of this paragraph.".

(b) TECHNICAL AMENDMENT.—The table of contents in part B of the Act is amended by adding the following after section 257 (as amended in section 13(c)(2)):

"Sec. 258. Replication of successful programs.".

SEC. 14. FAIR CHANCE YOUTH EMPLOYMENT AND TRAINING CHALLENGE GRANT.

(a) IN GENERAL.—Title IV of the Act is amended by adding at the end thereof the following new part H:

"PART H—FAIR CHANCE YOUTH OPPORTUNITY CHALLENGE GRANT

"STATE ALLOTMENT

"SEC. 491. (a)(1) The Secretary shall allot for each fiscal year to each State which has submitted a plan under section 493 a portion of the funds appropriated under the authority of section 499 for such fiscal year that bears the same relationship to the total amount of such funds as the youth population of such State bears to the total youth population of the United States.

"(2)(A) Except as provided in subparagraph (B), the amount allotted to each State under paragraph (1) for each fiscal year shall equal or exceed $250,000.

"(B) The amount allotted under paragraph (1) for each fiscal year to each of the following shall equal or exceed $125,000: the United States Virgin Islands, the Commonwealth of Puerto Rico, Guam, American Samoa, the Northern Mariana Islands, the Marshall Islands, the Federated States of Micronesia, and Palau.

"(b)(1) In any fiscal year the amount of funds allotted to a State which can be carried over to the fiscal year following the fiscal year for which the determination is made may not exceed 10 percent of the amount of funds allotted to such State for the year for which such determination is made.

"(2) The total amount of funds allotted to a State which can be carried forward to the fiscal year following the fiscal year for which the determination is made may not exceed 20 percent of the amount of funds allotted to such State for the year for which such determination is made.

"(3) In each fiscal year the Governor shall deduct the amount of funds carried over by a State in excess of the limitations imposed by paragraphs (1) and (2) from the allotment for such State for the fiscal year for which the determination is made. Any funds deducted pursuant to this paragraph shall be available for reallocation.

"(4) The Secretary shall reallot any funds appropriated for a fiscal year under the authority of section 499 that have not been obligated before July 1 of the succeeding fiscal year among those States that have obligated before such date all of such funds allotted to those States. The portion of such funds reallotted to each of such States shall bear the same relationship to the total amount of such funds as the youth population of such State bears to the youth population of such States.

"(c) In awarding grants under this part the State agency shall give priority to consortia serving demonstration target areas with high proportions of—

"(1) economically disadvantaged youth;

"(2) school dropouts;

"(3) students who are eligible for school lunch or breakfast or education services under chapter 1 of title 1 of the Elementary and Secondary Act of 1965;

"(4) limited-English proficient students; or

"(5) juvenile and other youth offenders.

"(d) The Secretary shall provide for the active consultation and participation of the Secretary of Education in the promulgation of regulations necessary to carry out the provisions of this part.

"GRANTS

"SEC. 492. The funds allotted to each State under section 491 shall be used by the State agency to provide grants to eligible consortium in the State to pay not more than 50 percent of the costs incurred by such consortium in providing comprehensive education, training, and support services and programs in demonstration target areas to youth living within such demonstration target areas who seek such opportunities.

"STATE PLAN

"SEC. 493. The Governor of each State shall submit a 5-year plan to the Secretary for carrying out the provisions of this part. Each such plan shall—

"(1) designate the State agency responsible for supervising the preparation and administration of the plan;

"(2) provide for the appointment of an advisory group by the Governor (or the designation of an existing State coordinating body which is broadly representative of the education and training resources of the State, including, but not limited to, the State Job Training Coordinating Council) to participate in the development and review of the State's plan, including State officials for education, vocational-technical education, employment and training, and social services, as well as representatives of business, industry, labor, and community-based agencies offering alternative education or training programs;

"(3) provide for the designation of eligible demonstration target areas within each State which are characterized by chronically low levels of economic activity or a deteriorating economic base which has caused such adverse effects as—

"(A) a concentration of unemployed youth which substantially exceeds the average rate of unemployment among youth in the State, or

"(B) a large concentration of low-income youth and families;

"(4) provide assurances that the size and scope of the demonstration target area to be served as part of any approved application is calculated to provide access to education, training, and support services to youth living in such target area who seeks such opportunities;

"(5) provide assurance that funds provided under this part will be used to supplement, and not supplant, funding from other local, State, and Federal sources available to youth in demonstration target areas;

"(6) provide assurances that program activities funded under this part are coordinated with programs in the State operated under the Carl D. Perkins Vocational Education Act, the Adult Education Act, the Elementary and Secondary Education Act of 1965, the Higher Education Act of 1965, the Rehabilitation Services Act of 1973, the Job Training Partnership Act, the Family Support Act, and with any other relevant employment, training, and education programs available in the State;

"(7) provide assurances of an opportunity for review and comment of any application under this part by the State Job Training Coordinating Council or the local private industry council(s) serving the demonstration target area prior to approval by the State;

"(8) provide for the evaluation of the Fair Chance Youth Opportunity Challenge Grant program to determine whether—

"(A) the increased education, training, counseling, career development, and other support services guaranteed to youth living in demonstration target areas result in increased rates of enrollment, retention, and completion, and

"(B) the extent to which current programs available to youth in the demonstration target areas are of sufficient number, variety, and quality to meet demand; and

"(9) provide such information in such form as the Secretary may reasonably require to enable the Secretary to aggregate and analyze data necessary for the completion of the national evaluation of programs funded under this part pursuant to section 497.

"ELIGIBLE CONSORTIA

"SEC. 494. (a)(1) Eligible consortia applying for demonstration grants under this part must be broadly representative of the education and training providers of their community. Each such eligible consortia shall consist of—

"(A) representatives of business, industry, and labor;

"(B) community-based organizations, including youth-serving organizations;

"(C) State and local education agencies, including area vocational schools;

"(D) State and local employment and training agencies;

"(E) institutions of postsecondary education, including community colleges and vocational-technical education institutes; and

"(F) residents of demonstration target areas who are typical of youth to be served under this part.

"(2) An eligible consortia may consist of any existing entity including any community organization or group which meets the representation requirements of subparagraphs (A) through (F) of paragraph (1). Such existing entities may include—

"(A) local education entities, districts, or area-wide councils;

"(B) community education districts;

"(C) private industry councils;

"(D) youth coordinating councils;

"(E) county or regional economic development authorities; or

"(F) other appropriate entities which are broadly representative of the public and private education and training resources of the entire community and demonstrate the capacity to carry out the provisions of this part.

"(b) The State agency designated by the Governor pursuant to section 493(a) shall award at least 1 and not more than 2 eligible consortia assistance under this Act.

"(c) Eligible consortia that already have programs designed to integrate services available to youth and increase access to programs for youth consistent with the provisions of this part are encouraged to apply to the State agency for assistance under this Act in order to strengthen, enhance, expand, and evaluate such programs and services to both college-bound and non-college-bound youth.

"(d) States shall encourage consortia to make use of the resources, expertise, and commitment of both formal institutions of education, such as colleges, universities, vocational and technical schools and institutes, and community colleges, as well as such service providers as—

"(1) community-based organizations providing vocational skills, literacy, remedial education, and general equivalency preparation, including those serving youth with limited English proficiency;

"(2) youth conservation and human service corps;

"(3) Job Corps centers;

"(4) apprenticeship programs; and

"(5) projects and programs funded under the Job Training Partnership Act.

"APPLICATION

"SEC. 495. (a) Any eligible consortium desiring to receive a demonstration grant under this part shall submit an application to the State agency at such time, in such manner, and containing or accompanied by such information as the State agency may reasonably require. Each such application shall—

"(1) contain a five-year plan for the development and implementation of activities under this part;

"(2) demonstrate a means to ensure that all youth in a demonstration target area have access to a comprehensive range of education and training opportunities;

"(3) containing a description of resources available in a demonstration target area from private, local government, State, and Federal sources which will be used in the demonstration program;

"(4) provide an estimate of the expected number of youth to be served and the total cost thereof;

"(5) include an estimate of funds required to ensure access to appropriate education, training, and support services for all youth who seek such opportunities;

"(6) provide outreach, recruitment, and motivational mechanisms to encourage youth within the demonstration target area to pursue appropriate education and training;

"(7) provide a case management and career development system to ensure each youth a well-trained and committed career counselor who offers continuous assessment, career information, counseling, placement, follow-up, and advocacy assistance to all participating youth;

"(8) include a cooperative agreement among youth-serving organizations and public and private agencies within the consortium designed to ensure coordination, pool resources, avoid duplication, and, where feasible, tap the energies and talents of community volunteers of all ages, including adult mentors and students;

"(9) provide for the maintenance of such information as may be required by the State and Secretary, including data necessary for the national evaluation described in section 497, to ensure that such State and its demonstration grant recipients are complying with the requirements of this part;

"(10) demonstrate that varied sources of funding will be fully utilized and effectively coordinated within the demonstration target area;

"(11) where appropriate, provide for the sharing of facilities, equipment, and resource materials among consortia members;

"(12) establish outcomes for participating youth and specify accountability measures for assessing such outcomes; and

"(13) demonstrate the capability to establish a coordinated and comprehensive program which serves the broadest possible range of youth interests and needs, and simultaneously mobilizes the diverse range of

education and training providers in the geographic area.

"(b) Any application approved by the State agency for the purposes of this part shall be broad enough to support vocational and technical education, skills training, academic remediation, work experience, counseling, career development, and other support services, and shall seek to encourage and increase enrollment in both two- and four-year colleges leading to an associate or baccalaureate degree.

"USE OF FUNDS, NON-FEDERAL SHARE

"SEC. 496. (a)(1) No funds provided under this part shall be used by local education agencies to provide educational services to youth enrolled in secondary schools during regular school hours.

"(2) No funds under this part shall be used for student financial assistance, except to the extent permitted by regulations promulgated by the Secretary. Any such regulations shall require documentation of a finding that the lack of such funds prohibits access to needed education or training and that existing Federal, State, and local student financial aid available to youth within the demonstration target area has been fully utilized.

"(b) The portion of the costs described in section 492(a) that are not paid by a grant provided under that section shall be paid in cash and may include funds from other Federal, State, or local sources including private sector contributions.

"(c) Not more than 5 percent of funds allotted to each State in any fiscal year under this section 491 may be expended for administrative costs incurred by the State in carrying out the program established under this part.

"EVALUATION

"SEC. 497. (a) The Secretary shall provide a thorough, independent evaluation of the various approaches taken by the States in different demonstration programs to assess the outcomes of youth participating in such programs. Evaluation measures may include—

"(1) enrollment, retention, and completion rates;

"(2) high school graduation rates;

"(3) avoidance of anti-social behavior and self-destructive behavior;

"(4) subsequent employment;

"(5) continued pursuit of advanced education and training;

"(6) admission into four-year colleges and universities; or

"(7) admission into the armed forces, and similar measures.

"(b) The Secretary shall develop a report detailing the results of the independent evaluation and submit such report to the President and the Congress no later than December 31, 1994, along with an analysis of expenditures made, results achieved, and problems in the operations and coordination of programs funded under this part. Such report should summarize findings concerning—

"(1) whether, if a combination of education, training, career guidance, counseling, and other support services were made to youth living in designated geographic target areas, the rates of student enrollment, retention, and completion would increase;

"(2) the extent to which current programs are sufficient in number, variety, and quality to meet demand; and

"(3) the feasibility of extending access to comprehensive education, training and support services and programs required under this part to all areas of the nation, including possible approaches to the incremental extension of such access over time.

"DEFINITIONS

"SEC. 498. As used in this part:

"(1) The term 'demonstration target area' means a geographic area described in section 493 (3) and (4) that is designated under a plan submitted under section 493.

"(2) The term 'State agency' means the State agency designated by the Governor of each State responsible for supervising and the preparation and administration of the State plan.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 499. There are authorized to be appropriated to carry out the provisions of this Act—

"(1) $100,000,000 for fiscal year 1990,

"(2) $150,000,000 for fiscal year 1991,

"(3) $200,000,000 for fiscal year 1992,

"(4) $250,000,000 for fiscal year 1993, and

"(5) such sums as may be necessary for fiscal year 1994.".

(b) TECHNICAL AMENDMENT.—Section 3(a)(1)(B) of the Act (as amended by section 2 of this Act) is further amended by adding "and part H" after "part B".

(c) TABLE OF CONTENTS.—The table of contents of the Act is amended by adding after "Sec. 481. Affirmative action." the following:

"PART H—YOUTH OPPORTUNITY DEMONSTRATION GRANT

"Sec. 491. State allotment.
"Sec. 492. Grants.
"Sec. 493. State plan.
"Sec. 494. Eligible consortia.
"Sec. 495. Application.
"Sec. 496. Use of funds; non-Federal share.
"Sec. 497. Evaluation.
"Sec. 498. Definitions.
"Sec. 499. Authorization of appropriations.".

SEC. 15. NATIONAL COMMISSION FOR EMPLOYMENT POLICY.

(a) NATIONAL COMMISSION FOR EMPLOYMENT POLICY.—Title IV of the Act is amended by striking part F.

(b) AUTHORIZATION OF APPROPRIATIONS.—(1) Section 3(a)(2) of the Act is amended by striking "(E), (F), and (G)" and inserting in lieu thereof "(E) and (G)".

(2) Section 3(a)(3) of the Act is amended to read as follows:

"(3) Of the amounts so reserved under paragraph (2), 5 percent shall be available for part C of title IV.".

(c) TECHNICAL AMENDMENT.—The table of contents of the Act is amended by striking part F and all that follows through item relating to section 475.

SECTION-BY-SECTION SUMMARY OF THE JOB TRAINING PARTNERSHIP ACT—A BILL TO AMEND TITLE II

Section 1.—Short Title: Job Training Partnership Act (JTPA) Youth Employment Amendment of 1989.

Section 2.—Authorization of Appropriations—

Amends Sec. 102 of the Act by deducting 40% of IIA funds mandated in current law for services to eligible youth and transfering that amount to Title IIB. (a) After transfering 40% of funds from IIA to IIB, an increase of an additional $150 million is authorized over the remaining appropriations for a total authorization of $1.223 billion.

(b) Authorizes in FY 1990 an increase of $150 million, in addition to the 40% of funds from IIA, for a total authorization of $1.574 billion.

(c)(1) Insert new language that the total amount allotted to each State under IIA and IIB shall equal or exceed the amount allotted to such State for FY 1989.

(c)(2) Insert new language so that if the amounts appropriated under (a) and (b) above for any fiscal year are insufficient to meet the requirements of paragraph (1), the total amount allotted under IIA and IIB shall be ratably reduced.

Section 3.—Definitions.

Section 4.—Private Industry Councils (PICs)—

1. Amends Sec. 102 of JTPA by inserting the word "majority" instead of 51% for the private sector composition of a PIC and requires that the remaining members of the PIC be composed of a 17% minimum of organized labor and community-based organizations (CBOs); and not less than 25% of the PIC membership shall consist of representatives of all education industries in the service delivery areas (SDAs), including representatives of institutions higher education, at least one representative of a program or agency providing vocational rehabilitation to people with disabilities, and representatives of public service agencies, including employment service, public assistance and economic development.

2. The Chairman of the council shall be selected from among members of the council who are representatives of the private sector.

3. Education representatives shall be selected when nominated by regional educational agencies, vocational education and higher education institutions, including private career schools, or general organizations of such schools and institutions within the SDA.

4. Labor representatives on PIC shall be selected when recommended by recognized State and local labor organizations. Unorganized labor may be included if adequate labor representation cannot be met.

5. The remaining members of the council shall include additional representatives from all sectors represented on the council.

6. Phases in PIC change so that no PIC will be in violation of this amendment until 3 years after enactment of this Act.

Section 5.—Performance Standards—

1. Sec. 106(b)(1) ia amended by inserting language after "title II" so that the basic measure of performance for adult training programs under title II is also "the aquisition of basic educational competency". The section is further amended by prescribing standards on the basis of factors which may include:

(A) acquiring basic skills and workplace competencies including raising the grade level of reading, writing and computational skills, as well as the aquisition of a high school diploma or a general equivalency diploma;

(B) retention in unsubsidized employment would be defined as a period greater than 6 months. The section retains additional factors such as placement in unsubsidized employment, an increase in earnings, and AFDC reductions.

2. Sec. 106(b)(4). Requires the Secretary to add new performance standards for:

(A) hard-to-serve individuals (including handicapped individuals), which should not emphasize cost efficiency if it impairs the effectiveness of programs under JTPA, and one set of performance standards for all other individuals receiving JTPA assistance; and

(B) for in-school and out-school youth programs assisted under Title IIB.

3. Sec. 106(b). Adds language that the Secretary shall not prescribe standards which penalize SDAs for using funds provided for support services pursuant to Sec. 108(b)(2)(A)(iii).

4. Sec. 108 Additional Funding for Support Services.—Redesignates subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively and adds new language in (c).

(c) In addition to the 15% funds available under Sec. 108(b)(2)(A)(iii), an additional 10% of the funds available to SDA under Title IIA may be expended for support services if such additional support funds are spent providing eligible individuals with long term services, and the request is justified under the job training plan pursuant to Sec. 104, and is approved by the Governor.

5. Sec. 109. Service Delivery Area Transfer and Contract.—Adds section that allows SDAs to enter into contracts with one another to share the cost of educating, training and placement of individuals in programs assisted under JTPA including the "support services" provision. Each SDA shall be equally rewarded under the appropriate standards.

6. Sec. 110. Carryover and Reallocation.—Add the following section:

(a) Carryover.—(1) In any Fiscal Year the amount of funds allocated to a SDA which can be carried over to the following FY may not exceed 10% of the funds allocated to the SDA for that previous FY; (2) and the total cumulative amount of funds which may be carried over each year by an SDA may not exceed 20%.

(b) Service Delivery Area Reallocation.—The Governor may reallot funds to SDAs which have expended 90% of its funds by the original method used to allocate funds among SDAs within the State.

(c) State Reallotment.—The Secretary shall reallot funds from state carry-over funds exceeding 20% of such allotment for that prior program year to eligible states that are available for reallotment by using the same method that was originally used to allocate among eligible States pursuant to subsection (b) of this section.

Section 6—Title—Part A of Title II of the Act is amended to read "Adult Program."

Allotment and Within State Allocation.—

1. Amends Sec. 201(b)(1) by striking part (A) of the formula and redesignating subparagraphs (B) and (C) as (A) and (B). (A) This changes the 33⅓% allotted on the basis of the relative excess number of unemployed individuals in each state compared to the total excess number of unemployment individuals in all states to 50%; and

(B) changes the 33⅓% allotted on the basis of the number of economically disadvantaged individuals within the state compared to the total number of economically disadvantaged in all states to 50%.

2. Sec. 201(b)(2)(B) is amended by adding language that no State shall be allotted more than 110% of its previous year allotment percentage unless waived by the Secretary.

3. Sec. 201(b)(3)(B). Amends the definition of "individual" for use only on the formula in counting the number of economically disadvantaged from all age groups to only those who are at least 25 but not 73 years of age, and to the extent practicable, the Secretary shall exclude college students and members of the armed services from the number of economically disadvantaged individuals.

4. Sec. 202(a)(1). Changes the state set-asides from 22% to 20% and passes 80% of funds to the SDAs as described in Sec. 202(b) below.

5. Within State Allocations.—Amends Sec. 202(a)(2) by changing the percentages of the formula for allocations to the SDAs within each state to match the proposed formula used to distribute state funds in Sec. 201(b)(1). The section is further amended by adding that the PIC in each SDA may reserve an optional 10% of funds for experimental programing for serving hard-to-serve eligible individuals. These funds will be exempt from performance standards. GAO will do an assessment 2 years after enactment.

6. Sec. 202(a)(3). Adds language that no SDA shall be allocated more than 110% of its allocation for the FY preceeding the FY for which the determination is made unless waived by the Governor; and retains the 90% hold-harmless for the SDAs as in Sec. 252(f)(3).

7. Sec. 202(a)(3). Amends the definition of "individual" for purposes of the formula in counting the number of economically disadvantaged to those who are at least 25 but not 73 years of age. Adds language to exclude, to the extent practicable, college students and members of the armed services from the number of economically disadvantaged.

8. Sec. 202(b). Changes the 8% set-aside for education at the state level to a 5% set-aside and passes the remaining 3% set-aside directly to the SDAs, however the SDAs must spend this funding on long-term training, basic skills and educational services. An independent evaluation will follow 1 year later. Out of the funds reserved for the state, the grants awarded by the states must be matched with other federal, state, local and private funds.

9. Sec. 202(b)(2)(B). Increases from 6 to 8% the amount of funds the Governor may award in incentive grants to SDAs, but adds language that the funds will be awarded on long term training or exceed performance standards relating to: raising basic skills competencies; serving hard-to-serve adults; and providing long term job placement. Also, the amount of funds spent on older individuals is decreased from 3 to 2%.

Sec. 7. Eligibility for Services.—

1. Amends 203(a)(1) to direct SDAs to give special emphasis in providing services to the hard-to-serve populations or individuals "most-in-need" of basic skills and employment training services. Also requires SDAs to test participant's reading and math skills and review employment history. No test is required if standardized test was administered within previous year.

2. Sec. 203(a)(2). Special Emphasis. Retain language in Sec. 203(a)(2) and increase the "window" of eligibility for non-economically disadvantaged from 10% to 15% with state approval if the individual is in 2 or more of the classes listed in this section.

3. Sec. 203(b). Transfer Provision.—Amended by:

(1) striking out "youth and" in Sec. 203(b)(1), so that funds shall be used to provide services to disadvantaged adults only;

(2) striking out second sentence of 203(b)(1) regarding the 40 percent of funds available for youth and transfers it to IIB;

(3) adding language in Sec. 203(b)(2) so that SDA may transfer additional funds under this part to Title IIB for youth programs as long as it is included in state plans.

(4) defining in Sec. 203(c) "adult" as an individual who is aged 25 or older instead of 22.

(5) striking out in Sec. 204 "youth and" so that services under this section will be available to adults only.

Sec. 8—Placement Study.—Amend Sec. 205. GAO shall conduct a study to determine how many and what percentage of adults remain in a job which they were placed through programs assisted under this part for at least 9 months. Replaces "Exemplary Youth Programs" title with "Placement Study" in the table of contents, and transfers Sec. 205 in current law to Sec. 257.

Sec. 9—Youth Employment and Training Program—Title IIB

1. Sec. 252(b) Allotment and State Allocations.—Amends this section by creating a separate formula in Title IIB:

(A) Allots 50 percent of the formula on the basis of the relative number of economically disadvantaged youth within the State compared to the total number of economically disadvantaged youth in all states;

(B) Allots 25 percent of the formula on the basis of the relative number of unemployed youth in each State compared to the total number of unemployed youth in all States;

(C) Allots 25 percent of the formula on the basis the relative number of the economically disadvantaged youth residing in areas with substantial numbers of economically disadvantaged youth in each State as compared to the total number of such economically disadvantaged youth in all such areas in all States.

2. Sec. 252(d). Adds language that no state shall be allotted more than 110 percent of its allotment percentage than in the preceding fiscal year, unless waived by the Secretary.

3. Sec. 252(e)(1). For this part (Title IIB) the term "economically disadvantaged youth" means an individual who is aged 16 through 24 and who has, or whose family's income falls within the poverty level. The number of economically disadvantaged youth shall exclude, to the extent practical, college students and members of the armed forces; and

(2) The term "area of substantial numbers of economically disadvantaged youth" means any area with sufficient size and scope to sustain a program under IIB and in which the percentage of economically disadvantaged youth between the age of 16 and 24 is at least 20 percent.

4. Within State Allocations.—Sec. 252(f)(1). Changes the formula factors for allocations to the SDAs within each State:

(A) Allots 50 percent on the basis of the relative number of economically disadvantaged youth within each SDA compared to the total number of economically disadvantaged youth in the State;

(B) Allots 50 percent on the basis of the relative number of economically disadvantaged youth residing in "areas with substantial numbers of economically disadvantaged youth" in each SDA compared to the total number of such economically disadvantaged youth in all such *SDAs* in the State.

5. Sec. 252(f)(3). Retains the 90 percent and 110 percent hold-harmless in each SDA.

Sec. 10—Use of Funds.—

1. Sec. 253(a)(3). Additional services may include needs-based payments necessary to participate in the program, and compensation for work experience.

2. Sec. 253(c) Additional Services.—(1) In addition to the services set forth in Sec. 255(a), funds available for the year-round program may be used to provide for in-school, dropout prone youth:

(A) Combined basic and life skills instruction and summer work experience;

(B) Enriched basic skills and study skills training;

(C) Supplemental school year activities;

(D) Pre-employment, socialization and behavior skills training; and

(E) Supportive services.

Sec. 253(c)(2). The term "dropout prone youth" is defined as a youth who:

(A) is "at risk" of academic failure or of dropping out of school;

(B) has high absenteeism in addition to poor grades;

(C) has disciplinary problems;

(D) is a teen parent;

(E) is of limited English proficiency;

(F) is a juvenile offender; or

(G) is educationally and economically disadvantaged.

Sec. 253(d). The following services may be provided to school dropouts and out-of-school youth:

(1) Specialized outreach;

(2) Basic skills training;

(3) Occupational skills training, job development and placement assistance;

(4) Work readiness and life skills training, and post-program follow-up; and

(5) Supportive services.

Sec. 253(e). These programs may be conducted during the summer or on a year-round, full-time basis, provided the summer youth program receives no more than 40% of funds available for this part.

Sec. 11 Limitations.—

1. Sec. 254(a). Amended in order that programs under this part may be conducted on a year-round, full-time basis or during the summer.

2. Sec. 254(b)(2) Special Consideration.—Among all of the economically disadvantaged youth served under the IIB programs, special consideration shall be given to serving youth who experience severe disadvantages, such as:

(A) School dropouts;

(B) Students with poor academic and attendance records;

(C) Students who are eligible to receive School Lunch or Chapter 1 services;

(D) Pregnant or parenting teens;

(E) Handicapped youth;

(F) Limited-English proficient students;

(G) Recipients of public assistance; or

(H) Juvenile and other youth offenders.

3. Amends Sec. 254(b)(3)(A). Up to 10% of all participants in the IIB program may be individuals who are not economically disadvantaged if such individuals are in 2 or more of the classes of individuals described in (b)(2) above.

4. Sec. 254(b)(3)(B). An additional 5% over the 10% of all participants may be individuals who are not economically disadvantaged if the individuals: (i) qualify in 2 of more classes described in (b)(2) above and; (ii) the plan for inclusion of this additional 5% is in the plan pursuant to section 104 and has been approved by the Governor.

5. Sec. 254(c)(2) Year-Round Eligibility.—Individuals aged 14-15 are eligible for youth programs with priority given to those who fail to meet academic levels and who plan to enter the full-time labor market upon leaving school.

6. Sec. 254(c)(2). Amends the Act by requiring that individuals eligible to participate in the year-round program are:

(A) youth who are aged 16 through 24 (optional services for 14 and 15 year olds);

(B) economically disadvantaged youth; and

(C) youth who are deficient in basic skills.

Sec. 12 Requirements for year-round programs.—Redesignates Sec. 255 to Sec. 256 and adding the following new section after Sec. 254:

1. Sec. 255(1). SDAs operating year-round programs under this section shall include in their plans a description of the program, including:

(A) goals and objectives;

(B) activities and services;

(C) linkages established with other local agencies; and

(D) services strategies of demonstrated effectiveness and the design of the program.

2. Sec. 255(2). Adds language to provide each participant:

(A) development of a service strategy; and

(B) basic skills assistance.

3. Sec. 255(3). In year-round programs, a SDA shall establish linkages with local educational agencies (LEAs) to ensure that programs assisted supplement existing programs, utilize existing services, obtain, where feasible, notification when a youth drops out of the school system; and obtains information on the literacy level of participants. Additionally, the PIC in each SDA shall establish with a variety of private, non-profit and public service agencies and volunteer organizations, including programs conducted under Title IIA.

4. Not more than 15% of the funds available for programs assisted under this part may be used for the costs of administration.

Sec. 13. Exemplary Youth Programs.—Title IIB is amended by inserting Sec. 257 after Sec. 256. Section 205 is transfered to Sec. 257 deleting the reference to Sec. 204 in the first sentence. In Section 257(b)(1), (b)(2), and (b)(3) strike "education" and insert "basic skills".

Sec. 258. Replication of Successful Programs.—Creates the following new section after Sec. 257:

1. Sec. 258(a). From funds appropriated pursuant to section 3(b) of the Act the Secretary shall, in consultation with the expert review panel pursuant to subsection (c), make grants to national or regional public or private nonprofit organizations if they meet the technical assistance requirements, and to States and SDAs for costs associated with the development of model programs approved by the Secretary.

2. Appropriations Formula.—Sec. 258(b)(1). If the amount appropriated under section 3(b) for any FY exceeds $1.424 billion but does not exceed $1.524 billion, then $10 million shall be used for this demonstration program.

(2) If the amount appropriated in any FY exceeds $1.524 billion, then a total of $20 million, shall be used for demonstration projects.

3. Review Panel. Sec. 258(c)(1). The Secretary shall appoint a review panel of experts to evaluate employment and training programs for the economically disadvantaged youth, and select and designate model programs.

(2) In selecting such programs the panel shall consider a variety of objectives related to the potential for success of the applicant's program to replicate model programs on a national or regional scale.

4. Sec. 258(d) Special Consideration.—The panel shall give special consideration to programs that have the demonstrated ability to integrate or coordinate services with other service producers in the areas of basic skills instruction, occupational, and preemployment and work maturity training programs.

5. Sec. 258(e) Criteria for Model Programs.—The panel shall consider any program for designation as a model program if such program:

(1) is designed to improve the employment prospects of economically disadvantaged youth;

(2) is sponsored or operated by a national or regional public or private nonprofit organization with the capacity to provide the technical assistance necessary to enable states and local communities to implement the program;

(3) has demonstrated reasonable evidence of success;

(4) has demonstrated its potential to be replicated across a wide range of sites and may serve large numbers of economically disadvantaged youth.

6. Sec. 258(f) Applications.—Each public or private non-profit organization, State, or SDA desiring to receive a grant shall submit an application describing assistance sought and assurances of compliance with provisions of this Act.

7. Sec. 258(g) Grant Limitations.—(1) In any 3 year period the Secretary, recommended by the panel, shall not approve grants for the same replication activities in more than 10 states or communities. During this period, the results of such limited replication efforts shall be evaluated and examined by the review panel, which shall submit recommendations to the Secretary regarding the advisability of replicating the model program in more than 10 states or communities for longer than 3 years (The Secretary shall then have authority to replicate such programs).

(2) The Secretary, upon the review panel's recommendation, may waive the limitation if immediate replication on a larger scale is warranted.

Sec. 14.—Youth Employment and Training Challenge.—Amends Title IV by adding a new section in Part H of Title IV to authorize a Fair Chance: Youth Opportunity Challenge Grant.

1. Sec. 491(a)(1) State Allotment.—Secretary shall allot for each FY, to each State submitting a plan under Sec. 493, a portion of the funds under Sec. 499 for such FY that bears the same relationship to the total amount of such funds as the youth population of such State bears to the total youth population in the U.S.

2. Sec. 491(a)(2). The amount allotted to each State shall equal or exceed $250,000 and shall equal or exceed $125,000 to U.S. territories.

3. Sec. 491(b)(1). In any FY the amount of funds allocated to a State which can be carried over to the following FY may not exceed 10% of the funds allocated to the State for that previous FY; (1) and the total cumulative amount of funds which may be carried over each year by an SDA may not exceed 20%.

4. Sec. 491(c). State agencies shall award grants by giving priority to programs:

(1) located in areas with a high number of economically disadvantaged youth;

(2) serving high proportions or numbers of school dropouts;

(3) serving students who are eligible for School Lunch or Chapter 1 services;

(4) serving limited-English proficient students; and

(5) serving juvenile and other youth offenders.

5. Sec. 492 Grants.—The funds allotted to each State shall be used by the State Agency to provide grants to eligible consortium in the State to pay more than 50% of the costs from comprehensive education, training, and support services and programs

in demonstration target areas to youth living within such target areas.

6. Sec. 493 State Plan.—The Governor of each State shall submit a 5-year plan to the Secretary which shall:

(a) designate the state agency responsible for supervising the preparation and administration of the plan;

(b) provide for the appointment of an advisory group by the Governor, (or the designation of an existing State body which is representative of the education and training resources of the State, including, but not limited to, the State Job Training Coordinating Council) to participate in the development and review of the State's plan, including State officials for education, vocational-technical education, employment and training, social services, and representatives of business, industry, labor, and community-based agencies offering alternative education or training programs;

(c) provide for the designation of eligible demonstration target areas which have chronically low levels of economic activity or a deteriorating economic base causing such adverse effects as—a high concentration of unemployed youth which substantially exceeds the average rate of unemployment among youth in the State, or a large concentration of low-income yourth families;

(d) provide assurances that the size and scope of the demonstration target area is calculated to provide access to education, training, and support services to youth living in such target areas;

(e) provide assurance that funds will supplement and not supplant funding from other local, state, and Federal sources available to youth in demonstration target areas;

(f) provide assurances that program activities funded under this part are coordinated with relevant employment, training, and education programs available in the State.

(g) provide assurances of review and comment of any application by the state Job Training Coordinating Council or local PICs.

(h) provide for the evaluation of this program to determine whether the increased education, training and other support services guaranteed education, training and other support services guaranteed to youth result in increased rates of enrollment, retention and completion, and whether there are a sufficient number, variety and quality of current programs available to youth to meet demand; and

(i) provide other reasonable information needed by the Secretary.

4. Sec. 494(a)(1). Eligible Consortia.—Eligible consortia applying for demonstration grants must be broadly representative of the education and training providers of their community and shall consist of:

(A) representatives of business, industry and labor;

(B) CBOs, including youth-serving organizations;

(C) State and local education agencies, including area vocational schools;

(D) State and local employment training agencies;

(E) institutions of postsecondary education, including community colleges and vocational-technical education institutes: and

(F) residents of demonstration target areas who are typical of youth to be served under this part.

5. Sec. 494(a)(2). Any eligible consortia may consist of any existing entity including any community organization or group which meets the representation requirements of (A) through (F) of paragraph (1) above. Such existing entities may include:

(A) local education entities, districts or area-wide councils;

(B) community education districts;

(C) PICs;

(D) youth coordinating councils;

(E) county or regional economic development authorities; or

(F) other appropriate entities which are broadly representative of education and training resources of the community.

6. Sec. 494(b). The state agency designated by the Governor shall award at least 1 and not more than 2 eligible consortia under this part.

7. Sec. 494(c). Eligible consortia are encouraged to apply to the State agency in order to strengthen, enhance, expand and evaluate such programs and services to both college bound and non-college bound youth.

8. Sec. 494(d). States shall encourage consortia to make use of resources, expertise and commitment of both formal institutions of education as well as:

(a) CBOs;

(b) youth conservation and human service corps;

(c) Job Corps centers;

(d) apprenticeship programs; and

(e) projects and programs funded under the JTPA.

9. Application. Sec. 495(a).—Any eligible consortium desiring to receive a demostration grant for the demonstration target area shall submit an application to the State agency as the agency may reasonably require. Each application shall:

(i) contain a 5-year plan for development and implementation of activities;

(ii) demonstrate that all youth in the program have access to a comprehensive range of education and training opportunities;

(iii) contain a description of resources available from private, local government, State and Federal sources;

(iv) estimate the expected number of youth to be served and its total cost;

(v) estimate the funds required to ensure access to appropriate education, training and support services for all youth;

(vi) encourage youth to pursue appropriate education and training through outreach, recruitment, and motivational mechanisms;

(vii) provide a case management and career development system to ensure each youth a well-trained and committed career counselor;

(viii) include a cooperative agreement among youth-serving organizations and agencies within the consortium designed to ensure coordination;

(ix) provide for the maintenance of such information as may be required by the State and Secretary, including data described in section 497;

(x) demonstrate that varied sources of funding will be fully utilized and effectively coordinated;

(xi) where appropriate, share facilities, equipment and resource materials;

(xii) establish outcomes and specify accountability measures for such outcomes; and

(xiii) demonstrate the capability to establish a coordinated and comprehensive program which serves the broadest possible range of youth interest and needs, and mobilize the diverse range of education and training providers.

10. Use of Funds, Non-Federal Share. Sec. 496(a)(1).—No funds shall be used by local education agencies to provide educational services to youth enrolled in secondary schools during regular school hours; and

(a)(2) No funds shall be used for student financial assistance, unless permitted by regulations promulgated by the Secretary.

(b) Costs from Sec. 492(a) not paid by grant may be paid in cash.

(c) For any FY not more than 5% of funds may be expended for administration costs.

11. Evaluation. Sec. 497(a).—The Secretary shall provide an independent evaluation of the various State approaches in different demonstration programs. Evaluation measures may include:

(1) enrollment, retention and completion rates;

(2) high school graduation rates;

(3) avoidance of anti-social and destructive behavior;

(4) subsequent employment;

(5) continued pursuit of advanced education and training;

(6) admission into 4-year colleges and universities; or

(7) admission into the armed forces.

(b) The Secretary shall submit a report detailing the evaluation results to the President and the Congress no later than December 31, 1994.

12. Definitions. Sec. 498(a).—

(a) "demonstration target area" means an area described in Sec. 493 (3) and (4) that is designated under a plan submitted under Sec. 493.

(b) "youth" means individuals who are at least 16 and not more than 24 years of age. Other than Sec. 491, the term "youth" may include, at the election of State agencies, individuals who are 14 or 15 years of age.

13. Authorization of Appropriations. Sec. 499(a).—There are authorized to be appropriated:

(i) $100 million for FY 1990.

(ii) $150 million for FY 1991,

(iii) $200 million for FY 1992,

(iv) $250 million for FY 1993, and

(v) such sums as may be necessary for FY 1994.

Sec. 15.—National Commission for Employment Policy.—Title IV of the Act is amended by striking part F, resulting in the elimination of the National Commission for Employment Policy.●

● Mr. KENNEDY. Mr. President, I commend my colleague Senator SIMON for his leadership in seeking improvements in title II of the Job Training Partnership Act, the portion of the act dealing with training for disadvantaged adults and youth. I am pleased to cosponsor this legislation, and I intend to make improvements in the Job Training Partnership Act one of the top priorities of the Committee on Labor and Human Resources.

The Job Training Partnership Act [JTPA] received a great deal of attention during last year's Presidential campaign. I welcomed this opportunity for the Nation to evaluate the successes and shortcomings of the program. This national debate gave new emphasis to a number of problems identified by the Labor and Human Resources Committee, and the Simon bill addresses these problems.

The first and most obvious problem is funding. Currently, JTPA title II-A serves less than 5 percent of the eligible recipients. When Secretary Dole

appeared before the Labor Committee last week, she stressed the need for increased and improved job training to give those who live in poverty a fair chance in the job market. I agree wholeheartedly. We do need more and better training. Yet despite its rhetoric, the administration has recommended no increases in JTPA. In fact, the President's budget did not even mention it, which suggests that President Bush will adhere to the frozen level of funding in the Reagan 1990 budget—a freeze that means cuts in real terms. The Simon bill addresses this problem by authorizing additional funding above current funding levels: $150 million of additional funds for title II-A and $150 million of additional funds for title II-B.

A second problem is that JTPA is not serving the people who truly need the help of an employment and training program. In an era of scarce Federal resources, it is all the more important that we not spent Government funds to place people in jobs for which they would be hired in any event. Last year I introduced legislation known as the Jobs for Employable Dependent Individuals [JEDI] Act. This legislation, signed by the President at the end of the last Congress, will provide incentive bonuses to States and organizations that make real progress in training and employing long-term welfare recipients. The JEDI legislation is a first step toward a better-targeted program. The legislation we are introducing today will build on those efforts.

A third issue which we addressed in last year's JEDI legislation, but which was not included in the final conference report, is the need to expand summer job programs to become quality year-round training programs for the Nation's disadvantaged youth. The Simon bill addresses this issue by separating the programs for adults and youth and enabling States to use youth funds for year-round programming.

A fourth problem with the implementation of JTPA in some areas has been an underemphasis on providing program participants with the basic skills necessary to hold better jobs in the future. We face serious problems in dealing with reading and math illiteracy in this country. It is essential to ensure that people have these skills as we send them out into the workplace.

In the last Congress, the Labor Committee rewrote the dislocated worker provisions in title III of JTPA. I am pleased that our new program was included in the trade bill that was signed into law. In this Congress we are committed to amending the other two major parts of JTPA, contained in titles II-A and II-B. When we have finished, we will have preserved what is good in the JTPA system—the involvement of the private businesses that will provide jobs—and we will have modified those parts of the program that experience has taught us need changing. We will then be a step closer to the goal of an integrated, nationwide employment and training system to meet the labor market needs of the next century.

The measures proposed by Senator SIMON will spur the Senate's efforts to address these problems and improve the Nation's largest job training program. I am pleased to join in sponsoring this legislation, and I look forward to working closely with my colleagues as this bill moves through our committee and the Senate. It is time to amend JTPA so that it will provide more realistic opportunities for the millions of Americans who want to work, but who lack the skills to obtain a decent job.●

By Mr. METZENBAUM:

S. 544. A bill to limit the modification of collective bargaining agreements subject to the Railway Labor Act; to the Committee on the Judiciary.

BANKRUPTCY CODE AMENDMENTS

● Mr. METZENBAUM. Mr. President, I rise to introduce a bill to amend the Bankruptcy Code. This bill clarifies that an airline in bankruptcy should be treated the same way as a railroad in bankruptcy.

Under current section 1167 of the Bankruptcy Code, the trustee in a railroad reorganization may not alter employee wages or working conditions except in accordance with section 6 of the Railway Labor Act. It makes no sense to single out railroads for special treatment. The Railway Labor Act controls resolution of disputes involving wages and working conditions for employees in both the railroad and airlines industries. My bill amends section 1167 of the Bankruptcy Code to cover air carriers in bankruptcy in the same way that railroads in bankruptcy are now covered.

My bill also amends section 109 of the Bankruptcy Code to allow creditors to reach the assets of a bankruptcy air carrier's parent holding companies or related entities. Creditors should not be left holding the bag when an air carrier files for bankruptcy after its assets and cash reserves have been drained by holding companies and other related entities. Under my bill, if the air carrier files for bankruptcy, then the air carrier's "controlled group," including parent holding companies and related subsidiaries also must enter bankruptcy.

Controlled groups are recognized under ERISA for pension liability purposes. Relying on controlled group assets furthers the reorganization of troubled, complex entities and ensures fair treatment for creditors. This bill recognizes the realities of modern airline corporate structure and protects creditors from being abused by that structure.

It is important to note that this bill becomes effective as of the date of introduction—March 8, 1989. Making a bill effective as of the date of introduction is a common practice in the tax area. This is done to prevent parties involved in or considering transactions from changing their behavior in contemplation of pending legislation being enacted.

We are all aware that Eastern Airlines is contemplating a filing in bankruptcy. This bill will affect Eastern Airlines, its parent holding companies and related entities, the creditors of Eastern and Eastern's employees. All those parties and all other air carriers contemplating bankruptcy are hereby put on notice that the bankruptcy law changes proposed in this bill will, if enacted, be effective March 8, 1989.●

By Mr. PRESSLER:

S. 545. A bill to amend the Agricultural Act of 1949 to permit producers to produce alfalfa on permitted acres for the 1990 crop, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

PERMITTING PRODUCERS TO PRODUCE ALFALFA ON CERTAIN ACRES

● Mr. PRESSLER. Mr. President, today I am introducing legislation that would allow alfalfa to be considered as a farm program crop for base history compliance purposes.

I recently completed a 16-town tour of public listening meetings where I received valuable input on the 1990 farm bill and other agricultural issues from my fellow South Dakotans. During that tour, I was able to gather many valuable ideas regarding the future direction of farm policy. One of those ideas was the basis for the legislation I am introducing today.

Perhaps the most frequent suggestion for farm program changes expressed by South Dakotans concerns alfalfa. The current farm program requires a farmer to plant a farm program crop in 2 of the last 3 years to maintain a production base. This requirement discourages the planting of alfalfa, which is an expensive crop that usually remains in the ground 3 or more years in a row. Because alfalfa adds nitrogen to the soil and helps mitigate wind erosion, many farmers like to alternate their program crops with alfalfa. This is wise stewardship of the soil and should be encouraged.

In South Dakota, as in other areas of the United States, the wind severely damages the precious few inches of topsoil available to our food producers. Farm program changes that help prevent the destruction of this natural resource, which is so vital to our future, are appropriate and necessary. I hope my distinguished colleagues will view this bill as an effort to assist farmers

in soil conservation methods, and will support this legislation.

Let me conclude by emphasizing that this change would not result in increased farm program costs. Alfalfa would only be considered a program crop for the specific purpose of maintaining a production base. Alfalfa would not be a program crop in the sense that it has a target price and would involve deficiency payments, marketing loans, et cetera. This legislation would allow a farmer to conserve soil resources without being penalized for doing so by losing his production base history. As such I believe it is worthy of Congressional approval.●

By Mr. BOSCHWITZ (for himself, Mr. STEVENS, Mr. CONRAD, Mr. SHELBY, Mr. DIXON, Mr. WARNER, Mr. LUGAR, Mr. HATCH, Mr. METZENBAUM, Mr. LIEBERMAN, Mr. PELL, Mr. DOMENICI, Mr. D'AMATO, Mr. COCHRAN, Mr. THURMOND, and Mr. CRANSTON):

S.J. Res. 73. Joint resolution to designate the week beginning October 29, 1989, as "Gaucher's Disease Awareness Week"; to the Committee on the Judiciary.

GAUCHER'S DISEASE AWARENESS WEEK

Mr. BOSCHWITZ. Mr. President, today, I am introducing a joint resolution to designate the week beginning October 29, 1989, as "Gaucher's Disease Awareness Week." Fifteen Senators have already joined me in cosponsoring this resolution and I would like to thank them for their support. I would also encourage my colleagues who have not joined me in support of this resolution to do so.

Gaucher's disease is a rare hereditary condition that attacks living cells and affects their metabolic functions. The deficiency caused by Gaucher's disease results in the enlargement of the spleen, damage to the liver, skin discoloration, pink eye, and bone lesions. It is a debilitating and chronic disease most common among those of Jewish heritage. My resolution recognizes the important contributions made by the National Gaucher's Disease Foundation, and the need to further research into the cause and the development of a cure for this disease.

Mr. President, I ask unanimous consent that the resolution be printed in the RECORD.

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

S.J. RES. 73

Whereas Gaucher's disease is caused by the failure of the body to produce an essential enzyme;

Whereas the absence of such enzyme causes the body to store abnormal quantities of lipids in the liver and spleen and frequently has an adverse effect on tissues in the body, particularly bone tissue;

Whereas among Jewish persons, Gaucher's disease is the most common inherited disorder affecting the metabolism of lipids, which are one of the principal structural components of living cells;

Whereas there is no known cure for Gaucher's disease and no successful treatment of the symptoms of the disease;

Whereas the increased awareness and understanding of Gaucher's disease by the people of the United States can aid in the development of a treatment and cure for the disease;

Whereas the National Gaucher's Disease Foundation provides funds for research in the United States with respect to the disease; and

Whereas research and clinical programs with respect to Gaucher's disease should be increased: Now, therefore, be it, *Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the week beginning October 29, 1989, is designated as "Gaucher's Disease Awareness Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

By Mr. GORE:

S.J. Res. 74. Joint resolution to designate the month of May 1989 as "National Digestive Disease Awareness Month"; to the Committee on the Judiciary.

NATIONAL DIGESTIVE DISEASE AWARENESS MONTH

● Mr. GORE. Mr. President, I rise today, for the fifth consecutive year, to introduce legislation to recognize the terrible hardship of digestive diseases. This joint resolution, which will designate May 1989 "National Digestive Disease Awareness Month," is an important part of our continuing, successful effort to raise the awareness of the American people, the Congress, and the administration to this very serious problem that too often doesn't get the attention it deserves.

Digestive diseases are more widespread than many imagine. More than 20 million Americans suffer from chronic diseases of the digestive system. Over 14 million cases of acute digestive diseases are treated in this country annually, and one-third of all malignancies are digestive related.

Digestive diseases rank third among illnesses in total cost in the United States. Digestive diseases necessitate 25 percent of all surgical operations. These illnesses represent one of the Nation's most serious health problems in terms of discomfort and pain, personal expenditures for treatment, working hours lost, and mortality.

The cost of digestive diseases is estimated at $17 billion per year in direct health care costs alone, and if you figure in the working hours lost and other losses, the total annual economic burden for digestive disease is a staggering $50 billion. Of course, probably its biggest toll is in human suffering that cannot be measured in dollars.

The joint resolution I am introducing today calls for a unified national effort to increase public awareness and to combat digestive disease.

I urge my colleagues to join me in cosponsoring this initiative, as so many have done in the past.

Mr. President, I now ask unanimous consent that the text of this joint resolution be printed in the RECORD.

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

S.J. RES. 74

Whereas digestive diseases rank third among illnesses in total economic cost in the United States;

Whereas digestive diseases represent one of the Nation's most serious health problems in terms of discomfort and pain, personal expenditures for treatment, working hours lost, and mortality;

Whereas 20 million Americans suffer from chronic digestive diseases;

Whereas more than 14 million cases of acute digestive diseases are treated in this country each year, including one-third of all malignancies and some of the most common acute infections;

Whereas more Americans are hospitalized with digestive diseases than with any other type of disease;

Whereas digestive diseases necessitate 25 percent of all surgical operations;

Whereas digestive diseases are one of the most prevalent causes of disability in the work force;

Whereas in the United States, digestive diseases cause yearly expenditures of over $17 billion in direct health care costs and a total annual economic burden of nearly $50 billion;

Whereas more than 100 different digestive diseases, and other disorders of the gastrointestinal tract, cause more than 200,000 deaths every year;

Whereas there has been interest on the part of the research community in the causes, cures, prevention, and clinical treatment of digestive diseases and related nutritional problems;

Whereas the people of the United States should recognize prevention and treatment of digestive diseases as a major health priority;

Whereas national organizations such as the Digestive Disease National Coalition are committed to increasing awareness and understanding of digestive diseases in the health care community and among members of the general public;

Whereas the National Institutes of Health, through the National Digestive Disease Information Clearinghouse and the National Digestive Diseases Advisory Board, is committed to encouraging and coordinating such educational efforts;

Whereas the National Digestive Disease Education Program is a coordinated effort to educate the public and the health care community on the seriousness of digestive diseases and to provide information relative to the treatment, prevention, and control of digestive diseases; and

Whereas May 1989 marks the seventh anniversary of the National Digestive Disease Education Program: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That May 1989 is designated as "National Digestive Disease

Awareness Month", and the President is authorized and requested to issue a proclamation calling upon all government agencies and the people of the United States to observe that month with appropriate programs, ceremonies, and activities.●

ADDITIONAL COSPONSORS

S. 136

At the request of Mr. ADAMS, the name of the Senator from New York [Mr. MOYNIHAN] was added as a cosponsor of S. 136, a bill to amend title 3, United States Code, to estabish a single poll closing time in the Continental United States for Presidential general elections.

S. 273

At the request of Mr. HEINZ, the names of the Senator from Wisconsin [Mr. KOHL], and the Senator from Connecticut [Mr. LIEBERMAN] were added as cosponsors of S. 273, a bill to amend title 39, United States Code, to designate as nonmailable matter solicitations of donations which could reasonably be misconstrued as a bill, invoice, or statement of account due, solicitations for the purchase of products or services which are provided either free of charge or at a lower price by the Federal Government connection or endorsement, unless such matter contains an appropriate, conspicuous disclaimer, and for other purposes.

S. 334

At the request of Mr. BINGAMAN, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of S. 334, a bill to promote statewide health promotion campaigns, and for other purposes.

S. 370

At the request of Mr. CHAFEE, the names of the Senator from Arkansas [Mr. PRYOR], and the Senator from Ohio [Mr. GLENN] were added as cosponsors of S. 370, a bill to amend the Land and Water Conservation Fund 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 outdoor recreational heritage, and for other purposes.

S. 384

At the request of Mr. CHAFEE, the name of the Senator from Georgia [Mr. FOWLER] was added as a cosponsor of S. 384, a bill to amend title XIX of the Social Security Act to assist individuals with a severe disability in attaining or maintaining their maximum potential for independence and capacity to participate in community and family life, and for other purposes.

S. 419

At the request of Mr. SIMON, the names of the Senator from Minnesota [Mr. DURENBERGER], the Senator from Illinois [Mr. DIXON], the Senator from North Dakota [Mr. CONRAD], and the Senator from Pennsylvania [Mr. HEINZ] were added as consponsors of S. 419, a bill to provide for the collection of data about crimes motivated by race, religion, ethnicity, or sexual orientation.

S. 466

At the request of Mr. BIDEN, the name of the Senator from Arizona [Mr. DECONCINI] was added as a cosponsor of S. 466, a bill to amend title 18 of the United States Code to prohibit the use of the mails to sell or solicit the sale of anabolic steroids.

S. 489

At the request of Mr. KENNEDY, the names of the Senator from Arizona [Mr. DECONCINI], the Senator from Massachusetts [Mr. KERRY], the Senator from Wisconsin [Mr. KOHL], the Senator from Michigan [Mr. LEVIN], the Senator from Connecticut [Mr. LIEBERMAN], and the Senator from Indiana [Mr. LUGAR] were added as cosponsors of S. 489, a bill to transfer certain lands available for State legalization assistance grants to programs to assist refugees.

S. 494

At the request of Mr. DURENBERGER, the name of the Senator from Delaware [Mr. ROTH] was added as a cosponsor of S. 494, a bill to amend the Internal Revenue Code of 1986 to extend for 5 years, and increase the amount of, the deduction for health insurance for self-employed individuals.

SENATE JOINT RESOLUTION 28

At the request of Mr. ROTH, the name of the Senator from New Mexico [Mr. BINGAMAN] was added as a cosponsor of Senate Joint Resolution 28, a joint resolution proposing an amendment to the Constitution of the United States limiting Federal taxation of State and local obligations.

SENATE JOINT RESOLUTION 67

At the request of Mr. DOMENICI, the names of the Senator from Mississippi [Mr. COCHRAN], the Senator from California [Mr. CRANSTON], the Senator from Missouri [Mr. DANFORTH], the Senator from Pennsylvania [Mr. HEINZ], and the Senator from Connecticut [Mr. LIEBERMAN] were added as cosponsors of Senate Joint Resolution 67, a joint resolution to commemorate the 25th anniversary of the Wilderness Act of 1964 which established the National Wilderness Preservation System.

SENATE RESOLUTION 61

At the request of Mr. DIXON, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of Senate Resolution 61, a resolution expressing the sense of Senate on the sale of F-16 fighter aircraft technology from General Dynamics to Japan's Mitsubishi Heavy Industries as part of the United States-Japan FSX Codevelopment Fighter Program.

SENATE CONCURRENT RESOLUTION 18—RELATING TO TAXATION OF STATE AND LOCAL GOVERNMENT BONDS

Mr. ROTH submitted the following concurrent resolution; which was referred to the Committee on Finance:

S. CON. RES. 18

Whereas, in South Carolina v. Baker, the Supreme Court of the United States ruled that Congress may tax interest on State and local government bonds;

Whereas, these bonds are an important source of revenue for State and local governments in order to finance public projects, such as new roads, bridges, and schools;

Whereas, the taxation of interest on State and local government bonds would severely impair the ability of these governments to finance such projects; and

Whereas, historically, Congress has respected the important role of these bonds in funding public projects by refraining from taxing the interest on such bonds: Now, therefore, be it

Resolved, by the Senate (the House of Representatives concurring), that it is the sense of Congress that Federal laws regarding the taxation of State and local government bonds should not be changed in order to increase Federal revenues.

● Mr. ROTH. Mr. President, I rise today to submit a concurrent resolution to express the sense of the Congress that we should refrain from making further changes in the tax treatment of State and local bonds for the purpose of increasing Federal revenues.

An identical resolution, House Concurrent Resolution 39, was introduced in the House on January 31 by Congressman COMBEST. Our legislation is identical to that which we proposed in the last session of Congress following the Supreme Court decision on April 20 in South Carolina versus Baker in which the Court ruled that Congress could tax interest on State and local government bonds.

The ruling in South Carolina versus Baker went well beyond the issue before the Court, which was the much narrower question of whether or not the Federal Government could impose a registration requirement on State and local bond issues, and has left State and local governments at the mercy of the political processes of Congress.

Our partners in government are justifiably concerned that their ability to finance essential public services in the future could be jeopardized by this situation in the endless search for Federal revenue.

Our network of State and local governments is an enormous enterprise raising in excess of $600 billion in annual revenues, administering more than $100 billion in Federal programs and employing nearly 14 million people.

We expect and demand that our State and local governments will provide us with an educational system to

provide opportunities for all of our citizens and we impose mandates from clean air and water to quality control in the delivery of our social service programs.

Public finance and specifically the ability to issue tax exempt bonds to finance public projects has been and is an important tool for our State and local governments to meet the demands placed upon them without unduly burdening the citizens who derive benefits from these essential services.

This concurrent resolution simply states that the taxation of State and local bonds should not be changed in order to increase Federal revenues. It does not address the larger and important question of the issue of reciprocal immunity. To address that problem, I have proposed a constitutional amendment, Senate Joint Resolution 28, to overturn last year's Supreme Court decision in South Carolina versus Baker.

At present, I would hope that the majority of my colleagues would join with me in cosponsoring the concurrent resolution as an indication of their support for the premise that the integrity of the system of public finance for State and local governments should be preserved, as should be the balance between our system of Federal, State, and local governments which we have valued for 200 years.●

NOTICES OF HEARINGS

COMMITTEE ON SMALL BUSINESS

Mr. BUMPERS. Mr. President, I would like to announce that the Small Business Committee will hold a field hearing on Monday, March 13, 1989, to review the Minnesota Small Business Development Center Program and Cooperative Agreement. The hearing will be held at the Hennepin County Government Center, located at 300 South Sixth Street in Minneapolis, MN, and will commence at 1:30 p.m. For further information, please call Pete Coyle, minority staff director for the committee at 224-2130.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON TERRORISM, NARCOTICS AND INTERNATIONAL OPERATIONS

Mr. GORE. Mr. President, I ask unanimous consent that the Subcommittee on Terrorism, Narcotics and International Operations of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, March 8 at 10 a.m. to hold a hearing on foreign terrorists' threats to first amendment freedoms: attempts to prevent publication and distribution of the "Satanic Verses" in the United States.

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

COMMITTEE ON RULES AND ADMINISTRATION

Mr. GORE. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on Wednesday, March 8, 1989, at 9:30 a.m., to hold an oversight hearing on the operations of the Office of the Senate Sergeant at Arms and the Office of the Architect of the Capitol.

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

COMMITTEE ON VETERANS' AFFAIRS

Mr. GORE. Mr. President, the Committee on Veterans' Affairs would like to request unanimous consent to hold a markup on the veterans' programs budget on Wednesday, March 8, 1989, at 1:30 p.m. in SR-418.

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. GORE. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on March 8, 1989, 9:30 a.m. in SD-366 to conduct a business meeting, to review those programs which fall within the committee's jurisdiction as contained in the President's proposed budget for fiscal year 1990 with a view toward making its recommendations to the Committee on the Budget, and to consider S. 406, to establish and implement a competitive oil and gas leasing program for the Coastal Plain of the Arctic National Wildlife Refuge, Alaska.

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

COMMITTEE ON SCIENCE, COMMERCE, AND TRANSPORTATION

Mr. GORE. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on March 8, 1989, at 9:30 a.m. to hold a hearing on the proposed mission to planet Earth.

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

COMMITTEE ON FINANCE

Mr. GORE. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on March 8, 1989, at 10 a.m. to hold a hearing on Budget Authorizations for the Customs Service, U.S. Trade Representative, and the International Trade Commission.

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

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. GORE. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate Wednesday, March 8, 1989, at 10 a.m. to continue its oversight hearings on the problems of the Federal Savings and Loan Insurance Corporation.

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

ADDITIONAL STATEMENTS

MULTILATERAL DEVELOPMENT BANKS

● Mr. INOUYE. Mr. President, it has been my great pleasure over the last 5 years to work with my colleague BOB KASTEN to reform the lending policies of the multilateral development banks. Making these banks pay attention to the needs of the environment ought to be a key objective of U.S. foreign policy—and BOB has helped make it that.

The story of what BOB accomplished in this regard is an important one, and of interest to anyone who cares about the future of the global environment. BOB told this exciting story in a recent speech at the University of Wisconsin—Madison.

I recommend this speech to all my colleagues, and ask that it be included in the RECORD.

The remarks follow:

REMARKS OF U.S. SENATOR ROBERT W. KASTEN, JR.

Let me begin by thanking you for including me in your spring colloquium series. I understand that most of the participants in this series are scientists.

I'm not a scientist—I'm a legislator, a politician. And there has been a tendency in our century to divide the interests of politics from those which concern men and women of science. The British essayist C.P. Snow warned of the creation of "two cultures" dividing the mind of society.

I think it profoundly ironic that we should have what amounts to an intellectual "separation of powers" just when the world stands most in need of cooperation between those in government and those with scientific expertise.

Politics is concerned with the public good—the pursuit of the good life for men and women brought together by a human society. It is thus concerned with the fundamental truth about man. Science, on the other hand, is concerned with the pursuit of truth about the physical universe.

At a time when the mass media are full of reports about the greenhouse effect, the continued proliferation of nuclear and chemical-warfare technology, and the unprecedented threat posed by toxic wastes, there can be no doubt that the spheres of science and legislation must learn to pay attention to each other. If the quality of life on this planet is to be preserved and improved, it can only be as a result of a new and stronger cooperation between these two groups.

We can succeed in making the world more livable—but only if we remember that we share common goals, and work toward them with vigor.

I would like to tell you the story of one instance where our cooperation has made a difference. It is the story of the halting,

painful, yet steadily continuing reform of the multilateral development banks.

This story involves nothing less than the environmental fate of the whole planet. It involves, in particular, crucial decisions about the future of the Third World—its natural resource base, the health of its people, and its social and economic development.

Since the end of the Second World War, the United States has been the largest financial backer of the multilateral development banks, known as MDBs. These MDBs financial aid to Third World countries seeking to industrialize and otherwise develop their economies.

Problems have arisen because the MDBs tend to measure their success in terms of the quantity of dollars lent, as opposed to the quality of the loan portfolios. Changing this institutional bias has been a five-year battle.

It should come as no surprise to this audience that there is such a thing as "bad development"—unsustainable economic development that erodes a country's resource base while simultaneously wreaking havoc on traditional national lifestyles.

But, surprising as this may sound, the prevailing attitude at the MDBs has been to pay lip service to concerns about the environment. The MDBs have, as a rule, paid very little attention to doubts which have been raised about the long-term sustainability of the practices they have introduced to the Third World.

As Chairman of the Senate Subcommittee on Foreign Operations, and later as ranking Republican member of that Subcommittee, I have waged a protracted—and continuing—struggle to reform the development lending policies of the international banks.

The Foreign Operations Subcommittee controls the level of American contributions to the MDBs, and I have therefore been in a position to exercise some influence over the banks' environmental policies.

My attention was first drawn to this issue in the spring of 1984, when I held a public hearing on the environmental effect of development lending. The environmentally destructive practices that came to light in that hearing—abuses largely paid for by the generosity of U.S. taxpayers—convinced me that the banks had been given a free ride for too long. It was essential that we start using America's influence to stop the worst outrages against the environment.

In that year's bill funding America's foreign operations, I included a provision calling on the U.S. Treasury Department to undertake an investigation of the environmental abuses supported by the banks.

That investigation was under way in January of 1985, when a group of concerned environmental scientists contacted me about one of the most devastating projects ever financed by the MDBs.

The program they were worried about—known as the Polonoroeste Project—was at that time causing environmental destruction on a monumental scale in Brazil. Some remote-sensing material provided by NASA indicated that an area in the Amazon Basin approximately the size of the whole of Wisconsin had been deforested. This single World Bank-financed project—Polonoroeste—was responsible for the destruction of all that tropical forest.

The environmentalists had written the World Bank about their concerns. They received in return what in politeness we could call a brush-off—what I would more accurately term an insult.

I intervened at that point to ask the World Bank to call off the project. A few weeks later, the project was suspended.

It was too late to try to turn back the social and environmental destruction wrought by Polonoroeste. But the rain forests that had been eradicated, and the indigenous tribesmen who had been displaced by that World Bank fiasco, gave me a new resolve in dealing with the MDBs.

Polonoroeste should never have been approved by the World Bank, much less subsidized by American taxpayers. And it was far from an isolated instance. Examples of MDB-funded environmental damage range from Brazil to Togo, from Botswana to Indonesia. Our investigation uncovered an international pattern of MDB callousness and outright indifference to environmental concerns.

What the MDBs needed was thoroughgoing reform—a process I began to call for at the time of the Polonoroeste Project, and which continues today.

In the Fiscal Year 1986 Appropriations Bill, our subcommittee included several measures reforming the banks. We enacted ten new requirements for the development lending process.

We asked the banks to add professionally trained environmentalists to their staffs—men and women who could institutionalize environmental concern in the banks' decision-making process. We required that they increase lending to projects that have environmental management as their chief objective.

We directed the State Department and the Treasury Department to follow through on the requirements we had imposed—to keep closer tabs on the banks, and apply that knowledge through the banks' Boards of Directors.

We also, in Fiscal Year 1987, asked other developed nations who sponsor the banks to join us in the reform effort.

On April 30, 1986, the American Executive Director of the World Bank used the Bank's annual budget meeting as a platform to call on the Bank to undertake the environmental reforms we had recommended. In a historic departure, no fewer than nine other executive directors joined the American delegate in calling for the reforms.

It was a big step forward. Even so, the process had barely begun. Two months after that meeting, the U.S. Executive Director votes against a major $500 million dollar loan to Brazil's Electric Power Sector—the first time in history that the U.S. has opposed a loan for environmental reasons.

Despite the strong U.S. opposition, the Bank went ahead with the loan. After the American Executive Director's speech, several board members expressed private support for the U.S. position—but confessed that their hands were tied by instructions from their governments.

It was in response to this setback that the Appropriations Committee insisted on the development of an "early warning system" for potentially environmentally destructive projects. Our development experts can predict with some degree of accuracy which kinds of projects are the most likely to cause lasting damage to fragile ecosystems—projects like large-scale damming of rivers, and road-building in relatively undeveloped areas. Our early-warning requirement helps us make use of this expertise to stop some of the problem loans before they actually happen.

The U.S. Agency for International Development currently conducts a biannual survey of projects being considered for MDB loans, with the object of forewarning us of potential environmental problems. This early warning system has three important functions. It helps the U.S. decide how to vote on loans; it helps the banks reform the loans; and it helps inform other nations of the issues involved in the individual loans.

In every year since we first proposed the reforms, we have added further language to the Foreign Operations Appropriations Bill to strengthen the reform effort. We've met with setbacks, but we've also made some visible progress.

In 1987, Senator Daniel Inouye and I had to intervene personally with the President of the Inter-American Development Bank—or IDB—to halt a $58.5 billion-dollar Brazilian road-building project. This was an extension of the Polonoroeste road, and it was about to repeat the very same environmental mistakes that had made Polonoroeste such a disaster.

The project's ground rules included stringent environmental-safety requirements—that was the good news. Those safeguards were ignored by the bank—that was the bad news, and that's why we had to get involved.

The project was halted, but not before millions of dollars had been used to displace indigenous tribes and disturb the ecosystem—all for a minimal, marginal and unsustainable economic benefit.

Not long after our successful confrontation with the IDB came what has so far been the most significant milestone of the reform effort. In May of 1987, World Bank President Barber Conable unveiled a series of reforms that corresponded very closely to the legislation I had developed.

Barber and I had been friends for a long time—we served in the House of Representatives together back in the 1970s. And I had hoped that he would be receptive to the environmental concerns raised by some of his old friends.

His reform package included the creation of an entire new Environmental department at the Bank; assignment of new environmental responsibilities to each of the Bank's four regional offices; revision of the internal review process to push environmental concerns into the forefront—right up there next to the economic concerns that had long been treated as paramount; and increased lending for environmental protection and energy conservation projects.

The Conable reforms were an important victory for the pro-environment forces. They marked a fundamental change in the approach of the banks to development lending. The World Bank, the biggest of the MDBs, had signed on to the idea of sustainable, environment-conscious development. The Bank would now have its own environmental staff to raise the red flag on environmental abuses.

The elevation of environmental concerns at the World Bank inaugurated a new stage in the reform process. From now on, the main force of our efforts must be brought to bear not on changing these institutions from the outside, but on making sure they follow their own environmental rules on the inside.

Of course, there are other MDBs which have not instituted World Bank-style reforms. We have to keep the heat on these banks to follow the World Bank's lead. But our tone must gradually shift from "us-versus-the-banks" to a new cooperation in the pursuit of what the banks themselves must agree is their highest duty.

The purpose of the MDBs is to help lift the nations of the Third World toward industrial prosperity. Through the banks, the Third World can benefit from the centuries of environmental experience we have gained here in America and in the other industrialized countries. Right here in Wisconsin, we've learned some hard lessons about the abuse of forests. It would be a moral outrage if we were to subsidize the repetition of our own mistakes in some of the world's poorest countries.

To be effective in lifting the Third World out of poverty, we have to encourage economic development that is sustainable—economic growth that will build a country, not tear down its natural resources and reap a whirlwind of irreversible devastation and untold human suffering.

The MDBs should therefore be in the forefront of the environmental movement—not fighting us. We're going to have to continue our very close supervision of the banks to see that they give us performance—not just promises.

As I mentioned, we've had setbacks. The World Bank has failed to implement some of its own reforms. Third World economic opposition to the reforms has resulted in numerous evasions of the law, and even outright murder--as in the case of the assassination of my good friend, the prominent Brazilian environmentalist Chico Mendes.

We have our work cut out for us. There's a whole world out there that has to be preserved from human short-sightedness. But I am confident that as long as the scientific community stands on its rights—and insists on making the truth heard about the consequences of environmental folly—we can succeed.

The more knowledge you in the scientific community carry to the American people, the more they will insist that we in Congress take effective action. And make no mistake—an informed electorate is an irresistible force. They'll keep us true to our deepest principles, and with their help we will succeed.

I look forward to the effort. We'll lose some more battles before we're through—but this is a war we've got to win.

And now, I'd be glad to take any questions you might have.●

PENNSYLVANIA STATE SENATE SUPPORTS VRA EXTENSION

● Mr. HEINZ. Mr. President, just recently I received notice of an action taken by the legislature of my home State which I believe is particularly noteworthy. The Senate of the Commonwealth of Pennsylvania has adopted a resolution which urges the Congress of the United States and the President of the United States to extend voluntary restraint agreements [VRA] for an additional 5 years.

As many of you know, I am a firm proponent of the VRA program. The VRA program's announced intention was to secure the future vitality of the American steel industry. They have surprised many observers by actually working. Unfortunately, it is the very success of the VRA system which is threatening their extension.

As the Pennsylvania resolution points out, domestic steel manufacturers have taken significant steps to improve their own internal health and their worldwide competitiveness. Production costs are down 35 percent since 1982, labor productivity has increased by 40 percent, quality has measurably improved, and finished steel has actually decreased in real dollar price since 1981.

Yet this success has VRA opponents clamoring for its demise. They believe that since the steel industry has begun to regain its balance, it should face current international competition, fair or unfair. I agree, but only when foreign producers abide by market principles. If VRA's expire now, state-supported steel firms will simply pick up where they left off in 1984 before VRA's began. Although American steel companies are far more rationalized and competitive when they were in 1981, they simply should not have to compete against subsidized and dumped steel. Foreign steel firms can operate at irrational prices because their nations will subsidize their operation, meanwhile American companies, relying solely on their own means, will be driven 6 feet under.

In this matter, the people of Pennsylvania have spoken loud and clear. It is now our time to listen to them and to push for the extension of VRA's.

Mr. President, I ask that the resolution of the Senate of Pennsylvania be printed at this point in the RECORD.

The resolution follows:

SENATE RESOLUTION 15, SENATE OF PENNSYLVANIA, FEBRUARY 8, 1989

Whereas, Extension of the steel Voluntary Restraint Arrangements will provide America's steel industry with a necessary, yet measured, defense against conditions abroad that have not changed much since the Voluntary Restraint Arrangements program was first instituted in 1984; and

Whereas, Foreign producers still receive massive subsidies from their governments, foreign steel markets are still tightly restricted to imports, foreign producers still engage in pervasive "dumping" of steel, and there is still a serious structural imbalance between world steel supply and demand on the order of at least 100 million tons; and

Whereas, A five-year extension will give the United States Government the time it needs to negotiate an end to these ongoing trade-distorting conditions abroad, and the United States cannot "unilaterally disarm" in steel by terminating the Voluntary Restraint Arrangements until such negotiations have been successfully concluded; and

Whereas, Voluntary Restraint Arrangements have enabled domestic steel producers to take significant steps to improve their international competitiveness—costs are down 35% since 1982, labor productivity is up 40% and quality has been greatly improved; and

Whereas, Despite these competitiveness gains, additional time is needed, because (1) the domestic steel industry still lags behind other major steel-producing countries in such key areas as product yield, energy efficiency and continuous casting rate, (2) continued restructuring and modernization will be extremely expensive and (3) the industry's underlying economic condition still is fragile because of the enormous losses ($12 billion) sustained in 1982-1986; and

Whereas, Unlike most of its major foreign competition, which is subsidized, the United States steel industry must depend on continued profitability for meeting its future restructing and modernization goals, and the domestic steel industry's continued profitability will be severely threatened if surges of unfairly traded imports are allowed to resume; in fact, such surges at this time, could halt current or future modernization plans in their tracks; and

Whereas, Voluntary Restraint Arrangements extension will continue to require annual cash flow commitments from major United States steel producers to assure ongoing worker retraining, reinvestment in new plant and equipment, and modernization of operations, which are critical to the domestic economy in general and United States steel consumers in particular; and

Whereas, The domestic steel industry, and its continued self-help efforts to regain full international competitiveness, are uniquely important to America's national security, industrial base and infrastructure; and

Whereas, There is no viable alternative to Voluntary Restraint Arrangements, because the only other alternative—a return to massive, and very costly, trade litigation—would cause considerable market disruption that would not be in the best interest of the industry, its domestic customers, the United States Government or our trading partners, many of whom would face imposition of huge penalty duties, therefore be it

Resolved, That the Senate of the Commonwealth of Pennsylvania memorialize Congress and the President of the United States to take prompt action to extend the steel Voluntary Restraint Arrangements for an additional five years; and be it further

Resolved, That copies of this resolution be transmitted to the presiding officers of each house of Congress and to each member of Congress from Pennsylvania and to the President of the United States.●

FABRIC OF LIFE WORN THREADBARE

● Mr. BUMPERS. Mr. President, the Arkansas Gazette recently published an article on the environment by Dr. David W. Orr which I would like to share with my colleagues. Dr. Orr is the founder and director of the Meadowcreek project in Stone County, AR. Meadowcreek is a nonprofit organization established in 1979 for education and research in applied ecology, agriculture, renewable energy systems, forestry, wildlife and the ethical, social, economic, and political aspects of sustainability. Long before Earth was designated the "planet of the year" and the American public became concerned about our global environment, the Meadowcreek Farm and related facilities have been a living laboratory for the so-called sustainable economy. Dr. Orr's article does a fine job of describing the environmental problems which concern us all and the alternative of a sustainable economy. As we search for the answer to the question of how mankind can continue to prosper on the Earth without de-

stroying it, projects like Meadowcreek can help to lead the way.

I ask that the article be printed in the RECORD.

The article follows:

FABRIC OF LIFE WORN THREADBARE WITH OUR WASTE AND GREED

(By David Orr)

FOX.—If today is a typical day on planet Earth, humans will:

(1) Destroy 116.3 square miles of tropical rain forest; (2) turn another 63 square miles into permanent desert; (3) add 15 million tons of carbon to the atmosphere; (4) drive between 4 and 40 other species into extinction; (5) erode 71 million tons of topsoil; (6) increase population by another 216,000, and (7) spend $2.6 billion on weapons to kill each other.

Tonight the planet will be a little warmer, the rain more acidic, the ozone layer a little thinner, and the fabric of life a little more threadbare.

These trends are striking because they are happening much faster than anyone predicted. Earlier estimates gave us a century or more to resolve environmental problems. Most of these studies concentrated on the potential scarcity of basic resources, but we now know waste disposal is our most serious challenge.

Instead of a century we have perhaps several decades. Management of toxic and radioactive wastes is a growing problem. New Yorkers propose to dump their solid waste in Arkansas. Other cities send theirs to Africa or Central America.

Acid rain has severely affected much of the eastern third of the United States and an area in Europe the size of West Germany. Global warming, once thought to be a remote possibility, has now begun. Its primary cause is the three billion to five billion ton imbalance in the global carbon cycle from the combustion of fossil fuels and deforestation.

The depletion of atmospheric ozone, a forgotten issue of the 1970s, reemerged on the public agenda in 1985 when NASA satellites discovered "holes" the size of the U.S. in the ozone over the Antarctic, and later a general thinning in the middle latitudes. Ozone levels may decline by 5 to 7 percent in the next 30 years, resulting in thousands of cases of skin cancer and lower agricultural productivity.

Environmental deterioration has occurred in large part because of a bookkeeping error; we do not account for the full costs of our actions.

If we fail to act wisely, the list of potential victims will include our children and theirs, who will inherit our waste dumps, an environment saturated with the chemicals we used and discarded carelessly, a hotter, dryer and less stable climate and a less attractive and productive world. They will inherit a huge national debt and an even larger one to nature. Both will cripple their prospects.

To a great extent environmental debts represent profligacy and bad management caused by economic incentives that reward short-term destructive behavior at the cost of long-term well-being. Every addict knows the symptoms. The result is that we have become a remarkable wasteful society for what are often trivial gains. We are no better informed for having our daily paper wrapped in plastic, nor are we better fed for having our hamburgers entombed in polystyrene.

Because of these and other excesses we discard two tons of solid and toxic waste per person each year, resulting in higher taxes, land degradation, and serious threats to public health. Waste also lowers our ability to compete economically. The Japanese spend only 4 percent of their GNP on energy while we spend more than 10 percent. Europeans have a higher standard of living than Americans but use only half as much energy per person.

The outlines of a more permanent economy are clear. Its foundation is the principle that prices must include all costs, including those to the environment. A sustainable economy will use energy, materials and water with much greater efficiency than we presently do. It will limit population size. It will be powered largely by the sun. It will close organic waste loops and recycle its wastes. It will reward good farming and stewardship.

For the most part these are things we already know how to do. Resource-efficient technologies are being developed rapidly. We now have lightbulbs that provide 75 watts of lighting power but use only 17 watts of electricity, saving three-fifths of a barrel of oil each year.

Toyota has tested a passenger car that gets 98 miles to the gallon. The Office of Technology Assessment reports that revolutions in materials science can reduce resource use by 40-60 percent. Biological waste treatment can produce cleaner water at a fraction of present costs. We are learning how to farm profitably using fewer chemicals and fossil fuels.

The real test, however, is not to our technological ingenuity, but to our foresight and wisdom. The crisis of permanence is a test of civic, academic, business, and public leadership at all levels.

The well-being of our children and theirs depends less on our cleverness, and more on our vision, courage, intelligence and moral stamina. The steps toward permanence to which these qualities lead and which now seem so difficult, will appear to them to be merely obvious.●

HATE CRIMES STATISTICS ACT

● Mr. SIMON. Mr. President, on February 22, 1989, I, along with 30 of my colleagues, introduced the Hate Crimes Statistics Act, S. 419. This bill is a simple measure which directs the Attorney General to collect data about crimes motivated by prejudice based on race, religion, sexual orientation, or ethnicity.

The purpose of this legislation is to let Congress and law enforcement officials know whether hate crimes are in fact on the rise. Having this information is critical if both policymakers and law enforcement officials hope to devise effective strategies to combat bigotry and racism.

I would like to share with you a very informative article written by Jess N. Hordes, Washington representative of the Anti-Defamation League of B'nai B'rith, and Michael Lieberman, ADL's Washington counsel, for the editorial/opinion page of the March 2, 1989, Washington Jewish Week which eloquently describes the problem of hate crimes and the Hate Crimes Statistics Act. In the article, Mr. Hordes and Mr. Lieberman stressed the need for legislators to act in order to bring about greater knowledge of the incidence of hate crimes. Hate crimes "exacerbate racial, religious, and ethnic tensions and * * * can damage the fabric of our society and fragment communities." The article explains that we will be able to effectively address the hate crime problem only when we have accurate data with which to understand the extent of the problem.

I share this important and informative article with my colleagues and hope that it will encourage them to support this important bill. I ask that the article be printed in the RECORD.

The article follows:

[From the Washington Jewish Week, Mar. 2, 1989]

TIME TO TARGET HATE CRIMES

(By Jess N. Hordes and Michael Lieberman)

Prejudice and anti-Semitism cannot be legislated out of existence. But there is a growing awareness that government can do more to address the implications of crimes prompted by hatred. Earlier this week, the Hate Crime Statistics Act of 1989 was introduced under the leadership of Sens. Paul Simon (D-Ill.) and Orrin Hatch (R-Utah), and Reps. Barbara Kennelly (D-Conn.) and John Conyers (D-Mich.). This legislation directs the U.S. attorney general to acquire data about crimes "that manifest evidence of prejudice based on race, religion, sexual orientation, or ethnicity. . . ." In addition, the bill would require the attorney general to publish an annual summary of his findings.

Law enforcement officials and government and community leaders will be in a position to confront bias-related crimes in the most effective fashion only when the scope of the problem is known. To date, both local and national responses to hate crimes have been impeded by a lack of comprehensive, comparative statistical data concerning the number, location, and types of such crimes.

Anti-Semitic incidents and other hate crimes deserve a special response from law enforcement officials and civic leaders. Hate crimes can have a unique emotional and psychological impact on the victim and the community. They exacerbate racial, religious and ethnic tensions and lead to reprisals that create the potential for escalating violence. By making members of targeted communities fearful, angry and suspicious of other groups—and of the power structure that is supposed to protect them—these incidents can damage the fabric of our society and fragment communities.

Yet, because most of these crimes are not always violent, victims have too frequently not received special attention or assistance. Unfortunately, police sometimes dismiss these acts as "pranks" or ordinary cases of vandalism, assault or arson.

The Anti-Defamation League (ADL) has been closely tracking one type of hate crime—anti-Semitic vandalism—since 1960. In 1979, ADL began publishing an annual "Audit of Anti-Semitic Incidents" based on data reported to its regional offices around the country. In 1985, anti-Semitic incidents" reached their highest levels in five years—a 21 percent increase over 1957. Almost ten percent of these incidents were linked to an external political event—the Palestinian uprising in the West Bank and Gaza. The

number of serious crimes more than doubled from 1987. More incidents were carried out by organized hate groups (including, notably, neo-Nazi skinheads), and a sharp jump in the number of incidents on college campuses was recorded.

The publication of the annual ADL Audit has helped to focus nationwide attention on hate crimes and on legislative initiative designed to address the problem. Last year, Congress passed a religious vandalism statute, making it a federal crime to vandalize, damage or destroy a house of worship, cemetary or religious school. There has also been considerable attention devoted to the hate-crimes issue at the state and local levels.

Thirty-three states now have some form of institutional vandalism statute, which provides for increased penalties for defacing or damaging places used for religious worship or other religious purposes. In addition, 31 states have enacted intimidation or harrassment statutes, which increase the penalties for crimes already punishable under the criminal code if they are motivated by prejudice or bigotry. Many of these statutes are modeled after legislation originally drafted by the ADL in 1981.

THE HATE CRIME STATISTICS

We recognize that even the stiffest criminal penalties, the most thoughtful law enforcement agency guidelines, and the best-trained officers and prosecutors will not eliminate criminal activity motivated by prejudice. The ADL's experience, however, is that stricter law enforcement and heightened public awareness of hate crimes have been effective in reducing the number of incidents. The findings of our 1988 Audit further underline the ongoing need for effective efforts by legislators, community leaders, and law enforcement officials to counteract hate crimes.

Of course, the long-term solution to racism, bigotry and anti-Semitism is education and prejudice-reduction programming—leading to better understanding and acceptance of diversity in our society. Statutes that severely punish hate-motivated criminal conduct and reporting systems that produce a more accurate and comprehensive measurement of the extent of this activity are important building blocks in a long-range approach.●

PRESS SOUTH AFRICA TO END OPPRESSION

● Mr. SIMON. Mr. President, USA Today had an editorial that speaks for millions of Americans entitled, "Press South Africa to End Oppression."

The editorial eloquently spells out why pressure must be continued in South Africa.

At one point in the editorial they say,

South Africans struggling for democracy should know they have friends and allies—people across the USA trying to send the message that they care. That's why college students from Charlottesville, VA, to Hanover, NH, are marching against apartheid. That's why labor unions from Detroit to Boston are protesting investments in South Africa. That's why dozens of big companies like General Electric and Kodak and IBM are pulling business out. That's why the U.S. Government maintains an arms embargo and economic sanction against South Africa. And that's why those sanctions should be made stronger.

I ask that the editorial be printed in the RECORD at this point.

The editorial follows:

[From USA Today, Feb. 15, 1989]

PRESS SOUTH AFRICA TO END OPPRESSION

In South Africa today, people are starving for freedom. Nearly 300 men and women who have been imprisoned without charges under that country's emergency political decrees are refusing to eat.

Some have already gone without food for three weeks, and at least 21 have been hospitalized. Two who broke the fast were released Tuesday, but the government says it is dangerous to release hunger strikers "because they might go out and fill themselves up and they could die."

The strikers are just a fraction of the tens and thousands of others—including hundreds of children—who have been swept up by the South African government over the past three years. Some have been tortured and killed.

Most of those prisoners aren't criminals. They want a chance to be heard in the courtroom. They want to end the legally enforced separation of races. They want the 80% of the population who are black to be allowed to vote in national elections. They want the kind of open society we take for granted in the USA.

The South African government thinks that by throwing people in prison without charging them, shutting down newspapers and smashing television cameras, it can keep the truth away from the rest of the world.

It kept news of the hunger strike quiet for weeks. But it was eager to let the world know that Winnie Mandela, wife of imprisoned black leader Nelson Mandela, is being investigated in the alleged beatings of four black youths who attended a school run by white Methodists. One of them may have been killed.

Those charges should be investigated. But alleged brutality by a few individuals does not justify proven brutality by an entire government.

A government that decides where people can live, where people can work, based on the color of their skin. A government that dictates what people can say or write. A government that throws thousands in prison, tortures them and sometimes kills them for the crime of fighting for freedom.

Some people, like the columnist on the other side of this page, are easily fooled by South African propaganda. They think the prisoners are communist terrorists.

That's nonsense. South Africans struggling for democracy should know that they have friends and allies—people across the USA trying to send the message that they care.

That's why college students from Charlottesville, Va., to Hanover, N.H., are marching against apartheid.

That's why labor unions from Detroit to Boston are protesting investments in South Africa.

That's why dozens of big companies like General Electric and Kodak and IBM are pulling business out.

That's why the U.S. government maintains an arms embargo and economic sanctions against South Africa. And that's why those sanctions should be made stronger.

This month, Black History Month, the USA is celebrating a dream. A dream that someday people will be judged not by the color of their skin but by the content of their character.

That's a dream we should share with the world.●

WOMEN REFUSENIKS' HUNGER STRIKE

● Mr. LUGAR. Mr. President, for the third time in as many years, refusenik women in the Soviet Union will begin a 3-day hunger strike today, on the occasion of International Women's Day. They are protesting a right that many Americans, who themselves are immigrants, or descendants of immigrants, take for granted: the right to emigrate. They are protesting the refusal by the Soviet Union to allow hundreds of men, women, and children to emigrate, in many cases to escape persecution, to practice their religion freely, to join their families. Further, they are protesting the refusal of the Soviet Union to honor their international commitments. The right to emigrate was confirmed as recently as January 19 by the Vienna Conference on Security and Cooperation in Europe, of which the Soviet Union is a member.

On this day that celebrates the significance of women in a myriad of cultures and roles internationally, let us pledge to continue our efforts for these women and their families; for Inna Uspensky, for Judith Lurie, Evgenia Berenfeld, Ludmila Fridman, and Tatyana Futoryanskaya, of Moscow, for Sofia Wander and Lilia Rabinovich of Leningrad, Oxana Kotlyer of Kiev, Karmela Raiz of Vilnius, Ala Stomatova of Irkutsk, and others.

Inna Uspensky, her husband Igor, and son Slava have been refused permission to emigrate due to the work of Inna's brother, mathematician Prof. Aleksandr Ioffe. Professor Ioffe, a refusenik for years, was finally permitted to emigrate to Israel with his family in January 1988. Inna and Igor have not been permitted to join Professor Ioffe and other family members. Both Inna and Igor are biologists who specialize in entomology. They were both fired from the Institute of Medical Parisitology and Tropical Medicine at the Soviet Ministry of Health, where they had worked for more than 20 years, soon after applying to emigrate to Israel in 1979. Inna now has occasional translation work while her husband works as an elevator operator. Their 20-year-old son has also been denied permission to emigrate, based on the "secrecy" prohibitions of his parents.

I would like to add my voice to the voices of the members of Jewish Women Against Refusal who are beginning their hunger strike today to call attention to the Uspensky family and others who are denied the right to emigrate from the Soviet Union. I urge my colleagues to join me and

others in Congress and the administration to apply pressure on the Soviet Government until those who wish to emigrate from that country are allowed to do so.●

SECTION-BY-SECTION ANALYSIS—S. 413

● Mr. GARN. Mr. President, I rise today on behalf of myself and Senator RIEGLE to submit for the RECORD a section-by-section analysis of the administration's savings and loan bill, S. 413. This analysis was prepared by the Department of the Treasury and was forwarded to the Banking Committee today.

The material follows:

FINANCIAL INSTITUTIONS REFORM, RECOVERY AND ENFORCEMENT ACT OF 1989 SECTION-BY-SECTION ANALYSIS

Section 101. Purposes.—Section 101 provides that the purposes of this Act are: to promote a safe and stable system of affordable housing finance through regulatory reform; to improve supervision by strengthening capital, accounting, and other supervisory standards; to establish a relationship by the Treasury Department over the Federal Home Loan Bank System similar to that of the Office of the Comptroller of the Currency; to establish an independent insurance agency to provide deposit insurance for savers; to put the federal deposit insurance system on a sound financial basis for the future; to create a new corporation to contain, manage and resolve failed thrift institutions; to provide the necessary private and public financing to resolve failed institutions in an expeditious manner; to provide for improved supervision and enhanced enforcement powers; to increase criminal and civil money penalties for crimes of fraud against financial institutions and depositors; and for other purposes.

TITLE II—FEDERAL DEPOSIT INSURANCE CORPORATION AUTHORITIES AND RESPONSIBLITIES.

Section 201. Financial Institutions.—Section 201 generally replaces "bank" with "financial institution"—a term that includes both banks and savings associations (thrifts)—throughout the Federal Deposit Insurance Act (FDI Act). It also replaces "Federal Home Loan Bank Board" with "Chairman of the Federal Home Loan Bank System" (FHLBS).

Section 202. Duties of the Federal Deposit Insurance Corporation.—Section 202 authorizes the FDIC to insure savings associations in addition to banks.

Section 203. FDIC Board Members.—Section 203 increases the membership of the FDIC's Board of Directors from three members to five. The comptroller of the Currency and the Chairman of FHLBS are ex officio members. The other three are appointive members, no more than two of which may be from the same political party. As under current law, the appointive members have fixed six-year terms. The President may designate one appointive member as the Chairman and one as the Vice Chairman of the FDIC. Under current law, Board members may not serve as officer or director of any insured bank or of a Federal Reserve bank, and may not hold stock in any insured bank. Section 203 provides that, in addition, Board members may not serve as directors or officers of any insured thrifts or of any Federal Home Loan Bank, and may not invest in any insured thrift, or in any bank holding company or savings and loan holding company. The Board members serving on the date of enactment are to complete their terms of office, and the Chairman is to continue to serve as Chairman until his successor has been appointed and qualified.

Section 204. Definitions.—Section 204 amends some of the existing definitions in Section 3 of the FDI Act, and also provides several new definitions.

The term "insured bank" is retained.

Section 3(j) of th FDI Act, which defines "receiver", is clarified to provide that "conserving assets" is one of the functions of a "receiver", and includes "savings associations" among the institutions for which a receiver may act.

Section 3(l), which defines "deposit", is amended to include obligations of savings associations, and to specify that foreign currencies and obligations expressed in foreign currencies, do not qualify as "deposits." The Chairman of the FHLBS is added to the list of bank regulators with which the FDIC Board must consult in any decision on whether to treat other obligations as deposits.

Section 3(m), which defines "insured deposit", is amended to accommodate deposits held by thrifts and makes allowance for any differences that might currently exist between an "insured deposit" under the FDI Act and an "insured account" under the National Housing Act. Section 204 specifies that any liability that was an "insured account" under the FSLIC's rules, but that would not otherwise qualify as an FDIC-insured deposit, will continue to be insured for six months after the effective date of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (FIRRE Act), or (in the case of a fixed-maturity time deposit) until its earliest maturity date occurring after the expiration of six months from enactment of the amendments.

Section 3(q), which defines the term "appropriate Federal banking agency", adds the Chairman of the FHLBS as the appropriate Federal banking agency with respect to a savings association or a savings and loan holding company.

Section 204 adds a new definition for the term "savings association". This term includes thrifts that are insured by the FSLIC on the effective date of the FIRRE Act, any Federal savings and loan association or Federal savings bank, and any State-chartered savings and loan. "Savings association" also includes any corporation that the FDIC considers to be operating substantially in the same manner as a savings and loan association.

Section 204 also adds definitions for "default" and "danger of default", which are generally defined to be determinations by a public authority for appointment of a conservator or receiver. These concepts are taken from the National Housing Act, and are used throughout the FDI Act in lieu of current references to "closed" banks and banks in "danger of closing".

Finally, Section 204 defines various other terms—e.g., "bank," "financial institution" (which includes "banks" and "savings associations"), and "financial institution holding company" (which includes bank holding companies and savings and loan holding companies).

Section 205. Insured Savings Associations.—Section 205 provides that all FDIC-insured banks and all FSLIC-insured institutions continue to be insured by the FDIC without application or approval. In addition, this section states that whenever a financial institution files an application with another Federal banking agency that would result in granting insurance to the institution—*e.g.*, an application for a national bank charter—the other agency must provide the application to the FDIC for comment (such comment to be made in a reasonable time) and the agency must take the FDIC's comment into account in deciding whether to grant the application.

Section 206. Application Process; Insurance Fees.—Section 206 requires State savings associations to apply to the FDIC for deposit insurance. Federal savings associations may apply to the FHLBS, but must also submit an application to the FDIC together with a certificate from the FHLBS. The FDIC Board must consider the first five factors specified in Section 6 of the FDI Act when evaluating the application. The FDIC Board (which may not delegate denial authority in the case of such Federal associations) may, after reviewing the application and the certificate, decline to insure the applicant and must provide specific written reasons to the Chairman of FHLBS for any such denial. Section 206 provides that any financial institution that becomes insured must pay any entrance fee prescribed by FDIC regulations. The fee is paid into the particular fund, the Bank Insurance Fund (BIF) or the Savings Association Insurance Fund (SAIF), depending upon which Fund it joins. The same rules generally apply to conversions. When a bank that is already a member of the BIF converts into a SAIF member, the bank must pay an entrance fee to the SAIF. When a savings association converts into a BIF member, the savings association must pay an entrance fee to the BIF. The fee in each case must be enough to prevent the dilution of the reserves of the Fund to be joined by the institution.

FDIC must approve any conversion transaction. There is a five-year moratorium on such conversions although the FDIC may permit a conversion during the moratorium with respect to a de minimis transaction (such as minor branch sales) or in cases where the FDIC and the Oversight Board of the Resolution Trust Corporation agree that the conversion transaction is in the best interests of both BIF and SAIF.

In a conversion transaction, the institution must also pay an exit fee as determined by the Secretary of the Treasury to be paid to the Resolution Trust Corporation (RTC) or such agency as determined by the Secretary.

Finally, Section 206 provides for "cross-guarantees" by insured financial institutions that are commonly controlled. Each such financial institution must reimburse FDIC, as requested, for any loss the FDIC may incur in connection with the failure of, or assistance to, another commonly owned insured financial institution. However, for the first five years after the effective date of the FIRRE Act, BIF members do not have to reimburse the FDIC for losses in connection with SAIF members, and vice versa.

The cross-guarantees are subordinate in right of payment to deposits (except those owed to commonly controlled institutions), to secured obligations, and generally to other liabilities except as specified. The cross-guarantees are superior, however, to obligations owed to other commonly-controlled companies or to shareholders, to debts and obligations that are subordinated

to depositors and other general creditors, and to contingent claims.

The FDIC may specify how much of the overall loss will be borne by any given institution, but must consult with the Federal supervisor of any such institution for the purpose of setting the procedures and schedules of any program of reimbursement.

The FDIC must promulgate regulations to implement an administrative review procedure, and to provide a hearing to any commonly-controlled financial institution that is required to reimburse the FDIC. When courts review the FDIC's determinations regarding the amount of the liability, and regarding procedures and schedules for reimbursement, the courts must sustain the FDIC's determinations unless they are found to be arbitrary or capricious.

The Bank Holding Company Act definitions of "control" and "company" are adopted for this purpose.

Section 207. Insurability Factors.—Section 207 adds, as a new factor for agencies to consider when evaluating applications that result in deposit insurance, the risk presented to the BIF, to the SAIF, and to the overall Deposit Insurance Fund as a whole.

Section 208. Assessments.—Section 208 provides that the FDIC, after reaching agreement with the other three Federal banking agencies, may require insured financial institutions to file additional reports for insurance purposes.

Section 208 also sets insurance assessment rates for BIF members (generally banks) on one hand and for the SAIF members (generally savings associations) on the other. BIF members must pay the current rate (1/12 of 1 percent) unitl the end of the current year. For the year 1990, the rate is 12/100 of 1 percent. After 1990, the rate remains at 15/100 of 1 percent. SAIF members must likewise pay their current rate (20.8/100 of 1 percent) until December 31, 1990. From January 1, 1991, through December 31, 1993, they pay 23/100 of 1 percent. Finally, on January 1, 1994, this rate becomes 18/100 of 1 percent, where it remains.

The FDIC may raise these rates for the BIF Fund or the SAIF fund if the FDIC makes any of the following findings about the Fund in question:

That the Fund has experienced a net loss in any of the prior three years;

That the Fund's "reserve ratio"—the ratio of its net worth to its insurance liabilities—is less than 1.20 percent; or

That extraordinary circumstances exist that raise a reasonable risk of serious future losses to the Fund in question.

The FDIC may not raise the rates more than 50 percent over the prior year's rate, and, in any event, the maximum rate for either Fund is 35/100 of 1 percent.

The FDIC may also lower the rates below the statutory minimums. The FDIC may set a lower rate for a Fund if the FDIC determines that the ratio of the Fund's net worth to its insurance liabilities exceeds 1.25 percent, and if the FDIC believes that the ratio is not likely to decrease for the next five years.

Finally, every financial institution must pay a minimum annual assessment of $500 or such greater amount as is necessary to cover the direct costs related to assessment and processing.

Section 208 clarifies that amounts of premiums paid to the Financing Corporation (FICO) and the Resolution Funding Corporation (REFCORP) under their respective authorities to assess, are to be subtracted from the amounts assessed under this section to be paid to SAIF. This ensures that institutions are not double or triple assessed.

Section 208 also provides for assessment credits. When the reserve ratio of a Fund exceeds 1.25 percent (or such higher level as determined by the FDIC), the FDIC may rebate to the Fund's members some of the assessments they have paid in the prior year. The rebate would be the lesser of the amount necessary to reduce the Fund's reserve ratio to 1.25 percent (or to the level determined by the FDIC) or 60 percent of the net assessment income the Fund members have paid in during the prior year. This section, as all the others dealing with assessments, is Fund specific. The FDIC must deduct any amount that an institution owes the FDIC from any rebate to be credited to that institution. Furthermore, the FDIC may not rebate any amounts to SAIF members so long as the Financing Corporation is authorized to assess the SAIF members for Financing Corporation interest obligations.

Finally, Section 208 extends the scope of the Change in Bank Control Act to reach savings associations as well as banks. Elsewhere the FIRRE Act repeals Title IV of the National Housing Act, which contains the provisions of the equivalent law currently applicable to savings and loan associations.

Section 209. FDIC Corporate Powers.—Section 209 makes technical and conforming amendments to Section 9 of the FDI Act, which generally sets forth the basic corporate powers of the FDIC. Section 209 also clarifies the FDIC's authority to define any terms used in the FDI Act that are not specifically defined, and to interpret definitions that are defined; provided that the FDIC definitions are not binding on other Federal banking agencies.

Section 210. Administration of the FDIC.—Section 210 gives the FDIC the same authority to examine insured thrifts as it has now with respect to insured banks.

Section 211. Insurance Funds; FDIC Powers as Receiver.—Section 211 amends Section 11 of the FDI Act to provide for two separate insurance funds, which are not to be commingled. BIF is essentially a continuation of the FDIC's existing fund, which until the passage of the FIRRE Act has been known as the Permanent Insurance Fund. All the assets, debts, obligations, contracts, and other liabilities of the existing FDIC fund are transferred to the BIF. All assessments paid by BIF members (generally banks) are to be paid into this Fund, and the assets of the Fund are to be used in connection with BIF members. The other Fund is the SAIF. All assessments paid by SAIF members (generally thrifts) (which are not otherwise committed to the Financing Corporation or Resolution Trust Corporation) are to be paid into the Fund, and the assets of the Fund are to be used in connection with SAIF members. In addition, the Treasury is to make the following contributions to the SAIF, subject to available appropriations:

[In billions of dollars]

Fiscal year:	
1991	2.0
1992	3.4
1993	4.6
1994	3.9
1995	4.0
1996	4.0
1997	4.0
1998	4.0
1999	3.0

In the event that case resolution costs run higher than estimated over the period from 1992 through 1999, then Treasury (subject to available appropriations) will contribute additional funds to SAIF that may exceed the levels in the above table so as to cover resolution costs that do not come from other income sources and keep the fund at a minimum level. The minimum level of the fund for each of the years 1992 through 1999 is as follows:

[In billions of dollars]

Fiscal year beginning October 1:	
1992	1.0
1993	2.1
1994	3.2
1995	4.3
1996	5.4
1997	6.5
1998	7.6
1999	8.8

Treasury will provide funds to keep SAIF at the above minimum levels until the earlier of 1999, or the first fiscal year that SAIF's reserve ratio is at least 1.25 per centum.

Finally, the FDIC is authorized to borrow from the Federal Home Loan Banks, with concurrence of the Chairman of the System, such funds as the FDIC deems necessary for the use of the SAIF, subject to the cap on borrowing specified in Section 216. This borrowing authority was authorized for FSLIC prior to enactment of this Act. Any borrowings under this section become a specific liability of SAIF.

Section 211 defines the FDIC's authorities and duties as receiver or conservator. The authorities essentially parallel those heretofore exercised by the FSLIC and the FDIC, and are designed to give the FDIC power to take all actions necessary to resolve the problems posed by a financial institution in default. Section 211 specifies that the authority includes the power to conduct business, including taking deposits, and performing all functions of the financial institution in its own name; to take necessary action to put the institution in sound and solvent condition; to merge the institution with another insured financial institution; to organize a Federal savings association to take over assets and liabilities from a failed thrift, or to organize a bridge bank or a new national bank to take over assets and liabilities of any insured financial institution; to transfer assets or liabilities of the financial institution, including those associated with any trust business carried on by the institution, without any further approvals; to place the financial institution in liquidation; to determine claims; and to exercise all powers and authorities granted by the Act or incidental thereto.

Section 211 of FIRRE Act establishes a claims procedure, with specific deadlines both for creditors and for the FDIC, to be followed in cases where the FDIC has been appointed receiver. Section 211 enables the FDIC, when acting as receiver, to request a stay of litigation or other similar proceeding for a period of up to 90 days after its appointment. The appointment of a receiver or conservator can often change the character of litigation. The stay gives the FDIC a chance to analyze pending matters and decide how best to proceed.

Section 211 also codifies the common-law right of a receiver or conservator to disaffirm or repudiate contracts. The need to exercise this right generally occurs when a failed institution has entered into a long-term lease or long-term service contract

shortly before going into default. Without the common-law right of disaffirmance or repudiation, the lessor or contractor could reap a windfall for a service or lease that was clearly not necessary. (Section 211 provides, however, that a lessor is entitled to the contractual rent for the period the receiver occupies the premises.)

In order to repudiate or disaffirm a contract the FDIC, as receiver, must determine that the contract would be burdensome to the estate of the failed institution or that the disaffirmance would promote the orderly administration of the financial institution's affairs. If the FDIC disaffirms or repudiates the contract within ninety (90) days from the date the FDIC is appointed receiver or discovers the existence of the contract or lease, there will be no resulting damages for the disaffirmance against either the FDIC or the estate of the financial institution in default.

Conversely, Section 211 allows the FDIC as receiver to enforce contractual terms that the FDIC deems necessary for the orderly execution of its duties as receiver. Contracts often have a provision specifying that the contract is automatically in default on the appointment of a receiver or conservator, or similar event. Such provisions are generally held void and section 211 merely codifies the common-law rule.

Section 211 requires the FDIC to keep and maintain a full accounting with respect to the affairs of the financial institution in default and specifies that the accounting shall be available to the institution's shareholders and other regulatory agencies. Section 211 also provides that the FDIC may destroy records of a Federal financial institution default after five years from its appointment as receiver.

Section 211 specifies that, when a receiver or conservator is appointed for an insured Federal financial institution (or for an insured District bank or District savings and loan association) for the purpose of liquidating it or winding up its affairs, the FDIC must be appointed as such receiver or conservator. Section 211 authorizes, but does not require, the FDIC to accept appointment as receiver in other circumstances, if appointment is offered: namely, to serve as conservator for an insured Federal or District financial institution for the purpose of operating the institution, or to serve as conservator or receiver for State institutions either for operating or for liquidation purposes. When the FDIC serves as conservator or receiver for a State institution, it has all the rights, powers and privileges granted to receivers of State financial institutions under State law in addition to, and not in derogation of, the powers conferred by the FDIC Act.

Section 211 provides that the FDIC as conservator or receiver shall not be subject to the direction or supervision of any other agency or Department in the exercise of its duties (except as may otherwise be provided in the FIRRE Act). The only exception to the rule is where the FDIC has been appointed conservator for a Federal financial institution by that institution's primary regulator, and the institution continues to operate in conservatorship. In such cases, the FDIC shall be subject to the supervision of that primary regulator.

In addition, Section 211 gives the FDIC the power currently available to the FSLIC to appoint itself as sole conservator or receiver of an insured State financial institution under certain conditions. The FDIC may not exercise this power unless it makes each of two findings.

First, either (1) that a conservator, receiver or other legal custodian has been appointed for an insured State financial institution, that the appointment has been outstanding for at least 15 consecutive days, and that one or more depositors is unable to obtain withdrawal of his or her deposit, in whole or in part, or (2) that a State financial institution has been closed by or under the laws of any State. Second, that any of the following grounds exist: (1) insolvency in that the assets of the institution are less than its obligations to its creditors and others, including depositors; (2) substantial dissipation of assets or earnings due to any violation or violations of law, rules, or regulations, or to any unsafe or unsound practice or practices; (3) an unsafe or unsound condition to transact business; (4) willful violation of a cease-and-desist order which has become final; or (5) concealment of books, papers, records, or assets of the institution or refusal to submit books, papers, records, or affairs of the institution for inspection to any examiner or to any lawful agent of the FDIC.

Section 211 specifies that payments made on account of a BIF member may only be made from the BIF, and that payments on account of a SAIF member may only be made from the SAIF. The FDIC may require proof of claims and may determine claims, subject to review by the Court of Appeals for the District of Columbia Circuit or for the circuit where the financial institution is located. The court must sustain the FDIC's determination unless the court finds the determination to be arbitrary or capricious.

Section 211 provides that, when the FDIC pays insurance to a depositor, the FDIC is automatically subrogated to the depositor's claim against the institution. The automatic right of subrogation now applies only to national banks; Section 211(g) extends it to all insured financial institutions.

Section 211 allows the FDIC to use its Deposit Insurance National Bank powers in the case of failed thrifts as well as in the case of failed banks, but does not otherwise change the role or powers of Deposit Insurance National Banks.

Section 211 makes technical changes in the bridge bank statute. The changes clear up some of the statute's ambiguities and streamline bridge bank operations. For example, Section 211 allows the FDIC to use bridge banks in the case of savings associations as well as banks. Section 211 also specifies that while a person who serves in any capacity with respect to a bridge bank does not thereby become an officer or employee of the United States for purposes of Title 5 of the United States Code, a Federal employee who serves in some capacity with respect to a bridge bank does not thereby lose any such status under Title 5; but Federal employees may not receive additional compensation apart from their Federal compensation. In addition, Section 211 provides that a bridge bank may be treated as a financial institution in default. Treating a bridge bank as being "in default" makes it clear that the bridge bank is eligible for the provisions applicable to failed and failing institutions (*e.g.*, acquisition by interstate holding companies). Section 211 also gives a bridge bank three one-year extensions of corporate life, not just one such extension as is the case now.

Section 211 clarifies the principle that people with claims against the estate of a failed financial institution are only entitled to their share of the institution's estate: *i.e.*, that the value of a claim is the amount that claimant would have received had the FDIC liquidated the estate. Section 211 makes it explicit that the value of any such claim is not affected by the procedure that the FDIC may choose to adopt in dealing with a failed institution, even if the procedure results in making some creditors whole (*e.g.*, a purchase-and-assumption transaction in which all deposits, both insured and uninsured, are transferred to an acquiring institution but other claims are not transferred). Section 211 permits the FDIC to make additional payments to, or for the benefit of, particular creditors or categories of creditors out of its own resources without becoming obligated to make similar payments to any other claimant or category of claimant. The FDIC may only use the resources of the Fund to which the failed institution belonged in making any such payments.

Under this procedure, no creditor ever receives any less than the fair value of his claim against the estate. But at the same time, the FDIC is free to take action that is to the benefit of the institution and the public without being subject to the constraint of making all creditors whole if even one creditor is made whole.

Section 211 also provides that, where the FDIC elects to operate an institution in default for a period of time before beginning to wind up its affairs, the FDIC would incur no liability to any claimant should the estate of the institution be diminished during such period of operation, absent a finding of bad faith on the part of the FDIC.

Section 211 authorizes the FDIC to make rules and regulations for the conduct of conservatorships and receiverships, and enables the FDIC to adjudicate claims. The power to adjudicate may be exercised only if the FDIC has first issued regulations governing the processing of claims. Claims determinations made by agency adjudication are subject to appellate court review, and must be upheld unless found to be arbitrary or capricious. In the absence of FDIC regulations governing claims resolution, the Federal district courts (or State or local courts) would have jurisdiction to hear such cases.

Finally, Section 211 bars courts, to the same extent as the Home Owners' Loan Act does now under existing law, from restraining or affecting the exercise of the powers or functions of the FDIC as receiver or conservator, except at the request of the Board of Directors.

Section 212. FSLIC Resolution Fund.—Section 212 creates the FSLIC Resolution Fund. Consistent with the provisions of Title IV of this Act, this Fund is the successor to the existing reserves and assets, debts, obligations, contracts and other liabilities of the FSLIC, and is required to be held separately and not commingled with BIF or SAIF.

The FSLIC Resolution Fund is funded from the following sources in the listed priority: (1) the income generated on the assets transferred to it; (2) the proceeds of the resolution of insolvent thrift institutions which became insolvent prior to December 31, 1988 (to the extent such funds are not required by the Resolution Funding Corporation); (3) the proceeds from borrowings by the Financing Corporation; and (4) until 1992, from the assessments levied on SAIF members and not required by the Financing Corporation or the Resolution Trust Corporation. Section 212 also provides for additional funding by the Secretary of the Treasury from appropriated funds, if needed.

Any judgment resulting from any civil action or proceeding to which the FSLIC was a party prior to its dissolution in any action or which is initiated against the FDIC based upon FSLIC actions is limited to the assets of the FSLIC Resolution Fund.

The FSLIC Resolution Fund will be dissolved when its debts and liabilities have been satisfied and all its assets have been sold, with remaining funds being covered into Treasury because of Treasury funds having been injected into the FSLIC Resolution Fund over the years. Only minimal offices and office supplies are to be transferred to SAIF.

Section 213. Amendments to Section 12.—This section makes conforming technical changes to Section 12 of the FDI Act, which deals with paying insurance to depositors, the appointment of agents to assist the FDIC in conducting receiverships, and other matters.

Section 214. Amendments to Section 13.—Section 214 specifies that the funds held in each of the specific funds administered by the FDIC must be invested separately, and may not be commingled. Section 214 allows the FDIC to stay legal proceedings involving asset purchases for up to 90 days. Section 214 also amends the "cost test" for FDIC assistance. Under current law, the FDIC may not provide assistance in excess of that amount which the FDIC determines to be reasonably necessary to save the cost of liquidating (unless continued operation is necessary to provide essential banking services). Section 214 would additionally require FDIC to consider the immediate and long-term obligations of the FDIC with respect to the assistance, and also the Federal tax revenues foregone by the Government as a result of specific tax benefits granted to acquirers of financial institutions in default or in danger of default.

Section 214 provides that transfers of assets or liabilities associated with any trust business may be effected by FDIC in connection with any asset purchase transaction without any further State or Federal approval.

Section 214 eliminates the requirement for approval by the appropriate State authority and by a court for sales of assets of pledges of assets to secure loans by conservators, receivers or liquidators to the FDIC.

Section 214 clarifies the provision invalidating certain secret agreements against interests of the FDIC. Section 214 makes it clear that these provisions apply to assets that the FDIC acquires as receiver as well as to assets that it acquires in its corporate capacity.

Section 214 specifies that the Board of Directors of the FDIC must act by a 75 percent vote (rather than the present unanimous vote) in order to override State objection to an assisted interstate acquisition of an insured financial institution in default having $500,000,000 or more in assets.

Section 214 retains the current rules governing interstate acquisitions of banks, and keeps them separate from those that govern thrifts. It tightens the rules by providing that such acquisitions would be prohibited if they threaten the safety or soundness of the acquirer or would not result in the future viability of the resulting institution.

Section 214 transfers the parallel interstate-acquisition provisions relating to thrifts, which now appear at section 406(m) of the National Housing Act, to subsection 13(k) of the FDI Act (with technical and conforming amendments). These rules continue to apply only to savings institutions and are *not* extended to banks. The current law allows an override of the laws or constitution of any State, or any Federal law, that constitutes a material impediment to supervisory acquisitions and provides for consultation with State authorities. In addition, as amended, in exercising this override authority, the FDIC must obtain this prior concurrence of the Chairman of the Federal Home Loan Bank System in all respects other than section 10(e)(3) of the Home Owners' Loan Act, and the prior concurrence of the Federal Reserve Board for the override of the Bank Holding Company Act or Federal Reserve Act.

Section 215. Borrowing Authority.—Section 215 increases the borrowing authority of FDIC from $3,000,000,000 to $5,000,000,000, and also specifically states that the Secretary of the Treasury must approve any use of the credit line.

Section 216. Limitation on Borrowing.

Section 216 clarifies the existing provisions specifying that the only kind of non-Federal tax to which the FDIC, in its corporate capacity or as receiver, is subject is a tax on real property.

Section 216 further specifies that if an insured institution fails to pay a tax, the FDIC's only obligation as receiver or conservator for the institution is to pay the prorata claim for the tax—the FDIC will not be subject to any special penalties or forfeitures that might otherwise apply (*e.g.*, loss of a secured interest in the property.)

Finally, Section 216 sets a cap on the notes, debentures, bonds, and similar obligations, including estimated losses for guarantees and other liabilities of the BIF and of the SAIF, respectively. Each cap is set independently. In each case, the Fund may not incur such obligations in an amount exceeding 50 percent of the Fund's adjusted net worth, including reserves for losses and similar reserves or $10,000,000,000, whichever is less. These obligation caps apply to borrowings by the Funds, and do not affect or apply to the FDIC's power to draw upon its credit line of $5,000,000,000 from the Treasury.

Section 217. Reports.—Section 217 requires the FDIC to report to Congress annually on its operations, activities, budget, receipts and expenditures. Current law specifies only the FDIC's operations as subject to reporting requirements. Section 217 also requires the FDIC to make quarterly reports to the Secretary of the Treasury and to the Director of the Office of Management and Budget with respect to the FDIC's financial operating plans and forecasts (including estimates of actual and future spending, and estimates of future non-cash obligations) taking into account the FDIC's financial commitments, guarantees and other contingent liabilities.

Section 218. Regulations Governing Insured Financial Institutions.—Section 218 specifies that FDIC signs displayed by insured financial institutions shall represent whether an institution is a BIF member or a SAIF member. Section 218 subjects all insured financial institutions to the Bank Merger Act. The Chairman of FHLBS is the responsible agency with respect to mergers where the acquiring, assuming or resulting institution is to be a savings association. Section 218 provides that all insured State financial institutions, other than State member banks or District banks, would be subject to the requirement of prior FDIC consent to the reduction of capital.

Section 218 sets out new rules governing subsidiaries of insured savings associations. Whenever an insured savings association establishes or acquires control of a company, or elects to conduct any new activity through a company that the association controls, the savings association must notify the FDIC and the Chairman of FHLBS. The savings association must deduct its entire investment in and loans to the company from its own capital for purposes of determining capital adequacy if the company is engaged in activities not permissible for a national bank. In any event, mortgage banking activities need not be deducted.

The Chairman of FHLBS is given rulemaking authority over subsidiaries' activities. The Chairman of FHLBS may order a thrift to divert itself of a subsidiary if the company constitutes a serious risk to the thrift's financial safety. Both the FDIC and the Chairman of FHLBS are given the same powers with respect to a savings association's subsidiary as they have with respect to the savings association itself pursuant to this section 218 or section 8 of the FDI Act.

Section 218 states that the FDIC may determine by regulation, with respect to all State-chartered SAIF members (after consultation with the Chairman of the FHLBS) that any specific activity (other than any activity permitted to a Federal savings and loan association) poses a serious threat to the SAIF, and may prohibit any such activity. Once the FDIC issues such a regulation, it may order that no SAIF member may engage directly in that activity. Section 218 further specifies that a SAIF member may not be held liable indirectly for any obligation arising out of the activity of the subsidiary unless the obligation is in writing, is executed by the SAIF member and the party to whom the obligation is owed, is approved by the SAIF member's board of directors or an official committee of the association, and the liability or obligation has been continuously maintained as an official document of the SAIF member.

Section 219. Nondiscrimination.—This section specifies that the FDI Act is not intended to discriminate against State nonmember banks or against State-chartered thrifts. It also eliminates the provision requiring nondiscrimination on account of having capital stock less than the amount required for Federal Reserve membership.

TITLE III—SAVINGS ASSOCIATION SUPERVISION IMPROVEMENTS

Section 301. Definitions.—This section revises the definitional section of the Home Owners Loan Act of 1933 ("HOLA") to incorporate the new terms used in the FIRRE Act.

Section 301(1) defines the term "Chairman" as the Chairman of the Federal Home Loan Bank System created under the FIRRE Act.

Section 301(2) defines the term "System" as the Federal Home Loan Bank System.

Section 301(3) defines the term "savings association" to include: (1) all institutions currently supervised by the Federal Savings and Loan Insurance Corporation; (2) all federally chartered savings and loan associations and savings banks; (3) all state-chartered building and loan, savings and loan, and homestead associations and cooperative banks; and (4) those state savings banks that will be members of the Savings Association Insurance Fund.

Section 301(4) defines the term "federal association" to include all federal savings and loan associations and federal savings banks chartered pursuant to section 5 of the HOLA.

Section 301(5) defines the term "federal banking agencies" as the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation.

Section 302. Supervision of Savings Associations.—This section creates a new section 3 of the HOLA setting forth new provisions applicable to the Chairman's responsibilities as primary federal supervisor and regulator of both federally and state-chartered savings associations. It also incorporates into the HOLA certain provisions of the National Housing Act ("NHA").

Section 302(a) establishes the scope of the Chairman's overall responsibilities for the supervision and regulation of savings associations. It clarifies that the HOLA's purpose of encouraging credit for housing is coupled with the purpose of establishing a safe and sound system to provide such credit. The Chairman is given the power to examine state associations and is granted broad rulemaking authority to carry out his responsibilities to supervise and regulate savings associations in accordance with both the HOLA and all other applicable laws. The rulemaking authority includes the ability to issue rules governing safety and soundness. Uniform accounting and disclosure standards are to be prescribed for all savings associations. These standards are to be coordinated with capital standards established by the Chairman. Savings associations are to be in full compliance with these uniform accounting standards by no later than December 31, 1993. This carries forward the uniform accounting provisions adopted in the Competitive Equality Banking Act of 1987. Those rules, regulations, and policies established by the Chairman that govern the safe and sound operation of savings associations are to be no less stringent than those established by the Office of the Comptroller of the Currency. The section also transfers into new section 3(d) of the HOLA the existing authority to set geographical lending limits generally within an area one hundred miles from the location of the savings association's principal office (currently found in section 403(b) of the NHA).

Section 302(b) preserves, with minor technical changes, former Section 409 of the NHA by transferring this section to new Section 3(e) of the HOLA. As modified, this section provides that insured savings accounts and share accounts held by FDIC-insured savings associations are lawful investments and may be accepted as security for specified public funds of the United States and funds of corporations organized under United States laws notwithstanding limitations upon the investment of, or upon the acceptance of security for the investment or deposit of, such funds.

Section 302(c) transfers former Section 410 of the NHA pertaining to participation in lotteries to new section 3(f) of the HOLA with conforming amendments. This section prohibits a savings association from dealing in lottery tickets, dealing in bets used as a means of participating in a lottery, announcing, advertising, or publicizing the existence of a lottery or participant/winner of a lottery, or using its offices for such prohibited activities. Savings associations are not prohibited from accepting funds from, or performing any lawful services for, a State operating a lottery.

Section 302(d) preserves former section 413 of the NHA relating to disclosures of beneficiaries with respect to federally related mortgage loans, by transferring this section to new section 3(g) of the HOLA with conforming amendments. Under this provision, savings associations are prohibited from making a federally related mortgage loan to any agent, trustee, nominee, or other person acting in a fiduciary capacity without the prior condition that the identity of the person receiving the beneficial interest of the loan shall at all times be revealed to the association. With respect to such loans, the Chairman of the Federal Home Loan Bank system may request the identity of such person and the nature and amount of the loan.

Section 302(e) preserves former section 414 of the NHA by transferring this section to new section 3(h) of the HOLA and makes conforming amendments. This section provides that a savings association may take, receive, reserve, or charge on any loan, note, bill of exchange, or other evidence of debt, interest at the greater of (1) a rate not more than one per centum in excess of the discount rate on ninety-day commercial paper in the specified Federal Reserve Bank where the institution is located, or (2) the rate allowed by the laws of the state where such institution is located. If the former rate exceeds the rate that would be permitted in the absence of this section, such rate may be employed notwithstanding any state constitution or statute, which is thus preempted. This section also prescribes penalties for knowingly charging a rate in excess of the "greater" rate permitted in subsecton (a) of the provision.

Section 302(f) provides that no savings association may issue securities which guarantee a definite maturity except with the specific approval of the Chairman, nor issue any securities the form of which has not been approved by the Chairman. This section is intended to preserve, as section (3)(i) of the HOLA, a similar provision of former section 403(b) of the NHA.

Section 303. Applicability.—This section applies to all savings associations those provisions of the HOLA that either authorize examination by the Chairman of the Federal Home Loan Bank System or proscribe or limit certain association activities, where such prohibitions or limitations are equally appropriate for federally chartered and state-chartered institutions. Speicfically, those provisions deal with the HOLA territorial application (section 7); the Bank System's general supervisory authority (section 3) and enforcement authority (section 5(d)—including the authority to recoup the cost of its examinations (section 9); set capital standards for associations (section 5(s) and (t)); restrict transactions with affiliates, loans to insiders (section 11), tying arrangements (section 5(q)), and certain advertising practices (section 12); supervision of savings association holding companies (section 10); rules requiring membership by all savings associations in a Federal Home Loan Bank (section 5(f)); and rules covering conversions from a state to a Federal charter (section 5(i)), from a state savings bank to a Federal savings bank (section 5(o)) and from a mutual savings association to a stock savings association (section 5(p)).

This section would apply to Federal savings associations only those provisions of the HOLA that are relevant to the holders of Federal charters, such as rules authorizing various types of accounts (HOLA section 5(b); investment authority (section 5(c)); qualifications for individuals seeking a Federal charter (section 5(e)); subscriptions of preferred stock and full-paid income shares by the United States (section 5(g) and (j)); exemption from state taxation (section 5(h)); trust powers (section 5(1) and (n)); out of state branches (section 5(r)) and District of Columbia savings associations (section 5(m) and 8). These Federal-charter only delineations are intended to maintain the distinctions between Federal and state-chartered associations that exist under current law.

Section 304. Conforming Name Changes.—This section makes terminology changes to existing law to conform to the treatment used in this legislation.

Section 304(1) would replace the terms "association," "Federal association," or "Federal savings and loan association" in the HOLA where they refer only to federally chartered associations with the term "Federal savings association." By doing so, this subsection would be merely adopting terminology consistent with the overall treatment of such associations in this legislation.

Section 304(2) would replace references to "association" in the HOLA with "savings association" where the term refers to state-chartered institutions under the supervision of the Federal Home Loan Bank System. Thus, this subsection will ensure that these relevant provisions of the HOLA apply to the latter body of associations, consistent with the overall treatment of such associations in this legislation.

Section 304(3) would exempt certain sections of the HOLA from the name change of section 304 (1) and (2). These exceptions generally deal with situations where the original HOLA language was somewhat different from language found in other HOLA provisions or where, as in the conversion statutes, the distinction is still relevant. Moreover, references to the government-sponsored associations in HOLA sections 5(c)(1) (D) and (F) and "domestic building and loan associations" in HOLA section 5(r)(1) would remain unchanged because those terms have meaning independent of their inclusion in the HOLA.

Section 305. Safety and Soundness.—This section amends section 1464(a) of the HOLA, which sets forth the purpose of that statute, by adding language emphasizing the importance of the safe and sound operations of the nation's savings associations to the statute's purpose of providing credit for home financing.

Section 306. Deposits.—This section would amend current subsection 5(c)(1)(G) of the HOLA to clarify that federal savings associations may invest in deposits of any type in any financial institution whose deposits are insured by the Federal Deposit Insurance Corporation.

Section 307. Supervisory Revisions.—Section 307(a) would delete the majority of the enforcement provisions currently in the HOLA with regard to federally chartered savings associations. These provisions are subsumed in the enforcement provisions of section 8 of the Federal Deposit Insurance Act, as amended, with regard to all institutions for which the Chairman of the Federal Home Loan Bank System is the appropriate federal banking agency.

Section 307(b) would preserve without change the existing general enforcement and related authorities currently contained in section 5(d)(1) of the HOLA and would redesignate 5(d)(1) as 5(d)(1)(A).

Section 307(c) would transfer the provisions of section 407(m) of the NHA, with conforming amendments, into section 5(d)(1)(B) of the HOLA. Section 407(m) of

the NHA provides for routine examination of institutions supervised by the Chairman of the Federal Home Loan Bank System and their affiliates. In addition, this section preserves the powers of the Chairman in formal examination procedures including subpoena power and the ability to take and preserve testimony under oath. Finally, it authorizes an administrative law judge to conduct hearings in enforcement actions.

Section 308. Receiverships.—This section amends the current provisions of the HOLA on the appointment of conservators and receivers (Section 5(d)(6) redesignated as (d)(2) to provide for the Chairman's appointment of the Federal Deposit Insurance Corporation rather than the Federal Savings and Loan Insurance Corporation as conservator or receiver for both federally and state-chartered savings associations. It incorporates provisions currently located in section 406 of the NHA setting forth the procedures to be followed in the case of state savings associations, without substantive change except with regard to the time for approval of state officials. In that regard, it would cut back from 90 to 30 days the amount of time that must elapse before the Chairman could act in the event that notice of grounds for the appointment of a conservator or receiver for a state savings association has been provided to the appropriate state official and no response has been received.

Section 309. Technical Amendment.—This section would renumber section 5(d)(11) of the HOLA, dealing with the Chairman of the Federal Home Loan Bank System's ability to issue rules and regulations on conservatorships and receiverships, as section 5(d)(3). This renumbering would be necessary because of the deletion of preceding paragraphs. The renumbered section would also be amended by section 304 of the FIRRE Act to apply to all savings associations.

Section 310. Technical Amendment.—This section would preserve and renumber sections 5(d)(12) (B) and (C) of the HOLA, dealing with penalties that would attach to criminal conduct by employees or agents of savings associations and failure to comply with demands of conservators and receivers, as section 5(d)(4). This renumbering would be necessary because of the deletion of preceding paragraphs. The renumbered section would also be amended by section 304 of the FIRRE Act to apply to all savings associations.

Section 311. Amendment to Section 5.—This section is a technical amendment that would renumber section 5(d)(14) of the HOLA, which provides definitions dealing with the ability of the Chairman of the Federal Home Loan Bank System to enforce compliance with applicable law and regulations, as section 5(d)(5). This numbering is necessary because of the deletion of preceding subparts. This section would also amend that HOLA provision to state that the enforcement powers of the Chairman of the Federal Home Loan Bank System would remain in effect against a savings association even when that association had its insured status terminated by the Federal Deposit Insurance Corporation, so long as the association retained deposits insured by the FDIC.

Section 312. Technical Amendment.—This section would renumber section 5(d)(16) of the HOLA, dealing with compliance with monetary transaction recordkeeping and report requirements by savings associations, as section 5(d)(6). This renumbering would be necessary because of the deletion of preceding paragraphs. The renumbered section would also be amended by section 304 of the FIRREA to apply to all savings associations.

Section 313. Conversions.—This section would expand the existing provisions of section 5(i) of the HOLA regarding the authority of the Chairman of FHLBS to oversee and approve mutual-to-stock conversions to include state-chartered savings associations. This amendment is required due to the proposed repeal of the NHA and the resulting need to incorporate this authority with respect to mutual to stock conversions of state-chartered savings associations into the HOLA. In addition it incorporates the grievance procedures for the NHA with regard to conversion decisions.

Section 314. Capital Standards.—This section requires the Chairman of the FHLBS to establish for all savings associations capital standards that are no less stringent than those applied to national banks. Such standards are to be promulgated within 90 days of the enactment of the Act and are to be fully implemented by June 1, 1991. The section establishes certain differences from standards currently applicable to national banks in the areas of goodwill and the treatment of certain subsidiaries and provides that the Chairman's standards may have minor differences from those currently applicable to national banks so long as the Chairman's standards would not result in materially lower capital standards. With respect to goodwill, capital may include such goodwill existing on the date of enactment of FIRRE Act, but it must be amortized over a ten-year period (or such shorter period as determined by the Chairman of FHLBS with the concurrence of the Secretary of the Treasury). With respect to investments in subsidiaries engaged in activities not permissible for national banks, such investment and loans to the subsidiary must be deducted from capital (in any event, the investment in and loan to a subsidiary engaged solely in mortgage banking activities are not to be deducted). The Chairman is also permitted to take into account differences in powers and in asset and liability composition between savings associations and national banks, so long as the resulting capital standards are not materially lower than the capital standards applicable to national banks. The section further provides that the Chairman may, until June 1, 1991, restrict the asset growth of savings associations not in compliance with these capital standards. After that date, asset growth by such associations would be prohibited. The Chairman could restrict the asset growth of any savings association, regardless of its capital level, that he determined was taking excessive risks or paying excessive rates for deposits.

Section 315. Technical Amendment.—This section would replace all references to "association" in section 8 of the HOLA, which deals with District of Columbia savings associations, with "savings association" and all references to "Federal savings and loan association" with "Federal savings association." By so doing, this section would be merely adopting terminology consistent with the overall treatment of such associations in this legislation.

Section 316. Repeal.—This section would repeal section 9 of the HOLA, which deals with accounting principles and other standards and requirements. These requirements would be covered elsewhere in the HOLA as amended by this legislation.

Section 317. Recovery Regulations Repealed.—This section repeals section 10 of the HOLA and section 416 of the NHA. Those sections permitted the Federal Home Loan Bank Board to provide capital forbearance to certain federal associations and insured institutions. Section 317 provides that associations and institutions operating under capital plans previously approved pursuant to those sections may continue to operate under such plans so long as they remain in compliance with the terms of such plans and continue to supply to the Chairman of the System regular and complete reports on their progress in meeting goals under the plans.

Section 318. Cost of Examination and Reports.—Section 318 adds a new section to the HOLA preserving authority from the NHA to assess the costs of examining savings associations (or affiliates) upon the savings associations (or affiliates) in proportion to their assets or resources. This section also addresses remedies available to the Chairman when an affiliate refuses to pay examination costs or refuses to permit examination or provide required information. This section addresses the deposit of funds derived from assessments, the Chairman's authority to issue regulations governing the computation and assessment of examination expenses, the authority to assess for the examination of an associations fiduciary activities, and the obligation of savings associations and affiliates to provide the Chairman with access to information and reports regarding examinations by other public regulatory authorities. These provisions are intended to be comparable to those governing the Office of the Comptroller of the Currency.

Section 319. Savings and Loan Holding Companies.—This section transfers the provisions of the Savings and Loan Holding Company Act from the NHA to the HOLA. In addition, this section deletes current NHA sections 408(d), (p) and (t), which pertain to transactions with affiliates, and replaces those provisions with a new subsection 10(d) in the Home Owners' Loan Act, which refers to new section 11 of the HOLA (Section 320 below), which establishes a uniform approach to regulation of transactions with affiliates based on sections 23A and 23B and section 22(h) of the Federal Reserve Act. This section also deletes current section 408(g) of the NHA, which imposed debt approval requirements on certain types of savings and loan holding companies. The debt control provisions of the Savings and Loan Holding Company Act have generally been viewed as an obstacle to acquisitions, overly burdensome to administer, and producing limited supervisory benefits not commensurate with the burden associated with the approval requirements involved. This section also removes current section 408(m) of the NHA, which is moved to Section 13(k) of the Federal Deposit Insurance Act.

This section also makes changes to the qualified thrift lender test, currently contained at section 408(o) of the NHA, to provide new sanctions for failure to satisfy the qualified thrift lender requirements. Under the new qualified thrift lender rule, a thrift that fails to maintain its status as a qualified thrift lender, must, within 3 years of the date it loses such status, convert its charter to a bank charter unless it requalifies as a qualified thrift lender within the one-year period after losing such status and maintains its status as a qualified thrift lender thereafter. Also under the new rule, three years after losing qualified thrift lender status, a thrift will be prohibited from obtaining advances from its Federal

Home Loan Bank and engaging in any activities not permitted either for a national bank or a bank chartered in the state in which the thrift resides. Effective immediately upon losing its status as a qualified thrift lender, the thrift would also be prohibited from expanding its activities, or opening any additional branch offices. Any company that controls a thrift that loses its qualified thrift lender status shall, beginning three years after the thrift has lost its status as a qualified thrift lender, be, subject to restrictions on its activities, regulated as if it were a bank holding company. Any bank chartered as a result of these requirements for failure to maintain qualified thrift lender status will continue to pay savings association assessments until December 31, 1993 (or such later date if it loses its status after that date), and would also be assessed the exit fees and entrance fees applicable to conversion.

Section 320. Transactions With Affiliates.—This section adds new section 11 to the HOLA, which establishes a uniform approach to regulation of transactions with affiliates based on Sections 23A, 23B and 22(h) of the Federal Reserve Act. The Chairman of the Federal Home Loan Bank System would also retain the right to determine for reasons of safety and soundness to impose additional restrictions on transactions with affiliates and insiders of savings associations.

Section 321. Advertising.—This section provides that no savings association shall carry on any sale, plan, or practices, or any advertising, in violation of regulations promulgated by the Chairman. Ths section would preserve a similar provision found in former Section 403(b) of the NHA.

TITLE IV. DISSOLUTION AND TRANSFER OF FUNCTIONS, PERSONNEL, AND PROPERTY OF FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION.

Section 401. Dissolution.—This section provides for the dissolution of FSLIC within 60 days of enactment of this legislation. It also provides for all insurance and receivership functions of FSLIC to be performed by the FDIC or the RTC after enactment.

Section 402. Continuation of rules.—This section provides that all rules and regulations of the FSLIC or the Board in effect on the date of enactment which relate to insurance of accounts, administration of the insurance fund or conduct of conservatorships or receiverships shall remain in effect and be enforced by the FDIC or the RTC. All other rules and regulations of the FSLIC shall remain effective and enforceable by the FHLBS. The Chairman of FDIC and the Chairman of FHLBS are required to identify the rules and regulations referred to in this section within 60 days of enactment and to publish notice thereof in the Federal Register. The FDIC is vested with authority to promulgate and enforce rules to prevent actions by savings associations which could pose a serious threat to the Savings Association Insurance Fund or the Bank Insurance Fund.

Section 403. Personnel.—Subsection (a) requires the Chairman of the FHLBS and the Chairman of the FDIC to identify employees of FSLIC and the Board whose functions will be transferred to FDIC under the Act.

Paragraph (a)(1) provides certain rights for employees who elect to transfer to FDIC. All employees so identified shall be offered a position with FDIC. Employees are to be transferred to FDIC within 60 days of enactment. This transfer is deemed a transfer of function under applicable RIF regulations. All employees transferred will be placed in a competitive area separate from those already in existence at FDIC. In placing transferred employees under RIF procedures, FDIC may assign excepted service employees to competitive service positions and may convert transferred positions from the excepted service to the competitive service. Any transferred employee placed by FDIC in a competitive service position shall be given career or career-conditional status. Transferred employees shall be given their RIF notices within 90 days after transfer. Such employees will be accorded pay and grade retention under the principles reflected in applicable OPM regulations.

Paragraph (a)(2) provides certain rights to employees who decline to transfer. Such employees will be given severance pay under applicable regulations. FHLBS will pay for severance pay. Such employees will also be granted placement assistance by OPM for 120 days.

Paragraph (a)(3) also provides certain rights for employees who transfer to FDIC but then decline an offer of employment. Such employees are provided severance pay like that provided to employees who decline to transfer. Such employees are also eligible for early out retirement as long as they do not decline a reasonable offer of employment. This paragraph also permits FDIC to offer early out retirement to employees if it has a reorganization of the combined workforces within one year after completion of the transfer.

Paragraph (a)(4) permits all transferred employees to retain any benefit or membership which the employee had at the date of enrollment provided the FHLBS continues the benefit or program for its employees. The FHLBS will pay any difference between the cost of such benefits and the cost to FDIC of providing such benefits.

Section 404. Division of Property and Personnel.—This section provides that the Chairman of FHLBS with the Chairman of FDIC shall divide all personnel and property of FSLIC between their organizations within 60 days of enactment. Any dispute will be settled by the Office of Management and Budget.

Section 405. Repeals.—This section repeals sections 401, 402, 403, 404, 405, 406, 407, 411, 415, and 416 of the National Housing Act. The foregoing does not effect provisions of such sections that have been transferred to other surviving statutory provisions.

Section 406. Report.—This section requires FSLIC, prior to its dissolution, to provide a written report to Treasury, the Office of Management and Budget and Congress.

TITLE V—FINANCING FOR THRIFT RESOLUTIONS.

Subtitle A—Resolution Trust Corporation

Sec. 501. Resolution Trust Corporation Established.—Section 501 provides for the establishment of the Resolution Trust Corporation (the "Corporation") and describes its powers and authorities. The Oversight Board of the Corporation and the Corporation itself are stated to not be "agencies" or "executive agencies" under Title 5 of the United States Code.

Section 501 provides that the purpose of the Corporation is to carry out a program, under the direction of the Oversight Board, to manage and resolve all cases involving institutions, the accounts of which were insured by the Federal Savings and Loan Insurance Corporation, prior to enactment of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, for which a receiver or liquidating conservator had been appointed since January 1, 1989, or is appointed within the three-year period following the date of the enactment of that Act, to manage the assets of the Federal Asset Disposition Association; and to perform other authorized functions. In its resolution activities, the Resolution Trust Corporation is authorized to take warrants, voting and nonvoting equity, or other participation interests in resolved institutions or assets or properties acquired in connection with resolution. In carrying out its obligations, the Corporation is provided with all of the case resolution and financial assistance rights and powers provided to the Federal Deposit Insurance Corporation, provided that in resolving an institution, the Corporation must not provide assistance in excess of the amount determined to be reasonably necessary to save the cost of liquidating.

Section 501 further provides that the membership of the Oversight Board of the Resolution Trust Corporation shall consist of the Secretary of the Treasury, the Chairman of the Federal Reserve Board, and the Attorney General of the United States, or their respective designees, with the Chairman being the Secretary of the Treasury. The term of each member of the Oversight Board will expire when the Corporation is terminated and vacancies on the Oversight Board will be filled in the same manner as the vacant position was previously filled. Members of the Oversight Board are permitted to receive reasonable allowance for necessary expenses of travel, lodging, and subsistence incurred in attending meetings and other activities of the Oversight Board, consistent with maximum travel expense limitations provided in title 5 of the United States Code. The duty of the Oversight Board is to review and have overall responsibility over the work, progress, management and activities of the Corporation and may disapprove, in its discretion, any and all regulations, policies, procedures, guidelines, statements, contracts, and other actions of the Corporation. It is further required to approve or disapprove, in its discretion, any and all agreements for the purchase of assets and assumption of liabilities, any and all agreements for the acquisition, consolidation or merger, or any other transaction proposed by the Corporation. All decisions of the Board require an affirmative vote of at least a majority of the members voting. The Oversight Board is authorized to employ necessary staff, which shall be subject to the terms and conditions of employment applicable to the Corporation, provided that the Oversight Board should utilize to the extent practicable the personnel of the agencies of three members of the Oversight Board, without additional compensation to carry out the Oversight Board's staff functions. Finally, the Oversight Board should adopt necessary rules and keep permanent and accurate records of its acts and proceedings.

Section 501 also provides that a chief executive officer of the Corporation must be selected by the Oversight Board to serve at the pleasure of the Board.

Section 501 provides the corporate powers of the Corporation under the direction of the Oversight Board to be as follows: to have a corporate seal; to issue capital certificates; to provide for officers, employees and agents; subject to the approval of the Oversight Board, to hire, promote, compensate, and discharge officers and employees of the Corporation, without regard to title 5, United States Code, provided that compen-

sation and benefits of such employees shall be consistent with those of the Federal Deposit Insurance Corporation; to prescribe by the Oversight Board its bylaws; with the consent of any executive department or agency, to use the information, services, staff, and facilities of such in carrying out this title; to enter into contracts and make advances, progress, or other payments with respect to such contracts; to acquire, hold, lease, mortgage, or dispose of, at public or private sale, real and personal property, and otherwise exercise all the usual incidents of ownership of property necessary and convenient to its operations; to obtain insurance against loss; to modify or consent to the modification of any contract or agreement to which it is a party or in which it has an interest under this title; to deposit its securities and its current funds under the terms and conditions applicable to the Federal Deposit Insurance Corporation under Section 13(b) of the Federal Deposit insurance Act and pay fees therefor and receive interest thereon as may be agreed; and to exercise such other powers as set forth in this title, and such incidental powers as are necessary to carry out its powers, duties and functions in accordance with this title.

In addition, section 501 provides that the Resolution Trust Corporation has special powers as follows:

1. To enter into contracts with the Federal Deposit Insurance Corporation (which is required to be the primary manager that will manage assets and institutions unless otherwise specifically provided by the Oversight Board) and with such other persons or entities, public and private, as it deems advisable and necessary in order to manage the institutions for which it is responsible and their assets. All contracts with persons or entities other than the Federal Deposit Insurance Corporation are required to be subject to a competitive bid process.

2. To set the policy on credit standards to be used by an institution for which it is responsible.

3. To require a merger or consolidation of an institution for which it is responsible.

4. To organize one or more Federal mutual savings associations, which must be chartered by the Federal Home Loan Bank System and insured by the Federal Deposit Insurance Corporation through the Savings Association Insurance Fund.

5. To review and analyze all insolvent institution cases resolved by the Federal Savings and Loan Insurance Corporation since January 1, 1988, through the date of enactment of this Act, and to actively review all means by which it can reduce costs under existing Federal Savings and Loan Insurance Corporation agreements, including through the exercise of rights to restructure such agreements, subject only to the monitoring of the Oversight Board. The Corporation is required to report to the Oversight Board the results and conclusions of its examination, and thereafter the Corporation, as permitted by the terms of any resolution agreement and upon the express concurrence of the Oversight Board, may restructure such agreements where savings would be realized therefrom, the costs of which restructuring shall be a liability of the Corporation.

6. To exercise all resolution powers and activities authorized to be exercised by the Federal Deposit Insurance Corporation and the former Federal Savings and Loan Insurance Corporation, including but not limited to the powers and authorities with respect to receiverships or conservatorships, to engage in assistance transactions, to collect indebtedness, to enforce liabilites and obligations, and to exercise relevant incidental powers.

7. To exercise such other incidental powers that the Corporation determines to be necessary to carry out its purposes.

With respect to institutions managed by the Corporation (those organized as federal mutuals by the Corporation) Section 501 provides that they are subject to conditions and limitations imposed by the Corporation on the following: growth of assets; lending activities; asset acquisitions (except as necessary to serve its existing customer base with residential mortgages or consumer loans); use of brokered deposits; and payment of deposit rates. It is further provided that all such savings associations are subject to all laws, rules, and regulations otherwise applicable to them as insured savings associations, and to their appropriate regulators.

Section 501 requires the Corporation to convert the Federal Asset Disposition Association ("FADA") to a corporation or other business entity and sell it, wind it down, or dissolve it, no later than 180 days after enactment of this law. If FADA is sold, no contract rights to manage savings association resolutions would be transferred.

Section 501 authorizes the Corporation to issue nonvoting capital certificates to the Resolution Funding Corporation in an amount equal to the aggregate amount of funds provided to it by the Resolution Funding Corporation. The Corporation may not pay dividends on its capital certificates. The Corporation, the capital, reserves, and surplus thereof, and the income derived therefrom, are exempt from Federal, State, municipal, and local taxation except taxes on real estate held by the Corporation, according to its value as other similar property held by other persons is taxed. Finally, the Corporation is required to terminate five years after this law is enacted. Simultaneously with the termination of the Corporation, all its assets and liabilities must be transferred to the FSLIC Resolution Fund to be managed by the Federal Deposit Insurance Corporation with the proceeds of the net assets being provided to the Resolution Funding Corporation to pay interest costs.

Section 501 provides for jurisdiction of law suits in which the Corporation is a party.

Section 501 further provides that guarantees issued by the Federal Savings and Loan Insurance Corporation after January 1, 1989, and before the date of enactment of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, made in connection with liquidity advances made to savings associations by the Federal Reserve Banks and Federal Home Loan Banks (the "Lenders") and guaranteed by the Federal Savings and Loan Insurance Corporation during such period, become by operation of law obligations of the Corporation. These obligations under the guarantees to the Lenders are required to be paid by the Corporation one year after the date of enactment of this law (to the extent that the loans have not previously been paid) using any funds or other assets available to the Corporation, including resources available to it through borrowing by the Resolution Funding Corporation.

Section 501 authorizes the Corporation to issue such regulations, policies, procedures, guidelines, or statements as that Corporation considers necessary or appropriate to carry out its functions.

Finally, Section 501 provides the Corporation with an emergency line of credit from the Treasury, and authorizes and directs the Secretary of the Treasury to loan to the Corporation on such terms as may be fixed by the Secretary of the Treasury amounts not exceeding in the aggregate $5,000,000,000 outstanding at any one time.

Subtitle B—Resolution Funding Corporation

Section 502. Resolution Funding Corporation Established.—Section 502 amends the Federal Home Loan Bank Act to add a new section 21b that establishes a corporation to be known as the Resolution Funding Corporation (hereinafter referred to as the "Funding Corporation") to provide funds to the Resolution Trust Corporation ("RTC") through the issuance of debt obligations to the public. New section 21b requires the Federal Home Loan Banks ("FHLBanks" or "Banks") to invest in the newly created Funding Corporation, which, in turn, will be required to invest in the RTC. Under subsection (b) of new section 21b, the Chairman of the Federal Home Loan Bank System ("Chairman") is required to charter the Funding Corporation no later than five days after the enactment of this title V of the Financial Institutions Reform, Recovery and Enforcement Act of 1989.

Subsection (c) of new section 21b provides for a Directorate that will manage the Funding Corporation. The Directorate will be composed of three members, one of whom will be the Director of the Office of Finance of the FHLBanks or his successor, and two of whom will be selected by the Oversight Board of the Resolution Trust Corporation ("Oversight Board") from among the presidents of the FHLBanks. Each of the two FHLBanks presidents will serve for a term of three years. With respect to the initial terms of the two presidents, one such president will be appointed for a term of two years and one will be appointed for a term of three years, and thereafter, each member will be appointed for a term of three years. No president of a FHLBank will be selected to serve an additional term on the Directorate unless each of the FHLBank presidents had already served at least as many terms as the president being selected to serve the additional term. The Oversight Board will select a chairperson of the Directorate from among the three members. Paragraph (9) of subsection (c) provides that members of the Directorate will not receive any compensation from the Funding Corporation for their service on the Directorate.

Paragraph (6) of subsection (c) of new section 21b provides that the Funding Corporation will have no paid employees, and that the Directorate, with the approval of the Chairman, can authorize the officers, employees, or agents of the FHLBanks to act for and on behalf of the Funding Corporation to carry out the functions of the Funding Corporation.

Paragraph (7) of subsection (c) provides that all administrative expenses, issuance costs and custodian fees will be paid by the FHLBanks. The amount each FHLBank will pay will be determined by the Oversight Board with the Bank paying a pro rata amount based upon its required capital stock investment in the Funding Corporation. Administrative expenses of the Funding Corporation do not include the interest on its obligations. The terms "issuance costs" and "custodian fees" are defined under subsection (k) of this new section 21b.

Subsection (d) of new section 21b provides for the corporate powers of the Funding

Corporation. The Funding Corporation, subject to the other provisions of this section and to the regulations, orders and directions as may be prescribed by the Oversight Board, will have the corporate powers necessary and appropriate for its operations as a specialized corporate entity. Such corporate powers include the power to issue nonvoting capital stock to the FHLBanks; to purchase capital certificates issued by the RTC; to borrow from the capital markets by issuing debt, the proceeds of which will be invested in the RTC, or used to refund obligations whose proceeds were so invested, under terms and conditions approved by the Oversight Board; and other powers which are customary and usual for corporations generally.

The Funding Corporation will be owned by the FHLBanks and will be used as a means of purchasing capital certificates issued by the RTC. Paragraph (1) of subsection (e) of new section 21b requires each FHLBank to invest in the nonvoting capital stock of the Funding Corporation at such time and in such amounts as prescribed by the Oversight Board. The stock issued by the Funding Corporation to the FHLBanks will have a par value determined by the Oversight Board and will be transferable only among the FHLBanks as prescribed by the Oversight Board at not less than par. The Banks' investment will be lawful, notwithstanding limitation found elsewhere in the Federal Home Loan Bank Act.

Paragraph (3) of subsection (e) of new section 21b limits the cumulative investment for capitalization of the Funding Corporation by each FHLBank to the aggregate of its legal reserves plus "undivided profits" minus amounts the Banks will have used to invest in the capital stock of the Financing Corporation. This limitation will be calculated by adding each Bank's legal reserves on December 31, 1988, plus "undivided profits" on such date, minus amounts invested in the Financing Corporation as of such date, and by adding, for the period December 31, 1988 through December 31, 1991, or such later date as necessary to fund the Funding Corporation Principal Fund, legal reserves plus "undivided profits" minus amounts required to be used to invest in the Financing Corporation. For purposes of the Banks' investment in the Funding Corporation, the language referring to "legal reserves" and "undivided profits" will include all retained earnings of the FHLBanks except for those amounts held in the "dividend stabilization reserve" as of December 31, 1985, and amounts required to be used by the FHLBanks to purchase capital stock in the Financing Corporation.

The "dividend stabilization reserve" will be excluded from investment in the Funding Corporation because it includes funds, above the legal reserves, that had been determined not to be paid as dividends in the year earned, so as to create a possible supplement to future years' dividends. To ensure that only amounts held in the "dividend stabilization reserve" as of December 31, 1985, are excluded from the amounts that may be invested in the Funding Corporation, the legislation cross-references the table set forth in section 21(a)(7) of the Federal Home Loan Bank Act, which table specifically lists the amounts held by each FHLBank in its "dividend stabilization reserve" as of December 31, 1985. For purposes of this section, "undivided profits" includes retained earnings other than legal reserves and amounts held in the "dividend stabilization reserve" as of December 31, 1985. "Legal reserves" refers to the amount each FHLBank has and is required to carry to a reserve account pursuant to the first two sentences of Section 16(a) of the Federal Home Loan Bank Act.

Under paragraph (4) of subsection (e) of new section 21b, each FHLBank is required to purchase a specified percentage of the first $1 billion of stock in the Funding Corporation. The percentage of the first $1 billion that each bank is required to invest in nonvoting capital stock of the Funding Corporation is derived from a formula taking into account each Bank's individual share of total FHLBank System retained earnings (minus their "dividend stabilization reserves" and amounts used to invest in the capital stock of the Financing Corporation) and the share of deposits insured by the Federal Savings and Loan Insurance Corporation ("FSLIC") immediately prior to the enactment of this Act held by each Bank's member savings associations. By taking into account the shares of such FSLIC-insured deposits held by a Banks' member savings associations, the formula accommodates Banks' member savings associations that were insured by the Federal Deposit Insurance Corporation ("FDIC") immediately prior to the enactment of this Act.

Under paragraph (5) of subsection (e), allocation of the remaining stock purchases is based on the percentage of total assets of members insured by FSLIC immediately prior to the enactment of this Act represented at each Bank; however, no Bank is required to exceed the limitation set forth in paragraph (3) of subsection (e). The aggregate amount of Funding Corporation stock that must be purchased by all of the FHLBanks is not reduced because of the limitation in that paragraph. Therefore, paragraph (6) of subsection (e), described below, provides for a reallocation of stock purchases among Banks that have not reached their limits.

Paragraph (6) of subsection (e) of new section 21b provides that if a FHLBank cannot purchase the full amount of stock in the Funding Corporation because that amount exceeded its legal reserves plus undivided profits minus the amount the Bank used to invest in the Financing Corporation, the amount that the Bank cannot purchase will be prorated for investment among the remaining FHLBanks based on their stock holdings in the Funding Corporation, as long as the cumulative amount of funds required to be invested by the remaining Banks did not exceed their legal reserves plus undivided profits minus the amounts used to invest in the Financing Corporation.

Any FHLBank that did not purchase the full amount of Funding Corporation capital stock as required under the formula in paragraph (5) will be required to purchase, annually at the issuance price, from those Banks to which such stock was reallocated, the stock originally allocated to it under such paragraph. The amount of such stock repurchases will be determined by the Oversight Board by prorating among the FHLBanks, based upon the amount allocated to and purchased and held by such Banks, the amount available for such purchases. The "amount available" includes all retained earnings of the Bank on whose behalf an investment has been made under subparagraph (A)(i), less certain amounts. The "amount available" does not include the Bank's special dividend stabilization reserve (as of December 31, 1985), nor an amount of retained earnings equal to the amount of Funding Corporation and Financing Corporation capital stock already purchased by the Bank. Until the restricted Bank has fulfilled this repurchase obligation, it is prohibited from paying dividends in excess of one-quarter of its net earnings available for dividends. Such funds are paid out in dividends are to be placed in a reserve account required by the Oversight Board and will not be available for dividends.

Paragraph (7) of subsection (e) of new section 21b provides for additional sources of funds for the Funding Corporation Principal Fund in the event that each FHLBank has exhausted the investment amount applicable with respect to such Bank under paragraph (3) (and paragraph (9), described below), as calculated under paragraphs (4), (5) and (6) of subsection (e). Subparagraph (A) of paragraph (7) provides that, first, the Funding Corporation, with the approval of the Board of Directors of the FDIC, will assess each Savings Association Insurance Fund member an assessment as if such assessment was assessed by the FDIC with respect to Savings Association Insurance Fund members pursuant to section 7 of the Federal Deposit Insurance Act, as amended. The maximum amount of the aggregate amount assessed, however, will be the amount of additional funds necessary to fund the Funding Corporation Principal Fund; provided that the amount assessed under this subparagraph (A) and the amount assessed by the Financing Corporation under section 21 of the Federal Home Loan Bank Act will not exceed the amount authorized to be assessed pursuant to section 7 noted above. The Financing Corporation will have first priority to make such assessments. All such amounts assessed under this subparagraph (A) will be subtracted from the amounts authorized to be assessed by the FDIC pursuant to section 7 noted above.

To the extent funds available pursuant to subparagraph (A) are insufficient to capitalize the Funding Corporation so as to provide funds for the Funding Corporation Principal Fund, then the FDIC will transfer to the Funding Corporation from the receivership proceeds of the FSLIC Resolution Fund the remaining amount of funds necessary for such purpose.

Paragraph (9) of subsection (e) of new section 21b provides that notwithstanding any other limiting provisions in sections 21, 21a and 21b of the Federal Home Loan Bank Act, the aggregate annual amount that will be contributed by the FHLBanks from their annual earnings under subsections (e)(3)(B) and (f)(2)(B) of this section (for the period from the date of enactment of this Act, until such time as the Funding Corporation has no more liabilities) for Funding Corporation principal and interest payments and Financing Corporation principal payments under section 21 of the Federal Home Loan Bank Act, for any given year, will be $300,000,000; provided, however, that such aggregate annual amount will be such lesser number equal to all the amounts needed for the purposes of subsection (e), as determined by the Oversight Board, if such total amounts will be less than $300,000,000. This amount will be in addition to the approximately $2,000,000,000 by the FHLBanks to be contributed from their retained earnings as of December 31, 1988, which are not needed by the existing Financing Corporation.

Paragraph (1) of subsection (f) of new section 21b authorizes the Funding Corporation, subject to the direction of the RTC, to issue up to $50,000,000,000 in debt obligations. Paragraph (2) of subsection (f) pro-

vides for the payment of interest on such obligations. The Funding Corporation will pay the interest due on (and any redemption premium with respect to) Funding Corporation obligations from funds obtained for such interest payments from certain specified sources described below.

Subparagraph (A) requires the RTC to pay to the Funding Corporation the net proceeds received by the RTC from the liquidation of institutions under its management, pursuant to new section 21a of the Federal Home Loan Bank Act, to the extent they are determined by the Oversight Board to be in excess of funds necessary for resolution costs in the near future, and any proceeds from warrants and participations of the RTC.

Subparagraph (B) provides that to the extent the funds available from the RTC pursuant to subparagraph (A) are insufficient to cover the amount of interest payments on the obligations, then the FHLBanks will pay to the Funding Corporation the aggregate annual amount of $300,000,000, minus the amounts needed by the Financing Corporation pursuant to section 21 of the Federal Home Loan Bank Act and for the purchase of Funding Corporation capital certificates, with each Bank's individual share to be determined pursuant to the formulation and limitations of paragraphs (3) through (6) of subsection (e).

Subparagraph (C) provides that the proceeds of all net assets of the RTC, upon its dissolution, will be transferred to the Funding Corporation to be used for interest payments before any Treasury funds are used.

Finally, subparagraph (D) provides that, to the extent that the Directorate determines after consultation with and approval of the Secretary of the Treasury that the Funding Corporation is unable to pay the interest on any obligation issued under this subsection from the sources of funds under (A), (B), and (C), the Secretary of the Treasury will pay to the Funding Corporation the additional amount due which will be used by the Funding Corporation to pay such interest. In each case where the Secretary of the Treasury is required to make a payment under this paragraph to the Funding Corporation, the amount of the payment will be a liability of the Funding Corporation that will be repaid to the Secretary of the Treasury upon dissolution of the Funding Corporation to the extent that the Funding Corporation may have any remaining assets. There is authorized to be appropriated to the Secretary of the Treasury, for fiscal year 1989 and each fiscal year thereafter, such sums as may be necessary to carry out this paragraph.

Paragraph (3) of subsection (f) provides that on maturity of an obligation issued by the Funding Corporation under this subsection, the obligation will be repaid by the Funding Corporation from the liquidation of noninterest bearing instruments held in the Funding Corporation Principal Fund. The Funding Corporation will obtain funds for such Principal Fund from the sources of funds obtained pursuant to subsection (e). All of such funds will be invested in noninterest bearing instruments which are described in paragraph (1) of subsection (g) of this new section 21b.

Paragraph (4) of subsection (f) provides that, subject to the terms and conditions as approved by the Oversight Board, the gross proceeds of any obligation issued by the Funding Corporation will be used to purchase capital certificates issued by the RTC or to refund any previously issued obligation the proceeds of which were invested in the capital certificates of the RTC.

Under paragraph (5) of subsection (f) of new section 21b, obligations of the Funding Corporation with the approval of the Oversight Board, like FHLBank obligations, will be lawful investments and may be accepted as security for all fiduciary, trust, and public funds, the investment or deposit of which will be under the authority or control of the United States or any officer thereof.

Under paragraph (6) of subsection (f) of new section 21b, obligations of the Funding Corporation will be treated in the same manner as FHLBank obligations for purposes of investment, sale, underwriting, purchase, use as collateral, and dealing by financial institutions such as banks, thrifts, and credit unions.

Under paragraph (7) of subsection (f) of new section 21b, obligations issued by the Funding Corporation will have the same tax status as obligations of the FHLBanks. Thus, interest earned on those obligations will be taxable as income at the Federal, but not the State level.

Under paragraph (8) of subsection (f) of new section 21b, obligations issued by the Funding Corporation will be exempt securities under the provisions of the Federal securities laws administered by the Securities and Exchange Commission.

Paragraph (9) of subsection (f) of new section 21b, requires the Oversight Board and the Directorate to ensure that minority owned or controlled commercial banks, investment banking firms, underwriters, and bond counsels throughout the United States have an opportunity to participate to a significant degree in any public offering of obligations issued by the Funding Corporation under this section.

Under paragraph (10) of subsection (f) of new section 21b, the Funding Corporation's obligations will not be obligations of or guaranteed as to principal by the Chairman of the Federal Home Loan Bank System, the FHLBanks, the United States, or the RTC. The Secretary of the Treasury will pay interest on such obligations as required by subsection (f) of this section.

Subsection (g) of new section 21b sets forth the use and disposition of assets of the Funding Corporation not required to be invested in the RTC, not required for current interest payments, and not required for the Funding Corporation Principal Fund. Paragraph (1) provides that, subject to the regulations, restrictions, and limitations prescribed by the Oversight Board, such assets will be invested in the instruments described in subparagraphs (A), (B), (C) and (D), which are the same instruments FHLBanks are permitted to invest their resources under section 16 of the Federal Home Loan Bank Act.

Paragraph (2) of subsection (g) requires the Funding Corporation to invest in and hold in a segregated account, zero coupon instruments, Treasury STRIPS or other noninterest bearing instruments, as described in paragraph (1) of that subsection, of which the total principal payable at maturity will approximately be equal to the aggregate amount of principal on the Funding Corporation's obligations. The purpose of this segregated account is to assure the repayment of principal on the Funding Corporation's obligations.

Under paragraph (1) of subsection (h) of new section 21b, the Funding Corporation will have the same tax status as the FHLBanks. In addition under paragraph (1), the Secretary of the Treasury is authorized to prepare the necessary forms of stock, debentures, and bonds, as approved by the Oversight Board, pursuant to section 23 of the Federal Home Loan Bank Act, for obligations of the Funding Corporation, as the Secretary of the Treasury is also so authorized for obligations of the FHLBanks.

Paragraph (2) of subsection (h) of new section 21b provides that the Federal Reserve banks are authorized to act as depositories for or fiscal agents or custodians of the Funding Corporation.

Paragraph (3) of subsection (h) of new section 21b accords the Funding Corporation, although the Corporation will have no Government capital invested in it, the same coverage under the Government Corporations Control Act as the FHLBanks are accorded under that Act pursuant to section 11(j) of the Federal Home Loan Bank Act (12 U.S.C. 1431(j)). Thus, audits of the Funding Corporation will be conducted by the General Accounting Office. In addition, the Secretary of the Treasury, a Federal Reserve Bank, or a bank designated as a depository or fiscal agent of the United States Government has the authority to keep Funding Corporation accounts (although the Secretary of the Treasury can waive the provision regarding accounts). Furthermore, before the Funding Corporation can issue obligations and offer them to the public, the Secretary of the Treasury will prescribe the various conditions to which the obligations will be subject (including the form, denomination, maturity, and interest rate), the way and time the obligations will be issued, and the price for which the obligations will be sold. This procedure is currently in place for the issuers who are subject to section 9108(a) of title 31, United States Code (part of the Government Corporations Control Act) and in practice the Treasury generally approves terms and conditions on obligations as proposed by these issuers. Finally, before the Funding Corporation could buy or sell a direct obligation of the United States Government, or an obligation on which the principal, interest, or both, is guaranteed, of more than $100,000, the Secretary of Treasury will have to approve the purchase or sale, although the Secretary can waive this requirement. All of these authorities also pertain to the FHLBanks' issuance of debt.

Paragraph (4) of subsection (h) of new section 21b provides that any civil action, suit or proceeding to which the Funding Corporation is a party, will be deemed to arise under the laws of the United States, and the U.S. District Court for the District of Columbia will have original jurisdiction over any such action, suit or proceeding. The Funding Corporation is authorized, without bond or security, to remove any such action, suit or proceeding from a State court to the U.S. District Court for the District of Columbia.

Subsection (i) of new section 21b provides for the termination of the Funding Corporation. The Funding Corporation will be dissolved, as soon as practicable, after the date by which all the RTC capital certificates purchased by the Funding Corporation have been retired. On the effective date of the Funding Corporation's dissolution, the Oversight Board will be authorized to exercise any power of the Funding Corporation in order to conclude its affairs. Upon termination, the remaining funds will be transferred to the Treasury to the extent of funds provided to the Funding Corporation over the years and interest thereon, with

any remainder to the FHLBanks in retiring the capital stock.

Subsection (j) of new section 21b provides that the Oversight Board will be authorized to prescribe such regulations as may be necessary to carry out the provisions of new section 21b including issuing regulations to define the terms used in the section.

Subsection (k) of new section 21b defines certain terms that are used in the section. Paragraph (1) defines "insured savings association" to mean a savings association as such term is defined by section 3(u) of the Federal Deposit Insurance Act and which was insured by FSLIC immediately prior to the date of enactment of this Act. Paragraph (2) defines the "Oversight Board" to mean the Oversight Board of the RTC, and after termination of the RTC to mean the Secretary of the Treasury, the Chairman of the Federal Reserve Board and the Attorney General of the United States. Paragraph (4) defines "issuance costs" to mean issuance fees and commissions incurred by the Funding Corporation in connection with the issuance or servicing of any of the Funding Corporation's obligations, and includes legal and accounting expenses, trustee and fiscal paying agent charges, costs incurred in connection with preparing and printing offering materials, and advertising expenses to the extent these costs is incurred in connection with issuing any obligation. Paragraph (5) defines "custodian fees" to mean any fee incurred by the Funding Corporation in connection with the transfer of or maintenance of any security in the segregated account established under subsection (g), and any other expense incurred in connection with the establishment and maintenance of the segregated account.

Section 503. Financing Corporation.—This section amends section 21 of the Federal Home Loan Bank Act which established the Financing Corporation. Subsections (1), (2), (3), and (4) of this section 503 provide for technical amendments to section 21. These amendments essentially provide that after the enactment of this Act the Financing Corporation, if necessary, will purchase capital certificates or capital stock issued by the FSLIC Resolution Fund, which will be the successor to the Federal Savings and Loan Insurance Corporation ("FSLIC"). These certificates and stock will not pay dividends, and any payment on them to the Financing Corporation upon termination of the FSLIC Resolution Fund will be subordinate to any liability to Treasury for the monies it has provided to that Fund.

Section 503 also replaces, with a new provision, the existing subsection (f) of section 21 which authorized the Financing Corporation to assess FSLIC insured institutions for amounts necessary to obtain interest payments for Financing Corporation obligations. The new provisions identify the sources of funds for interest payments to be as follows:

Paragraph (1) includes the Financing Corporation assessments which were assessed on insured institutions pursuant to subsection (f) of this section prior to the enactment of this Act.

Paragraph (2) provides that the Financing Corporation, with the approval of the Board of Directors of the Federal Deposit Insurance Corporation, will assess on each insured Savings Association Insurance Fund member an assessment as if such assessment was assessed by the Federal Deposit Insurance Corporation with respect to Savings Association Insurance Fund members pursuant to section 7 of the Federal Deposit Insurance Act. The amount assessed hereunder, however, and the amount assessed by the Funding Corporation under section 21b of the Federal Home Loan Bank Act will not exceed the amount authorized to be assessed under section 7 of the Federal Deposit Insurance Act, and that the Financing Corporation will have first priority to make such assessments. In addition, all assessments made by the Financing Corporation under section (2) and the Funding Corporation under section 21b of the Federal Home Loan Bank Act will be subtracted from the amounts authorized to be assessed by the Federal Deposit Insurance Corporation under section 7 of the Federal Deposit Insurance Act.

Paragraph (3) provides that to the extent the funds available pursuant to paragraphs (1) and (2) are insufficient to cover the amount of interest payments on the obligations, then the Federal Deposit Insurance Corporation will transfer to the Financing Corporation from the proceeds of the FSLIC Resolution Fund the remaining amount of funds necessary for the Financing Corporation to make interest payments only to the extent the funds are not required by the Resolution Funding Corporation for the Funding Corporation Principal Fund under section 21b of the Federal Home Loan Bank Act.

Section 503 also defines "insured savings association" to mean a savings association as such term is defined by section 3(U) of the Federal Deposit Insurance Act and which was insured by the Federal Savings and Loan Insurance Corporation immediately prior to the date of enactment of this Act.

Section 504. Section 504 is a technical amendment to add the Funding Corporation to the list of "mixed ownership" government corporations under the Government Corporations Control Act. Although there will be no government capital invested in the Funding Corporation, this category of "mixed ownership" has been accorded to the Funding Corporation to provide it with parallel legal status to that of the FHLBanks.

TITLE VI—THRIFT ACQUISITION ENHANCEMENT PROVISIONS

Section 601. Acquisition of Thrifts by Banks Holding Companies.—Section 601 amends the Bank Holding Company Act effective two years after the date of enactment, to specifically permit the Federal Reserve Board to allow bank holding companies to acquire any savings association, not only failed or failing ones as the Board currently permits. The section also specifies that effective immediately the Board shall not impose restrictions on transactions between the savings association and its holding company affiliates other than those imposed generally by the affiliate transactions statutes as sections 23A and 23B of the Federal Reserve Act or other applicable statutes. This section is intended to direct the Board not to impose its so-called "tandem operations" restrictions on bank holding companies that acquire thrift institutions.

Section 602. Investments by Savings and Loan Holding Companies in Unaffiliated Thrift Institutions.—Section 602 amends the provisions governing savings and loan holding companies (section 408 of the National Housing Act, 12 U.S.C. 1730a, in current law; to be transferred into the Home Owners' Loan Act) to allow a savings and loan holding company to hold up to 5 percent of the voting shares of an unaffiliated savings association or savings and loan holding company. This provision also permits multiple savings and loan holding companies to acquire up to 5 percent of the voting shares of any company. Current law prohibits any such ownership in savings associations other than a controlling ownership. This revised treatment is intended to mirror the ability of bank holding companies to acquire up to 5 percent of the voting shares of unaffiliated banks.

Section 603. Technical Amendment to the Bank Holding Company Act.—Section 603 amends the Bank Holding Company Act (12 U.S.C. 1841) to define the terms "insured institution" and "savings association." The definition used incorporates the definition in the Home Owners' Loan Act, as amended.

TITLE VII—FEDERAL HOME LOAN BANK SYSTEM REFORMS

Subtitle A.—Federal Home Loan Bank Act Amendments

Section 701. Definitions.—Section 701(a) would add a definition for "savings association" to the Federal Home Loan Bank Act. The definition conforms to the definition of that term in the amendments of the Home Owner's Loan Act found in Title III of this Act.

Section 701(b) creates a new paragraph (11) to Section 2 of the Federal Home Loan Bank Act (12 U.S.C. 1422) to state that the term "Chairman" used in the Federal Home Loan Bank Act, as amended, refers to the Chairman of the Federal Home Loan Bank System.

Section 701(c) is a technical amendment to the Federal Home Loan Bank Act, the Home Owner's Loan Act, as well as any other Federal law in which a term thereof names the Federal Home Loan Bank Board. This section makes clear that the Chairman of the Federal Home Loan Bank System succeeds to all Federal statutory provisions affecting the Federal Home Loan Bank Board, including all prerogatives granted it by such laws except those expressly repealed or amended by this Act. Although this Act expressly amends selected references in several Federal statutes to the Federal Home Loan Bank Board to read, Chairman of the Federal Home Loan Bank System, this section is intended to amend all other existing references to the Federal Home Loan Bank Board to read Chairman of the Federal Home Loan Bank System.

Section 702. Federal Home Loan Bank System Chairman.—This section amends Section 17 of the Federal Home Loan Bank Act (12 U.S.C. 1437) as follows:

Subsection (a) is amended by abolishing the Federal Home Loan Bank Board and vesting the powers and duties of the Federal Home Loan Bank Board and of its Chairman in the Chairman of the Federal Home Loan Bank System, who will continue to supervise and regulate the Federal Home Loan Banks. The Chairman of the Federal Home Loan Bank System will be subject to the general directions of the Secretary of the Treasury. This latter provision is similar to one for the Comptroller of the Currency and is intended to provide the Secretary with the same oversight authority over the Chairman of FHLBS as he currently has with respect to the Comptroller. The Chairman of the System will implement the Federal Home Loan Bank Act, the Home Owners Loan Act and other laws. The Chairman of the System will have rulemaking authority to implement those laws.

Subsection (b) is amended to provide that the Chairman of the System must be a citizen of the United States. He would be ap-

pointed by the President for a five year term with the consent of the Senate. The President would be able to remove the Chairman. The President would be required to communicate the reasons for removal to the appropriate committee of the Senate. The Chairman would continue to serve until a successor is appointed.

Subsection (c) provides that subject to the approval of the Secretary of the Treasury, the Chairman of the System is empowered to employ and fix the salaries of such employees, attorneys, and agents. The Chairman would have the authority to appoint agents as necessary to carry out his duties. The Chairman would be authorized to designate who will act in the Chairman's absence. The Chairman would have the authority to continue or establish collective offices or administrative units of the Federal Home Loan Banks and to appoint the heads of such entities after consulting the Federal Home Loan Banks. The Chairman would be authorized to delegate to an agent any power (except rulemaking).

Subsection (d) provides that the Chairman of the System has the authority to suspend or remove any director, officer, employee, or agent of any Federal Home Loan Bank or any joint office or administrative unit of such bank and is revised only to require that the fact of suspension or removal be communicated to that person.

Subsection (e) provides that the salaries of the Chairman and other agents and employees will be paid from assessments levied on the Federal Home Loan Banks and that such assessments, like those imposed by the Comptroller of the Currency on national banks under 12 U.S.C. 481, shall not be construed as Government funds or appropriated monies. Compensation, other than that of the Chairman would be paid (as in the Comptroller's Office) without regard to other laws applicable to officers or employees of the United States.

Subsection (f) provides that the Chairman shall not have a financial interest in a member of a Federal Home Loan Bank.

Subsection (g) restates existing provisions of Section 17 to preserve authority exercised by the Board when it was a constituent agency of the Housing and Home Finance Agency.

Subsection (h) is amended to provide that the Chairman will make an annual report to Congress.

Section 703. Election of Bank Directors.—This section would change the law by changing the manner of the selection of the directors of the Federal Home Loan Banks. It would establish three classes of directors, with three directors chosen for each class. The Class A directors would represent the stockholding members of the bank and be chosen by the stockholding members. Class C directors would represent the public and would be chosen by the Chairman of the Federal Home Loan Bank System. The Class B directors would be chosen by the Class A directors and the Class C directors to represent the housing industry and the financial services industry. The Chairman of the Federal Home Loan Bank System would appoint one of the Class C directors as the chairman of the board of directors of each Federal Home Loan Bank and one Class C Director as deputy chairman, who would serve in the absence of the chairman. The third Class C director would serve in the absence of the chairman and deputy chairman.

The provisions regarding the election of directors are, in large part, based on similar provisions governing the directors of Federal Reserve banks.

Section 704. Federal Home Loan Bank Lending.—Section 704 authorizes the Federal Home Loan Banks to make loans to the Federal Deposit Insurance Corporation, subject to the concurrence of the Chairman of the Federal Home Loan Bank System, for the use of the Savings Association Insurance Fund and provides that such loans to the Corporation shall be a direct liability on that insurance fund. This provision is substituted for the current law provision, under which the Federal Home Loan Banks are authorized to make such loans to the Federal Savings and Loan Insurance Corporation.

Section 705. Chief Supervisory Officer.—Section 705(a) requires the senior supervisory employee of each Federal Home Loan Bank to report to the chief supervisory official of the Chairman of the Federal Home Loan Bank System. This section authorizes the Chairman of the Federal Home Loan Bank System to remove the senior supervisory employee of each Bank for cause. This section retains the title, established by the Federal Home Loan Bank Board through regulation, of Principal Supervisory Agent for the senior supervisory employee of each Bank. It is the intent of this section that the President of the district bank will no longer be responsible for the supervisory role of the district bank.

Section 705(b) amends the heading of section 19 of the Federal Home Loan Bank Act to reflect the substantive changes made in that section.

Section 706. Thrift Advisory Council.—Section 706 (1) amends section 8a of the Federal Home Loan Bank Act to change the name of the Federal Savings and Loan Advisory Council to the Thrift Advisory Council.

Section 706 (2) and (3) amend section 8a of the Federal Home Loan Bank Act to delete obsolete references to the Board of Trustees of the Federal Savings and Loan Insurance Corporation itself.

Section 707. Federal Savings and Loan Insurance Corporation Industry Advisory Committee.—This section abolishes the Federal Savings and Loan Insurance Corporation Industry Advisory Committee.

Section 708. Rate of Interest.—This section repeals section 5b of the Federal Home Loan Bank Act as that provision is obsolete.

Section 709. Liquidity Requirements.—Section 709 (1) makes a technical change to section 5A of the Federal Home Loan Bank Act.

Section 709 (2) amends Section 5A by substituting at subsection (d) the Federal Deposit Insurance Corporation for the Federal Savings and Loan Insurance Corporation which would allow a penalty assessment for deficiency in compliance with the section's liquidity requirements made against a savings association to be paid to the Federal Deposit Insurance Corporation if the offending savings association is not a member of a Federal Home Loan Bank. It is intended that any penalty paid to the Federal Deposit Insurance Corporation under authority of section 5A of the Federal Home Loan Bank Act, as amended, will be for the use of Savings Association Insurance Fund.

Section 709(3) makes a technical amendment to subsection (f) of section 5A of the Federal Home Loan Bank Act.

Section 709(4) would allow the Chairman of the Federal Home Loan Bank System to classify, by regulation, as a liquid asset such other assets as the Chairman of the System may determine comports with the purposes of subsection (a) of Section 5a, as amended.

Section 710. Advances.—Section 710(a) substitutes "savings association" for "insured institution" at subsection (e) of section 10 of the Federal Home Loan Bank Act.

Section 710(b) substitutes "Section 1467a" for "Section 1730a(a)(1)(A)" at paragraph (3)(A) of subsection (e) of section 10 of the Federal Home Loan Bank Act.

Section 710(c) substitutes "Section 1467a" for "Section 1730a (o) in paragraph (3)(B) of subsection (e) of section 10 of the Federal Home Loan Bank Act.

Section 710(d) substitutes "Section 1467a" for "Section 1730a(o)(5)(A) at paragraph (3)(C) of subsection (e) of section 10 of the Federal Home Loan Bank Act.

Section 711. Conforming Federal Home Loan Bank Act Amendments.—Section 711(a) deletes a portion of section 1438(c)(5) of Title 12, United States Code, regarding the receipts from the sale of the Board's old building and receipts from a special assessment to build the current Board Building.

Section 711(b) deletes a portion of section 1438(c)(6) of Title 12, United States Code, regarding the submission of a budget for the current Board building.

Section 711(c) repeals section 1438a of Title 12, United States Code as obsolete. It will no longer be necessary to differentiate between administrative and nonadministrative expenses of the Chairman of the Federal Home Loan Bank System.

Section 711(d) deletes the last sentence of section 1439 of Title 12, United States Code, which refers to obsolete reference to nonadministrative expenses.

Section 711(e) deletes a portion of section 101 of Title I of the Act of June 16, 1943 (12 U.S.C. 1439a) which refers to a provision repealed by section 713 of this Act to conform with section 713 of this Act.

Section 711(f) amends section 111 of Title I of Public Law No. 93-495 to delete the term "the Federal Home Loan Bank Board."

Subtitle B.—Conforming Amendments

Section 712. Federal Home Loan Mortgage Corporation Act Amendments.—Section 712(1) changes the composition of the three member board of directors of the Federal Home Loan Mortgage Corporation to include, ex officio, the Chairman of the Federal Home Loan Bank System, who shall be chairman of the board of directors, the Secretary of the Treasury (or his designee), and the Secretary of Housing and Urban Development (or his designee), and provides that the board of directors may elect a Vice-Chairman.

Section 712(2) substitutes the Resolution Trust Corporation for the Federal Savings and Loan Insurance Corporation in section 305 of the Federal Home Loan Mortgage Corporation Act, and also substitutes the term "Chairman" for the term "Board" in the last sentence of subsection (a)(2) of said section 305.

Section 713. Repeal of Limitation of obligation for Administrative Expenses.—This section amends subsection (b) of section 7 of the First Deficiency Appropriation Act of 1936 to delete the terms "Federal Home Loan Bank Board", "Home Owner's Loan Corporation", and "Federal Savings and Loan Insurance Corporation."

The reference to the Home Owner's Loan Corporation is deleted because that instrumentality, once a component of the Federal Home Loan Bank Board, was dissolved in 1951.

Section 714. Amendment of Additional Powers of Chairman.—Section 714(A) makes a technical amendment to subsection (c) of

section 502 of the Housing Act of 1948, as amended, to strike out obsolete terms and substitute therefor the term, "Chairman of the Federal Home Loan Bank System."

Section 714(B) amends subsection (1) of subsection (c) of said section 502 by inserting the term "Federal" between the terms "of any" and "State or". This amendment will authorize the Chairman of the Federal Home Loan Bank System to accept or contract for services with another Federal agency.

Section 715. Amendment of Title 5, United States Code.—Section 715(A) makes a technical amendment to Section 5314 of Title 5, United States Code regarding the salary of the Chairman of the Federal Home Loan Bank System.

Section 715(B) adds a reference to sections 17a of the Federal Home Loan Bank Act (12 U.S.C. 1437) and section 19 of the Federal Home Loan Bank Act (12 U.S.C. 1439) to section 5373 of Title 5, United States Code in order to make that provision consistent with the mandate of section 702 of this Act that decisions regarding the salaries and administration of staff personnel employed by the Chairman of the Federal Home Loan Bank System are made by the Chairman, subject to approval by the Secretary of Treasury, without regard to any other laws regarding employees of the Federal Government.

Section 716. Amendments of Title 31, United States Code.—Section 716(A) creates a new section 307a of Title 31, United States Code to reflect the fact that the Chairman of the Federal Home Loan Bank System is subject to the general direction of the Secretary of the Treasury.

Section 716(B) adds a new paragraph (3) to subsection (c) of section 321, Title 31, United States Code in order to clarify the relationship between the Chairman of the Federal Home Loan Bank System and the Secretary of the Treasury.

Section 716(C) adds the term "Office of the Chairman of the Federal Home Loan Bank System" to subsection (a) of section 714, Title 31, United States Code, in order to authorize audits by the Comptroller General.

Section 716(D) deletes a reference to the Federal Savings and Loan Insurance Corporation.

Section 717. Amendment of Balanced Budget and Emergency Deficit Control Act Provisions.—Section 717(A) makes technical changes to subsection (1)(A) of subsection (g) of section 255 of the Balanced Budget and Emergency Deficit Control Act of 1985 to substitute the Chairman of the Federal Home Loan Bank System and Resolution Trust Corporation for the Federal Home Loan Bank Board and Federal Savings and Loan Insurance Corporation.

Section 717(B)(1) makes technical changes to subsection (4) of subsection (b) of said section 256 to substitute the Chairman of the Federal Home Loan Bank System and Resolution Trust Corporation for the Federal Home Loan Bank Board.

Section 717(B)(2) deletes a reference to the Federal Savings and Loan Insurance Corporation in said provision.

Section 718. Amendment of Title 18, United States Code.—Section 718(A) repeals sections 1008 and 1009 of Title 5, United States Code as obsolete.

Section 718(B)(1) strikes a reference in said section to the Federal Home Loan Bank Board and Home Owner's Loan Corporation and adds a reference to a Federal savings bank.

Section 718(B) (2) and (3) make technical changes in said section to reflect amendments made by this Act.

Section 718(B)(4) strikes a reference to the Federal Savings and Loan Insurance Corporation.

TITLE VIII—BANK CONSERVATION ACT AMENDMENTS

Section 801. Definition.—Section 801 amends section 202 of the Act of March 9, 1933 title II of which is the Bank Conservation Act ("Act"). The amendment defines the term "bank" to include federally-chartered financial institutions, other than national banks, that are supervised by the Comptroller (hereinafter referred to as "bank"). This added provision would permit the Comptroller to place into conservatorship institutions such as federal branches of foreign banks.

Section 802. Appointment of Conservator.—Section 802 amends section 203 of the Act to give the Comptroller exclusive authority to appoint either the FDIC or another person as conservator for a bank and sets out a number of conditions under which the Comptroller may make such an appointment. These conditions are similar to the grounds for appointment of a conservator or receiver for federal savings and loan associations under current law. *See* 12 U.S.C. 1464(d)(6)(A). These circumstances generally exist in foundering banks, i.e., banks that are in an unstable condition as a result of mismanagement, insider abuse, or a downturn in the segment of the economy in which the bank is most involved. Existing section 203 does not establish explicit standards for appointing a conservator. To provide a measure of the flexibility that exists currently, the amendment would authorize the Comptroller to identify other circumstances in which the appointment of a conservator is justified. The Comptroller could use a conservator to return an unstable bank to stability or, at a minimum, maintain the status quo to provide a more saleable bank.

The current provisions regarding the appointment of a conservator do not address judicial review. The proposed bill, in accord with other statutes authorizing the appointment of a conservator by federal financial regulatory agencies, would permit an affected bank to bring an action within 10 days of the appointment. The action would be in the nature of an injunction to terminate the Comptroller's decision to appoint a conservator. This process would permit an expeditious resolution of the Comptroller's decision to appoint a conservator. Any other judicial action pending against the bank would be stayed until the conservatorship matter is resolved. Judicial review would not be available in cases where the bank has consented to the imposition of a conservator or where its insurance has been terminated (an action that already provides adequate administrative and judicial review).

Section 803. Examinations.—Section 803 amends section 204 of the Act by deleting the existing provision authorizing the Comptroller to conduct such examinations as are necessary to inform him of the condition of the bank. This provision is no longer necessary. Because a bank under conservatorship remains a national bank, the Comptroller may continue to conduct such examinations pursuant to the general examination authority. *See* 12 U.S.C. 481. New section 803 requires the Comptroller to consult with the FDIC when examining and supervising an ongoing bank for which the FDIC has been appointed conservator.

Section 804. Termination of Conservatorship.—Section 804 amends section 205 of the Act regarding the termination of the conservatorship. Under the proposed amendment, the conservatorship may be terminated as the result of a sale, merger or consolidation of the bank, or by the bank being placed in receivership by a declaration of insolvency, or by the bank being permitted to resume its business in the same form as previously, although most likely under new management or directorate. When the FDIC has been appointed conservator, the Comptroller must seek the approval of the FDIC to terminate the conservatorship. The FDIC would wind up the affairs of such a conservatorship. If the bank is sold, provision is made for an interpleader action whereby shareholders and nondepositor claimants may request that the district court equitably distribute the net proceeds of such sale. This provision is included as a protection for the shareholders and nondepositor claimants because they are otherwise precluded from suing the conservator for actions taken (except where gross negligence can be shown). See proposed 12 U.S.C. 203(b)(3) and 209.

Section 805. Conservator; Powers and Duties.—Section 805 replaces the existing provisions of section 206 of the Act with provisions that specify, in general terms, the powers and responsibilities of the conservator. The current Act does not establish with sufficient clarity that the conservator has the full range of powers possessed by bank management. Proposed section 206 resolves this situation by stating that the conservator will be given the authority and responsibility of the shareholders, officers and board of directors. It is anticipated that regulations will be written regarding the specific powers and duties of the conservator. Proposed section 206 also provides that the conservator, except to the extent waived or modified by the Comptroller, shall be subject to the laws applicable to officers, directors and employees of a national bank. The provisions of this section are intended to establish that the conservator has sufficient flexibility and authority to operate the bank in an attempt to restore it to a stable and/or profitable operation and to give the conservator the authority to sell the bank.

In addition, proposed section 206 authorizes the Comptroller to pay the conservator at rates in excess of rates paid to federal employees performing similar work in certain situations. This provision will enable the Comptroller to recruit competent personnel from outside the agency to act as conservators as the need arises by allowing the Comptroller to compensate such individuals in a manner commensurate with similar positions in private industry.

Section 806. Liability Protection.—Section 806 replaces the existing provisions of section 209 of the Act with new language. The current section makes the conservator subject to the provision of, and to the penalties prescribed by, specific criminal and banking statutes. A specific listing is no longer required since proposed section 206 subjects the conservator to all the laws, including those enumerated in current section 209, applicable to national bank officers, directors and emplyees.

Under proposed section 209, the conservator would be protected from personal liability for actions taken by him as a conservator except for those actions which are grossly negligent. Because the conservator would be making difficult decisions regarding a

troubled bank, proof of "gross negligence" would require that the conservators' decision was an extreme and obvious departure from prudent banking practices resulting in significant damage to the bank.

In additon, section 209(b) adds a provision that will allow the Comptroller to indemnify the conservator out of available funds, other than those specified in 31 U.S.C. 1304.

Section 807. Rules and Regulations.—Section 807 amends section 211 of the Act. Section 211 currently provides that the Comptroller may promulgate rules and regulations to carry out the conservatorship statutes. Proposed section 211 would maintain the Comptrollers' rulemaking authority.

Section 808. Repeals.—Section 808 repeals section 207 (reorganization; consent of depositors and creditors) and section 208 (provisions as to segregation of deposits inapplicable after termination of conservatorship, notice of termination) of the Act. These provisons are no longer necessary under the proposed conservatorship legislation. In addition, the existing provisions of section 206 and 208 that require segregated deposits are considered a major impediment in the current conservatorship statute.

Section 809. Conforming Amendment.—Section 809 would add conservators appointed under 12 U.S.C. 203 to the list of persons that may be appointed by the Comptroller of the Currency without regard to the otherwise applicable limitation contained in 5 U.S.C. 5373 (which generally prohibits an agency head from fixing the compensation of a position or employee at no more than the maximum rate for GS-18).

TITLE IX—ENFORCEMENT POWERS IMPROVEMENT ACT OF 1989

Overview

Title IX approaches the concept of enforcement both from a civil and criminal perspective. The goal of this title is to assure that both regulators and prosecutors have a full arsenal of weapons available to take swift corrective measures and to facilitate both punishment and restitution, wherever appropriate. The provisions recognize that unsafe or unsound practices and fraud and other financial crimes have both victims and societal costs and must be dealt with accordingly.

Subtitle A—Regulation of Financial Institutions

This subtitle improves the enforcement powers of the financial institution regulatory agencies such as by adding additional civil penalty provisions and by greatly augmenting the existing penalty provisions to a maximum of $1,000,000 a day, in some cases. Variations of many of the provisions in Subtitle A are contained in H.R. 32 and were passed by the Senate during the last session of Congress as part of S. 1886.

Section 902. Section 8 of the Federal Deposit Insurance Act.—Section 902(a) makes amendments to section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818). These enforcement powers will now apply equally with respect to savings associations and to the Chairman of the Federal Home Loan Bank System (FHLBS) by operation of the definitional change from "insured bank" to "insured financial institution" throughout this Act. Accordingly, many of these authorities that previously were set forth for the Federal Home Loan Bank Board in section 5(d) of the Home Owners' Loan Act (12 U.S.C. 1464(d)) are repealed in section 307, as discussed above.

Section 902(a)(1) replaces terms such as "director, officer, employee, agent, or other persons participating in the conduct of the affairs" of financial institutions throughout section 8 of the Federal Deposit Insurance Act with the new term "institution-related" party. This change must be read in conjunction with the new definitions of "institution-related party" and "controlling shareholder" in section (a)(17). Institution-related party includes not only directors, officers, employees and agents of a financial institution, but also controlling shareholders, independent contractors, and other persons participating in the conduct of the affairs of an insured financial institution or a subsidiary thereof (*e.g.*, a service corporation subsidiary of a savings association) or a person required to file a change-in-control notice. Under appropriate circumstances, an attorney, accountant or appraiser could be an independent contractor or person participating in the affairs of an institution.

Section 902(a)(2) amends the insurance termination procedures in section 8(a) of the Federal Deposit Insurance Act (12 U.S.C. 1818(a)) in three respects: First, in section (a)(2)(A), the current maximum statutory notice the FDIC gives to primary regulators of intention to terminate insurance is reduced from not more than 120 to not more than 60 days. Second, in section (a)(2)(B) the Federal Deposit Insurance Corporation (FDIC) is given the discretion to shorten the current two-year period that all deposits are insured after termination of insurance to a minimum period of six months.

Third, in section 902(a)(2)(C), a new temporary order of termination of insurance authority is introduced for extreme situations where an institution is found to be virtually without capital. This procedure could be invoked by the FDIC after consultation with the primary regulator for the institution. The termination would go into effect ten days after issuance unless enjoined by the financial institution through an action in Federal district court. After the effective date of the order, deposits will continue to be insured for not less than six months or more than two years, at the discretion of the FDIC, and the institution can proceed with the regular administrative hearing process on the termination issue provided in the normal termination process.

Decisions by the Board of Directors to issue a notice of intention to terminate insurance or to issue temporary or final orders terminating insurance under section 8(a) may not be delegated, as discussed with reference to section (a)(18), below.

Section (a)(3) clarifies that cease and desist authority to order affirmative action to correct violations or practices in section 8(b) of the Federal Deposit Insurance Act (12 U.S.C. 1818(b)) includes the authority to order "reimbursement, restitution, indemnification, recision, the disposal of loans or assets, prohibitions or restrictions on growth, guarantees against loss, or other appropriate action". The authority to order restitution was put in question by the decision in the case of *Larimore* v. *Conover*,, 789 F.2d 1244 (7th Cir. 1986). In that case, the court held that the cease and desist authority of section 8 did not authorize the Comptroller of the Currency to order a director of a national bank to make restitution for losses resulting from violating lending limit provisions of the National Bank Act. The court held that the Comptroller would have to seek reimbursement in a district court action under 12 U.S.C. 93. Under the proposal in this bill, restitution could be ordered without respect to whether the practice or violation giving rise to the restitution involved unjust enrichment or reckless disregard for the law.

This amendment also specifies that the cease and desist authority extends to placement of limitations on the activities or functions of not only the financial institution, but any institution-related party necessary to correct conditions that exist because of an unsafe or unsound practice or violation of law.

The amendments in section (a)(4) and (5) are necessary to reflect that the Chairman of the Federal Home Loan Bank System may exercise cease and desist authority with respect to savings and loan holding companies, all service corporations and all subsidiaries of service corporations under section 8(b) (12 U.S.C. 1818(b)).

Current law does not permit Federal Home Loan Bank Board (FHLBB) enforcement actions against other than "affiliate" service corporations which has the result that service corporations owned by many savings associations can escape enforcement actions. A recent example was the FHLBB's inability to issue enforcement orders against SISCORP, a state-wide service corporation in Oklahoma that is now insolvent. This service corporation made bad real estate loans that produced serious losses to its parent savings associations.

Section (a)(4) is necessary to specify that the Chairman of the FHLBS may take action with respect to a savings and loan holding company even if it is also a bank holding company.

Sections 902(a) (6) and (7) amend the temporary cease and desist authority of section 8(c) of the Federal Deposit Insurance Act (12 U.S.C. 1818(c)). Sections (a) (6) and (7) would eliminate the need for the appropriate banking agency to determine as a condition to issuance of a temporary cease and desist order that a violation or unsafe or unsound practice would be likely to cause "substantial" dissipation of assets or will "seriously" weaken the condition of the financial institution. It will be enough to determine that there would be a likely dissipation or weakening. In addition section (a)(6) will allow a temporary cease and desist order to place limitations on the activities or functions of the financial institution or restrictions on its growth.

Section (a)(3)(7) provides that the temporary cease and desist order authority may be used when a financial institution's records are so "incomplete or inaccurate" that the appropriate banking agency cannot determine the financial condition of the institution or can only determine the condition with great difficulty. The temporary cease and desist order may include a direction to take affirmative action to restore the records to a complete and accurate state.

In recent years, the need for this authority has been demonstrated to be acute. Although somewhat extreme, examples of the need for this power that the FDIC has recently encountered include the following situations: (1) an FDIC-insured institution maintaining all its books and records in plastic garbage bags, and (2) an FDIC-insured institution operating without an employee capable of making postings on the banks' ledgers, thereby making it impossible for the institution to determine its own financial condition. Another example of the need for this authority is the case of Empire Savings and Loan Association, Mesquite, Texas.

Sections 902(a) (8), (9), and (10) set forth amendments to the provisions dealing with

the grounds and procedures for removal or prohibition from participation in the affairs of a financial institution by institution-related parties. At present, the statute provides for a three-part test, the second part of which requires either a showing of "substantial" financial loss or that the interests of depositors are "seriously" jeopardized. The appropriate banking agency will no longer have to reach the conclusion prior to removal that the institution has or will suffer substantial financial loss or the interest of the depositors could be seriously jeopardized by the continued actions of the party. It will be enough to determine there will be probable loss or jeopardy to the interests of depositors.

Section 902(a)(10) for the first time establishes that a person removed, suspended or prohibited from participating in the affairs of an insured financial institution will be under an industry-wide bar. This means unless the person has received prior written approval from the appropriate regulatory agency, he will not be able to participate in the conduct of the affairs of any other insured financial institution, Edge corporation, bank or savings and loan holding company, any service corporation or other savings association subsidiary, any federally insured credit union or institution chartered under the Farm Credit Act.

Participation would include acting as an officer, director, employee, agent, controlling shareholder (other than a holding company), independent contractor or, under appropriate circumstances, acting as an attorney, accountant or appraiser.

Section (a)(16), discussed below, addresses the separate, but related, criminal penalty for participation in an insured institution following certain criminal convictions.

Section 902(a)(11) is a technical amendment to section 8(f) (12 U.S.C. 1818(f)), the provision dealing with judicial stays of suspension and removal orders. This amendment is necessary because of the changes to section 8(e), described above.

Section 902(a)(12) clarifies that all enforcement actions under section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), including industry-wide removal orders, may be brought against former institution-related parties after termination, resignation or other separation. An institution-related party cannot frustrate an administrative action against him and take up employment with another financial institution by merely resigning before an action is taken, nor will the closing of an institution affect the agency's jurisdiction. The need for this amendment was highlighted by the recent decision of the Court of Appeals for the District of Columbia in the case of *Stoddard* v. *Board of Governors of the Federal Reserve System* (No. 88-1148, March 3, 1989).

Sections 902(a)(13) and (14) amend the civil penalty authority provisions of section (8)(i) (12 U.S.C. 1818(i)). In section (a)(13), the current maximum $1,000 per day penalty for violations of cease and desist orders or orders relating to Bank Secrecy Act compliance procedures is raised to a maximum of $25,000 per day for each day during which violations continue. In addition, if an order is violated with reckless disregard for the safety and soundness of a financial institution, a maximum penalty of $1,000,000 per day may be applied.

Section (a)(14) makes a significant enforcement authority improvement. New section 8(i)(4) (12 U.S.C. 1818(i)(4)) provides the appropriate federal banking agency with general civil penalty authority against any institution or institution-related party who has violated any law or regulation relating to financial institutions or any condition imposed in writing by a regulatory agency. It also allows a civil money penalty to be issued against an institution-related party who has breached a fiduciary duty or engaged in an unsafe or unsound practice resulting in loss to the institution or gain to the individual. This authority would be available where no other civil penalty authority currently exists and even, under certain circumstances, where it does. For instance, if there was a criminal conviction for a crime such as misapplication (18 U.S.C. 656 or 657) and for whatever reason the Justice Department did not impose a civil penalty under the new authority set forth in section 915 of this bill, the appropriate federal banking agency could proceed to assess a penalty under section 8(i)(4). However, pursuant to section 8(i)(4)(c), a civil money penalty could not be assessed twice against the same party for the same violation. For instance, the appropriate federal banking agency could not assess an additional penalty under this section after the Department of Treasury assessed a civil penalty under the Bank Secrecy Act (31 U.S.C. 5321) based on the same violations.

It is anticipated generally that use of this authority by a federal banking agency would not be appropriate if there was a civil penalty authority under a more specific civil penalty statute such as 31 U.S.C. 5321.

Again, civil penalty amounts are set at a maximum of $25,000 for day for each day the violation continues or a maximum of $1,000,000 for violations made with reckless disregard.

Section (a)(15) merely clarifies that banking agencies have the authority to define by regulation terms not otherwise defined in section 8 (12 U.S.C. 1818).

Section 902(a)(16) raises the criminal penalty in section 8(j) (12 U.S.C. 1818(j)) for institution-related parties who participate in the conduct of the affairs of any insured financial institution despite a removal, suspension or non-participation order by an appropriate federal regulatory agency. The criminal fine is raised from a maximum of $5,000 to a maximum of $1,000,000 and the violation is raised from a misdemeanor to a felony, carrying a maximum sentence of five years.

Section (a)(17) revises the definitions section, section 8(k) (12 U.S.C. 1818(k)). The main change is the addition of a definition of "institution-related party" and "controlling shareholder" as that term is used in the definition of institution-related party. This change is discussed above with reference to section (a)(1) of this Act.

Section 902(a)(18) adds five new subsections to section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818). First, new subsection 8(t) (12 U.S.C. 1818(t)) gives appropriate federal banking agencies the authority to pay informants awards to financial institution employees and other persons who provide original information that leads to recovery of a criminal fine or victim restitution, or forfeiture relating to enumerated criminal offenses, or of a civil penalty under section 8. This is similar to the authority of the Internal Revenue Service and other law enforcement agencies, such as the United States Customs Service. This authority only would apply to recoveries over $50,000 and would be limited to 25% of the recovery or $100,000, whichever is less.

Payment of awards would be totally discretionary. A decision to pay or not to pay a reward would not be reviewable by any court or be subject to any administrative review other than any that may be afforded to claimants by the appropriate federal banking agency.

An appropriate federal banking agency would notify and seek the concurrence of the Attorney General before paying or promising to pay a reward under this section to assure against adversely affecting ongoing investigations or prosecutions.

Second, new subsection 8(u) (12 U.S.C. 1818(u)) provides protection to an employee of an insured financial institution who gives information to a regulatory agency regarding a possible violation of law or regulation or to the Department of Justice relating to a possible violation of a criminal law. The employee would have a civil cause of action in Federal district court if he is discharged or discriminated against because of his assistance to the government. Similar to other employee protection statutes covering reporting of information on health and safety violations, such as 42 U.S.C. 5851 (relating to nuclear safety), recovery would be limited to reinstatement with compensatory damages, such as back pay and lost employment benefits.

Third, a new subsection 8(v) (12 U.S.C. 1818(v)) allows the Board of Directors of the Federal Deposit Insurance Corporation to request the Chairman of the Federal Home Loan Bank System to take any enforcement action authorized by section 8 with respect to a savings association. If the FHLBS does not take the recommended action within 60 days of receipt of the formal recommendation from the FDIC, the Board of Directors may order the FDIC to take the action itself. In "exigent circumstances" the sixty-day period may be waived by the FDIC. The definition of exigent circumstances will be the subject of a memorandum of understanding between the Chairman of the FHLBS and the Board of Directors of the FDIC.

Fourth, a new subsection (8)(w) (12 U.S.C. 1818(w)) makes clear that the enforcement authority granted in section 8 of the Federal Deposit Insurance Act is in addition to, and not limited by, any other statutory grant of authority, as provided by either Federal or State law. Thus, it modifies, in part, the *Larimore* decision with respect to the use of district court proceedings in lieu of administrative action under section 8.

Finally, a subsection 8(x) (12 U.S.C. 1818(x)) is added to set forth the only four actions under section 8 that cannot be delegated by the Board of Directors of the FDIC. Three relate to termination of insurance under section 8(a), and the fourth to the authority in new subsection 8(v) to initiate an enforcement action against a savings association.

Section 902(b) raises the criminal penalty of section 19 of the Federal Deposit Insurance Act (12 U.S.C. 1829) for financial institutions that allow participation in the conduct of the affairs of a financial institution or service as an institution-related party by a person who has been convicted of a criminal offense involving dishonesty or breach of trust, without prior approval from the FDIC. The penalty also applies to the person who acts as an institution-related party or participates in the affairs of a financial institution after such a conviction, without prior approval.

In the same section, the standard is changed from "willful" to "knowing." The penalty is raised from a maximum $100 a day for each day the prohibition is violated,

to a maximum of $1,000,000 for each day the prohibition is violated. The penalty is also raised from a misdemeanor to a felony, carrying a maximum prison term or five years. Currently, the FDIC may recover penalties collected under this provision "for its own use." Because of the great increase in the dollar amount of the penalty, the FDIC only will be able to recover the costs of penalty assessment and collection.

Section 903. Parallel Increases in Civil Penalty Provisions.—This section amends several other civil penalty provisions in all cases to increase the current maximum daily penalty amounts to $25,000 for each day a violation continues, and in cases of violations made with reckless disregard for the safety or soundness of an institution, to a maximum of $1,000,000 for each day a violation continues.

Section 903(a) similarly raises the civil penalty in section 29(a) of the Federal Reserve Act (12 U.S.C. 504(a)) for a number of violations of the Federal Reserve Act. The current maximum penalty is $1,000 per day.

Section 903(b)(1) raises the criminal penalty in section 8 of the Bank Holding Company Act of 1956 (12 U.S.C. 1847(a)) for violations of the Bank Holding Company Act. The criminal fine for willful violations is raised from a maximum of $10,000 per day to a maximum of $1,000,000 per day and the violation is raised from a misdemeanor to a felony, with a maximum term of imprisonment of five years.

The current criminal penalty in section 1847(a) (for false entries in the books of a holding company) has been eliminated from that section and incorporated into 18 U.S.C. 1005. *See* section 915(e) below.

Section 903(b)(2) raises the civil penalty for violations under section 8 of the Bank Holding Company Act (12 U.S.C. 1847(b)(1)) from the current maximum of $1,000 per day. It also is clarified that civil and criminal penalties for violations of the Bank Holding Company Act are cumulative.

Section 903(c) raises the civil penalty for violations of the prohibition against typing arrangements in section 106(b)(2)(F)(i) of the Bank Holding Company Act Amendments of 1970 (12 U.S.C. 1972(2)(F)(i)). The current penalty is a maximum of $1000 per day for each day the violation continues.

Section 903(d) raises the general civil penalty authority of the Comptroller of the Currency in section 5239 of the Revised Statutes (12 U.S.C. 93) and section 902(e) raises the civil penalty in section 5240 of the Revised Statutes (12 U.S.C. 481) for refusal to permit examination of a national bank or affiliate. The current maximum penalties under those provisions are $1,000 per day.

Section 904. Penalty for Violation of "Change in Bank Control Act."—Section 904 makes several improvements to the penalty provision or the Change in Bank Control Act, section 7(j)(16) of the Federal Deposit Insurance Act (12 U.S.C. 1817(j)(16)). First, the current scienter standard of "willful" is eliminated and the penalty amount for violations is raised from a maximum $10,000 per day to a maximum of $25,000 for each day during which the violation continues. For violations made with reckless disregard for the safety or soundness of a financial institution, the penalty is raised to a maximum of $1,000,000 for each day during which the violation continues.

Also, the penalty procedures for assessment and collections are made comparable to those for other federal banking agencies civil penalties, with penalty assessments reviewed through administrative hearings and appeal to the Court of Appeals. Currently, Change in Bank Control Act penalties are subject to a trial de novo in Federal district court.

The deletion of the "willful" standard will afford the regulatory agencies the opportunity to move more easily against individuals who take control of a financial institution, without ever having filed a change in bank control application, and force the institution to buy worthless or near-worthless assets from them.

These amendments will apply equally to changes in savings association control pursuant to section 7 of this Act.

Section 905. Reports.—Section 905(a) eliminates a provision in the Bank Protection Act requiring insured financial institutions to submit reports with respect to security devices and procedures. Section (b) eliminates an obsolete requirement relating to reports to the Comptroller of the Currency.

Sections (c), (d), (e), and (f) make parallel improvements to four civil penalty provisions relating to call report violations for national banks, State nonmember banks, and federal reserve member banks, and reporting violations for holding companies, respectively. The provisions make clear that not only failure to submit any late submissions are subject to penalty, but also false, misleading and incomplete submissions or publications. The maximum penalty is raised to $25,000 per each day a report is not submitted or a false, misleading or incomplete report is not corrected. In the case of violations made with reckless disregard for the safety and soundness of an institution, the maximum penalty is raised to $1,000,000 per day. The current penalty under all four penalty provisions is a maximum daily penalty of $1,000.

One of the first and foremost indicators of the financial condition of an institution is the call report, the report on condition and income that must be regularly filed with appropriate federal banking agencies. If, in its call report, an institution deliberately has failed to charge off loans classified loss, or failed to provide for a loan loss reserve, it has inflated its overall condition, thereby lulling the depositors and shareholders into a false sense of security by implying that the institution is in a stronger financial condition than it actually is. The increased civil money penalty for submission of false or misleading call reports provided in the bill will provide a much needed incentive to encourage financial institutions to file accurate call reports, and prevent distortion of an institution's financial condition.

Experience has shown that the current penalties are inadequate to encourage compliance. For instance, on March 21, 1988, the FDIC issued a bank letter requesting that all FDIC-insured banks submit their call reports on time. Despite this Bank Letter, which was by no means the first request for timely submissions, thousands of banks failed to submit their reports on time. The increased civil money penalty proposed in this bill will encourage compliance. The higher penalties are meant to be directed at chronic late-filers or those who deliberately delay in order to postpone the release of adverse financial information.

Subtitle B—Regulation by the Chairman of the Federal Home Loan Bank System

Section 906. Examination Authority.—This section is being eliminated in technical corrections to this Act, as these provisions are repeated in sections 307 and 311, above.

Section 907. Reports of Condition and Penalties.—This section adds a new subsection (u) to the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(u)) providing for submission of call reports by savings associations and a new penalty for failure to report or for submitting or publishing false, misleading or incomplete information. This is comparable to the existing requirement for such reports for federally insured banks. The penalty provisions also are parallel to those discussed above in section 905 for banks and holding companies.

Section 908. Savings and Loan Holding Companies.—Section 908(a) increases the civil and criminal penalties for violations of the Savings and Loan Holding Company Act to conform with the penalty for Bank Holding Company Act violations in section 903(b). Criminal and civil penalties are cumulative.

Section (b) adds a new civil penalty for reporting violations by savings and loan holding companies parallel to the reporting provision and penalty for bank holding companies. See section 905(f).

Section 909. Continuity of Authority for Ongoing Litigation.—Section 909 affirms that ongoing litigation in the name of the FHLBB or the FSLIC will be continued, as appropriate, under this Act.

Section 910. Temporary Extension of Authority.—Section 910 states that any action initiated or taken by the FHLBB or FSLIC under one of the enforcement authorities in section 5 of the Home Owners' Loan Act or under section 407 of the National Housing Act, repealed by this Act, may be carried on by the Chairman of the FHLBS as if those provisions were still in effect.

Subtitle C—Credit Unions

Sections 911, 912, and 913. Amendments to 206, 205 and 202. The amendments made in this section to the enforcement powers in the Federal Credit Union Act (12 U.S.C. 1782, 1785, 1786) conform to the improved enforcement authorities and increased penalties of other federal financial institution regulatory agencies under this Act. Parallel amendments are found in Subtitle A for almost every provision in Subtitle C. The explanation for the comparable provisions in Subtitle A should be consulted.

Subtitle D—Right of Financial Privacy Act

Section 914. Amendments to the Right to Financial Privacy Act.—There are a number of exceptions to the general requirement of the Right to Financial Privacy Act of 1978 ("RFPA"), (Title XI of Pub. L. 95-630, 12 U.S.C. 3401 et seq.) that there be notice to a financial institution customer prior to disclosure of his records to a federal authority. One exception made to facilitate smooth functioning of the examination process is the exception in section 1113(b) (12 U.S.C. 3913(b)) which provides that the RFPA does not apply to supervisory agencies in the exercise of their supervisory, regulatory or monetary functions.

The amendment in section 914 (a) and (b)(1) merely makes explicit that this exception from the RFPA for supervisory agencies with respect to financial institutions, extends to both bank and savings and loan holding companies and subsidiaries of financial institutions or holding companies, as well as to officers, directors, employees, agents and other persons participating in the affairs of a financial institution, holding company or subsidiary. The amendment in (b)(1) also specifies that this exemption applies to a supervisory agency in the exercise

of its conservatorship or receivership functions.

Section 914(b)(2) adds two new exceptions to section 1113(b) of the RFPA (12 U.S.C. 3413(b)). First, a new subsection 1113(m) makes explicit that the RFPA does not apply to examination or disclosures by the Federal Reserve System in the exercise of its authority to extend credit to depository institutions and others.

Second, a new subsection 1113(n) is added to cover disclosures to the Resolution Trust Corporation.

In section (c) a new provision is added to section 1120 of the RFPA (12 U.S.C. 3420) to prohibit financial institutions from notifying customers or other persons of the existence of a grand jury subpoena relating to violations of certain enumerated major crimes in title 18, United States Code, against financial institutions or regulatory agencies—section 215 (financial institution bribery), sections 656 and 657 (financial institution misapplication and embezzlement), sections 1005 and 1006 (false entries), sections 1007 and 1008, (fraud against deposit insurer), section 1014 (false statement or overvaluation), and section 1344 (financial institution fraud).

With respect to restricting notice of grand jury subpoenas involving grand jury investigations of other crimes, the Department of Justice still would have to seek an ex parte court order pursuant to section 1109 (12 U.S.C. 3409), as provided in section 1113(i) (12 U.S.C. 3413(i)).

In criminal investigations involving serious financial institution crimes, there is a compelling need that financial institution insiders and those acting in concert with them are not advised prematurely of the existence of criminal investigations or the parameters of the investigations. Notification could cause serious damage to investigations and could lead to possible flight, destruction of evidence, and removal of assets. This prohibition should be automatic and not depend on the existing delayed notice procedures.

Congress recently recognized the need for special treatment under the RFPA for those involved in crimes against financial institutions and supervisory agencies. In section 6186(c) of the Anti-Drug Abuse Act of 1988, Pub. L. 100-690 (Nov. 18, 1988), a new exception from the customer notice provisions was added to allow a financial institution to provide records of a financial institution insider if there is reason to believe the records are relevant to a possible crime against the institution or supervisory agency by an insider. This amendment prohibiting notification of grand jury subpoenas enhances the effectiveness of section 6186(c) by assuring that its purpose is not frustrated.

A related change is made in section 916(h), below, to provide a new criminal obstruction of justice penalty against a financial institution officer, director, or employee who notifies a customer or other party despite this RFPA prohibition.

Subtitle E—Criminal Enhancements

Section 915. Increased Criminal Penalties and Civil Penalties for Certain Financial Institution Offenses.—Section 915 increases the criminal sanctions for several major financial institution crimes in title 18, United States Code, under which those who jeopardize the safety or soundness of insured financial institutions, either from the inside or from without, are prosecuted. The crimes covered are: section 215 (financial institution bribery), sections 656 and 657 (financial institution misapplication and embezzlement), sections 1005 and 1006 (false entries on the books of financial institutions), sections 1007 and 1008, now consolidated as section 1007, (fraud on deposit insurer), section 1014 (false statement or overvaluation), and section 1344 (financial institution fraud). The penalties proposed are purposely the most stringent for any white collar crime. The severity of the penalty can be compared to the penalties for money laundering under 18 U.S.C. 1956 and 1957.

The criminal sanctions are raised generally to a maximum criminal fine of $1,000,000 for each day the violation continues or $5,000,000, or twice the amount authorized by section 3571(d) of title 18, whichever is greater. This means that, depending on which is greater, a maximum daily fine of $1,000,000 can be imposed, or if a violation does not lend itself to a daily penalty or occurs on only a few days, the $5,000,000 maximum would be available. As a third alternative, if the result would be an even higher fine, a court could use the measure of twice the fine set forth in section 3517(d). Twice the amount of the criminal fine in section 3571(d) would be four times the amount of pecuniary gain to the defendant or loss to the affected financial institution, whichever is greater.

In addition, in section 915, for the first time, the Civil Division of the Justice Department and the U.S. Attorney's Offices are given civil penalty authority for violations of these sections. All criminal and civil sanctions are cumulative. This means that Justice may elect whether to proceed civilly or criminally upon a referral from a bank regulatory agency or may develop cases civilly or criminally without a referral, for instance on the basis of an informant's information. It may also proceed with a civil penalty at the conclusion of a criminal case or impose a civil penalty in conjunction with a criminal plea arrangement. Nevertheless, it is intended that the Department of Justice continue to work closely with the regulatory agencies on these matters. This authority is intended to provide an additional means of assessing penalties and is not intended to limit or restrict those penalties that may otherwise be assessed by the regulatory agencies pursuant to their authority.

The major difference between the civil and criminal violation will be the lower standard of proof in civil cases and the method of developing the basis for the violation. If, following assessment of a civil penalty, payment is not made, the Attorney General may recover the penalty through an action in Federal district court. The standard of proof for a civil penalty case will be a preponderance of the evidence. The civil case will be developed through a new civil summons authority comparable to the civil summons authority of numerous other agencies with civil penalty authority. See, e.g., 31 U.S.C. 5318(a) (summons authority of the Secretary of the Treasury under the Bank Secrecy Act). Standard summons enforcement provisions, including contempt authority, is included.

The civil penalties, like the criminal penalties, will be the largest civil money penalties available under any civil penalty authority. Generally, the maximum penalty is $1,000,000 for each day the violation continues, the amount of the pecuniary gain to the individual attributable to the violation, or $5,000,000, whichever is greater.

In addition to increased penalties and civil penalty authority in section 915, the following changes are made in sections (a) through (i):

In section (a)(2), the references to "bank" insured by the FDIC are changed to "an institution" and the reference to institutions insured by the FSLIC is deleted.

The amendment in (d)(1) sets forth that section 1005 (false entries) applies to officers, directors, agents and employees of bank and savings and loan holding companies. The current mirror image criminal provisions in the Bank Holding Company and Savings and Loan Holding Company Acts are eliminated. This is discussed in reference to section 903(b), above.

In section (d)(2), a "participation" offense is added to section 1005 (false entry on the books of a bank) which is comparable to the participation offense currently in section 1006 (credit union and savings and loan false entries).

The amendments in sections (f) and (g) consolidate current sections 1007 (fraud on the FDIC) and section 1008 (fraud on FSLIC) into a new section 1007.

Section (j) adds a new statute of limitations provision, section 3293 of title 18, United States Code, which extends the statute of limitations for the crimes discussed in section 915 (sections 215, 656, 657, 1003, 1006, 1007, 1008, 1014, and 1344 of title 18) to ten years. Currently, the general five-year statute of limitations for all crimes listed in 18 U.S.C. 3282 applies. This extension to ten years recognizes both the complexity of many of the investigations under these provisions and the volume of such investigations pending and anticipated in the near future. The limitations period is comparable to that for certain national security violations under 18 U.S.C. 792.

The increased period shall apply to any offense committed before the effective date of this Act as long as the five year statute has not run as of this date. It is well established that the application of a new statute of limitations to violations for which the old statute has not run does not violate the constitutional prohibition on ex post facto laws. See, e.g., *United States* v. *Richardson*, 512 F.2d 105 (3rd Cir. 1975).

Since October 1987, in accordance with sentencing reform provisions of the Comprehensive Crime Authority Control Act of 1984, federal judges must sentence in accordance with guidelines promulgated by the United States Sentencing Commission. A statutory increase in a maximum imprisonment terms such as those made in section (a) through (i) of this section will probably, but not necessarily, cause the Sentencing Commission to readjust upward the recommended penalty for such a violation when it next submits guideline amendments to Congress. Section (k) is a direction to the Commission to increase the sentencing guideline for violations of the financial institution crimes treated in section 915 where the violation "substantially" jeopardizes the safety and soundness of a financial institution.

This section directs an increase in the guideline level to at least level "24" in such situations. This will mean, in effect, that there will be a mandatory minimum sentence for such violations by first offenders of at least fifty-one months of imprisonment. It is anticipated that courts will rely on the judgment of federal financial institution regulatory agencies in determining whether there has been substantial jeopardy to the safety and soundness of an institution.

Section 916. Miscellaneous Revisions to Title 18.—This section 916(a) merely replaces the term "Federal Home Loan Bank Board" with the term "Federal Home Loan

Bank System" in title 18, consistent with this Act.

Section 915 (b) and (c) amends sections 212 and 213 of title 18 (relating to gratuities and loans to bank examiners) to specify that these provisions apply to examiners of the FHLBS and changes the reference to "banks" insured by the FDIC to "institutions," consistent with this Act.

Section (d) repeals 18 U.S.C. 1009, an obsolete and unused provision making it a crime to circulate rumors about the FSLIC.

Sections 915 (e), (f), (g), and (i) merely make technical revisions to four criminal provisions to make changes necessitated by the Act, such as removing references to FSLIC.

Section (h) adds a new provision in the obstruction of justice statute, 18 U.S.C. 1510, making it a crime for a financial institution, officer, director, partner, or employee to notify a customer or any other party, including another financial institution insider, of the existence or contents of a grand jury subpoena relating to one of the financial institution crimes discussed in section 915, (sections 215, 656, 657, 1007, 1008, 1014, or 1344 of title 18). A related FRPA amendment is discussed in section 914(c), above.

Section (j) adds sections 656 and 657, financial institution misapplication and embezzlement, and 1344, financial institution fraud, to the predicates for violations of the RICO (Racketeer Influenced and Corrupt Organizations) statute, 18 U.S.C. 1961-1968. This will, in effect, provide prosecutors with another tool against those who steal from financial institutions from within and without and seek to profit further from their crimes through investment in other businesses.

Section 917. Civil and Criminal Forfeiture Section.—Again in section 917, weapons have been borrowed from the Administration's war against drugs and money laundering by adding civil (new section 983) and criminal (new section 984) forfeiture authority in connection with violations of the financial provisions discussed in section 915. Similar forfeiture authority was added for money laundering and domestic Bank Secrecy Act violations in 1986, as sections 981 and 982 of title 18.

Civil forfeiture will allow the Department of Justice to move immediately against the property which is the proceeds of the violation or against property traceable to that property as soon as it has probable cause for the violation. As in money laundering cases, time will often be of the essence because perpetrators of these offenses attempt to move and conceal their assets as investigations develop.

Because of the nature of the crimes and the victims, forfeited amounts will be applied, after deduction for the costs of forfeiture, differently than amounts forfeited under other provisions of law. Under section 983(e)(3), in the case of insolvent institutions, proceeds will be applied to the Treasury General Fund, and, in the case of ongoing institutions to the General Fund, or at the option of the appropriate federal financial institution regulatory agency, may be made available as restitution to the institution.

As with other victim restitution, under 18 U.S.C. 3523, the amount received from the forfeiture would be deducted from other amounts received as restitution in other civil actions or through cease and desist orders.

Criminal forfeiture would apply following a conviction. The court would be required to order forfeiture, unlike orders for victim restitution, which are discretionary. The proceeds of a criminal forfeiture would be applied in the same way as civil forfeiture proceeds.

Section 918: Grand Jury Amendments: Section 918(a) amends Rule 6(e) of the Federal Rules of Criminal Procedure to overcome impediments to the government's civil enforcement efforts caused by two decisions of the United States Supreme Court. On June 30, 1983, the Court ruled in *United States* v. *Sells Engineering, Inc.*, 463 U.S. 418 (1983), that Department of Justice attorneys handling civil cases are not "attorneys for the government" for the purposes of Rule 6(e). Therefore they may not obtain grand jury materials that pertain to their civil cases without a court order, and such an order may be granted only upon a showing of "particularized need." The Court stated that the "particularized need" standard of Rule 6(e) was not satisfied only by a showing that non-disclosure would cause lengthy delays in litigation or would require substantial duplication of effort.

In a companion case, *United States* v. *Baggot*, 463 U.S. 476 (1983), the Court further limited federal law enforcement abilities by narrowly defining the purpose for which disclosures may be made. It held that agency proceedings such as civil tax audits are not "preliminary to a judicial proceeding," and thus, no court order may be secured in such cases, no matter how compelling the need.

Civil enforcement initiatives have been frustrated by the inability to share grand jury materials with Department of Justice (DOJ) civil attorneys or with agencies, such as federal financial institution regulatory agencies, that contemplate using those materials in administrative or regulatory proceedings such as cease or desist or removal proceedings or civil penalty assessments. The prosecutor is limited in his ability to advise civil attorneys or agency authorities of activities that may also violate civil laws which should be investigated, sometimes preventing timely pursuit of meritorious civil cases. Then, if the civil attorneys or agencies do learn of the grand jury investigation, they must duplicate virtually the entire criminal investigation—an effort which may not be feasible or, at best, will cause substantial delays and require needless expenditure of effort, time and money.

The amendments will (1) permit prosecutors to make automatic disclosure of grand jury materials to Department of Justice civil attorneys for civil purposes without a court order; (2) expand the types of proceedings for which other executive departments and agencies may gain court-authorized disclosure to include not only "judicial proceedings," but also other matters within their jurisdiction, such as adjudicative and administrative proceedings; and (3) reduce the "particularized need" standard for court-authorized disclosure to a lesser standard of "substantial need" in certain circumstances. The amendments also codify a legal issue unanswered by *Sells*, but recently resolved affirmatively by the Supreme Court in *United States* v. *John Doe, Inc. I*, 481 U.S. 102 (1987): whether the same criminal prosecutor who conducted the grand jury investigation is authorized to present the companion civil case.

In 6(e)(3)(A)(i), disclosure may be made to any government attorney, i.e., Department of Justice attorney, "to enforce federal civil law." This term is to be read broadly; it includes civil enforcement in all non-criminal actions in which the United States is a party, such as admiralty, immigration, customs and damage suits. In the terms of this Act, it would include disclosure to Department of Justice civil attorneys for the purpose of assessment of new civil penalties discussed in section 915. Disclosure is not limited by the term "judicial proceeding," but can be made for the sole purpose of an initial review of potential civil liability or to facilitate global dispositions of cases, thus eliminating the barrier to settlements caused by the inability to provide sufficient information for the DOJ civil attorney to evaluate the merits of proposed settlements.

This amendment covers disclosure only to attorneys and their support staff such as secretaries and paralegals. If further disclosures to non-attorney personnel such as examiners, auditors or agents are necessary to assist in the civil case, a court order must be sought.

The addition of the words "civil law" in (6)(e)(3)(B) will permit personnel to whom disclosure had been made for criminal purposes pursuant to subparagraph (A)(ii), to utilize that material to assist any attorney for the government in enforcing civil law. It will allow DOJ civil attorneys to discuss the evidence not only with the criminal prosecutor, but also with the agents, auditors or examiners who worked on the grand jury investigation without court order.

The proposal recognizes that the primary purpose of a grand jury is, and must remain, to enforce federal criminal laws and in no way alters that well-founded policy. It is therefore the intent of the Department of Justice to issue policy guidelines that restate existing practices and the current case law that a grand jury may not be improperly used to gather evidence for civil purposes. To make the criminal priority explicit, the guidelines will state that the criminal prosecutor has the discretion to decide whether and when to disclose materials to civil attorneys, and further, to decide what materials should be disclosed. Disclosures will be limited to only those materials relevant to the civil case.

Section 6(e)(3)(i) is amended by the addition of the words "particularized need" to reflect the existing standard for court-authorized disclosures made preliminary to or in connection with a judicial proceeding. While not changing current law, the addition of the term "particularized need" is intended to demonstrate the contrast between this higher standard and the lesser standard of "substantial need" that is required in new section (C)(v), applicable when government agencies seek disclosure with the concurrence of the Department of Justice. This provision will provide the only available method of disclosure for private parties. It can also be used by government agencies with independent litigating authority when the Justice Department exercises its discretion and declines to request disclosure under new section (C)(v).

Section 6(e)(3)(C)(v) is the entirely new section authorizing prosecutors to seek court approval to release grand jury information to government agencies for use in matters within that jurisdiction. This is intended to cure the *Baggot* problems by eliminating the requirement that court-authorized disclosure must be for use in a "judicial proceeding," and also to overrule *Sells* by reducing the "particularized need" standard to a "substantial need" standard.

Under the substantial need standard, a court could consider a number of factors, including but not limited to, any of the follow-

ing: (1) the public interest—particularly the protection of the public health or safety or the safety or soundness of a federally insured financial institution—served by disclosure; (2) the burden or cost of duplicating the grand jury investigation; (3) the potential unavailability of witnesses; (4) the fact that the department or agency already has a legitimate independent right to the materials; (5) the avoidance of unnecessary inefficiency or waste of resources; (6) the need to prevent ongoing violations of law; and (7) the expiration of an applicable statute of limitations. In weighing these considerations, consistent with the Supreme Court's decision in *John Doe, Inc. I*, a court would not be able to deny disclosure merely because the agency for whom disclosure is sought may have alternative discovery tools available to it.

On the other hand, the "substantial need" test does not contemplate that a court would become simply a "rubber stamp" for the government's request for disclosure. Review under this standard should require a Justice Department attorney to make more than a showing of mere convenience or simple relevance to matters within the jurisdiction of the agency.

The words "for use in a matter within the jurisdiction of an agency" makes clear that an agency's administrative, enforcement and other non-judicial proceedings are included. Since the phrase "matters within the jurisdiction of an agency" has already been broadly interpreted in cases involving 18 U.S.C. § 1001, it was selected to avoid listing every conceivable agency proceeding. In the context of financial institution administrative and enforcement actions, it could include use in licensing, examination, corporate application involving change in control or ownership, removal actions, cease and desist orders, termination of insurance, receivership actions, or penalty assessments.

Effective control would be exercised by the court in permitting disclosure only when the agency had a substantial need, and by delineating in its order the specific purposes for which disclosure is authorized. Disclosures will not be sought by Department of Justice attorneys without careful consideration of all factors and a determination that there is a strong public interest for each disclosure. Agency personnel who receive court-authorized disclosures of grand jury materials under this subparagraph will be authorized to use the material only for the purpose for which the court order was granted.

Section 918(b) amends the Fair Credit Reporting Act to permit access to consumer credit report records pursuant to a subpoena issued by a grand jury. Presently, 15 U.S.C. 1681b forbids a credit reporting agency from furnishing such records except in a few restricted instances. One of these is "in response to the order of a court". Although some district courts have held that a Federal grand jury subpoena is such an order, the predominant judicial view is that a grand jury subpoena does not qualify. See, e.g., *Matter of Application to Quash Grand Jury Subpoena*, 526 F. Supp. 1253 (D. Md. 1981).

Consumer credit report records are useful in pursuing many kinds of fraud, including fraud involving financial institutions. The current requirement for a court order poses a burdensome hurdle to the effective investigation of fraud by Federal grand juries. Although the privacy interests sought to be protected under the Act warrant placing restrictions on access, a Federal grand jury subpoena carries with it significant safeguards under Rule 6(e) of the Federal Rules of Criminal Procedure. In a comparable context, disclosure of customer records of financial institutions themselves are protected by the Right to Financial Privacy Act ("RFPA") (12 U.S.C. 3401 et seq.). "Nevertheless, section 1113(i) of the RFPA (12 U.S.C. 3413(i)) contains an express exception for any subpoena issued in connection with proceedings before a grand jury." This leads to the anomalous result that records in the possession of a financial institution may be disclosed pursuant to a grand jury subpoena, but the very same records in the possession of a consumer reporting agency may not be able to be disclosed.

Section 919. Litigation Authority.—This section merely affirms that the changes made to this Act to the responsibilities of financial institution regulatory and insurance agencies may not be construed as impairing or diminishing the authority of the Attorney General under section 18 U.S.C. 516, to conduct and coordinate litigation on behalf of the United States Government.

Section 920. Department of Justice Appropriation.—This section provides authorization of appropriations of $50 million annually, for fiscal years 1989 through 1991, to investigate and prosecute financial institution crimes. It is critical that additional resources be made available to identify, investigate and bring to justice those who undermine the safety and soundness of financial institutions.

This independent authorization is intended to supplement that included in the annual Department of Justice appropriations authorizations for this purpose. Beginning with fiscal year 1992, the need for authorization of continuing appropriations for this purpose will be addressed within the context of the annual appropriations authorizations request.

This additional funding is authorized to be appropriated to the Attorney General. It is intended that these funds may supplement any appropriations under the control of the Attorney General. The Attorney General would have the flexibility to adjust the funding among the organizations involved in investigating and prosecuting financial institution fraud, such as the Federal Bureau of Investigation, the U.S. Attorneys, and the Criminal and Tax Divisions, to achieve the objectives of this authorization.

TITLE X—STUDY OF FEDERAL DEPOSIT INSURANCE AND BANKING REGULATION

Section 1001. Study.—Section 1001 requires the Secretary of the Treasury, in consultation with the bank and thrift Federal regulators and the Director oı the Office of Management and Budget to conduct a study of the Federal deposit insurance, system, including an appropriate structure for the offering of competitive products and services to consumers consistent with standards of safety and soundness.

Section 1002. Topics.—Section 1002 lists the topics to be included in the above study as follows;

Risk and rate structure for deposit insurance; incentives for market discipline; the scope of deposit insurance coverage and its impact on the liability of the insurance fund; the feasibility of market value accounting, assessments on foreign deposits, limitations on brokered deposits, the addition of collateralized borrowings to the deposit insurance base, and multiple insured accounts; policies to be followed with respect to the recapitalization or closure of insured depositories whose capital is depleted to or near the point of, insolvency; and the efficiency of housing subsidies through the Federal Home Loan Bank System.

Section 1003. Final Report.—Section 1003 requires the Secretary to submit to Congress within eighteen months from the date of enactment of this Act, a final report which shall contain a detailed statement of findings and conclusions, including recommendations for advisable administrative and legislative action.

TITLE XI—MISCELLANEOUS PROVISIONS

Section 1101. Amendments to Section 202 of the Federal Credit Union Act.—Section 202 of the Federal Credit Union Act (FCU Act) establishes the method by which federally-insured credit unions provide funding to the National Credit Union Share Insurance Fund. Currently, each federally-insured credit union maintains a capitalization deposit of 1 percent of its insured shares. This amendment would phase out the capitalization deposit over eight years and revert to a premium method of funding.

The NCUA Board would be authorized to issue regulations necessary to implement this change, including the authority to assess insurance premiums during the phase out period if necessary to maintain the equity level of the insurance fund.

Section 1102. Amendment to Section 203 of the Federal Credit Union Act.—This is a conforming amendment to Section 203 of the FCU Act, removing a reference to the capitalization deposit.

Section 1103. Amendment to Section 5240 of the Revised Statutes.—Section 1103 amends Section 5240 of the Revised Statutes. As amended, the section authorizes the Comptroller of the Currency, subject to the approval of the Secretary of the Treasury, to fix the compensation of employees of the OCC and to make a report thereof to Congress. In setting and adjusting compensation, the Comptroller is directed to seek to maintain comparability with compensation paid by the Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation, and the Chairman of the Federal Home Loan Bank System. The amendment provides that such compensation shall be determined by the Comptroller without regard to the provisions of any other law, including any provision of Title 5 of the United States Code.●

REREFERRAL OF S. 523

Mr. MITCHELL. Mr. President, I ask unanimous consent that S. 523, a bill introduced yesterday, which directs the Secretary of the Army to release a reversionary interest in certain lands in the port of Benton, WA, be discharged from the Armed Services Committee and referred to the Environment and Public Works Committee.

The PRESIDING OFFICER. Is there objection.

Mr. WARNER. No objection.

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

NATIONAL FORMER PRISONERS OF WAR RECOGNITION DAY

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Judi-

ciary Committee be discharged from further consideration of Senate Joint Resolution 43, a joint resolution designating April 9, 1989, as "National Former Prisoners of War Recognition Day," and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A joint resolution (S.J. Res. 43) designating April 9, 1989, as "National Former Prisoners of War Recognition Day."

The PRESIDING OFFICER. Is there objection to the immediate consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. MURKOWSKI. Mr. President, I rise to speak in support of a joint resolution to designate April 9, 1989, as "National Former Prisoners of War Recognition Day." I was pleased to be an original co-sponsor on this important legislation. I know my colleagues join me today in honoring the almost 80,000 remaining former members of the armed services of the United States who were held captive, and often subjected to brutal and inhumane treatment, by the enemy during a time of war, as well as to the memory of those who have died.

We cannot erase the memories these individuals carry of the time they spent in captivity, nor can we give them back the time they suffered from malnutrition and mistreatment. However, we can show them that they were not forgotten. We can, as U.S. representatives of the American people, show that, as a people and a Government, we sympathize with them, even if we cannot fully understand, the terrible conditions which they endured.

It was through sheer determination, and dedication to this great Nation, that these members of the armed services survived the POW experience. Many lived under severe emotional stress for extended periods of time, often in fear of torture or execution. Ninety percent of Pacific theater POW's during World War II received some form of direct physical punishment from their captors. Although the scars from these experiences may have faded, their memories remain just as painful as when they were newly inflicted.

Many watched their comrades die from a myriad of diseases, as well as starvation. Medical treatment was primitive at best, and medicines were usually not available. During the infamous Bataan "Death March," prisoners were forced to march miles each day, usually without food or water, and they were often brutalized along the way. Clothing and shelter were often inadequate, prisoners were often forced to survive extended periods of rain, or harsh cold, without sufficient protection from the elements of nature.

It is for these reasons that we set aside this special day to honor and pay tribute to those veterans who endured the arduous conditions of prison camps, and who helped to instill in the minds of all U.S. citizens that this Nation is strong and free because of the loyalty and commitment of these fine soldiers, sailors, airmen and marines. We commemorate their demonstration that this country is worth fighting for, and worth enduring the harrowing experiences of prison life, to ensure that we remain the greatest nation on Earth.

Mr. President, I know of no better way to pay tribute to these former prisoners of war and their families other than to acknowledge the national recognition they earned. I urge my colleagues to join me in supporting this important legislation.

The joint resolution (S.J. Res. 43) was ordered to a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution (S.J. Res. 43) and its preamble are as follows:

S.J. RES. 43

Whereas the United States has fought in many wars;

Whereas thousands of members of the Armed Forces of the United States who served in such wars were captured by the enemy and held as prisoners of war;

Whereas many such prisoners of war were subjected to brutal and inhumane treatment by their captors in violation of international codes and customs for the treatment of prisoners of war and died, or were disabled, as a result of such treatment;

Whereas in 1985, the United States Congress (in Public Law 99-145) directed the Department of Defense to issue a medal to former prisoners of war in recognition and commemoration of their great sacrifices in service to our Nation; and

Whereas these great sacrifices by former prisoners of war and their families deserve national recognition: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That April 9, 1989, is designated as "National Former Prisoners of War Recognition Day" in honor of the members of the Armed Forces of the United States who have been held as prisoners of war, and the President is authorized and requested to issue a proclamation calling upon the people of the United States to commemorate such days with appropriate ceremonies and activities.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

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

The motion to lay on the table was agreed to.

JOINT REFERRAL OF S. 536

Mr. MITCHELL. Mr. President, I ask unanimous consent that S. 536, a bill introduced earlier today by Senators GARN and HATCH relating to the water rights for the Ute Indian tribe, be jointly referred to the Select Committee on Indian Affairs and the Committee on Energy and Natural resources.

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

BILL READ THE FIRST TIME (S. 546)

Mr. WARNER. Mr. President, I send a bill to the desk, on behalf of the Senator from California, Mr. WILSON, and ask for its first reading.

The PRESIDING OFFICER. The clerk will read the bill for the first time.

The legislative clerk read as follows:

A bill (S. 546) to permit the Oakwood Child Development Center, Incorporated, to use funds received under a grant made under the community services block grant for certain services for senior citizens, and for other purposes.

Mr. WILSON. Mr. President, today I am introducing a bill that simply expands the use of funds already granted to the Oakwood Child Development Center of Los Angeles to cover services to senior citizens in addition to children. There is no added cost to the Federal Government.

In February 1987, the Oakwood Center received a grant from the Office of Community Services for $1.8 million. The grant was for the purchase of land and the development of architectural drawings for a unique program involving services to children. It was the initial phase of a project including matching funds from private donations.

The project has been delayed somewhat, but the project sponsors are more than ready to proceed to the next phase which will involve a further grant application to OCS. That application, of course, will be judged competitively along with other applications in the appropriate cycle.

In the meantime, the Oakwood directors have decided to expand their design of the project to include seniors as well as children.

By enactment of this bill, the Congress will affirm that the funds of the 1987 grant, already expended for the purchase of the land, will not be deemed to have been incorrectly spent simply because the scope of the program will have expanded after the original expenditure. The same land will be used for both children and seniors; no new acreage is necessary.

Mr. President, I am anxious to assist the efforts of the Oakwood sponsors because their concept is so innovative—an imaginative public-private partnership serving an area of Los Angeles with a demonstrated need for social services for the very young and the elderly. The Oakwood concept involves building housing for the staff of the center as well as the center itself.

The staff will all be students majoring in social services at nearby colleges and universities. They will provide staff support for the center under the supervision of professional personnel and their professors in exchange for rent-free housing. All of the operating costs of the center are to be covered by private sources.

In this design everybody wins.

Taxpayers win because these needed services will be provided at far less cost than direct government programs.

The colleges and universities win because Oakwood will become a laboratory for their students at no cost.

The students win because they receive on-the-job training at the center while a major part of the living costs are subsidized.

And the children and the seniors of the area win because they will receive quality services from an enthusiastic staff whose work will be financially supported by the very community where they live.

Clearly, this concept brings together mutually supporting elements of the same community into a large family as diverse and dynamic as the people who comprise this growing urban area. I want to encourage the Oakwood project and, with this bill, smooth the way for the future success of what could become a model for others to follow.

I will ask my colleagues to join me in this effort by supporting enactment of this legislation.

Mr. WARNER. I now ask for the second reading, and I understand the leader has an objection.

Mr. MITCHELL. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard. The bill will remain at the desk pending the next legislative day.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, if the acting Republican leader has no further business, I understand that the distinguished President pro tempore wishes to address the Senate.

I ask unanimous consent that following the completion of Senator BYRD's remarks, the Senate stand in recess until 9:30 a.m. on Thursday, March 9.

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

Mr. SARBANES. Mr. President, will the majority leader yield for a question?

Mr. MITCHELL. Yes.

Mr. SARBANES. Is it expected that we will be permitted tomorrow to go to a vote on the Tower nomination?

Mr. MITCHELL. That is a subject which I have discussed with the distinguished Republican leader, and will continue discussions in the morning. I will be happy to discuss this further with the Senator.

Mr. SARBANES. As I understand it, the position of the majority leader now for at least some days, at least a couple of days, has been that we should go to a vote on the nomination, up or down, and make the decision.

Mr. MITCHELL. That is correct.

Mr. SARBANES. As I understand it, the fact that we have not been able to do so is because the distinguished Republican leader, Senator DOLE, has not been willing to go to a vote. Is that correct?

Mr. MITCHELL. That is correct. We are continuing our discussions in that regard. It is my hope we will be able to go to a vote tomorrow. But I would like to discuss this further with the Senator, and, hopefully, have an announcement.

Mr. WARNER. Mr. President, if the distinguished leader and the Senator from Maryland will yield for a moment, I think the colloquy between the majority leader and the Republican leader reflected very clearly that the majority leader would consult with his colleagues and others concerning a proposal that the Republican leader stated. So I am not sure that in view of that there could be any conclusion that we are trying to be dilatory and delay here. I understood the majority leader to accept the representations in good faith of the Republican leader.

Mr. MITCHELL. Yes.

Mr. SARBANES. I did not hear that colloquy and, therefore, I spoke without knowledge of it. But I have become increasingly concerned about the necessity of getting to a vote on this matter up or down, and then either there will be enough votes or there will not be enough votes.

Mr. MITCHELL. I thank the Senator. As Senator WARNER indicated, Senator DOLE made a proposal this evening which I indicated to him that I would discuss with some of my colleagues. I am in the process of doing that. Concurrently, throughout the day we have been discussing the possibility of voting, and I will be glad to discuss this in further detail privately following the completion of the Senate session.

Mr. SARBANES. I very much hope that colloquy and the subsequent discussions that are taking place will lead to such an agreement so that we will be able to go to a vote on this matter.

Mr. MITCHELL. I thank the Senator.

Mr. President, I renew my unanimous-consent request.

The PRESIDING OFFICER. The unanimous-consent request is agreed to.

Mr. MITCHELL. I thank the Chair.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The distinguished President pro tempore.

Mr. BYRD. I thank the distinguished majority leader, and I also thank the distinguished acting Republican leader, Senator WARNER, for their courtesy and kindness that have been extended to me in this regard.

SENATOR NUNN

Mr. BYRD. Mr. President, I want to call to the Senate's attention a singular honor awarded last night by the National Convention of the Veterans of Foreign Wars to one of our distinguished colleagues.

At the Sheraton Washington Hotel, before a banquet assembly of several hundred people, including many of our colleagues and other honored guests, the Veterans of Foreign Wars named the distinguished senior Senator from Georgia, the Honorable SAM NUNN, this year's recipient of the VFW's Congressional Award.

Stating in their letter of invitation that they were recognizing Senator NUNN "For his outstanding service to our Nation," the Veterans of Foreign Wars continued: "The influence of Mr. NUNN stems from his reputation for intelligence and expertise. He is, without question, one of the hardest-working Members in Congress who, as you know, has always conducted himself with utmost dignity and, in our opinion, has added much prestige to the deliberations of the U.S. Senate."

I commend the Veterans of Foreign Wars for their wisdom in making this superlative choice for this year's Congressional Award, and I congratulate Senator NUNN on receiving this honor from the Veterans of Foreign Wars. I can think of no Senator more deserving of such a recognition than is Senator NUNN.

SAM NUNN was elected to this body in 1972. In the years since, Senator NUNN has earned for himself national and international reputations as one of our Nation's, and one of our world's most authoritative experts on military and defense concerns. Senator NUNN is also recognized by his colleagues and by the general public as being one of the most respected Members of the Senate.

Again, Mr. President, I congratulate Senator NUNN on receiving the acknowledgment of the Veterans of Foreign Wars last night, and I know that our colleagues join me in that commendation.

Mr. President, I yield the floor.

ORDERS FOR TOMORROW

RECESS

Mr. MITCHELL. Mr. President, I now ask unanimous consent that once the Senate completes its business today, it stand in recess until 9:30 a.m. on Thursday, March 9.

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

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that following the time for the two leaders, there be a period for morning business not to extend beyond 10 a.m. with Senators permitted to speak therein for up to 5 minutes each.

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

THE TOWER NOMINATION

Mr. MITCHELL. Mr. President, I further ask unanimous consent that, at 10 a.m., the Senate go into executive session to resume consideration of the Tower nomination.

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

PROGRAM

Mr. MITCHELL. Mr. President, as I indicated a few minutes ago, it is my intention to have the Senate come in at 9:30 a.m. tomorrow. After the time for the two leaders, there will be a period for morning business not to extend beyond 10 o'clock a.m. with Senators permitted to speak therein for up to 5 minutes each. At 10 a.m., the Senate will go into executive session to resume debate on the Tower nomination.

RECESS UNTIL TOMORROW AT 9:30 A.M.

The PRESIDING OFFICER. Under the previous order, the Senate will stand in recess until 9:30 tomorrow morning.

Thereupon, the Senate, at 7:56 p.m., recessed until tomorrow, Thursday, March 9, 1989, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate March 8, 1989:

DEPARTMENT OF THE TREASURY

DAVID CAMPBELL MULFORD, OF ILLINOIS, TO BE AN UNDER SECRETARY OF THE TREASURY. (NEW POSITION)

CHARLES H. DALLARA, OF SOUTH CAROLINA, TO BE A DEPUTY UNDER SECRETARY OF THE TREASURY, VICE DAVID CAMPBELL MULFORD.

DAVID W. MULLINS, JR., OF MASSACHUSETTS, TO BE AN ASSISTANT SECRETARY OF THE TREASURY, VICE CHARLES O. SETHNESS, RESIGNED.

EXTENSIONS OF REMARKS

A FORMULA FOR A COMPREHENSIVE PEACE IN MIDEAST

HON. WAYNE OWENS
OF UTAH
IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 8, 1989

Mr. OWENS of Utah. Mr. Speaker, there is no shortage of people proposing solutions to the conflict in the Middle East. There is, however, a shortage of new ideas which weigh the emotionally charged demands of both sides and strive for balance. Dan Gordon, a good friend of mine, is a Jewish American who lived in Israel as a Kibbutznik for 9 years, and served in the Israeli Defense Forces. During that time, he cultivated a profound sensitivity to the region's problems based on his own personal experience.

Mr. Gordon is now a well-known screenwriter and an active community leader in southern California. His vision of a tripartite confederacy as the basis for a political settlement is reminiscent of David Ben Gurion's thinking, and contains a wealth of valuable insight. I therefore urge my colleagues in the Congress to consider Mr. Gordon's proposal, "A Formula for a Comprehensive Peace in the Mideast":

A FORMULA FOR A COMPREHENSIVE PEACE AGREEMENT IN THE MIDEAST

The goal of negotiations from the outset would neither be to exchange a piece of land for a piece of Peace, nor to create an Independent Palestinian State in the West Bank and Gaza that would be the potential adversary of both Israel and Jordan. The goal of negotiations would be to create a new entity known as the Federated States of the Near East. That entity or loose Federation would be made up of the State of Israel, whose borders with minor adjustments on both sides of the "Green Line" would be those of pre Six Day War Israel, with the exception of Jerusalem, which would be the undivided capital of the State of Israel; the Hashemite Kingdom of Jordan, whose Western border would be the Jordan River; and the Independent State of Palestine, made up of the West Bank and Gaza Strip. That Palestinian state would be constitutionally barred from having a military force, much like Japan after W.W. II or Costa Rica. It would have a Gendarmarie with light arms only, its own flag and parliament that would govern its daily affairs. The price for Palestinian independence would however be the inability to wage war against either Israel or Jordan and its security would be guaranteed by the armies of those two members of the Federation. Any citizen of any of the three member states would have the right to buy land and settle in any of the member states. A Californian who travels to New York is sovereign in New York as an American. But he has no right to elect the governor of New York or its legislators or mayors and he is subject to the laws of that State. But as an American he can say this is my country too, even when he is in New York or Wyoming or anywhere else in the Union. In the same fashion a Palestinian traveling to Haifa can say I am home. If there is a Jew or an Arab who will sell him land there, he may live there and choose to either become an Israeli citizen or retain his Palestinian citizenship and ability to vote in Palestinian elections, while subject to the laws of the city and the state in which he resides. By the same token no Israeli settlement in the West Bank would be taken down. Rather, those Israelis who choose to live there, for economic, religious, or whatever reasons, would continue to be Israeli citizens, whose residences would be in the state of Palestine. There would be mutual covenants in each state constitution prohibiting laws discriminating in any way against citizens of any of the member states residing within the border of any other member state. Thus those Jews wishing to live in any of the West Bank settlements would be free to do so, provided they abide by the laws of that state like any other resident. Each member state would fly two flags. The topmost flag would be that of each member state. Alongside that flag would be the flag of the Federated States of the Near East made up of the national emblems of each member state. Thus the Israeli who lived in Amman could look up and see the Star of David flying, the fulfillment of the greatest Jabotinsky ideal, Jewish sovereignty on both banks of the Jordan. The Palestinian living in Acre could equally say that the long struggle had brought him Palestinian sovereignty in all of Palestine. Like Jewish residents of the West Bank, Gaza or Jordan, who choose to remain Israeli citizens, those Israeli Arabs who for reasons of nationalistic identity wished to be Palestinian citizens could do so while continuing to live in Israel. Even the question of Jerusalem would be able to find a satisfactory solution. It would at one and the same time be the undivided capital of the State of Israel and the seat of Government for the Federated States of the Near East, with all three member flags flying over that house of government. The Arabs could say, rightly so, that they had returned to Jerusalem. The Jews could say they never left. A system of cantons could govern the municipality with Arab sectors and Jewish sectors operating with a degree of ethnic identity and authority. As a carrot to help convince the various entities that such a co-operative venture was not only theoretically possible but mutually beneficial in concrete terms, the U.S. alone, or in concert with others including the Soviet Union, could undertake a kind of marshal plan to pump aid into the Federation in such a way to insure its economic viability.

Israel of course would be expected to have fears that if she pulled out her troops, dissident Palestinian elements might use the West Bank as a staging area for terrorist acts. The residents of the West Bank and Gaza as well would have fears of a situation in which their security was guaranteed by the armies of Israel and Jordan, neither one being a much loved institution in the territories. Therefore there would be a transitional period, a set number of years, during which there would be immediate self government but perhaps joint military patrols made up of Israeli, Jordanian and Palestinian elements. Such co-operation is not unheard of, not even in the Middle East.

What does each side have to gain and what does each side have to lose in such a Federation?

For Israel, the prime military objective has always been to prevent any hostile army from being on the West Bank of the Jordan. That would be accomplished. During the twenty years that Israel has administered the territories it has had the ability to maintain its security forces in those territories and they have been remarkably effective in preventing acts of terrorism. However, since December of 1987, they, with all their might and total freedom of action have not been able to stamp out the Intifada despite a staggering cost in both economic and military terms. There are a few within Israel who think that a return to the status quo is possible. Therefore, Israel's effective control of the territories has already been undermined in a very real degree. The threat posed to Israel of a continuing and intensifying uprising as time goes by in the territories is a very real one. At best it may be Belfast, at worst, Beirut. Should Syria choose, as it may do, to launch an attack in the Golan, Israel will face one and a half million hostile Arabs in the territories who to a great extent have lost their fear of her army. In addition, Israel faces continued erosion on the international front if the Intifada continues without resolution. Those Israelis who remember how quickly Israel's military stores were depleted in the early days of the Yom Kippur War know only too well how important American resupply was to her in that conflict. Should the Palestinians move to declare independence and a government in exile, and should Israel's support in this country diminish as a result, any benefits Israel derives from total freedom of military action in the territories would be offset by the burden of maintaining forces in the territories during hostilities with Syria and the possibility of supplies being less forthcoming as a result of perceived Israeli intransigence. On the other hand, should Israel agree to such a Federation, the long standing Palestinian question would be put to rest, Israel's settlements in the West Bank and Gaza would remain in place, with continued rights of Jews to settle anywhere within the Biblical land of Israel and in Jordan. Israel would have attained her military objectives of no hostile armed force West of the Jordan and Jerusalem would remain her undivided capital. In addition, she would no longer either have to rule one and a half million hostile Arabs whose rights would be less than those of Israelis, or incorporate one and a half million Arabs into her body politic which would ignite the demographic time bomb which would mean the end of Israel as a Jewish State. In short she would not have to choose between giving up either her democratic or Jewish nature, and yet she would still be sovereign not only in Israel and the territories but in Jordan as well, as sovereign as a Californian in New York. She would still have a work force from the terri-

tories and a market for her goods, not only there but in Jordan as well. All she would lose would be freedom of military action in the territories and with the Intifada in its ninth month it is difficult to call that much an asset.

For the Palestinians the Federated States of the Near East would mean a nation of their own at last, with full rights and privileges short of making war against her neighbors. She would also finally have the right to have her people return and live anywhere they could afford the price of land. Moreover as part of the founding of such a Federation there would be mutual reparations. There is a thing called a "Sulcha" in the Near East. It is a forgiving of enemies. Reparations are made and the conflict is settled once and for all. Such a sulcha would have to take place here as well. Arab residents of what is now Israel who fled or were moved off their land would receive reparations from the government of the State of Israel. Likewise, those Jews or their descendants who were expelled from Jerusalem, Hebron, Gush Etzion, etc. would receive reparations from the State of Palestine and/or the Jordanian government. The hatchet would be buried, the wound closed instead of left to fester. The Palestinian would be master in his own house at last with the knowledge that in Jaffa and Haifa and Acre and in Galilee he had the right to visit or settle and if he had been moved forcibly from the land, the right of reparations, and the obligation to do the same for those Jews who were similarly displaced. In such a Federation goods could be moved from the West Bank to a Palestinian port on the Mediterranean in Gaza as well as a Federated States of the Near East port in Haifa. Similarly their goods, agricultural and industrial, would be able to move freely to Jordan and through her to the rest of the Arab Gulf States. Her people would have what they say they have longed for, a home, a nation, and sovereignty not just in the territories but in Israel and Jordan as well.

As for Jordan the difference between her present situation of no ties to the West Bank, no peace with Israel and the possibility of a Syrian ally against her on her Western border, and what she could have as the Eastern most state in the Federated States of the Near East, are self evident.

And to all three peoples, if the U.S. either alone or in conjunction with other great powers, were to undertake a Marshal plan to the Federated States of the Near East, the cost involved would be more than offset by the reality of stability in that part of the world. It is not so much a question of what it would cost to do such a thing as it is a question of what it will cost if nothing is done.

The Palestinians will not push the Jews into the Sea. The Jews will not push them into the desert. One way or the other there will be a Jewish State on one side of a border and an Arab State on the other. If a way can be found to solve the conflict that has erupted into war every decade for the last forty years that area can become a showplace of peace. If not it may very well provide the spark that sets the entire temple of mankind aflame.

IT'S TIME TO HELP OUR RURAL HOSPITALS

HON. LARRY E. CRAIG

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 8, 1989

Mr. CRAIG. Mr. Speaker, over the past several years, Congress has ignored the blatant warning signs of imminent financial danger to rural hospitals. In Idaho alone, three hospitals have been forced out of business due to inequitable reimbursement from Medicare. That number may not sound so terrible until you consider how many people the facilities served and the distance they are now forced to travel in order to receive even basic health care.

Right now, seven Idaho hospitals are struggling to survive, holding on to the hope that Congress or the administration will hear their voices and somehow correct HCFA's Medicare inequities.

Mr. Speaker, I want to make their voices heard. I've introduced numerous pieces of legislation to correct the reimbursement inequities. But, I want to ensure that rural health care providers have a permanent say in government health policies. That's why I'm introducing legislation which will remove the Office of Rural Health Policy from the sub-sub-basements of the Department of Health and Human Services hierarchy and make it report directly to the Assistant Secretary for Public Health Service.

I urge my colleagues to pay more than lip service to our rural health care providers and the Medicare patients they serve. Give them a voice.

FIGHTING BACK: AN INITIATIVE IN THE BATTLE AGAINST DRUG AND ALCOHOL ABUSE

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 8, 1989

Mr. RANGEL. Mr. Speaker, as everyone in this House recognizes, one of the greatest challenges facing our country is in the words of President George Bush, the "scourge" of drug abuse.

As chairman of the House Select Committee on Drug Abuse, I have a particular interest in this terrible problem. Therefore, I am very pleased to advise my colleagues of a significant advance in coping with substance abuse.

At a news conference at New York University on February 6, 1989, the Nation's largest health care philanthropy—the Robert Wood Johnson Foundation—announced the biggest single commitment of private funds ever to be applied to the problem of drug and alcohol abuse. Through a program entitled "Fighting Back", the foundation will dedicate $26.4 million to help medium-sized communities, those with populations of 100,000 to 250,000, reduce the demand for illegal drugs and alcohol.

Mr. Speaker, I am particularly pleased that our distinguished former colleague in the House of Representatives, Dr. John Brademas, now president of New York University, will serve as chairman of the national advisory committee for Fighting Back. The committee will assist the foundation in reviewing grant proposals and in selecting those to be recommended to the foundation's staff and board of trustees. I should note that as a Member of Congress, Dr. Brademas sponsored the Drug Abuse Education Act of 1970 which, for the first time, provided Federal funds for drug abuse education programs in schools and other settings.

The Robert Wood Johnson Foundation and its president Leighton M. Cluff, M.D., are greatly to be commended on this pioneering effort to address the demand side of the drug and alcohol abuse problem.

Mr. Speaker, at this point in the RECORD, I insert the text of the remarks made at the news conference at which Fighting Back was announced:

REMARKS OF LEIGHTON M. CLUFF, M.D., PRESIDENT OF THE ROBERT WOOD JOHNSON FOUNDATION

As President of the Robert Wood Johnson Foundation, I'm pleased to announce that the Foundation will commit $26.4 million dollars to a new national initiative designed to reduce the demand for illegal drugs and alcohol.

The name of the program is "Fighting Back," and it's intended to help communities do just that—fight back against one of the nation's most devastating public health problems.

It's also one of the most frustrating problems communities must face—and one that has been addressed in a fragmented manner thus far.

The Robert Wood Johnson Foundation is the nation's largest health care philanthropy, and from that vantage point, we've seen first hand that substance abuse directly affects all the work we have done to improve the health care of the nation's homeless, the mentally ill, adolescents and children, people with AIDS, the uninsured, and many others.

THE MAGNITUDE OF THE DRUG PROBLEM

In the course of that work, we've been reminded again and again of the magnitude of this issue:

One in eight Americans over the age of eleven has used an illegal drug at least once in the past month;

One out of every ten adults—some eighteen million Americans—has symptoms of alcohol dependence or significant problems linked to alcohol consumption;

In Florida alone, the number of cocaine-addicted babies born in the state has increased fivefold in the last year to include one in every seventeen babies born there.

It's clear that substance abuse is undermining the future of our young people, weakening our families, and destroying our communities.

REDUCING THE DEMAND

We've spent more than two years studying this issue and consulting with a wide range of people involved in the fight against drug and alcohol abuse: policymakers, researchers, physicians, nurses, law enforcement officials, school principals, mayors, corporate executives, parents and students, among many others.

Most recently, President Bush's new advisor on drug abuse, William Bennett con-

firmed our thinking that law enforcement efforts to control the supply of illegal drugs and alcohol must be complemented with a strong effort to reduce the demand for those substances.

Two weeks ago, President Bush called for the private sector's help in reducing the demand for drugs and alcohol, and we're pleased that this $26.4 million initiative—the largest commitment of private funds in the area of substance abuse to date—is now ready, after years of development, to help communities fight back with positive programs of education, prevention and effective treatment.

To give you more information about this new initiative, I'd like to introduce the people who are responsible for carrying out this important effort:

Dr. Anderson Spickard, Professor of Medicine at Vanderbilt University in Nashville, Tennessee—and an expert on substance abuse and addictive behaviour—who will serve as the program's director.

Our host for today's news conference, Dr. John Brademas, President of New York University and Chairman of the National Advisory Committee for the Program. During the course of this initiative, the Foundation will draw on Dr. Brademas's experience as a leading educator and as the former Congressman who authored the Federal Drug Abuse Education Act.

Dr. Ruby Hearn, Vice-President of the Robert Wood Johnson Foundation, who will oversee the program.

REMARKS OF DR. RUBY P. HEARN, VICE PRESIDENT OF THE ROBERT WOOD JOHNSON FOUNDATION

As you know, many communities have been trying to fight back against drug and alcohol abuse.

Their most common response to date has been to focus on reducing the supply and sales of illegal drugs, through law enforcement.

Much less has been done to try to reduce the demand for illegal drugs and alcohol through preventive education and expanded treatment.

Efforts to attack the demand side of the problem have typically been short-term, fragmented, and disappointing.

The growing seriousness of this problem, despite everything that has been done so far, has led to a sense of helplessness and despair.

A GREAT OBSTACLE TO FIGHTING DRUG ABUSE

That sense of helplessness—of feeling that nothing can be done—is in our minds, the greatest obstacle to progress.

That's why we developed this initiative with an important—and challenging—goal: to show that communities can, over time, substantially reduce the demand for illegal drugs and alcohol if they consolidate their resources to create a single, community wide system for fighting back against the problem.

After more than two years of studying the problem of substance abuse, the Foundation feels strongly that this goal can only be reached through a broad and comprehensive approach—one that encompasses: prevention, early identification, treatment, relapse prevention, aftercare, and education to change community attitudes and to create a climate in which change can occur.

COMMUNITY WIDE EFFORTS TO FIGHT BACK AGAINST DRUG ABUSE

We feel that all of those components of this program complement and reinforce the law enforcement efforts that must continue to work on reducing the supply of illegal drugs.

At the same time, we recognize how complex these issues are to address at the local level.

Creating a community-wide consensus on how to fight the demand for drugs and alcohol is essential—and in some communities, impossible.

To make that effort manageable and possible, the foundation will focus its funding on moderately-sized communities with serious substance abuse problems.

We seek applications from communities not only with a serious problem, but with the commitment and track record that will enable them to fight back.

Eligible communities will have populations of one hundred thousand to two hundred fifty thousand, and may be medium-sized cities, counties, parts of larger cities, or multi-county regions—as long as they have the capacity and authority to make and carry out the policy changes needed to reach the program's goals.

Twelve such communities will be selected to receive one- or two-year planning grants of up to $100,000 per year.

During the planning phase, those twelve communities will be expected to: Further document their substance abuse problems, assess their existing resources, reach a community-wide consensus on the strategies they wish to pursue, and develop a detailed workplan.

From those communities, we will select eight communities to receive grants of up to $3 million each to carry out their plans.

At a minimum, we expect these communities to develop a strategy that includes: A highly visible public awareness campaign to generate broad-based community support for efforts to reduce the demand for illegal drugs and alcohol; a prevention effort targeted especially at children, adolescents and young adults; well-defined policies and procedures for early identification, assessment and referral into treatment of people with drug or alcohol problems; and a broad range of accessible options for treatment and relapse prevention.

Our role will be to do much more than simply infuse new funds into these communities. We will provide them with the technical assistance and expert help they will need to plan and pull together their strategies—and to share what they've learned with other communities as their efforts progress.

REMARKS OF DR. JOHN BRADEMAS, PRESIDENT, NEW YORK UNIVERSITY

As President of New York University, I am delighted to welcome you all to our campus for the announcement of this important initiative in the fight against drug and alcohol abuse.

I extend a particular greeting to the President and Vice President of the Robert Wood Johnson Foundation, Dr. Leighton Cluff and Dr. Ruby Hearn, under whose able leadership the Foundation has flourished and continues to address, with intelligence and imagination, the most pressing problems that face the American people.

For over a decade and a half, the Robert Wood Johnson Foundation has been at the forefront of private philanthropies dedicated to improving the health and health care of Americans.

The projects supported by the Foundation embrace a bold and sweeping landscape: infant and child care; chronic illness and disability; AIDS; mental illness; the delivery and quality of health services; critical issues in patient care; the impact of medical advances.

To this impressive list, the Foundation now adds alcohol and drug abuse. As you have just heard, with its new programs, "Fighting Back," the Robert Wood Johnson Foundation is devoting over $26 million in grants to support intensive, community-wide initiatives across the nation to reduce the demand for illegal drugs and alcohol.

ADDRESSING THE DEMAND SIDE OF DRUG ABUSE

Let me explain why I am pleased and honored to be part of this effort.

First, as you may know, before coming to New York University I served for 22 years in the United States House of Representatives and while in Congress helped write most major legislation in support of education at every level as well as services for the elderly and handicapped.

One of the measures I sponsored in which I continue to take great pride was the Drug Abuse Education Act of 1970 which, for the first time, provided Federal funds for special drug abuse education programs in elementary and secondary schools and in adult and community education programs. Four years later, in 1974, Congress broadened the program to include alcohol abuse education.

DRUG ABUSE EDUCATION ACT OF 1970

The severity—and intractability—of the problem of substance abuse were underscored for me recently when I went back to the congressional hearings on that legislation and came across the following passage:

That so substantial a number of members of the House of both political parties should have introduced this measure indicates, I think, the widespread interest . . . in helping develop a remedy to . . . the whole spectrum of problems created by the use of drugs and narcotics in the United States.

Indeed, the chair would observe that one can hardly pick up a newspaper or magazine these days without finding another article or comment on the devastating effects of the use of drugs. . . .

We must now move to shape programs for education on the dangers of using drugs.

Well, these words were my own, spoken in my capacity as chairman of the Subcommittee on Select Education of the Education and Labor Committee on July 9, 1969—nearly 20 years ago.

So as one who two decades ago sought to begin to grapple with the subject, I am deeply gratified to be part of this new effort.

With its strong emphasis on preventive education and treatment—the "demand" side of the drug equation—"Fighting Back" echoes many of the themes we in Congress tried to implement in the 1970s with the alcohol and drug abuse education legislation.

The second reason I am glad to take part in this initiative stems from my responsibility at New York University. After all, we who lead the nation's colleges and universities feel a special obligation to the students who attend them. If the men and women who study on our campuses are to benefit from their experience, they must be alert, energetic and clear-thinking.

Moreover, for universities like NYU, located in the heart of a major urban center, we feel an added responsibility to lend our resources to help meet the problems that affect the communities in which we are located. The motto of NYU is "a private university in the public service."

Finally, as a human being, I am deeply disturbed at the prospect of the American society, especially our young people, entering the 21st century in the thrall of drugs, alcohol and other harmful substances.

ROLE OF THE NATIONAL ADVISORY COMMITTEE

For all these reasons, then, I am very pleased to serve as chairman of the National Advisory Committee for the Robert Wood Johnson Foundation's "Fighting Back" program.

Our committee's task is to assist the Foundation in reviewing grant proposals submitted by communities and in making recommendations for grant awards.

In addition, as the programs develops, we shall provide ongoing advice and counsel to the Foundation, including monitoring the progress of selected grantees.

In carrying out these duties, I shall be assisted by the Chancellor and Executive Vice President for Academic Affairs of New York University—my friend and close colleague—Dr. L. Jay Oliva, who will serve as vice chair of the National Advisory Committee.

Dr. Oliva, you may be interested to know, is already concerned with this problem. Last year, at President Reagan's request, he served on The White House Conference for a Drug Free America.

Both Dr. Oliva and I are eager to begin work with our colleagues on the National Advisory Committee. You will find a complete listing of the members of the committee, who constitute a distinguished body of experts, in your press packets.

In closing, let me reiterate that we at New York University are most gratified to be part of this important initiative.

REMARKS OF DR. ANDERSON SPICKARD, PROFESSOR OF MEDICINE AT VANDERBILT UNIVERSITY SCHOOL OF MEDICINE AND NATIONAL PROGRAM DIRECTOR FOR "FIGHTING BACK"

As the National Program Director for Fighting Back, one of my first tasks will be to guide eligible communities through the application process for these highly competitive grants.

We will announce the first grants under this initiative about one year from now—in February 1990. But communities interested in applying for the funds must submit a letter of intent to apply by May 1 of this year, and must file a completed application with the foundation by September 1, of 1989.

APPLYING FOR FUNDS FROM "FIGHTING BACK"

Now I'd like to outline briefly some of the steps in that process:

As Dr. Hearn noted, the goal of this initiative is to establish community-wide systems of prevention, treatment and aftercare.

Therefore, no more than one project will be funded in each community—and communities interested in applying must identify a single organization to serve as the applicant on their behalf.

The applicant should be either a public agency or a tax-exempt organization, and should have a record of community leadership and experience in coordinating many service providers in that community, including those in the area of health care delivery.

During the application process, each community must establish:

A broadly representative citizen's task force on drug and alcohol abuse to oversee, guide and support the initiative; and

A community-wide consortium of all the organizations and agencies needed to carry out the proposed effort.

The Citizens' Task Forces are absolutely central to this program.

With their help, each initiative will truly belong to the community—and each will have the broad-based input and support it needs in order to be sustained.

HOW "FIGHTING BACK" GRANTS CAN BE USED

Applicants also need to know how these grants can be used.

Communities can use the grant funds as flexible start-up resources for systems planning, development, coordination and initial efforts to carry out their strategies.

In other words, grants can be used for salaries and project administration, the public awareness campaign, and the start up of prevention, early identification, treatment and aftercare service programs.

However, foundation funds cannot be used to pay for direct client services for which reimbursement is available under public or private insurance.

We will issue a national solicitation of proposals this month to community agencies and organizations around the U.S.

That solicitation will include more detailed guidelines for communities interested in applying for these grants.

I'd like to say again that our goal is to help communities find the opportunities, resources and expert help they need to fight drugs and alcohol—and assembling a broad, strong base of community support in order to apply for these grants is the first step toward that goal.

ELIMINATE SPECIAL TAX TREATMENT FOR FINANCIALLY TROUBLED BANKS AND THRIFTS

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 8, 1989

Mr. STARK. Mr. Speaker, today I am introducing a bill to repeal the special tax benefits available to financially troubled banks and thrifts. I am pleased that Senator DURENBERGER is introducing a companion bill in the Senate today.

I believe that repeal of these tax benefits before the scheduled expiration date of December 31, 1989, is appropriate for the following reasons: First, the tax benefits have caused a far greater drain on the Treasury than was estimated at the time the provisions were considered in the Technical and Miscellaneous Revenue Act of 1988; second, the tax benefits are inefficient since they have not been offset by comparable reductions in direct outlays by the FSLIC; and third, the tax benefits have created a perverse disincentive for merged financial institutions to wean themselves from further FSLIC assistance. In light of these problems, it is inappropriate to include these tax benefits in a financial institutions reform package and unwise to expand their use to the FDIC.

The tax benefits that are available to financially troubled thrifts provide that FSLIC assistance payments are not subject to the regular corporate income tax. FSLIC assistance has been provided in many forms, including cash notes, yield maintenance agreements, capital loss guarantees, and guarantees or reimbursements of the cost of certain expenses related to acquired assets. The FDIC, which has only recently been covered by the tax-free assistance rule as a result of the Technical and Miscellaneous Revenue Act of 1988, has provided assistance in the form of negotiated cash payments.

Also, special rules for nontaxable reorganization apply to insolvent thrifts and banks which may allow the net operating losses of an insolvent thrift or bank from prior years to be used to reduce current or future tax obligations of the acquirer. Built-in losses may be used to offset income of the acquirer, even though these losses have been reimbursed on a tax-free basis by FSLIC or FDIC.

These tax benefits had been used by the thrift industry since the Economic Recovery Tax Act of 1981. The Tax Reform Act of 1986 provided that the tax benefits for the thrift industry would expire December 31, 1988. The Technical and Miscellaneous Revenue Act of 1988 extended the use of the provisions through December 31, 1989, broadened the use of the benefits to banks and provided for a reduction in tax benefits equal to 50 percent of the assistance. The 1-year extension in the 1988 act and the expansion to banks was estimated by the staff of the Joint Committee on Taxation CBO to lose $300 million—over a 3-year period—which included an offset estimated by the CBO for outlay reductions by the FSLIC and FDIC.

The staff of the Joint Tax Committee on Taxation estimates that the value of tax benefits from 1988 FSLIC assisted transactions is $7.2 billion over the 1988–98 period. This amount represents the present value of the stream of lost revenue to the Treasury unreduced by outlay reductions which extends 10 years beyond the actual 1988 transaction. Clearly, a revenue drain of this magnitude was never contemplated by Congress.

FSLIC determines either to merge a troubled thrift or liquidate it based on which option has the lowest estimated cost. But instead of looking at the cost of each option to the Federal Government, FSLIC is only required to look to the cost to FSLIC. Losses to the Federal Treasury are not required to be part of the calculation.

Furthermore, it is unlikely that FSLIC negotiated an adequate reduction in direct FSLIC assistance in return for the tax benefits. The value of tax benefits to another entity is very difficult to measure during a negotiating process. The bidder knows far better how he can make use of the tax benefits, in light of his particular tax planning capability, than the FDIC or the FSLIC can determine in the negotiation process. Without an accurate sense of the value of the tax benefits to the bidder, it is impossible to show that the tax benefit equals or even approximates a corresponding savings in assistance payments.

My concern is not limited to the revenue implications of the tax benefits for financial institutions. I am afraid that, instead of addressing the thrift crisis with tax benefits, we are compounding the problem. According to a staff memorandum prepared for the Committee on Ways and Means by the Congressional Budget Office entitled "The Savings and Loan Problem: A Discussion of the Issues," the

thrift has little incentive to control the cost of its assistance from the FSLIC:

Specifically, through the use of yield maintenance agreements and capital loss guarantees, FSLIC has guaranteed the performance of a specified group of assets. The primary reason for the use of these provisions is that neither the Bank Board or potential acquirers have been able to evaluate adequately the assets at these thrifts.

The reason these agreements have perverse incentives is straightforward. Under a yield maintenance agreement, any income generated by a covered asset will lead to a reduction in payments from FSLIC. Under some agreements, the institution will receive the same revenues whether or not scheduled payments under outstanding loans are made. In such cases, the government receives the benefit of any payments made on the asset. The title, however, remains with someone who has a smaller interest in whether these payments are actually made. A capital loss guarantee similarly distorts the assisted thrifts incentives with respect to the sale of assets. In fact, a capital loss agreement can actually encourage fraudulent behavior—a capital loss agreement can reduce the cost of selling an asset to a friend or colleague at a price below market value.

Yield maintenance agreements reward the acquirer with tax-free assistance when the yield is low. As the yield increases, the tax-free income is replaced with taxable income. The tax averse acquirer has an incentive to maximize the tax-free assistance rather than increase the performance of their assets.

I conclude with one last concern about addressing the thrift crisis with tax incentives. A bidding process with tax benefits will attract bidders who value the use of NOL's and built-in losses most highly. I would rather have a system which is designed to attract those who could operate the thrift most efficiently instead of those who can make the best use of the tax benefits.

The legislation which I introduce today removes these tax benefits now available to banks and thrifts upon the enactment of financial reform legislation. Now that we have been informed of the deletorious effect of these tax preferences, both in cost to the Treasury and effect on the solvency of financial institutions, it would be unthinkable to allow them to continue throughout the year.

The text of the bill is as follows:

H.R. 1324

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REPEAL OF SPECIAL RULES FOR FINANCIAL INSTITUTIONS.

(a) IN GENERAL.—Each of the following provisions are amended by inserting "(or, if earlier, the date of the enactment of an Act to reform, recapitalize, and consolidate the Federal deposit insurance system)" after "December 31, 1989";

(1) Paragraphs (1) and (2) of section 904(c) of the Tax Reform Act of 1986.

(2) The last sentence of section 382(1)(5)(F) of the Internal Revenue Code of 1986.

(b) APPLICATION OF SECTION 265 TO PAYMENTS UNDER SECTION 297.—

(1) IN GENERAL.—Subparagraph (B) of section 904(c)(2) of the Tax Reform Act of 1986 (as amended by section 4012(c)(2) of the Technical and Miscellaneous Revenue Act of 1988) is hereby repealed.

(2) EFFECTIVE DATE.—The amendment by this subsection shall apply to transfers after December 31, 1989 (or, if earlier, the date of the enactment of an Act to reform, recapitalize, and consolidate the Federal deposit insurance system), except that such amendment shall not apply to transfers after such date pursuant to an acquisition occurring on or before such date.

NEW JERSEY CELEBRATES ST. PATRICK'S DAY

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 8, 1989

Mr. FLORIO. Mr. Speaker, March 17 is the only day in the year when everyone can be Irish. Celebrations will be held around the country commemorating St. Patrick's Day and remembering the valuable contributions the Irish have made to our society.

In my own State of New Jersey, 17 cities will host St. Patrick's Day parades during the next few days. The St. Patrick's Day parade has been a tradition in New Jersey since 1780 when George Washington joined the marchers. As an Irishman myself, I will be proud to join in marching in several of these parades.

I would like to take this opportunity to call the attention of my colleagues to not only this day when the world turns green but also to the many accomplishments and contributions the Irish community has made to our Nation and to New Jersey. In particular, I would like to single out that marshalls of the 17 parades that will take place in New Jersey. They are: John J. Mooney of Atlantic City; Barry J. Dugan of Bayonne; Mrs. Margaret M. Keane of Bergenfield; William Tarrant of Jersey City; Mike Fullen of Seaside; Thomas Mooney of Hoboken; Fred Cooper of Sussex and Franklin; John McKeever of Trenton; Thomas Powers and Nooreen McCormack of Belmar; George Aston of Woodbridge; Thomas McLaughlin of West Hudson; Steve Greeg of Bridgewater and Raritan; Edward Wallace of South Amboy; James Hunter and Grace Cunningham of Newark; John G. Mooney of Nutley and Joseph Keany of West Orange. In addition, the city of Wharton will also be hosting a parade.

As a member of the Ad Hoc Congressional Committee on Irish Affairs, I will take great pleasure in joining in these festivities. May the "luck of the Irish" always be a part of the lives of the marshalls and all those who will be participating in the celebrations.

MIDDIES CAPTURE DISTRICT HOOP TITLE

HON. DONALD E. "BUZ" LUKENS

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 8, 1989

Mr. DONALD E. "BUZ" LUKENS. Mr. Speaker, I rise today to congratulate Middletown High School for their recent basketball victory. The Middies defeated Col. White High School to capture the District Championship and move on to the regionals.

Douglas MacArthur once said that "In war there is no substitute for victory." I would like to add that in basketball there is no substitute for an overtime victory.

I would like to insert the following article into the CONGRESSIONAL RECORD.

MIDDIES CAPTURE DISTRICT HOOP TITLE

DAYTON.—Middletown survived a late Col. White rally to win the Ohio High School Dayton District Championship in overtime Saturday night.

The Middies defeated the Cougars, 89-80, in an extra period at University of Dayton Arena to move on to the regionals Wednesday night at Hara Arena in Dayton, where they will face Woodward.

Center Jim Raliff paced a well-balanced Middies attack with 25 points and 16 rebounds, while Gregg Darbyshire had 19 points, 14 rebounds and eight assists, Ken Chapman 18 points, Derrick Gates 15 points (including 11 of 12 free throws) and Jeff Cothran 12 points.

Col. White's Ivan Patterson topped all scorers with 34 points (including 19 out of 20 from the charity stripe), followed by Dwaine Chastain with 15 and Louis Caldwell and Jeff Elder with 11 apiece.

Middletown, now 18-6, led at halftime, 28-23, and moved nine points in front, 51-42, after three quarters. But the Cougars scored 34 points in the final period, with Patterson's two free throws in the final three seconds of play deadlocking the game at 76-76.

The Middies outscored Col. White, 13-4, in the three-minute OT to hand the Cougars their sixth loss in 23 starts.

VALLEY FUNERAL HOME RECEIVES PURSUIT OF EXCELLENCE EAGLE AWARD

HON. CARLOS J. MOORHEAD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 8, 1989

Mr. MOORHEAD. Mr. Speaker, one of the best ways to promote excellence is to recognize it.

In the selection of the Valley Funeral Home of Burbank, CA, by the National Funeral Directors Association for the 1988 Pursuit of Excellence Eagle Award, excellence has been properly recognized.

The Pursuit of Excellence Award is the highest honor and tribute in the industry. It is given annually to funeral homes judged to have the finest and most innovative programming and community support activities.

Chosen from more than 17,000 member funeral homes, this recommendation marks the first time a California organization has been so honored by the NFDA.

In presenting the honor, the association made special mention of the Valley Funeral Home's Learning Resource Center and Bereavement Support Program. This program, which was created to help families adjust after the death of a loved one, offers a comprehensive outreach, education, and referral network, as well as monthly grief education meetings.

The award also underscores a vital part of the legacy of funeral directors in serving the public under traumatic circumstances and that

is the need for significant community involvement.

Mr. Speaker, I appreciate this opportunity to express my congratulations to the Valley Funeral Home and to Fred and Michael Kubasak for receiving this fine honor.

TRIBUTE TO PETER W. McBRIDE

HON. MARGE ROUKEMA

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 8, 1989

Mrs. ROUKEMA. Mr. Speaker, it is with great personal pleasure that I pay tribute to one of northern New Jersey's most distinguished citizens. Peter W. McBride will be honored by the Ramapo College Foundation on March 11 at seventh annual Distinguished Citizens Awards dinner. I would like to join the foundation and the entire Bergen and Passaic County community in recognizing the achievement and service of Peter McBride.

Without a doubt, Peter has added new dimensions to the development of commercial and residential properties in northern New Jersey. He is currently president of McBride Enterprises, Inc., a real estate development company active in creating office and industrial parks in northern New Jersey. He also serves as president of Urban Farms, Inc., a residential development company.

Yet, the true measure of Peter McBride lies not in his business success but in the tremendous contributions he has made to his community and his State. He plays a major role in many local and civic organizations and has undertaken numerous charitable endeavors, always looking to help those who are less fortunate. And his service has always been tireless.

He is past president and board member of the Franklin Lakes Chamber of Commerce. Peter is a member of the Franklin Lakes Lions Club and a member of Franklin Lakes Park Planning Committee. He now occupies the chairman's seat of the Foundation of Ramapo College and sits on the board of St. Joseph's Hospital. In addition, he is a director of the Urban National Bank and heavily involved in the Ramapo District and the Passaic Valley Council of the Boy Scouts of America.

With the support of his wife, Pamela and his three children, Meredith, Peter, and Annalise, Peter McBride has made important contributions to our northern New Jersey community. For his work, the lives of many of our neighbors have been enhanced.

I urge my colleagues to join me in saluting one of this year's Ramapo College Foundation's Distinguished Citizens Award honorees, Peter McBride.

ARTHUR C. HOLLERMAN HONORED

HON. JOE KOLTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 8, 1989

Mr. KOLTER. Mr. Speaker, today, I rise to honor Mr. Arthur C. Hollerman, 330 Pittsburgh Street Extension, Zelienople, PA, for his many accomplishments and his outstanding dedication and service to the Veterans of Western Pennsylvania for more than 43 years. He was also honored as the Butler County Veteran of the Year, 1987, at a special recognition dinner from the Butler County War Veterans Committee.

Mr. Hollerman has been active with the American Legion, for over 43 years. He served in the U.S. Army as a combat infantry soldier during World War II, and at that time he participated in four major campaigns and was awarded the Bronze Star Medal for valor.

Mr. Hollerman's service to his country did not end with his distinguished active duty record. He has continued to demonstrate his dedication to our country through his multifarious participation in the American Legion. He has served as post, county, and district commander, for 10 years as the Pennsylvania State Assistant sergeant-at-arms.

Committee assignments have been a favorite pastime for this tireless veteran. The limitations of this brief communication prohibit the inclusion of his committee accomplishments. However, it does seem appropriate to report his service as vice-chairman of the Hospital Committee for the American Legion, Department of Pennsylvania, the Vietnam Scholarship Committee, and the Butler County War Veterans Committee.

He is a member of La Societe des 40 Hommes et 8 Chavaus (40/8) Voiture 5 and 836. He played a major role in the reorganization and rechartering of Voiture 836, Butler County. His leadership was invaluable.

In closing, I would like to say that this outstanding Legionnaire is highly deserving of this recognition. In the past, Mr. Hollerman was selected as Butler County Legionnaire of the Year.

To Mr. Arthur C. Hollerman, I extend a sincere word of thanks and a wish that his exemplory service will be further recognized through the CONGRESSIONAL RECORD. America will survive and flourish because of the continued works of citizens such as he.

THE SQUARE DANCE: THE NATIONAL FOLK DANCE FOR 1990

HON. LEON E. PANETTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 8, 1989

Mr. PANETTA. Mr. Speaker, I rise today to introduce a bill that would designate the square dance as the "National Folk Dance of the United States for 1990." In the 97th Congress, a resolution (Public Law 97-188) was adopted designating the square dance as the National Folk Dance for 1982 and 1983. Two hundred sixty-five Members of Congress supported that legislation. I am pleased to be joined today in introducing this resolution by Representatives LARRY SMITH, TONY COELHO, BILL EMERSON and seven other Members.

There are many historical and other reasons that square dancing deserves permanent recognition by Congress. This form of dancing has been a popular tradition in this country since the earliest part of our colonial history, and has attained a lofty status as a significant part of our country's folklore. As a traditional, wholesome form of family recreation in which people of all ages can take part, square dancing is an activity that symbolizes one of this country's basic strengths: the unit of the family. It also epitomizes the egalitarian spirit that is at the heart of our democracy because it pays no attention to arbitrary social or other distinctions—people from all walks of life equally enjoy square dancing. In addition, square dancing is an activity in which the elderly, as well as the physically and mentally handicapped, can fully participate, thereby greatly enriching their lives.

This bill would give permanent recognition to a great American tradition. Today, there are almost 8,000 square dance clubs throughout the United States with over 1 million active dancers spanning two generations. All of these are nonprofit, self-supporting groups, none of which seeks or receives financial support from Congress or any other branch of Government. In addition, 8 million other adults know how to square dance, and millions of school children regularly participate in this activity in their schools. Square dancing is therefore a grassroots activity in the purest sense, and all of those speaking in favor of the bill today, who come from many walks of life, are appearing in their capacity as unpaid nonprofessionals who participate in square dancing solely for their love and enjoyment of it.

In addition, it should be pointed out that the term, square dancing, also includes a number of other folk dances that are popular in many parts of this country. Round dancing, contra dancing, clogging, line dancing, and the Virginia reel have all been designated as square dancing by State and national square dance conventions. Therefore, square dancing includes much more than the traditional, familiar arrangement of sets of fours forming squares.

Mr. Speaker, this Nation is basically a broad cross section of the world that has been brought together into one great country. We have great diversity, but we also have a number of symbols that give us unity. These of course include our flag, our national anthem, and our national bird, the eagle. Recently, two other specific designations were made: of the rose as the American flower, and earlier in this Congress, of "The Stars and Stripes" by John Philip Sousa as the "National March." Square dancing, which, as I mentioned, incorporates a variety of dance forms, deserves national recognition as much as these other symbols. It is truly, I feel, symbolic of the vitality, diversity, and wholesomeness of this country. I thank my colleagues for their support of previous square dance resolutions, and urge you to continue and extend this support by sponsoring the bill before you today.

For the convenience of my colleagues, the text of the resolution follows:

H.J. RES. 180

Whereas square dancing has been a popular tradition in America since early colonial days;

Whereas square dancing has attained a revered status as part of the folklore of this country;

Whereas square dancing is a joyful expression of the vibrant spirit of the people of the United States;

Whereas the people of the United States value the display of etiquette among men and women which is a major element of square dancing;

Whereas square dancing is a traditional form of family recreation which symbolizes a basic strength of this country, namely, the unity of the family;

Whereas square dancing epitomizes democracy because it dissolves arbitrary social distinctions;

Whereas square dancing is the American folk dance which is called, cued, or prompted to the dancers, and includes squares, rounds, contras, clogging, line, and heritage dances; and

Whereas it is fitting that the square dance be added to the array of symbols of our national character and pride: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the square dance is designated as the national folk dance of the United States of America for 1990.

IMPROVEMENT IN SOVIET'S HUMAN RIGHTS

HON. MICHAEL R. McNULTY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 8, 1989

Mr. McNULTY. Mr. Speaker, I submit for insertion into the RECORD the text of a letter I sent to President Gorbachev:

MIKHAIL S. GORBACHEV,
President, The Kremlin,
Moscow, RSFSR, USSR.

DEAR MR. PRESIDENT: As a newly elected Member of Congress, I am pleased to see that the Soviet Union has made some important improvements in the areas of immigration and human rights. Last year, 19,000 people were permitted to emigrate from your country. It is my hope that this figure will be surpassed in 1989.

I am concerned, however, that several thousand Soviet Jews are still being denied permission to emigrate—that they are being kept separated from their loved ones. I must call your attention to the desperation expressed by the Jewish women Refusniks, who plan to conduct a three day hunger strike to protest your Government's refusal to facilitate their emigration. Many of these women have been waiting for more than ten years for permission to emigrate, so that they may be reunited with their families.

Mr. President, I urge you to take the necessary steps to institutionalize immigration policies that are fair and just and consistent with the Helsinki Accords. As you know, the right to emigrate has been confirmed as recently as January 19, 1989, by the Vienna Conference on Security and Cooperation in Europe. And that decision was publicized in the Soviet press.

I am confident that under your leadership, the Soviet Union will honor its commitments.

Sincerely,

MICHAEL R. McNULTY,
Member of Congress.

TRIBUTE TO PROJECT "HOPE"—A SUCCESSFUL HOME ORIENTED PRESCHOOL EDUCATION PROGRAM IN WEST VIRGINIA

HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 8, 1989

Mr. RAHALL. Mr. Speaker, I am very proud to bring you the story of HOPE, a Home Oriented Preschool Education Program, developed and conducted by the Appalachian Regional Laboratory [AEL] in Charleston, WV.

The evaluations of HOPE have added another pound of credibility to the idea that preschool education and parent involvement may be two of our most potent solutions to the academic and social problems that many children face, according to the author John Hollifield, who made that statement in a recent article appearing in the R&D Preview of the best emerging educational R&D outcomes.

While there is a general belief among many researchers that genetic variables explain low academic achievement, and while that theory may never die, it does get discredited regularly. It particularly gets beaten up when you look at the correlation between socioeconomic status and low achievement, even when we accept that theory as a given, because the research on HOPE takes the socioeconomic status out of the given realm and makes it a variable we can do something about. HOPE research found, among other things, that home environment variables were as effective as socioeconomic status in predicting children's achievement and ability. This supports previous research that measures of home environment may be better predictors of children's intellectual competence and achievement than are traditional measures of social class.

There were a number of other variables that came into play in the research done through the HOPE project. I will not detail them here but rather, Mr. Speaker, ask unanimous consent that the article entitled "HOPE Pays Off for Preschoolers in Appalachia", describing the HOPE Research Project which appeared in the R&D Preview be reprinted hereafter in the RECORD in its entirety.

As a new member of the Education and Labor Committee, Mr. Speaker, I am coming to terms with the challenges, the successes, and the crises being experienced by educators throughout the country. In my State, where the current dropout rate is 17.4 percent, I am more than pleased to note that the findings of this HOPE research shows higher rates of high school graduation. For example, out of Project HOPE's group, 52 participants were predicted to drop out, but the actual number was only 23. Results also showed that the HOPE group showed better emotional and social adjustment, less personal disorganization, fewer symptoms of depression, and exhibited more coping behaviors—being responsible, cooperative, and so on.

One of the major factors in the positive outcomes of this research is that of parental involvement. When that can happen in schools and homes in the heart of Appalachia, where home environment and parental involvement are found to be more effective in childrens' learning careers from preschool through high school than just consideration of their socioeconomic status, then it is a victory of untold proportions. Why? Because no where more than in Appalachia will you find more children from families with low socioeconomic status. I am prouder still to be associated with the Education and Labor Committee, which brought to America's children such programs as chapter 1, Head Start, and Even Start, to name only a few directed at increasing the involvement of home and parents in the learning process of children, all of which have done so with proven success for more than 20 years.

HOPE PAYS OFF FOR PRESCHOOLERS IN APPALACHIA

(By John Hollifield)

This is a story of HOPE—the Home Oriented Preschool Education program—and continuing evaluations of its effects by the Appalachia Educational Laboratory (AEL). The evaluations of HOPE have added another pound of credibility to the idea that preschool education and parent involvement may be two of our most potent solutions to the academic and social problems that many children face.

The HOPE research also extends findings about the positive effects of preschool experience into rural settings and into the home, and points to the possibility of actually doing more than just "controlling" for the effects of socio-economic status.

AEL researchers tested three combinations of preschool interventions in the initial three-year experiment (1968-1971). The first combination brought daily television lessons into the homes of preschool children (TV only). The second combination used daily television plus printed lesson guides for parents plus weekly visits to the home by a local, trained paraprofessional (TV-Home Visit). The third combination used television plus materials plus visits plus a weekly half-day group experience for the child in a mobile classroom (TV-Home Visit-Group Experience). During the home-visit portion of the latter two interventions, parents were instructed and assisted in working with their children.

These interventions were compared with one another and with a control group to determine their effects on student behaviors and learning. Each of the initial three years of research (1968-1971) produced similar results for measures of cognition—preschool kids who participated in the whole HOPE program did significantly better than the other groups; preschoolers who got only the television and home visit portions did significantly better than both those who got the TV portion only and the control groups, and sometimes as well as the kids who had the whole HOPE; kids who got TV only did better than control kids who got nothing. Positive effects of HOPE were also found on measures of curiosity and social development during the 1970-1971 year. In short, HOPE was an effective preschool program with benefits for children's academic achievement up into the second grade.

But with HOPE, as with most preschool programs, the experimental group's achievement leveled off in the third grade. AEL then asked: "What effects of preschool can be found on later performance and behavior?" This second series of evaluations was more stringent, using the initial TV-only children as controls and comparing them

with the children who had received home visits.

One significant finding for HOPE children, then in junior-high school, was less retention in grade. Only about 5 percent of HOPE children, compared to 25 percent of non-HOPE children, were held back a year in grades one through nine.

Ed Gotts, coordinator of the HOPE program at AEL and now director of psychology at Madison State Hospital in Indiana, notes that the rural schools in this study seldom had special education programs, so retention in grade was the dominant way of dealing with underachieving students. In effect, finding that fewer students were retained in grade is similar to saying that fewer students were "placed" in special education.

As junior high schoolers, HOPE children also showed better emotional and social adjustment. They demonstrated less personal disorganization, showed fewer symptoms of depression, and exhibited more coping behaviors—being responsible, cooperative, and so on.

All of the above suggests good later results—especially higher rates of high school graduation, since retention in grade is such a strong predictor of dropping out of school. The most recent evalution of these "children" took place when they were 19-23 years old.

The study gathered data on 78 control group students and 185 HOPE students. Out of the control group 19 were projected to drop out. The number that did so was 20. Out of the HOPE group, 52 of whom were projected to drop out the actual number of dropouts was 23. In short, Gotts notes, the dropout rate among HOPE students was cut by 50 percent. Extrapolating this rate to the 504 students who took part in HOPE, Gotts projects that the experience prevented 79 students from dropping out of high school. Citing a figure of $107,500 as the calculated "cost" of lost earnings to society of each dropout, Gotts winds up with a tidy total savings of $8.5 million—a conservative estimate that doesn't even get into lost tax revenues or costs saved in social services.

But the research on HOPE shows something else as well. This has to do with two often-made generalizations that chill the bones of everyone who seeks children's academic growth and cognitive development. The first is that the problem is, you know, genetic. The second is that it's, well social class.

The genetic explanation for low academic achievement may never die, but at least it gets beaten up and discredited regularly. We look at the correlation between socio-economic status and low achievement, however, and accept it as a given. The research on HOPE takes socio-economic status out of the "given" realm and makes it a variable we can do something about.

Gotts looked at social class with the idea that higher socio-economic status children achieve better not just because they're from higher social class families, but because of what those families do for their children. Based on the previous work of several researchers, he set out to learn exactly what families do to help their children become better acheivers in school. Gotts found that the 18 variables on his Home Environment Scale were as effective as socio-economic status in predicting children's achievement and ability. This supported previous research that measures of home environment may be better predictors of children's intellectual competence and achievement than are traditional measures of social class.

Gotts also measured Academic Orientation—family beliefs and attitudes about their child's performance in school. His preliminary findings: Academic Orentiation was much more important than socio-economic status for children's achievement.

Finally, Gotts measured family "generativity"—the ability of families to foster trust, autonomy, initiative, and identity in their children. The incidence and effects of generativity are still being analyzed to see what influences what.

Now let's put all this together. Socio-economic status, home environment, academic orientation, and generativity are related concepts. Home environment accounts for as much or more variation in children's achievement as social class. Preliminary analyses find that academic orientation is much more important than social class. Similar results are expected for generativity.

But unlike social class, home environment, academic orientation, and generativity are susceptible to experimental change through interventions such as HOPE. Ten years after HOPE, the parents who experienced HOPE, compared to control group parents, demonstrated higher level of supportive home environments, academic orientation, and generativity, even though the social class of the two groups remained comparable. What we have, then, is a way to do something about the influence of socio-economic status instead of simply accepting the idea that lower social class children will not perform as well as higher social class children.

In the long run, this could be one of the best hopes we've found for educational improvement.

BIENNIAL BUDGET ACT OF 1989

HON. JERRY HUCKABY

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 8, 1989

Mr. HUCKABY. Mr. Speaker, I will shortly be introducing the Biennial Budget Act, legislation which will move the Federal budget to a 2-year cycle.

I am convinced that moving to a biennial budget will provide the Congress and the executive branch with a useful management tool for addressing our soaring Federal deficit. Congress needs a more thoughtful approach to making responsible, tough budget decisions.

The following is a section-by-section summary of the bill. I urge my colleagues to join me in sponsoring this much-needed legislation.

THE BIENNIAL BUDGET ACT SECTION SUMMARY

Section 1 states the title of the legislation—the "Biennial Budget Act".

Section 2 sets forth the findings and purposes of the legislation.

The findings are that the Federal budget process allows insufficient time for (a) the fulfillment by the Congress of its legislative and oversight responsibilities; (b) the review and consideration of authorizing legislation, budget resolutions, and appropriations bills; (c) the evaluation of costly and complicated Federal programs, and thereby contributes to the unrestrained growth of the Federal budget; and (d) for agencies and State and local governments to plan for the implementation of programs.

The purposes are (a) to establish a biennial budget process; (b) to improve congressional control over the budget process; (c) to improve legislative and budget processes by providing additional time for oversight and other vital activities; and (d) to provide stability and coherence for recipients of Federal funds.

Section 3 revises the Congressional Budget and Impoundment Control Act of 1974 (Budget Act) to reestablish a timetable for the biennial budget cycle, as follows:

FIRST SESSION

First Monday after January 3: President submits budget recommendations.

February 15: Congressional Budget Office submits report to Budget Committees.

February 25: Committees submit views and estimates to Budget Committees.

March 31: House Budget Committee reports concurrent resolution on the biennial budget.

April 15: Congress completes action on concurrent resolution on the biennial budget.

May 15: Biennial appropriation bills may be considered in the House.

June 10: House Appropriations Committee reports last biennial appropriation bill.

September 30: Congress completes action on reconciliation legislation.

September 30: Congress completes action on biennial appropriation bills.

October 1: Biennium begins.

SECOND SESSION

On or before May 15: Congressional Budget Office submits report to Budget Committees.

The last day of the session: Congress completes action on bills and resolutions authorizing new budget authority for the succeeding biennium period.

Section 4 amends the Budget Act by: (a) establishing the term "biennium" and defining it as the period of 2 consecutive fiscal years beginning October 1 of any odd numbered year; (b) creating a biennial concurrent resolution on the budget; and (c) conforming points of order to each fiscal year within the biennium.

Section 5 amends Title 31, United States Code by: (a) requiring that the President consult with the Budget, Appropriations, and Authorizing Committees before making changes in the table of accounts in the budget submission; (b) requiring the President to submit a two-fiscal-year budget on or before the first Monday after January 3 of each odd-numbered year; (c) requiring the President's two-fiscal-year period to comply with maximum deficit amounts in Gramm-Rudman for each year.

Section 6 amends Title 1, United States Code regarding the title and style of appropriation acts.

Section 7 provides increased authority for the chairmen and ranking members of standing committees to request information, analyses, studies, and other assistance from Federal agencies to assist in the budget formation, appropriations, authorization, and program oversight processes.

Section 8 makes conforming changes in the Rules of the House of Representatives with regard to biennial budget timetable set forth in Section 3.

Section 9 sets out the effective dates of the Act. The provisions of the Act are effective January 1, 1990. The first biennial budget begins October 1, 1991, for fiscal years 1992 and 1993. The current authoriz-

ing, budget, and appropriations processes will continue to operate for the 101st Congress.

A DOOR OF HOPE IN WILLIAMSBURG

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 8, 1989

Mr. SOLARZ. Mr. Speaker, the Williamsburg section in Brooklyn is one of those remarkable communities which are studies in contrasts. It is at once rich in its spiritual strength, but far from wealthy in material possessions. The 50,000 Hassidim of Williamsburg treasure and protect their unique heritage which has, through the centuries, remained their bulwark against adversity.

This community has experienced its share of tsuris but has also earned its share of triumphs. One of Williamsburg's most extraordinary accomplishments has been the opening of Pesach Tikvah, an organization whose name literally means a "door of hope." Pesach Tikvah serves the needs of those with serious developmental disabilities. Under the guiding hand of Rabbi Chaim M. Stauber, Pesach Tikvah must tackle not only the educational and psychological problems of these families but also must do so in a way which respects the religious traditions and cultural concerns of the Hassidim.

I am honored to be able to represent this vital and inspiring community. Rabbi Stauber, and the staff at Pesach Tikvah, share a vision of a better future, a future which emanates from a respect for the ageless traditions which have helped the Jewish people endure countless tribulations.

I would like to commend to my colleagues a profile of Rabbi Stauber and Pesach Tikvah that was written by Douglas Martin and appeared in the "About New York" column of today's New York Times.

IN WILLIAMSBURG, HASIDIM FIND A DOOR OF HOPE

(By Douglas Martin)

The man had the long beard, sidecurls and dark clothing of a Hasid. Pulling a small boy by the hand, he entered briskly through a side door and then gave the child a push in the general direction of a roomful of children. Then the man vanished.

The child is seriously developmentally disabled. The father had brought him to what is said to be one of the few mental health clinics whose principal clients are Hasidim. It is called Pesach Tikvah, Hebrew for Door of Hope.

The staff explained that the man was likely in such a hurry because of shame over venturing beyond the time-honored ways the Hasidim deal with mental afflictions. In the Williamsburg section of Brooklyn, where some 50,000 Hasidim live, these afflictions carry such stigma that Rabbi Chaim M. Stauber—who founded the clinic five years ago and serves as executive director—says parents can be seen walking with retarded children late at night to avoid detection.

The most obvious reason is the deliberate distance separating the Hasidim from the modern world. No television, movies or theater—and traditionally no contamination by such modern concepts as psychotherapy. Moreover, mental impairments are linked to sin. There is also the high regard that Hasidim hold for biblical study and the finely tuned mind.

And one other thing. "Marriages are arranged," said Rabbi Stauber, arranger of many himself. "It isn't boy meets girl and they fall in love."

The result, the rabbi says, is that parents keep the developmentally disabled in the closet so as not to send out a negative advertisement about their other children. The average number of children per family, he says, is 75.

"The problem people might have sought solutions for in other communities are often just disregarded," said Harriet Stein, a social worker at Pesach Tikvah, at 18 Middleton Street. "Coming out in the community is very hard," agreed the mother of two developmentally disabled children. "There is a long period of denial." But ever so slowly, that appears to be changing. For five years, Pesach Tikvah has tried to address needs ranging from retardation to psychoses. Yiddish is spoken, food is kosher, sexes are separate. But modern psychology is used in treating 38 people living in two residences, as well as 40 participants in a workshop who do such rudimentary things as assemble pencils. Some 400 outpatients are counseled monthly. Although some of the client families pay, most money comes from city and state programs now threatened by budget shortfalls.

Pesach Tikvah is clearly playing a catch-up game. "We seem to be re-inventing the wheel at a time everybody else is in modern automobiles," Rabbi Stauber said.

No one suggests that Hasidim are sicker than other Americans. In fact, the Pesach Tikvah staff believe the community's incidence of mental problems is likely lower than the general society's 1-in-5 rate.

And the majority of the problems are the same as everybody else's. With some differences. Holocaust survivors and their children suffer particular traumas. And there is the practice of arranging marriages between those suffering similar afflictions, say schizophrenia. For psychiatrists, this can create both a fascinating laboratory and a stiff challenge.

Other differences arise from the gulf separating Hasidim from the rest of society—men's broad-brimmed hats, women's wigs, huge families, the fact that virtually no one goes to college. "We have created our own little ghetto," Rabbi Stauber said.

Economic pressures also tear at Williamsburg. As families multiply, the housing stock has shrunk. "The community is overwhelming poor," Rabbi Stauber said.

Moreover, "this is a very demanding life style," he said. At the age of 3, boy's hair is cut to create payes, or sidecurls, and he begins to study Hebrew. Girls are taught to be good wives and mothers. By 18, most Hasidim are married. "There is no such thing in our life as fun for the sake of fun," Rabbi Stauber said.

But there is a profound sense of community, of a social cocoon whose only American parallel is Pennsylvania's Amish. There are volunteer ambulance services, community patrols, a host of charitable endeavors. There is the certainty of living one's life in strict adherence to 613 mitzvahs, or commandments.

But change is unavoidable, even for those who least welcome it. Recently, a young Hasid died of a drug overdose, the first in Williamsburg. Rabbi Stauber delivered the funeral oration. He shocked them by directly addressing the cause of death and calling for compassion, introspection. Anonymous caller after anonymous caller, he says, termed his remarks "very distasteful."

ABBA EBAN ON ISRAEL'S OPTIONS

HON. WAYNE OWENS

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 8, 1989

Mr. OWENS of Utah. Mr. Speaker, as we all know, Israel has been going through a difficult period of introspection and reevaluation during this past year. For this reason, Israel's friends in Congress will want to consider this article written by Abba Eban in the January 2, 1989, edition of the New York Times. Having served as the former Israeli Foreign Minister and Representative to the United Nations, Mr. Eban is universally respected and admired as a statesman, and his views on Israel's options at this point in history are particularly lucid.

Having recently returned from the Middle East, I believe there is a unique opportunity to make progress on the Arab-Israeli conflict, which has been at loggerheads for the past 22 years. Formerly hostile countries such as Jordan and Saudi Arabia have adopted a far more moderate posture, and have tacitly recognized Israel's permanance in the region.

In his article, Mr. Eban argues that Israel remains a formidable military power in the Middle East, and must be willing to take a calculated risk in the interest of peace.

The article follows:

[From the New York Times, Jan. 2, 1989]

ISRAEL, HARDLY THE MONACO OF THE MIDDLE EAST

(By Abba Eban)

The recent definitions of Palestinian attitudes will not "solve" the Middle Eastern crisis or bring a negotiation with Israel into early view. But all attempts in Israel and the United States to portray them as worthless or fraudulent have incurred total failure. Moreover, it is absurd to suggest, as many of Israel's friends have, that the Americans decision to talk to the Palestine Liberation Organization threatens Israel's very survival.

The evolution in Palestinian thinking toward "realistic and pragmatic positions on the key issues," as President Reagan has said, is either real or illusory. If it is real it would be reckless not to probe it in its full scope and depth. If it is all a hoax and a fraud, it is important to expose it. In either case, it was absolutely right for Secretary of State George P. Shulz to inaugurate an exploratory dialogue.

The reasons for believing that the Palestine leadership is on a new course are too strong for out-of-hand rejection. First, there is the impressive unanimity of belief among all the statesman who have ever shown respect for Israel's rights. It would be absurd for Israelis to assume that Reagan, Thatcher, Mitterrand, American Jewish leaders and Israel's other supporters in Europe, Latin America and the rest of the world are gullible dupes.

Perhaps more sensational even than this consensus was a recent survey revealing

that 55 percent of Israel's Jewish population now supports negotiations with the P.L.O. if the promises of its chairman, Yasir Arafat, are kept.

Nevertheless, when it was announced that an American ambassador would have a talk with a P.L.O. official in Tunis, friendly American columnists sounded all the alarms. A.M. Rosenthal of The New York Times reflected on "a risk to Israel's existence." George Will say the Reagan Administration and its officers, together with the "gullible West," as the insidious enemies of Israel's future. Norman Podhoretz in The New York Post described a "Palestine ministate on the West Bank and Gaza" as part of a macabre scenario "with battles raging 15 miles from Israel's population centers and with the Palestinians flanking Jerusalem on three sides and Tel Aviv on two, and attacking along a line nine miles from the sea . . . Israeli casualties could reach as high as 100,000."

The dark vision of another New York Times columnist, William Safire, is not of mere peril but of "extermination." He awards a gold medal for endangering Israel to Shimon Peres, with Yasir Arafat and the United States as candidates for a silver and a bronze. In his Christmas dream, John Tower, as Defense Secretary, and Moshe Arens, Israel's Defense Minister, roam the Middle East bombing Arab weapons systems. This alluring prospect is called "surgical non-proliferation." It must be a long time since a responsible journalist published an incitement to two governments to initiate what could become a nuclear exchange.

Common to all these views is the notion that Israel is a demilitarized land like Iceland or Monaco, Lichtenstein or Costa Rica. The P.L.O. forces, by contrast, are depicted as the lineal descendant of Alexander the Great, Genghis Khan, Napoleon and the Hitler and Stalin dictatorships, able to exterminate Israel. There is not a single word to indicate either that Israel has any military power or that the P.L.O. has any military limitations.

This is drastically opposed to the reality. The Israeli defense system is one of the wonders of the world. Never in history has so small a community been able—and ready—to wield such vast capacity of defense, deterrence and reprisal.

The "Middle East Military Balance" published by the Israeli Center of Strategic Studies at Tel Aviv University shows Israel with a mobilizable manpower of 540,000, some 3,800 tanks, 682 aircraft with awesome bomb capacity, thousands of artillery pieces and missiles and an imposing electronic capacity. The P.L.O. has, according to the same survey, 8,000 men in scattered places, zero tanks and aircraft, a few guns and no missiles, but a variety of hand grenades, mortars, stones and bottles. It takes a great effort of imagination to envision this array of forces flanking our cities from five sides and the sea while inflicting 100,000 casualties.

If there were to be an Arab-ruled entity in a large part of the West Bank and Gaza, either as a separate state, or, preferably, as part of a confederation with Jordan, it would be the weakest military entity on earth. If there were a demilitarization as part of a settlement, it would be possible to enforce it owing to the vigilant proximity of Israel and Jordan. With the exception of a relatively minor rejectionist front (Libya, Syria and South Yemen), the Arab world is pressing the Palestinians for realism, not for adventurism.

There would be security problems in an Arab sovereignty in the West Bank and Gaza, as there are in greater intensity with Israeli occupation of those areas. But to call such an entity a threat to Israel's survival is preposterous. It is the survival of a Palestinian nation that could be threatened by irredentism.

Finally, it is unlikely that the Arab states would accede to a request from the P.L.O. to make war against Israel on their behalf. The position now is that they are not even being invited to do so. Israelis and Americans should be celebrating a success, not bemoaning the dangers.

The harm done to Israel by the rhetoric of weakness is far-reaching. The aim of our defense system is deterrence, with victory as the fall-back aim. If friends say that we are virtually impotent, this effect is lost. There is also damage to credibility. Talk of Israel's extermination is nowhere taken seriously by those who know the power balance; it is interpreted as justification for immobilism or pre-emptive aggression.

The semantic of extermination is also a historic insult to Zionism. If after a century of Zionist effort and 40 years of statehood, replete with victories in the battlefield and crowned by an alliance with a superpower, Israel's 3.5 million Jews were the only Jewish community anywhere faced with plausible danger of "destruction," the Zionist enterprise, dedicated to Jewish security, would be seen to have failed.

Friendship is to be judged by consequence, not by intention. The friends of Israel should avoid creating a false myth of Israeli weakness. Israel's return to Security Council Resolution 242 and the principle of "territory for peace" is now an indispensable condition for any further movement—a step that Israel is strong enough to take.

POCATELLO AND CHUBBUCK, ID, SHARE UNIQUE PROBLEM

HON. LARRY E. CRAIG

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 8, 1989

Mr. CRAIG. Mr. Speaker, Pocatello and Chubbuck, ID, are neighboring communities. Actually, neighboring probably doesn't accurately describe their relationship. You see, the two cities are separated by about 100 feet of road. Although they contract with each other to provide various services—fire, trash collection, and so forth, each has its own city government and is fiercely autonomous.

When working in tandem, they resemble any midsize urban community—they have the same conveniences and the same problems. Their combined population is roughly 54,000—well over the census requirement for designation as a standard metropolitan statistical area.

However, the Federal Government refuses to recognize the proximity of these two cities. On paper, Pocatello and Chubbuck might as well be on opposite sides of the country. But, in reality, they are both part of one metropolitan area and deserve to be treated as such.

These two communities ought to be entitled to the same benefits available to other urban centers—increased hospital reimbursement, indigent care and the whole range of Federal urban assistance—without being required to surrender their autonomy.

I hope my colleagues will join me in helping Pocatello and Chubbuck secure that which is rightfully theirs by cosponsoring the legislation I am introducing today.

THE DRUG DEALERS SEND ANOTHER HORRIBLE MESSAGE

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 8, 1989

Mr. RANGEL. Mr. Speaker, it seems that every few months or so I find myself in the unfortunate position of having to bring to the attention of my colleagues some brutal news from the drug jungles in our cities. In this case, it again comes from New York.

About this time last year, I remember the deep sense of loss and the sadness felt by the family, friends, and law enforcement colleagues of rookie New York Policeman Edward Byrne, who was gunned down while protecting an important witness in a drug case. The drug dealers sent a message, and Edward Byrne was the unfortunate messenger.

Today, it is Everett Hatcher. Mr. Hatcher was a 16-year veteran of the Drug Enforcement Administration. He was a husband and the father of two children. He had laid his life on the line every hour of every day for our drug-infested communities for nearly two decades, until they took it all away from him in a hail of bullets on the evening of Tuesday, February 28, while Agent Hatcher worked undercover on Staten Island.

This, sadly, reminds us all too well of the commitment that we in the Congress must keep to support our law enforcement officers in the continuing battle to regain our neighborhoods, our streets, and our souls and hearts from the drug traffickers. These pirates of peace and prosperity are bent on making a profit at the expense of destroying all that is good about America.

I cannot help but think, Mr. Speaker, about the horrible price that we will continue to pay to fight the growing incursion of the drug traffic in our great country. It is a depressing thought to know that Everett Hatcher will not be the last one. It is disturbing to know that until we firmly grip this problem as tight as we can, that we will continue to suffer periodically from the loss of some our greatest, most selfless warriors.

But it is not just the police officers who are being mowed down like blades of grass by the modern-day mafia that runs the drug trade.

It could be the uninvolved citizen who, at the wrong place at the wrong time, say, at a traffic light, catches the spray from machine-gun fire as traffickers turn otherwise safe streets into a temporary battleground over territory.

I could be the unsuspecting victim of robbery or attack from a crazed dope fiend desperate for money to purchase a fix. Death does not have to come directly at the hands of the drug lords or their agents.

We just passed our second comprehensive antidrug package in the Congress. We had much trouble getting the previous administration to see the necessity of stepping up our commitment to the drug war—especially to law enforcement officers at all levels—but maybe that attitude is changing with our current administration. I remain hopeful that there will be a new attitude and a renewed sense of commitment at 1600 Pennsylvania Avenue when it comes to ridding America of the drug trade.

I hope that all of you will join with me in sending our deepest condolences to the family of Agent Everett Hatcher.

Let us also, Mr. Speaker, send condolences to and pledge our continued support for the brethren of Everett Hatcher.

Whereas Edward Byrne's death drew attention to the contributions of our State and local police officers in the streets, the cold, callous, animal-like assassination of Everett Hatcher brings to mind the enormous sacrifices of our Federal Drug Enforcement agents.

Our Drug Enforcement Administration agents are a tremendously small number considering the magnitude of the problem. They have a modest amount of resources to work with. Their territory, really, is the world, yet we have barely given them enough to cover the country adequately. But they have kept up the good fight without giving up. Like Everett Hatcher, they, too refuse to be intimidated by the drug lords.

Everett Hatcher was all that the Drug Enforcement Administration stood for in its agents. Up to the task, fearless, and assured of the purpose of duty.

How many more will it take, Mr. Speaker, before we realize the real threat the drug trade poses? How many more will it take, Mr. Speaker, before we come to the realization that our national security is at stake? How many more will it take, Mr. Speaker, before we conclude that we have to increase our arsenal to effectively fight and win the war on drugs?

When are we going to be up to the task, fearless and assured of the sense and purpose of duty in the war on drugs like Everett Hatcher was when he was gunned down last week?

SUPPORT FOR H.R. 939, THE ETHICS IN PATIENT REFERRAL ACT

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 8, 1989

Mr. STARK. Mr. Speaker, I would like to include at this point in the RECORD two editorials in support of my bill, H.R. 939, the Ethics in Patient Referral Act.

These editorials explain why we need to enact legislation in this area, as soon as possible.

Failure to act will mean more and more referrals for profit—and that will build billions and billions of dollars of overutilization and unnecessary medical treatments into the health care system.

Everyone who is concerned about inflation in the health sector should support this legislation.

Following are the editorials from the Los Angeles Times of February 22, 1989, and Newsday of February 27, 1989:

[From the Los Angeles Times, Feb. 22, 1989]

HIPPOCRATIC HYPROCRISY

A new move to limit investments by medical doctors in diagnostic and treatment facilities is being made in Congress, an appropriate response to the conflict of interest inherent in many of these arrangements. As a report of the Institute of Medicine affirmed earlier, "It should be regarded as unethical and unacceptable for physicians to have ownership interests in health-care facilities to which they make referrals or to receive payments for making referrals."

Under legislation introduced by Rep. Pete Stark (D-Oakland), physicians would be prohibited from referring Medicare patients to any service, clinic or facility in which the physician has a financial interest or from which the physician receives compensation. Exceptions would be made to protect the traditional physician-hospital relationship and to assure adequate investments in remote areas where doctors might be the sole source of investment for diagnostic and special treatment centers.

The objectives of the legislation have wide-spread support from such diverse organizations as the Washington Business Group on Health, the American Society of Clinical Pathologists and the American College of Radiology. But not yet the American Medical Assn., whose policy-makers have indicated opposition to any across-the-board barrier to doctor investment in health-care facilities. One medical association policymaker has argued that financial involvement is likely to ensure better-quality care and service—a concept that raises some profound questions concerning the meaning of the Hippocratic oath.

There is nothing imaginary or theoretical in the risks of abuse. A Blue Cross study in Michigan five years ago showed that the average cost and frequency of use of doctor-owned laboratories was double that of the other labs. Times reporter Claire Spiegel reported charges from a radiology facility in Orange County that it was being frozen out of referrals by a newer facility owned by the physicians themselves. Dr. Arnold Relman, editor of the New England Journal of Medicine, branding the practice "wrong" and "unethical" and "not in the public interest," estimates that more than 50,000 physicians nationwide have a financial stake in ancillary medical services. The AMA estimate is 10 percent of all doctors.

The controversy goes beyond commercial enterprises seeking to lock physicians into their enterprises with often highly profitable investments. It includes commercial arrangements being apparently forced on nonprofit hospitals as well to create joint ventures for outpatient surgery centers, imaging facilities and even prescription pharmacies as a means of assuring the loyalty of staff doctors by sharing the profits from these operations.

The legislation that is now on the books in states like California, requiring doctors to reveal their financial interest when making referrals, is not adequate protection. Stark's broader legislation on Ethics in Patient Referral, with its specific prohibitions for Medicare, would be a welcome additional safeguard.

[From Newsday, Feb. 27, 1989]

THE GROWING COSTS OF PHYSICIAN-OWNED CLINICS

It's one of the newest epidemics sweeping the country and it needs to be checked: Doctors are making big money by referring patients to medical facilities in which the physicians have financial stakes. The more referrals, the larger the profits—and the more questionable the ethics and the legality.

The hottest properties for such investments are X-ray clinics that provide costly magnetic resonance imaging. Other favorites are facilities for physical therapy, sports medicine, dialysis and blood testing.

To be sure, most of these arrangements are legitimate; their organizers say they provide the latest in sophisticated techniques and technology. Still, there's evidence of unnecessary testing, inflated bills and unconscionably high profits at the expense of patients and their insurance carriers. One study, for example, found that fees and services in physician-owned labs were nearly double those in facilities not owned by doctors.

Typically, shares in such ventures are offered only to doctors who can send business their way. But economic inducements to make referrals come dangerously close to being a kickback scheme, something outside the pale of medical ethics and federal law.

Besides, it's not hard to imagine that some physicians are tempted to order unnecessary studies or expensive treatment. And since doctors control patient referrals, they can lock up the market and drive independent providers out of business.

All this should have attracted close scrutiny long ago. That's starting to happen now. Both New York State and the U.S. Department of Health and Human Services have begun investigating, and hearings are planned this spring on a bill by Rep. Fortney Stark (D-Calif.) to bar physicians from referring Medicare patients to clinics they own.

Rampant entrepreneurship among physicians is a malady that requires strong medicine. It's an axiom of health care that patients trust their doctors to refer them to the best, most economical and most convenient clinic available. Indeed, trust is at the very core of medical treatment. No matter what advances modern medical technology may bring, that shouldn't change.

FLORIO HAILS BROTHER ANDREW O'GARA AS IRISHMAN OF THE YEAR

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 8, 1989

Mr. FLORIO. Mr. Speaker, your predecessor, the Honorable Thomas P. "Tip" O'Neill, throughout his tenure as Speaker of the House, demonstrated the unique wisdom and good nature that an individual's Irish heritage can signifiy when involved in public service. In much the same way, Brother Andrew O'Gara has displayed a thoughtful and responsible manner as a student, a teacher, and a friend to those fortunate enough to know him.

As president of Christian Brother's Academy in Lincroft, NJ, Brother O'Gara has brought an unwavering dedication to the principles of a

fine education. Coupled with his gift of wit and his unwavering devotion to the ideals of Christian living, he has had an immeasurable impact upon the lives of the academy's students and their families. Indeed, it is by no accident that the academy was recently named as one of the top 60 preparatory schools by the Council for Private Education.

Prior to joining the staff at Christian Brother's Academy, Brother O'Gara studied at Catholic University and Manhattan College where he found his interest in education and his chosen vocation. Additionally, he was superior and principal of St. Raymond's High School in Parkchester for more than a decade. It is quite evident that the distinguished curriculum and notable achievements of the student body at the academy are largely the result of the tireless efforts and guidance of Brother O'Gara.

The award of the Friendly Sons of St. Patrick is in recognition of an individual who has shown his dedication to the principles of our constitution and his Irish heritage. Mr. Speaker, Brother Andrew embodies these ideals and I ask that my colleagues join with me in paying tribute to a man whose endeavor continues to be the attainment of the best education for the students and, thus, the betterment of the entire community.

GOOD LUCK TO A GREAT PUBLIC OFFICIAL

HON. DONALD E. "BUZ" LUKENS

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 8, 1989

Mr. DONALD E. "BUZ" LUKENS. Mr. Speaker, I rise today to salute a committed public servant. It is rare that a public official can claim the admiration and appreciation of friends and supporters from both political parties. Hamilton, Ohio's City Manager Jack Becker has earned that distinction by his many years of loyal public service.

Jack Becker is a close friend who dedicated his life to serving the citizens of Hamilton with a commonsense approach that has greatly benefited his constituents.

I wish only the best for Jack and his family.

I would also like to insert the following articles from the Hamilton Journal News.

400 BID FOND FAREWELL TO BECKER: COMMON SENSE CARRIED RETIRING MANAGER TO HAMILTON'S TOP JOB

(By Karen Minnelli)

HAMILTON.—Friends and colleagues bade farewell Tuesday to a man who "just tried to use good common sense" during his 31 years of service to the City of Hamilton.

In the final hours of his last day before retirement, City Manager Jack Becker was honored with a dinner, accolades and gifts to improve his golf game.

"I think we did a good job for the city," said Becker, the city's top administrator since 1984. "It's been four years of a lot of fun. It has been hard work, but I enjoyed it.

During Becker's tenure as city manager, Hamilton has seen more construction projects than in any other single year in its history, the purchase of the Greenup Hydroelectric Plant, the implementation of a 911 emergency communications system for police and fire services, and more.

"I just tried to use good common sense," Becker said.

More than 400 people attended the city manager's farewell dinner at the Metropolitan Rooms where he was presented with gifts and proclamations.

Becker, a Hamilton native and Citizen of the Year for 1988, began his career as an accountant with the city and moved up during the past three decades.

"It didn't make any difference how much of a load you put on Jack Becker; he always did his job," said Charlie Ruppert, the city administrator who hired Becker 31 years ago.

Becker started out with "a mediocre job" and "reached the top," Ruppert said.

"The dignity that he treats people with, I think that's been Jack's forte," said former City Manager Jack Kirsch.

Becker's oldest son, Doug Becker, remembered the days when his father came home for supper and then went back to work.

And when his dad's back went out, Doug Becker said, he and his brothers and sisters had to carry him up the steps of the city building to his office.

"Being in a leadership position doesn't necessarily make you a leader," said Rick Harbrecht, president of the local Fraternal Order of Police chapter. "Honesty, common sense and good judgment make you a leader. Jack Becker certainly has this."

Steve Timmer, president of the local chapter of the International Association of Firefighters, lauded Becker for his "common sense approach to management."

Becker turned over the city's reigns Tuesday to Assistant City Manager Hal Shepherd, who will be acting city manager until a permanent replacement is found.

BECKER LEAVES LASTING LEGACY

Common sense is a quality that shouldn't be—but often is—in short supply in government. A lot of people in government have common sense however, putting it to use is another matter.

Let's hope the retirement of Jack Becker as Hamilton's city manager doesn't measurably shorten the supply of common sense in city government.

Becker retired Feb. 28, bringing to a close a 31-year career as a civil servant. From the day in 1958 when he first joined the city's staff until last Tuesday, Becker typified common sense in government.

Moving through a succession of city jobs—from accountant to tax collector to city treasurer and finally city manager—Becker approached each with one primary concern, using common sense to get the job done.

His philosophy paid off. Becker's years were busy ones, momentous one, for his city, the city where he was born and went to school, the city that has been his only employer during his working life.

Becker was there, if not presiding over the action, when the city turned around from a declining to a growing metropolitan area. He started out slowly, cautiously, but finished up at a dead run.

Since he took office in 1984, an enterprise zone was established to make the area more attractive to commercial interests, and a public image campaign was started to boost the city's reputation throughout the region, state and nation.

Construction of the High Street railroad underpass finally cured an age-old problem of uninterrupted access to the city's downtown from its eastern reaches. Then, to the delight and amazement of many, The Hamilton hotel was built as another big step in rejuvenating the city's downtown.

Becker's last full year on the job, 1988, is exemplary of the job he did for his city. During that year, construction projects totaling more than $200 million—which created some 333 new jobs and retaining 359 more—were announced or begun.

Now Jack Becker has left the employ of the city of his birth with expressed intentions of playing a lot of golf. If he plays golf like he manages a city, don't get in a "skins" game with Jack Becker.

Now the Hamilton City Council must choose a new city manager—a successor, yes, but a replacement, no. There is no way of replacing a man like Jack Becker.

Good luck, Jack.

THIRTIETH ANNIVERSARY OF THE CALIFORNIA COURIER

HON. CARLOS J. MOORHEAD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 8, 1989

Mr. MOORHEAD. Mr. Speaker, the California Courier, the oldest English-Language newspaper serving the Armenian community in the Nation, is celebrating its 30th anniversary on March 10.

The Courier, published weekly in Glendale, CA, will be honoring its founding publishers, George Mason and Reese Cleghorn, dean of the School of Journalism at the University of Maryland, at a gala celebration at the St. Bonaventure Hotel in Los Angeles.

The keynote speaker will be Gov. George Deukmejian with Kenneth Khachigian as master of ceremonies.

Mr. Speaker, for 30 years, the Courier has been an accurate, objective reporter of the social, cultural, political, and spiritual events within the Armenian community.

The Courier has provided the Armenian community with focus and perspective, education and enlightenment. It has been a continuing source of pride; it has been a guide; it has been a fundamental element in the daily activities of many of my constituents.

My friend Harut Sassounian is the Courier's current publisher and editor. He continues the fine tradition of leadership at the newspaper.

Mr. Speaker, I appreciate this opportunity to bring to the attention of my colleagues in the U.S. House of Representatives the 30th anniversary of the California Courier and to congratulate the publisher and his staff for a job well done.

A TRIBUTE TO A.M. COPPENRATH

HON. MARGE ROUKEMA

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 8, 1989

Mrs. ROUKEMA. Mr. Speaker, I rise today to pay tribute to one of northern New Jersey's finest citizens. On March 11, the Ramapo College Foundation will hold its seventh annual Distinguished Citizens Awards dinner. This year the foundation will honor Robert A.M. Coppenrath, president and chief executive officer of Agfa-Gevaert, Inc., of Ridgefield Park,

NJ, for his outstanding professional and community service.

A native of Antwerp, Belgium, Mr. Coppenrath earned his BBA and MBA from the University of Antwerp. Robert continued his education with postgraduate studies in marketing at the University of Waterloo, Ontario, Canada.

Robert Coppenrath joined Agfa-Gevaert, Inc., in August 1969 and quickly became its president and CEO in March 1970. Prior to joining Agfa-Gevaert, Inc., he spent 11 years in Canada with Photo Importing Agencies, Ltd., a company he founded and served as president and general manager. In 1964, this firm became the exclusive agent for the distribution of Agfa-Gevaert products throughout Canada and prior to that for the Gevaert products.

Mr. Coppenrath has a sterling record of international service to industry in the private sector and to the citizens throughout the United States, Canada, and Europe. He plays a major role in many civic organizations. Robert is a director and member of the Belgium-American Chamber of Commerce in the United States. He is a trustee of the Aviation Hall of Fame of New Jersey, a member of the President's Council of the International Center of Photography and a trustee of the Photographic Art and Science Foundation, Inc.

Robert Coppenrath has made significant contributions to many citizens around the world. I urge my colleagues to join me in saluting one of this year's Ramapo College Foundation's Distinguished Citizens Award honorees, Robert Coppenrath.

JOHN M. SCHULTZ HONORED

HON. JOE KOLTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 8, 1989

Mr. KOLTER. Mr. Speaker, today I rise to honor Mr. John M. Schultz, 133 Fourth Avenue, Butler, PA, 16001, for the "Butler County Veteran of the Year, 1988," as he will be receiving this award at a special recognition dinner from the the Butler County War Veterans' Committee, at the Vagabond Center, Lyndora, PA, for his outstanding dedication and service to the veterans for 43 years.

Mr. Schultz is very worthy of this prestigious award, as an honorably discharged veteran who served in both the European-African Middle Eastern campaign, and the Asiatic-Pacific campaign with the U.S. Army for 5 years.

He was involved with the Joseph T. Black Veterans' of Foreign Wars Post 249, Butler, PA, over 43 years serving as post commander, county commander, and district commander; and received nine national aide-de-camp awards.

He is an active member of Michael Kosar American Legion Post 778, Lyndora, PA; served on the Butler County War Veterans Committee; and played an active role for the Memorial Day and Veterans Day observances in the city of Butler, PA.

He chaired the Loyalty Day Committee, 25th District; participated in the VFW Voice of Democracy Program, the Butler Veterans' Administration Medical Center's lawn parties and Christmas parties, the poppy sales, the placing of flags on the veterans' graves, and light-a-bike program in the city of Butler.

He has retired from Armco, Butler, PA, after 33 years of loyal and dedicated service.

He and his wife, Helen are members of St. Pauls Roman Catholic church. They have three children and five grandchildren.

For all these unselfish hours of giving and the many hours of service that he will give in the future, I am proud to honor this distinguished veteran and respected man, by informing my colleagues of his untiring efforts.

A BILL TO ADJUST RETIREMENT BENEFITS FOR PHILIPPINE SCOUTS AND THEIR SURVIVORS

HON. LEON E. PANETTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 8, 1989

Mr. PANETTA. Mr. Speaker, I rise today to introduce legislation to redress a longstanding inequity in our treatment of a very special group whose vital services to our Nation have passed virtually unacknowledged. This bill would equalize retirement pay for equal risk for former World War II-era Philippine Scouts who fought so bravely as part of the United States Army and their survivors.

As you may know, the Philippine Scouts were not foreign soldiers; they were an integral part of the United States Army. Created in 1901, the Scouts were an elite organization with a "high esprit de corps" in which membership was considered an honor by Filipinos, and the strictest standards were followed in their selection. Never numbering more than 12,000 men, the Scouts were to serve a pivotal role in the valiant defense of the Bataan Peninsula. General MacArthur described them as, "excellent troops, completely professional, loyal, and devoted."

In recruiting the Scouts, General MacArthur pledged, and I quote:

War is the great equalizer of men. Every member of my command shall receive equal pay and allowances based on the United States Army pay scale, regardless of nationality.

At the onslaught of war in the Pacific, when the Japanese attacked Pearl Harbor and invaded the Philippine Islands, these soldiers became the key to our entire South Pacific strategy. Against overwhelming odds, faced with superiority in numbers and equipment, devoid of air cover against constant bombings by the Japanese, ravaged by malaria with little medicine to fight it and beri-beri brought on by a diet of polished rice and a few canned goods a day, these men helped hold the Bataan Peninsula for 98 days. Over 1,000 of them went on to fight another 5-weeks in Corregidor. This determined resistance denied the Japanese an essential base for the projected thrust into the South Pacific. The enemy was also forced to retain a large army and naval force in the Philippines, which otherwise could have been employed against Allied shipping of men and materials to Australia and New Caledonia from the United States and the Middle East.

Despite the valiant services of the Philippine Scouts who fought and sacrificed side by side with American soldiers and despite the fact that the Scouts were a fully incorporated unit of the United States Army, the Philippine Scouts received only a fraction of the regular pay received by their American counterparts. In fact, while an American private was earning $30 a month during the war, a Philippine Scout with comparable rank and length of service received only $9 for his exposure to the same hardships and dangers.

Mr. Speaker, I believe that the time has come for Congress to redress this longstanding inequity in our Nation's treatment of this very special group of World War II veterans. The legislation I am introducing today authorizes the adjustment of retirement benefits paid to former Scouts or their survivors to reflect equalized pay with their American counterparts of the same grade and length of service. In a recently completed study the Department of the Army estimated the cost of adjusting retirement benefits for the 364 remaining living Philippine Scouts who presently receive benefits would be $724,000 per year. I think you would agree that it is a small price to pay for a commitment ignored for over 40 years.

While the budgetary impact of these pay equalization measures is small their symbolic value is immense. Congressional authorization of adjusted retirement benefits would provide a meaningful demonstration of our gratitude for their faithful and gallant service during World War II. I again urge my colleagues to support this worthwhile measure.

Following is the text of the bill:

H.R. 1314

A bill to equalize the retired pay of persons who served during World War II as Philippine Scouts with the retired pay of other members of the Armed Forces of the United States of corresponding grades and length of service

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 "Philippine Scout Retirement Pay Equity Act".

SEC. 2. PHILIPPINE SCOUT RETIRED PAY EQUALIZATION.

The Secretary of the Army shall redetermine the retired pay of each person entitled to retired pay from the Department of Defense for service as a Philippine Scout during the period beginning on December 7, 1941, and ending on December 31, 1946, as if the rate of basic pay payable to such person at the time of retirement had been the rate of basic pay payable to any other member of the United States Army in the same grade and with the same length of service as such person. The redetermination of retired pay shall apply only for retired pay payable for months beginning on or after the effective date of this Act.

SEC. 3. PHILIPPINE SCOUT SURVIVOR BENEFIT ADJUSTMENT.

The Secretary of the Army shall adjust the base amount used to calculate survivor benefits under subchapter II of chapter 73 of title 10, United States Code, for each person entitled to survivor benefits as the survivor of a Philippine Scout who served

during the period beginning on December 7, 1941, and ending on December 31, 1946, to reflect the redeterminations of retired pay made for such Philippine Scout under section 2. The adjustment of survivor benefits shall apply only for survivor benefits payable for months beginning on or after the effective date of this Act.

SEC. 4. EFFECTIVE DATE.

This Act shall take effect 60 days after the date of the enactment of this Act.

THE PALAU COMPACT OF FREE ASSOCIATION IMPLEMENTATION ACT

HON. RON de LUGO

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 8, 1989

Mr. DE LUGO. Mr. Speaker, 63 other Members and I introduced legislation today to authorize a compact of free association with the western Pacific islands of Palau to be put into effect. The resolution would help make this possible by providing Palau with help it needs to tackle serious problems. These problems have hindered approval of the compact to date.

This legislation is identical to legislation agreed upon just minutes too late to be enacted in the 100th Congress.

Under that agreement, the executive branch would fulfill all of the requirements of the House version of the legislation, House Joint Resolution 597, without being required to do so by statute. The Congress, in turn, would approve a Senate substitute with one mutually agreed upon amendment.

The United States became fully responsible for the governing of Palau and other Micronesian islands under a 1947 trusteeship agreement with the United Nations. Palau is the last part of the trust territory to determine its future political status.

The compact would grant Palau self-governing authority in all matters not affecting national security, and $460 million, adjusted for inflation, over 15 years. It would also secure vital base rights for the United States for 50 years and secure U.S. military control over a strategic area of the western Pacific in perpetuity.

Public Law 99-658 conditionally approved the compact but did not authorize it to be implemented because the people of Palau had not approved the compact in spite of several votes on it.

Palau's leaders said last year that the House version of House Joint Resolution 597 offered the only real chance of enabling the compact to be approved for their people. This is because it required actions needed to help Palau address serious problems, including corruption; drug trafficking; crippling debts; and critical health care, prison, and other needs.

I hope that they will reach the same conclusion this year because the agreement on this legislation will only hold up if it remains a compromise between all parties. And this is as it should be because free association should be a mutually agreed upon balance between the interests of sovereign states.

The improvements to the compact that this agreement would bring about are about the best that I believe we can make through compact implementation legislation. Any other necessary improvements will probably have to be brought about through other legislation.

This itself is a part of the compromise. I intend to meet with Palau's leaders, administration officials, and concerned colleagues on this point.

The ranking Republican of the Insular and International Affairs Subcommittee, BOB LAGOMARSINO, and I have reintroduced this legislation because there are now indications that the new administration will honor the compromise worked out with the last administration, which Palau's leaders supported.

It is unfortunate that the last administration did not take the actions it could to implement last October's agreement so that compact approval could move faster than it has this year. But I am encouraged by recent indications that the new administration will do what it can to implement the agreement.

The most recent of these indications is a response by the new Secretary of the Interior, MANUEL LUJAN, to a question I asked of him in the Committee on Interior and Insular Affairs today. He made it clear that taking these actions to help Palau with some of the problems which have hindered the Compact's approval which are required by the agreement are among his highest priorities.

Consequently, I plan to seek approval of this legislation as soon as the new administration takes the actions it can take at this time to fulfill the requirements of the agreement. These requirements are as follows:

REQUIREMENTS OF THE AGREEMENT ON H.J. RES. 597—IN ADDITION TO REQUIREMENTS SPECIFIED IN THE SENATE AMENDMENT

The Compact will be implemented when a) it is approved by the percentage of votes in Palau required by Palau's constitution *and* b) the President has negotiated agreements with Palau in consultation with the Congress that will provide for required assistance for law enforcement, Palau's special prosecutor and public auditor, medical and prison facilities, and a referendum on the Compact.

The President will negotiate an agreement which will commit the U.S. to provide Palau in FY '90 with the amount up to $5 million matched by Palau for improvement of medical facilities to be spent according to a plan approved by the Secretary of the Interior in consultation with the Secretary of Health and Human Services.

The President will negotiate an agreement which will commit the U.S. to settle the outstanding debts of Palau, the Federated States of Micronesia, and the Marshall Islands to U.S. medical institutions incurred during the trusteeship.

The U.S. will recognize that Palau is required to provide fair payment for private land the U.S. might require Palau to provide for military purposes under the Compact.

The President will enter into agreements regarding financial assistance for this purpose based on fair value if Palau determines it needs such assistance.

The U.S. will recognize that the President may extend the 60 days Palau has to make land available to the U.S. if an extension is needed to acquire privately-held land.

The President will negotiate an agreement which will commit the U.S. to assist Palau in enforcing narcotics and other laws and in preventing and treating narcotics and other substance abuse.

The agreement will specifically describe the assistance to be provided for law enforcement.

It will also commit the U.S. to provide Palau with $400,000 annually in years two through six of the Compact for these purposes.

Finally, it will provide that Palau authorizes U.S. law enforcement officers to investigate U.S. laws applying in Palau in cooperation with Palauan officials.

The President will negotiate an agreement which will provide that the U.S. will assist Palau in implementing its special prosecutor and public auditor laws.

The agreement will provide that Palau will spend not less than $100,000 annually for each of the offices in years one through five of the Compact.

It will also commit the U.S. to providing nonreimbursable technical assistance to the two offices, including an attorney or investigator and an auditor or accountant, in years one through five of the Compact at the request of the government of Palau or the prosecutor or auditor.

Additionally, it will commit the U.S. to provide Palau with $300,000 annually in years one through five of the Compact for the offices.

If Palau does not maintain the offices, the President will take the matter up under the conference and dispute resolution procedures of the Compact. If Palau does not comply with an arbitration decision under these procedures within 180 days, the President will either withhold assistance to Palau or suspend the guarantee of assistance the Compact would provide Palau.

The President will consult with the Congress in negotiating the required agreement on implementation of U.S. audit recommendations. The agreement will provide that the Secretary of the Interior will assist Palau in implementing such recommendations.

The President will negotiate an agreement which will provide that Palau will provide information describing private sector projects to be financed with Compact assistance and outlining how current Palauan national and state capital project debts will be paid.

PALAU COMPACT IMPLEMENTATION LEGISLATION

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 8, 1989

Mr. LAGOMARSINO. Mr. Speaker, in the final hours of the 100th Congress the House, Senate, and the administration reached an agreement on implementing legislation for the Palau Compact of Free Association. The agreement was to enact the legislation previously passed by the Senate on October 7, 1988, (S15272-S15275) with one additional provision on power generation facilities and the support of the administration for certain supplemental matters.

Although the Palau legislation had been scheduled for consideration by the Congress, the House leadership notified Members that no further votes would take place and the House would soon finally adjourn with the Senate. The Democratic leadership was the

first to state that no additional legislation would be considered as Members had already been notified. The Republican floor leaders confirmed the House decision but did not object to the legislation, which was supported by the White House.

At the beginning of the 101st Congress, a bipartisan agreement was reached to enact the same legislation that should have passed the Congress on October 22, 1988, with the same degree of support from the administration. It is on this basis that the legislation is being introduced to provide for the implementation of the Palau compact.

When the Congress passed and the President signed Public Law 99-658 on November 14, 1986, the compact was formally approved by the United States. The title of the joint resolution was "to approve the 'compact of free association' between the United States and the government of Palau, and for other purposes." (underscoring added). Title I of the law is "approval of compact." Section 101(a) of title I states "(a) approval. The compact of free association set forth in title II of this joint resolution between the United States and the government of Palau is hereby approved,". The reason for the unequivocal statements regarding the approval of the compact by the Congress was to send a clear message to Palau that a comprehensive and definitive position had been taken by the United States. This would permit the people of Palau to know what provisions were provided for under the compact.

When I traveled with a congressional delegation to Palau in 1987, we reiterated our position that the compact stood as enacted. The leaders of Palau raised various projects and programs which they wanted to see included in the compact. Our unified response was that those issues and any other matter would be considered by the compact under the free association relationship. One of the major programs which the Palauan leaders wanted to see included in the compact dealt with post-secondary education funding. This issue was of equal concern in the Marshall Islands and the Federated States of Micronesia, who were seeking assistance from the United States on this matter, but within the free association relationship as they had already approved their compacts. The United States has since extended college education assistance to the Micronesian freely associated states as well as a number of other provisions of considerable monetary value. The Congress has deemed the extra-compact provisions to be necessary and appropriate and to the mutual benefit of the freely associated states and the United States. Therefore, it is in the same context that the extra-compact assistance has been extended to the freely associated states, that the additional provisions have been addressed in the implementing legislation. The people of Palau only have to look at the demonstrated record of the United States to know that serious and careful consideration will be given to requests of the Micronesian freely associated states. Likewise, in this association which has been freely entered into, serious and careful consideration of U.S. requests should be given by the freely associated states.

It has been this spirit of mutual cooperation which has been reflected in the new free association relationship between the United States and the Marshall Islands and the Federated States of Micronesia. The enactment of the implementing legislation for Palau will allow a special relationship to begin once the people of Palau agree. With the self-determination process complete, the trusteeship terminated, the United States and Palau can interact and develop the relationship to their mutual benefit.

RAY FARABEE DAY

HON. BILL SARPALIUS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 8, 1989

Mr. SARPALIUS. Mr. Speaker, every so often in public life, you have a chance to work with a person who in every sense of the word is a true public servant. I would like to take a moment to talk about such a man—Ray Farabee.

Ray Farabee represented the north Texas' 30th District in the Texas Senate from 1975 until his retirement from senatorial politics last year, and he represented that district with a distinction rarely equaled in Texas history. It was often said that Senator Farabee defined what a Texas senator should be, and I certainly would have to agree with that statement.

Whenever the Texas Senate was at an impasse over a controversial issue, whenever there was uncertainty over which direction was best, the senate turned to Ray Farabee for guidance. When an individual senator was unsure about a bill or an issue, it often was Senator Farabee's counsel he sought. He was one of those rare people who enjoyed the universal respect of his colleagues, no matter what their political persuasion, and we in the senate knew we were fortunate to have him among us.

Ray Farabee began his Senate career in 1974, when the people of the 30th District overwhelmingly chose him to succeed Jack Hightower when Mr. Hightower decided to become a Member of this body. It didn't take long for Senator Farabee's unique leadership qualities to become evident to his new colleagues in the Texas Senate.

By 1977, he had been appointed to the powerful Legislative Budget Board, which in Texas is responsible for writing the State budget. In 1981, he was named chairman of the Senate State Affairs Committee, a committee that hears better than half of all legislation considered by the Senate in a given session. He also served on the Senate Finance Committee, the Senate Criminal Justice Committee, the Senate Administration Committee, the Joint Select Committee on Fiscal Policy and many, many other important legislative committees.

During his tenure in the senate, he also was an aggressive and effective legislator. He passed nearly 400 pieces of legislation, often on the most important issues facing the State. For his efforts, he was rewarded five times by being recognized by Texas Monthly magazine as one of the 10 best legislators and also by being named, along with his wife, "Texan of the Year" by Texas Business magazine.

Senator Farabee also was passionate about making Texas government understandable and accessible to all Texans. He is the author of more than a dozen articles that helped explain in detail various aspects of State government.

Last year, Senator Farabee decided to retire from the senate to accept an appointment as vice chancellor and general counsel of the University of Texas System. His absence is deeply felt in the senate, but we all know how fortunate the University of Texas system is to have his services.

Mr. Speaker, I know you share my admiration of Senator Farabee, and I'm sure you will be pleased to learn that this Saturday, March 11, his many friends in the 30th Senatorial District will honor him with Ray Farabee Appreciation Day. Mr. Speaker, I served for 8 years with Ray Farabee. I saw first hand his commitment to outstanding public service and to the people of his district. I know no single event could adequately repay Senator Farabee for all we in Texas owe him, but I'm sure you would agree that we here in the U.S. House of Representatives should do all we can to honor this fine man.

EXCERPTS OF GEN. DWIGHT D. EISENHOWER'S FAREWELL ADDRESS

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 8, 1989

Mr. RICHARDSON. Mr. Speaker, in light of the exhaustive debate now underway in the upper Chamber concerning John Tower, President Bush's nominee to be his Secretary of Defense, I would like to bring to the attention of my colleagues in the Senate and in this body, an insightful analysis by my hometown newspaper of the nominee's qualifications.

The New Mexican, published in Santa Fe, and the West's oldest newspaper chooses not to dwell on Senator Tower's alleged womanizing and drinking habits. Rather, Editor-in-Chief Robert McKinney wisely examines only Senator Tower's decision to serve as a defense industry consultant.

And to back up its claim that Senator Tower is too much a part of the military-industrial complex to become the Nation's chief contracting officer for arms procurement, the New Mexican quotes a Republican President. This past Sunday, along with its editorial, the New Mexican published excerpts from President Dwight D. Eisenhower's farewell address to the American people delivered January 17, 1961.

Specifically, President Eisenhower said:

> In the councils of Government, we must guard against the acquisition of unwarranted influence, whether sought or unsought, by the military-industrial complex. We must never let the weight of this combination endanger our liberties or democratic process.

Mr. Speaker, I believe Members of both bodies would be well served if they read the

New Mexican's editorial and President Eisenhower's speech.

Mr. Speaker, I ask that these two documents be inserted in the RECORD:

IF PRESIDENT BUSH WINS, HE STILL LOSES

As members of the United States Senate prepare themselves to vote this coming week on the nomination of John G. Tower as Secretary of Defense, it is proper that they take into account personal character and conduct.

Regardless of whether his character and conduct are with or without stain or blot, something else is more important. That is, whether John G. Tower is, or is not, too much a part of the military-industrial complex to accomplish the sweeping, rigorous restructuring that the Department of Defense needs.

No matter how modern our individual weapons systems may be, the U.S. defense establishment is clearly obsolete in relation to our national debt, our federal deficit and the rapidly changing nature of economic, political and military power on the world scene.

A good perspective from which to view Mr. Tower's qualifications is the famed 1961 Farewell Address of President Dwight D. Eisenhower.

In this memorable speech, the victor of World War II warned against "the conjunction of an immense military establishment and a large arms industry."

For fees in excess of $1 million, Mr. Tower has recently consulted with seven defense and aerospace firms. What made Mr. Tower's advice valuable was not any special ability in weapons design or manufacture; rather, it was that, as recent chief United States negotiator in the strategic-arms reduction talks in Geneva, and also, former chairman of the Senate Armed Services Committee, he was in a position to advise his clients on what products to make and how to sell them.

In our view, Mr. Tower is, indeed, too much a part of the military-industrial complex to become the nation's chief contracting officer for arms procurement. We question where Mr. Tower might seek employment when his term as defense secretary would end.

The patriotic course for Mr. Tower to take would be to withdraw his candidacy, Were only one-third of the Senate to vote against confirming him, it would still reflect too much opposition for the kind of cooperation that a defense secretary needs with the Congress. And far too much opposition to permit the "kinder, gentler" relations President Bush will need with Congress, if his minority administration is to be as successful as we all hope that it will be.

The time will surely come when the executive and legislative branches of government are sharply divided on issues more important to the Bush administration. Then the president will need to do all in his power to keep his minority supporters in line and win over opponents from the majority. Until that contingency arises President Bush should keep his powder dry.

In the Tower affair, even if the president wins, he loses.

WHAT EISENHOWER SAID ABOUT THE DEFENSE ESTABLISHMENT

(The following remarks have been excerpted, verbatim, from President Dwight D. Eisenhower's Farewell Address to the American People, delivered Jan. 17, 1961. We have printed in italics those passages which in our opinion, deal specifically with the issues which should concern the members of the United States Senate—and the American people—during the debate this coming week on the confirmation or rejection of John G. Tower as Secretary of Defense.)

Three days from now, after half a century in the service of our country, I shall lay down the responsibilities of office.

This evening I come to you with a message of leave-taking and farewell, and to share a few final thoughts with you, my countrymen.

Our people expect their president and the Congress to find essential agreement on issues of great moment, the wise resolution of which will better shape the future of the nation.

America today is the strongest, the most influential and the most productive nation in the world. Understandably proud of this preeminence, we yet realize that America's leadership and prestige depend, not merely upon our unmatched material progress, riches amd military strength, but on how we use our power in the interests of world peace and human betterment. . . .

Crises there will continue to be. In meeting them, whether foreign or domestic, great or small, there is a recurring temptation to feel that some spectacular and costly action could become the miraculous solution to all current difficulties. A huge increase in newer elements of our defense; development of unrealistic programs to cure every ill in agriculture; a dramatic expansion in basic and applied research—these and many other possibilities, each possibly promising in itself, may be suggested as the only way to the road we wish to travel.

But each proposal must be weighed in the light of a broader consideration: the need to maintain balance in and among national programs—balance between the private and public economy, balance between cost and hoped-for advantage—balance between the clearly necessary and the comfortably desirable; balance between our essential requirements as a nation and the duties imposed by the nation upon the individual; balance between actions of the moment and the national welfare of the future. Good judgment seeks balance and progress; lack of it eventually finds imbalance and frustration.

The record of many decades stands as proof that our people and their government have, in the main, understood these truths and have responded to them well, in the face of stress and threat. But threats, new in kind and degree, constantly arise. I mention only two.

A vital element in keeping the peace is our military establishment. Our arms must be mighty, ready for instant action, so that no potential aggressor may be tempted to risk his own destruction.

Our military organization today bears little relation to that known by any other predecessors in peacetime, or indeed by the fighting men of World War II or Korea.

Until the latest of our world conflicts, the United States had no armaments industry. American makers of plowshares could, with time and as required, make swords as well. But now we can no longer risk emergency improvisation of national defense; *we have been compelled to create a permanent armaments industry of vast proportions. Added to this, three and a half million men and women are directly engaged in the defense establishment. We annually spend on military security more than the net income of all United States corporations.*

This conjunction of an immense military establishment and a large arms industry is new in the American experience. The total influence—economic, political, even spiritual—is felt in every city, every statehouse, every office in the federal government. We recognize the imperative need for this development. Yet we must not fail to comprehend its grave implications. Our toil, resources and livelihood are all involved; so is the very structure of our society.

In the councils of government, we must guard against the acquisition of unwarranted influence, whether sought or unsought, by the military-industrial complex. The potential for disastrous rise of misplaced power exists and will persist.

We must never let the weight of this combination endanger our liberties or democratic process. We should take nothing for granted. *Only an alert and knowledgeable citizenry can compel the proper meshing of the huge industrial and military machinery of defense with our peaceful methods and goals, so that security and liberty may prosper together.*

Akin to, and largely responsible for the sweeping changes in our industrial-military posture, has been the technological revolution during recent decades.

In this revolution, research has become central; it also becomes more formalized, complex and costly. A steadily increasing share is conducted for, by, or at the direction of, the federal government.

Today, the solitary inventor, tinkering in his shop, has been overshadowed by task forces of scientists in laboratories and testing fields. In the same fashion, the free university, historically the fountainhead of free ideas and scientific discovery, has experienced a revolution in the conduct of research. Partly because of the huge costs involved, a government contract becomes virtually a substitute for intellectual curiosity. For every old blackboard there are now hundreds of new electronic computers.

The prospect of domination of the nation's scholars by federal employment, project allocations, and the power of money is ever present—and gravely to be regarded.

Yet, in holding scientific research and discovery in respect, as we should, we must also be alert to the equal and opposite danger that public policy could itself become the captive of a scientific-technological elite.

It is the task of statesmanship to mold, to balance, and to integrate these and other forces, new and old, within the principles of our democratic system—ever aiming toward the supreme goals of our free society. . . .

Down the long lane of the history yet to be written, America knows that this world of ours, ever growing smaller, must avoid becoming a community of dreadful fear and hate, and be, instead, a proud confederation of mutual trust and respect. . . .

Disarmament, with mutual honor and confidence, is a continuing imperative. Together we must learn how to compose differences, not with arms, but with intellect and decent purpose. Because this need is so sharp and apparent, I confess that I lay down my official responsibilities in this field with a definite sense of disappointment. As one who has witnessed the horror and the lingering sadness of war—as one who knows that another war could utterly destroy this civilization which has been so slowly and painfully built over thousands of years—I wish I could say tonight that a lasting peace is in sight.

Happily, I can say that war has been avoided. Steady progress toward our ulti-

mate goal has been made. But so much remains to be done.

We must never let the weight of (the military-industrial complex) endanger our liberties or democratic process. . . . Only an alert and knowledgeable citizenry can compel the proper meshing of the huge industrial and military machinery of defense with our peaceful methods and goals, so that security and liberty may prosper together.—Dwight D. Eisenhower

BUDGETING PROCESS

HON. LARRY E. CRAIG

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 8, 1989

Mr. CRAIG. Mr. Speaker, today, I am introducing legislation which would take a step toward restoring honesty to the Federal Government's budgeting process.

Ever since Congress implemented the unified budget concept, we have seen a steady rise in our national spending habits. The unified budget creates an illusion of financial solvency which does not accurately reflect dollars spent versus revenue actually available. Essentially, it allows pork-barreling politicians to employ a smoke and mirrors budget process which hides their fiscal irresponsibility and big spending habits.

Meanwhile, the deficit escalates to epic proportions and the programs and services whose dedicated funds are being used to disguise bloated budgets suffer from severe financial constraints. One such example is the Federal hospital insurance trust fund—Medicare.

At a time when Medicare reimbursement to hospitals is so low the health facilities are being forced out of business or no longer serve the poor and elderly, pork projects have surged ahead with full funding. I just hope the budget fat has been worth turning our backs on health care access for millions of Americans.

I am introducing a bill which will remove the Medicare trust fund from the unified budget and exempt it from Gramm-Rudman deficit calculations.

I hope my colleagues will agree that the spending sprees must end. The hide-and-seek funding measures must end. And we must restore accountability to the Federal budgeting process. Please join me as a cosponsor of this important legislation.

TRIBUTE TO SGT. MAJ. ABIE ABRAHAM

HON. JOE KOLTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 8, 1989

Mr. KOLTER. Mr. Speaker, today I rise to honor Sgt. Maj. Abie Abraham, U.S. Army, retired, known as "The Ghost of Bataan," who is to be honored and inducted into the Michael Kosar American Legion Post 778 Military Hall of Fame, on March 18, 1989. Sergeant Major Abraham entered the U.S. Army in 1932, serving in Hawaii and Panama, and then assigned to the 15th Infantry at Tientsin, China. He departed China and was sent to Manila and assigned to the 31st Infantry. This was the only American regiment in the Far East. This unit was wiped out in defense of Bataan. He served over 3 years in the Japanese Prisoner of War Camp, and was liberated by the 6th American Rangers Battalion in the Battle of the Philippines.

He was personally asked by General MacArthur to remain in the Philippines to locate graves on the "Death March" and other areas in the Philippines. After serving 9 years in the Philippines, Sergeant Abraham was assigned to recruiting duty in Butler, PA. His decorations and awards consist of 24 medals, not including the China Medal and 6 medals from the Philippine Government. He was awarded the Purple Heart Medal for wounds received in the defense of Bataan.

To date, he had been mentioned in 22 books and countless magazines and newspapers. His book, "Ghost of Bataan Speaks," is in the War Museum, London, England; General MacArthur Memorial; and many other military and historical museums.

When records were lost of those who died at Camp O'Donnell, Philippines, Sergeant Abraham spent many months compiling names, serial numbers, date of death and cause of death for the War Department. Col. John Olson, U.S. Army, retired, gave Abraham credit for this in his book entitled, "O'Donnell Andersonville." When the ex-POW's and the next of kin were awarded the POW Medal, Sergeant Abraham, who had been in contact with thousands of next of kin, sent application forms to apply for the medal. Sergeant Abraham was consulted by many Government agencies, including the U.S. Air Force to submit a certificate to them stating that these persons had died as prisoners of war. Several hundred POW members were awarded the medals as a result of his efforts.

Sergeant Abraham's proudest accomplishment was to swear his grandson, Thomas C. Pugh, into the military service during the Vietnam war. Col. Thomas Pugh is a highly decorated officer and now is the commander of the 2d Brigade, Pennsylvania Army National Guard. His continuation of the military tradition of the family was a great tribute to his grandfather.

It is my great honor to present to Sgt. Maj. Abie Abraham, a Certificate of Special Congressional Recognition, and telling my colleagues in Congress of this dedicated service to this Nation.

TRIBUTE TO WILLIAM R. GILES

HON. MARGE ROUKEMA

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 8, 1989

Mrs. ROUKEMA. Mr. Speaker, I urge my colleagues to join me in recognizing one of northern New Jersey's outstanding citizens. On March 11, the Ramapo College Foundation will hold its seventh annual distinguished citizens awards dinner. This year they will honor William R. Giles, founder and chairman of E.P.C. International, Inc., of East Orange, NJ, for his professional and community service.

E.P.C is an advertising specialty and premium firm serving major corporations nationwide. In recent years, E.P.C. has been honored by the National Minority Business Council as the outstanding minority business in the Nation. Without doubt, E.P.C. has reached such heights through the dynamic leadership of William Giles.

But Ramapo College is not recognizing Bill Giles exclusively for his business prowess. He has an unsurpassed record of service to his community, his State, and the Nation. He plays a major role in many local and civic organizations and has undertaken numerous charitable endeavors, always looking to help those who are less fortunate.

He is chairman of the building fund of the New Hope Baptist Church of East Orange and a member of the board of directors of the East Orange General Hospital. On this list of Who's Who Among Black Americans, Mr. Giles is president of the 100 Black Men of New Jersey. Through his annual "evening of elegance," Bill Giles is a supporter and major fundraiser for the United Negro College Fund.

In addition, Mr. Giles is a member of the board of directors of Enterprising Twenty, Lions Club, Specialty Advertising Association of Greater New York and a member of the board of trustees of Benedict College in Columbia, SC. Bill holds membership in the Kiwanis Club, the Greater Newark Chamber of Commerce, Specialty Advertising Association International, Advertising Specialty Institute, East Orange Chamber of Commerce, NAACP, and the National Urban League.

A family man, Bill has made important contributions to many New Jersey citizens. It is with pleasure that I call the attention of my colleagues to distinguished service of William Giles, one of New Jersey's finest.

SITUATION IN EL SALVADOR

HON. RON MARLENEE

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 8, 1989

Mr. MARLENEE. Mr. Speaker, I like to take this opportunity to let my colleagues know that I will support whoever is selected in a free and fair election as President of El Salvador. With the March 19 elections quickly approaching, I believe it is critical that the people of El Salvador not be blackmailed by anyone—either the Marxist FMLN rebels, the State Department, or the United States Congress—in their choice for President.

Over the past 8 years, we can be thankful that former President Reagan stood up to communism in El Salvador and supported freedom in Central America. I also salute the courage of many Salvadorans who braved violence from leftists and rightists to stand in line to vote time and time again.

Now, we've got to let the people of El Salvador make this choice again. I would strongly oppose efforts by many liberals in Congress to defund El Salvador just because the people might elect a President from the ARENA party. This political organization has severed

all ties to people thought to be associated with "right-wing" death squads that were abolished in the early 1980's. Its new leader, Alfredo Cristiani, is a respected businessman with solid conservative credentials with no connections to "right-wing" death squads.

Unfortunately, our liberal friends can't appeal to the humanity of the Marxist FMLN to stop its "left-wing" death squads. It appears that we're in for another repeat of Nicaragua, and we've forgotten the valuable lessions of over a decade ago where we permitted the Communist Sandinistas to take over Nicaragua in exchange for vague promises for democracy and pluralism.

Mr. Speaker the liberals have defunded the Nicaraguan freedom fighters under the guise of supporting the Arias peace plan. We all see that this plan has miserably failed. Now that the Contras are without United States support, the liberals' next target is El Salvador.

No liberal talks about ways to encourage the East bloc to defund the Sandinistas or the FMLN guerillas. Mr. Speaker, it makes you wonder who the real friends of peace and freedom are in the world. Peace without the essential ingredient of freedom is nothing more than slavery. I will not stand for a growing Soviet empire in Central America, and I will support whoever is fairly elected President of El Salvador on March 19.

RESOLUTION TO DECLARE A "DECADE OF THE BRAIN"

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 8, 1989

Mr. CONTE. Mr. Speaker, I am proud to reintroduce today my resolution declaring the decade beginning January 1, 1990, as the "Decade of the Brain."

I have introduced this resolution—more than once—because I am absolutely convinced that we are on the threshold of tremendous breakthroughs in understanding, preventing, and treating the devastating disorders that disable the human brain. These behavioral and biological diseases and disorders are the most frightening and the most dreaded of all causes of human suffering. Yet, finally, we have arrived at a peak in the progress of biomedical research—a peak from which we can look out toward a new horizon, one which holds freedom from these diseases which destroy the brain.

How can this revolutionary progress be documented? Simple—those doctors who are established in medical practice or in research careers today have found that their old textbooks on neuroscience have been totally rewritten. Fully 95 percent of what scientists now know about the brain has been learned in the past 10 years.

Recent advances in neuroscience have brought us to a threshold as important and as promising as the first launch into space—but this threshold involves a delicate step inside the human brain. Through technological developments, it is now possible to "look inside the human brain"—without surgery—and to see exactly what is happening in the brain of a schizophrenic person, or a Alzheimer's patient. It is literally possible to watch on a computerized screen as a patient is given a mental task to perform, and to see where in his brain the electrical or biochemical activity is not as it should be.

At last year's appropriations hearings we learned from the National Institute of Mental Health that "as we approach the 21st century * * * we will be able to prevent such devastating diseases as schizophrenia, depression, anxiety, and manic-depressive disorders. Through neuroscience research, we can realistically anticipate a time in the near future when we will fully understand our brains—how they function and dysfunction."

The fact that we are now standing on the threshold of so great an opportunity to end human suffering has been confirmed in a report by the Advisory Committee to the National Institute on Neurological Disorders and Strokes, one of the National Institutes of Health.

Ten years ago, in 1979, the NINDS began studying a large family affected with Huntington's disease. Directly as a result of this work, in 1984, scientists at the Massachusetts General Hospital—supported in part by the NINDS—were able find the chromosome which holds the Huntington's disease gene. The specific identity of the gene remains unknown—so far. In effect, "we know the street that the gene is on, but not the house number." Scientists are working hard to locate the gene which will provide clues to the cause and possible treatment of this devastating disease, and other diseases, including Parkinson's Dystonia, Neurofibromatosis, Duchenne muscular dystrophy, Gaucher disease, and so many others.

The brain also holds an important key to success in our fight against substance abuse. Recent discoveries have led to fundamental insights as to why people abuse drugs, how abused drugs affect brain function leading to addiction, and how some of these drugs cause permanent brain damage. Continued studies of the brain will contribute to the development of new treatments that will curtail the craving for drugs, break the addictive effects of drugs, prevent the brain-mediated "high" caused by certain abused drugs, and lessen the damage done to the developing minds of babies, who are the innocent victims of drug abuse.

Research into the neurosciences also will help us deal with those people who have suffered a head injury. Dr. Murray Goldstein, Director of NINDS, will soon be presenting to my Appropriations Subcommittee a report prepared by the task force he chaired on head injury. I believe that Dr. Goldstein's report will reveal that this problem affects many more people, in far more devastating ways, than most of us could have suspected. Neuroscience research has already told us that victims of traumatic brain injury can be helped, that certain parts of the injured brain "shut down" for several hours after the injury, but that they can be reviewed and rehabilitated. So we have discovered that there is reason for hope. Now is the time to turn that hope into treatment, prevention of secondary injuries, and rehabilitation.

Senator RIEGLE will soon be introducing a companion resolution, as he did last year. But, here in the House, we can and should take the lead. Last year, 161 of you joined me as cosponsors of this resolution. This year, we can make it our priority to help the millions of Americans suffering from brain-related diseases, disorders, and disabilities by declaring a "Decade of the Brain."

At the end of my statement, I will include several letters I have received from health-related organizations supporting this resolution. Many other medical organizations and patient advocacy groups have been helpful as well—the National Alliance for the Mentally Ill was critical in getting a Senate companion introduced last year. And the Dystonia Medical Research Foundation is collecting signatures on a petition supporting this resolution—the count is already over 10,000.

I urge you to listen most closely to the parents, families, and patients in your own districts who are coping with brain-related disease. With this resolution, you can help bring treatment and health closer to them by declaring our commitment to crossing this research threshold.

In order to cosponsor the resolution, please contact Gary Bresnehan at 5-5335.

THE STRUGGLE FOR FREEDOM IN POLAND

HON. C. CHRISTOPHER COX

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 8, 1989

Mr. COX. Mr. Speaker, on March 2 I had the opportunity to meet with Marian Jurczyk, the leader of activists within Solidarity who are concerned that the Jaruzelski government is attempting to co-opt the union. I was able to introduce him to President Bush's new head of the United States Information Agency and several White House officials who will help shape United States policy toward Poland.

My colleagues here, who will also be making decisions that will affect our foreign policy toward Poland and other nations struggling for freedom, will find his point of view just as useful and interesting as those in the executive branch, so allow me to briefly summarize the situation in Poland from Mr. Jurczyk's point of view.

Recently, Solidarity leader Lech Walesa was seriously embarrassed when bands of youths—declaring support for the Union and its leader, but rejecting any talks with the Communists—took to the streets in several Polish cities.

Students, church-goers, and workers battled police units in Cracow, Gdansk, and Lodz. The Communist government has now put the police on a heightened state of alert.

The aroused Polish public are the very same workers who carried out the strikes last spring and summer that led to the current so-called "round table" talks with the Communist government. Mr. Walesa knows that his perceived cooperation with the Jaruzelski government is putting at risk the support of his most loyal and effective constituency.

Eight years ago, when Mr. Walesa was an electrician who climbed over the Lenin shipyard's fence to join a strike against the government, he was chosen by other shipyard workers to argue their case. At the National Solidarity Conference, he defeated long-time activist Marian Jurczyk by 200 votes for chairman of the newly created Solidarity Union.

Mr. Jurczyk is 53, a shipworker born near Lodz in central Poland to a peasant family. His dignified bearing and business attire befit a member of the National Solidarity Conference, but his eyes and his hands serve as a reminder that he began working before he was 16.

Shortly after the birth of Solidarity, he was arrested in December 1981 and was imprisoned by the Polish Communist authorities. For 3 years, he remained in jail, cut off from his family. During his imprisonment, his only son, age 23, along with his daughter-in-law, age 20, were killed in circumstances still not clarified.

Despite the tragic death of his family and his extended imprisonment, Mr. Jurczyk continued his commitment and activism in behalf of the Solidarity union and a free and independent Poland.

Mr. Speaker, during our meeting, Mr. Jurczyk talked with me about the difficulty of life in Poland. Infant mortality is incredibly high: in some regions, such as Silesia, children are born deformed because of concentrations of lead in their lungs. Cancer and heart disease are increasing even among persons in their most productive years. Thousands of Poles meet early deaths, and life expectancy, according to official Government figures, continues to fall.

Polish forests are dying. In many areas, Mr. Jurczyk told me, the earth is so poisoned that it should not be used for the growing of food. Many lakes and rivers are so polluted that all biological life may soon be eliminated.

"Our life's work of several generations is being destroyed," he told me. "The inheritance from the work of our ancestors is being eliminated."

I asked Marian Jurczyk what the U.S. Congress can do to help. "The ultimate goal is a free and sovereign nation," he said, "and the first step is that Solidarity must be legalized." To that end, Mr. Jurczyk wants America to use the Polish language broadcast services of Radio Free Europe and Voice of America to keep strong political pressure on the Communists.

A statement by Mr. Jurczyk continues:

The current discussions around the so called "round table" do not resolve Polish problems for a number of reasons. In the first place, I don't believe in the sincerity of the government of the Polish Peoples Republic [PRL], which to this time has never kept its word. One cannot trust Communists.

In the second place, full representation of the nation is lacking at the round table, in spite of what is said. When the fate of the nation, not only that of Solidarity is being weighed, persons of all political orientations must have a voice.

Polish problems can be resolved when the nation attains independence. Independence is not granted by anyone as a gift. It is not attained at any table. one must fight for independence.

I would simply add, Mr. Speaker, that we in this body can pursue policies that will keep pressure on the Communists. We will face many issues in the 101st Congress that will touch upon the concerns raised by Mr. Jurczyk. When we do, we should remember the facts of the situation in countries such as Poland. We should not be blinded by smiling East Bloc faces.

Mr. Speaker, I would like to thank Solidarity California, a group of dedicated men and women seeking to help bring freedom to Poland, for introducing me to Mr. Jurczyk and for all the hard work they have done on behalf of the Polish people and other victims of Communist tyranny. As long as we continue to work hard for democracy on both sides of the ocean, we'll get twice as much done.

ENERGY EFFICIENCY

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 8, 1989

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, March 8, 1989 into the CONGRESSIONAL RECORD:

ENERGY EFFICIENCY

In the thirteen years following the 1973 Arab oil embargo, the United States made major improvements in its energy efficiency—increasing its output of goods and services by 40% while holding energy use close to 1973 levels. But recently the improvement has stopped. As lawmakers consider several national economic, environmental, and security issues, boosting America's energy efficiency is assuming an increasingly important role in the debate.

Improving energy efficiency means reducing the amount of energy used to produce the same or higher levels of goods and services. It is not simply saving resources, but doing more with less. Everything that uses energy—industrial equipment and processes, planes and automobiles, buildings, homes and appliances—helps determine national energy efficiency. More efficient use of resources since the 1970s has cut the nation's annual fuel bill for oil, gas, coal, and nuclear power by an estimated $160 billion.

There are several important benefits of using energy more efficiently. Cutting energy use and costs in manufacturing allows U.S. companies to produce goods more cheaply, making them more competitive in world markets. Efficient use of energy resources also helps reduce the U.S. trade deficit and dependence on foreign oil, as oil imports now account for one-quarter of the U.S. trade deficit and 40% of U.S. oil consumption. Energy efficiency also helps protect the environment, by reducing industrial and vehicle emissions which contribute to urban smog, acid rain, and global warming.

Since 1973, private industry has led the way in increasing energy efficiency. In 1986, industrial energy use in the U.S. was 17% lower than in 1973, while production in the same period increased 17%. These gains were triggered by the growth of industries that consume less energy in production—for example, computer electronics and software instead of steel and cement—and by the development of more efficient equipment and processes in energy-intensive industries such as oil refining and chemicals. In transportation, efficiency improvements were due to factors such as the doubling since 1973 of the government's average fuel economy standards for new cars and structural changes in jet airplanes which greatly reduced fuel needs. Better insulation of buildings and homes, as well as energy savings in heating and lighting systems, has also contributed to efficiency gains since 1973.

Yet, after increasing 24% between 1976 and 1986, energy efficiency in the U.S. stopped growing in 1987 and declined in 1988. Despite the strides made since the 1970s, the U.S. remains one of the world's least energy-efficient industrial countries. Japan and West Germany, for example, use only half as much energy to produce a unit of goods and services as does the U.S. The decline in U.S. efficiency in recent years is largely due to the collapse of oil prices in 1986, which has yielded cheap, plentiful supplies and reduced the incentive to save energy. Other factors include government spending cuts during the 1980s in energy conservation programs. For example, federal energy efficiency programs were reduced by 70% and renewable energy research and development programs were cut by 80%.

The success of Japan and European nations in achieving greater energy efficiency than the U.S. indicates that American efficiency levels can be significantly improved. In the U.S., as much energy leaks through windows every year as flows through the Alaskan pipeline. Energy-efficient options include better insulation, fluorescent lighting, and sensor systems which reduce wasted energy in buildings. Foreign auto makers—now producing some cars that get over 50 miles per gallon (mpg) and developing prototypes that average over 70 mpg—are leading efforts to redesign engines and transmissions and to increase use of lighter-weight aluminum, steel alloys, and plastics. In manufacturing, innovative energy-efficient technologies—such as continuous steel casting which molds steel directly into shape to save energy—are becoming more widely available. Some utilities are now using "least-cost" services to meet energy demands, installing highly efficient electrical equipment for their customers instead of investing in new generating plants.

Yet, given the collapse in oil prices, it is likely that efficiency improvements will continue to slacken without government encouragement. The federal government should renew its commitment to research and development programs which have produced energy efficient technologies and applications yielding an estimated $500 million in industrial savings. Especially promising is research into more efficient fuel combustion, high-temperature alloys and ceramics for engines and boilers, and recovery of waste heat from furnaces, engines, and manufacturing processes.

Other steps could be taken to promote conservation and efficiency. The Congress should consider toughening energy performance standards for cars, trucks, and buildings; stimulating the production of ultra-efficient cars by purchasing them for government fleets; increasing energy taxes and imposing a tax on gas guzzling cars; improving energy efficiency in federal buildings and federally assisted housing; taxing fossil fuel emissions; expanding federal assistance to states for home weatherization programs; boosting commercialization of promising

federal energy research; and creating an acid rain control program which would place caps on state emissions and encourage emissions reductions through conservation.

Saving energy does not require sacrifice, and should not be pursued as an end in itself. Energy efficiency serves three national priorities—competitiveness, environmental quality, and energy security. Potential gains from increased efficiency demand that the U.S. reorient its policies to promote better stewardship of energy resource use. Government efforts help address problems that the market cannot solve completely by itself. Public and private sector commitment, as well as the involvement of individuals, is central to securing these gains.

LAND PARCEL TRANSFER

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 8, 1989

Mr. LAGOMARSINO. Mr. Speaker, I am introducing legislation requiring the Forest Service to reconvey title to a 40-acre parcel of land in Los Padres National Forest to Mrs. Florence F. Brown of Goleta, CA.

This land parcel is affected by the July 6, 1960, Sisk Act (P.L. 86-596). As you may know, the Sisk Act was enacted by Congress to resolve land ownership problems resulting from an 1897 law (30 Stat. 36) which permitted landowners within forest reserves to deed their lands to the United States for equal acreage in lieu thereof on vacant public lands. Unfortunately, many parties did not successfully complete the selection and receipt of the in-lieu lands. For such cases, the Sisk Act provided the right for appropriate payment from the United States to qualified parties for 1 year after date of enactment. However, many landowners were unaware their property was affected, and did not act to meet the deadline for seeking payment. My constituent, Mrs. Florence Brown, is included within this group.

Mrs. Brown currently owns a ranch located within the boundaries of Los Padres National Forest. One of her parcels was originally granted to Andres Ruiz by the Homestead Act of 1862. Mr. Ruiz deeded this parcel to the United States in 1905 in lieu of other lands as provided under the 1897 law. However, the in-lieu selection and receipt of the lands was never completed. In 1920, the United States issued a disclaimer letter concerning all rights, title or interests to or in the land parcel. Mrs. Brown acquired the property in 1945 and has since occupied in good faith, improved and paid property taxes on the 40-acre parcel. Unfortunately, the Sisk Act presents a cloud on the title to this property.

The Forest Service, after reviewing this matter, has indicated that reconveyance of this parcel to Mrs. Brown is appropriate. In addition, Mrs. Brown has occupied and been a good steward of the land for over 40 years. Therefore, I believe equitable relief, as provided in my bill, is a just and proper resolution to this problem.

I urge all of my colleagues to join with me in supporting this legislation and requesting expeditious action by Congress.

THE HOWARD UNIVERSITY PROTEST

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 8, 1989

Mr. OWENS of New York. Mr. Speaker, I rise in support of the students at Howard University in Washington, DC, who have mounted massive protests on campus to denounce the appointment of Republican National Committee Chairman Lee Atwater to the university's board of trustees.

While it is preferred that the students attend classes and not disrupt day-to-day campus operations, I understand their outrage. For Lee Atwater was the architect of the infamous Willie Horton strategy that catapulted President Bush to the White House by manipulating and expoliting fears and racial resentments that too many white American voters unfortunately harbor toward African-Americans. Atwater's sensationalized televison commercials managed to equate furloughed African-American prisoner Willie Horton with all African-Americans, particularly African-American males. Horton victimized a white American couple in Maryland while he was out of prison. The none-too-subtle message of these campaign commercials was not only that Democratic Presidential candidate Michael Dukakis believed in coddling criminals—Horton was furloughed from a Massachusetts' prison during one of Dukakis' terms as Governor of the State—but that most African-Americans may be perceived as dangerous brutes like Willie Horton. If Dukakis and the Democratic Party were supportive of civil rights and affirmative action for African-Americans, then, they were supportive of these wild, uncontrollable, savage and menacing African-Americans, most of whom are like Horton.

Atwater's strategy was but a continuation of 8 years of Reagan administration rollbacks in civil rights and affirmative action gains, based on the administration's premise that these reparations for 250 years of slavery and another 100 years of victimization and continued discrimination were excessive and unnecessary.

Such attitudes signaled to the American public that racial intolerance was once again permissible. In the 8 years of the Reagan administration, we have witnessed an increase in Ku Klux Klan membership and activity, and the growth of white hate groups in the Pacific Northwest and Western States. There have been increases of racially motivated violence on predominantly white college campuses. And in New York City, there was the Howard Beach incident in which some white youth attacked some African-American males for having the temerity to walk the streets of their neighborhood. More recently, a Ku Klux Klan leader and white supremacist, David Duke, was elected to the Louisiana State Legislature as a Republican candidate. While Atwater and other GOP leaders and spokespersons have expressed shock and dismay at this turn of events, they should not be surprised: The last 8 years, as well as the "Hortonizing" of the Presidential election, paved the way for Duke's victory.

It has been said that Atwater was selected for his position on Howard University's Board of Trustees in hopes that he would attract more funds for Howard, given the relative wealth of the GOP. I am reminded of a line from Lorraine Hansberry's famous play, "A Raisin in the Sun," in which the adult son in the play's African-American family considers taking payoff money from a representative of a white citizens' council in a segregated Chicago suburb where his family had just purchased a house, to see the family through a sudden economic crisis. The mother in the play tells her son that the family came from generations of proud African-American people who would never think of accepting money from those who felt they were not fit to walk the Earth.

Historically black colleges and universities are in constant struggle to keep their doors open and fulfill their mission to educate generations of African-Americans. But as the placard of one Howard University student protester read, "How low must Howard sink for a dollar?"

Mr. Speaker, like the protesting Howard University students and countless others around the Nation who share their concern, I sincerely hope that the Howard University Board of Trustees reconsiders its appointment of Lee Atwater to its board, given his role in fanning the flames of racial hatred.

TRIBUTE TO RABBI SAMUEL I. PORRATH

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 8, 1989

Mr. LAFALCE. Mr. Speaker, I rise to pay tribute to a truly outstanding citizen and public servant whom I proudly represent in Congress, Dr. Samuel I. Porrath.

Rabbi Porrath is retiring from his more than 50 years in the Rabbinate, including serving as Rabbi of Temple Beth Israel of Niagara Falls, NY and Temple Beth El of Greater Buffalo, NY. He will be honored at a retirement ceremony and reception on March 12, 1989 at Temple Beth El. I ask my colleagues today to join me in honoring this most respected member of our community.

Rabbi Porrath is well deserving of the praise and love which will be bestowed upon him during this retirement event for he has had a distinguished career and a significant impact upon the lives of so many, both through his religious and secular teachings and writings. The words of the prophet Jeremiah have special meaning when applied to Rabbi Porrath: "He shall be as a tree planted by the water, and that spreadeth out her roots by the River."

Rabbi Porrath was born in Jerusalem and is a 16th generation rabbi. He is proud of his heritage and delights in sharing stories about his rabbi family with his congregants. They are stories about his roots that have influenced the thinking and activities of many in our community and throughout the Nation.

Mr. Speaker, Rabbi Porrath possesses a special warmth and vitality. Throughout his 50

years as a rabbi, as a Hebrew and Bible teacher, he has shared that vitality from the pulpit, from the lecturn, in writing, and through travel. His congregants are honoring him because he has so positively influenced their lives, by spreading out his roots and because they are so proud of his accomplishments in the rabbinate.

Mr. Speaker, all of us have reason to be proud of Rabbi Porrath. He is one of those individuals who seeks new horizons and creative involvement to better serve society.

He is a founder and former trustee of Niagara County Community College as well as the founder of the innovative Institute of Transportation Travel and Tourism at Niagara University. His curriculum for a career program in executive and managerial skills has been copied in many colleges and universities throughout the country.

Rabbi Porrath has been a motivating force in numerous local and national organizations and is the recipient of many awards and citations for his civic work, including the Niagara Falls Rainbow Award. He has been a leader in the community for furthering interfaith and interracial relationships and, as such, has been the recipient of the B'nai B'rith Interfaith Award.

Mr. Speaker, I know my colleagues join me in extending appreciation to Rabbi Porrath on this special occasion. Rabbi Porrath has led the way for so many. He is an inspiration to all of us.

Again, quoting Jeremiah, "Stand ye in the ways, and see, and ask for the old paths, where is the good way, and walk therein." Rabbi Porrath brings us the treasures of the "old paths," has pointed so many to the "good way," and has influenced all he has met to "walk therein."

ST. PATRICK'S DAY 1989

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 8, 1989

Mr. GILMAN. Mr. Speaker, I rise again this year to call to the attention of our colleagues the fact that St. Patrick's Day is again upon us. This feast is not only the national holiday of the Republic of Ireland, but is also a very special day for the Irish and for the Irish at heart throughout the world.

It is now 1,500 years since St. Patrick drove the snakes from the Emerald Isle and coverted that land to Christianity. It is altogether fitting and proper that St. Patrick be remembered until this day, for he has served as a constant inspiration for the past 15 centuries.

It is altogether benefiting that the Irish people have retained their faith in God, despite all the trials and tribulations that they have endured throughout the centuries—and most particularly during the past 20 years—which would try the patience of Job. And yet, the Irish people persevere. Those hardships seem to only strengthen the spirit and the determination of the Irish people.

Perhaps the most recent outrage against human decency in Northern Ireland, although far from being the only recent outrage, was the brutal murder of Patrick Finucane in the presence of his family. Patrick was a civil rights lawyer who defended the rights of both Catholic and Protestant. A Protestant vigilante group, that was apparently inspired by an ill-timed, ill-informed verbal attack on Finucane by a British official, claims responsibility for the murder.

We condemn all forms of violence whether civilian or official in nature. It is the primary obstacle to the desired goal of peace with justice for Northern Ireland. Patrick Finucane lived in pursuit of that goal and died as a martyr to this still unfulfilled dream.

For 200 years or more, Irish immigrants have contributed significantly to forging our American culture. Irish-Americans have partaken in every conceivable facet of American life, from baseball to Broadway, from politics to high finance, from medicine to the law.

Despite the many worthy contributions of the Irish to American society, our immigration laws since 1965 seem especially restrictive against the Irish.

Accordingly, I am introducing legislation that will allow nonpermanent residents to enlist in the regular Armed Forces, the National Guard, or the State militias. This legislation will alleviate the manpower crisis our Armed Forces are suffering, while at the same time providing a new avenue for worthy Irish and other potential immigrants to enter our Nation.

Under this proposal, nonpermanent residents who enter our Armed Forces in this manner will automatically be eligible for permanent resident status after 3 years, with the opportunity to become full U.S. citizens after 5 years.

Mr. Speaker, let us take advantage of this St. Patrick's Day to reflect on the contributions of the Irish to our Nation and to the world, and to pray for a just and lasting peace in that too long-embattled island.

I insert the full text of my legislation at this point in the RECORD and I invite my colleagues to join in support of this bill:

H.R. 1306

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ENLISTMENT OF CERTAIN ALIENS IN THE ARMED FORCES AND STATE MILITIAS.

(a) ENLISTMENT OF CERTAIN ALIENS IN THE ARMED FORCES.—(1) Chapter 31 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 520c. Enlistment of certain aliens

"(a)(1) During the first three quarters of any fiscal year, each Secretary concerned may accept for original enlistment aliens described in subsection (b). The numbers of such enlistments accepted during such period may not exceed the following:

"(A) In the Regular Army (or the reserve component thereof) 6,000.

"(B) In the Regular Navy (or the reserve component thereof) 5,000.

"(C) In the Regular Air Force (or the reserve component thereof) 3,000.

"(D) In the Regular Marine Corps (or the reserve component thereof) 2,000.

"(E) In the Regular Coast Guard (or the reserve component thereof) 1,500.

"(2) During the fourth quarter of any fiscal year, each Secretary concerned may provide for the enlistment of other qualified aliens to the extent that enlistments enumerated under paragraph (1) remain unused at the end of the third quarter of such year.

"(b)(1) Aliens who may enlist in the armed forces in the manner described in subsection (a) are the following classes of aliens:

"(A) Aliens not already admitted to the United States for permanent residence who are foreign nationals present in any State, territory, or possession of the United States, whether or not in the United States on a valid, unexpired visa.

"(B) Aliens not already admitted to the United States for permanent residence who are abroad but who apply for enlistment through the United States diplomatic mission to a country or to any other appropriate United States military or diplomatic personnel designated for such purpose by the Secretary concerned.

"(2) To qualify for enlistment the alien must also satisfy any other enlistment qualifications prescribed by the Secretary concerned.

"(c) If, within 60 days after the commencement of war or an emergency declared by the Congress, the Congress fails to increase the numbers authorized under subsection (a), the President may set such number.

"(d) Any alien enlisting in the armed forces under this section shall, in addition to taking the oath prescribed under section 502 of this title, declare an intention to become a citizen of the United States.".

(2) The table of sections at the beginning of such chapter is amended by adding after section 520b the following new item:

"520c. Enlistment of certain aliens.".

(b) ENLISTMENT OF CERTAIN ALIENS IN THE ORGANIZED MILITIA.—(1) Chapter 13 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 313. Enlistment of certain aliens in the organized militia

"(a)(1) The chief executive officer of any State, territory, or possession of the United States may provide for the enlistment of aliens described in subsection (b) in the organized militia.

"(2) The number of aliens enlisted under this subsection by any chief executive officer may not exceed 3,000 during any fiscal year. The apportionment of such enlisted members shall be determined by such officer, except that at least two-thirds of such enlisted members shall be reserved for the Army National Guard.

"(3) The term of any enlistment provided under this subsection may not be less than 3 years.

"(b)(1) Aliens who may enlist in the organized militia of any State, territory, or possession of the United States in the manner described in subsection (a) are aliens not already admitted to the United States for permanent residence who are foreign nationals present in any State, territory, or possession of the United States, whether or not in the United States on a valid, unexpired visa.

"(2) To qualify for enlistment the alien must also satisfy any other enlistment qualifications prescribed by the appropriate chief executive officer.

"(c) If, within 60 days after the commencement of a war or emergency declared by the Congress, the Congress fails to increase the authorized number under subsection (a), the President may set such number.

"(d) Any alien enlisting in the militia under this section shall, in addition to taking the oath prescribed under section 502

of this title, declare an intention to become a citizen of the United States and shall take any oath applicable to the State, territory, or possession.".

(2) The table of sections at the beginning of such chapter is amended by adding after section 312 the following new item:

"313. Enlistment of certain aliens in the organized militia."

SEC. 2. LEGALIZATION OF STATUS OF ALIEN ENLISTED MEMBERS AND THEIR FAMILIES.

(a) PROVIDING FOR LEGALIZATION.—Chapter 5 of title II of the Immigration and Nationality Act is amended by inserting after section 245A (8 U.S.C. 1255A) the following new section:

ADJUSTMENT OF STATUS OF CERTAIN ALIENS ENLISTED IN THE ARMED FORCES OR THE ORGANIZED MILITIA

"SEC. 245b (a) TEMPORARY RESIDENT STATUS.—(1) The Attorney General, in consultation with the Secretary concerned (as defined in section 101(8) of title 10, United States Code) or the appropriate chief executive officer of the pertinent State, territory, or possession, shall adjust the status of an alien (and any spouse or child following or accompanying to join such alien) if the alien satisifes the following requirements:

"(A) The alien is an enlisted member of the armed forces or the militia, as described in sections 520c(a) and 313(a) of title 10, United States Code, respectively.)

"(B) The alien establishes that he or she is otherwise admissible to the United States as an immigrant.

"(C) The alien has not been convicted of any felony or 3 or more misdemeanors committed in the United States.

"(D) The alien has not assisted in the persecution of any person or persons on account of race, religion, nationality, or membership in a particular social group.

"(2) The spouse or child of any alien described in subparagraph (A) of paragraph (1) must satisfy the requirements under subparagraph (B) through (D) of such paragraph to be eligible for an adjustment of status under this subsection.

"(b) ADJUSTMENT TO PERMANENT RESIDENCE.—(1) The Attorney General shall adjust the status of any alien provided lawful temporary status under subsection (a) to that of an alien lawfully admitted for permanent residence if the alien meets the following requirements:

"(A) If the alien is described in subsection (a)(1)(A), the alien serves not less than 3 years of honorable service in the armed force or militia and is not released or discharged from the armed force or militia under any condition other than honorable.

"(B) The alien applies for such adjustment of status to the Secretary concerned, or to the chief executive officer, not more than 3 months following the conclusion of such service.

"(C) The Secretary concerned or the chief executive officer approves such application and forwards it to the Attorney General.

"(D) The alien is admissible as an immigrant, as provided under subsection (a).

"(2) Upon the petition of the Secretary concerned or the chief exeuctive officer, the Attorney General shall waive the 3-year honorable service requirement under subparagraph (A) armed forces or the organized Militia.".

"(A) for any alien if the alien was wounded in action or held in captive status (as defined under section 559 of title 37, United States Code), or

"(B) with respect to the spouse or child of any alien described in subparagraph (A) or any alien who was killed in action or otherwise died while in the line of duty.

"(c) WAIVER OF NUMERICAL LIMITATIONS.—The numerical limitations of sections 201 and 202 shall not apply with respect to aliens covered under this section.

"(d) SUSPENSION OF DEPORTATION.—The Attorney General shall not deport, detain, or take other adverse action against any alien who has submitted an application to enlist in the armed forces, under section 520c of title 10, United States Code, or in the organized militia under section 313 of such title, pending determination as to the enlistment of such alien, nor shall such application for enlistment constitute the original and only cause for the initiation of deportation proceedings.".

(b) CLERICAL AMENDMENT.—The table of contents of chapter 5 of title II of the Immigration and Nationality Act is amended by inserting after section 245A the following new item:

"SEC. 245B. Adjustment of status of aliens enlisted in the armed forces or the organized militia.".

SEC. 3. EFFECTIVE DATE.

The amendments made by sections 1 and 2 shall apply to fiscal years beginning after September 30, 1989.

NUCLEAR DECOMMISSIONING RESERVE FUND ACT OF 1989 REDUCES UTILITY RATES AND PROVIDES AN ADDITIONAL MARKET FOR U.S. TREASURY OBLIGATIONS

HON. RICHARD T. SCHULZE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 8, 1989

Mr. SCHULZE. Mr. Speaker, today I am introducing legislation which will have the dual benefit of lowering electric utility rates for consumers while increasing tax revenues from existing qualified nuclear decommissioning reserve funds. The Nuclear Decommissioning Reserve Fund Act of 1989 will achieve these results by lowering the applicable tax rate on the income of such funds and removing the current investment restrictions on such funds.

Generally, owners of nuclear powerplants must decommission, or close down and dismantle, such plants at the end of their useful lives. Decommissioning involves major expenditures because of residual radiation and generally will occur many years after a plant first becomes operable. A utility company which owns a nuclear power plant usually collects a portion of the estimated future cost of decommissioning the plant each year from customers as a cost of service.

Section 468A of the Internal Revenue Code of 1986 allows a utility to deduct contributions to a qualified nuclear decommissioning reserve fund, subject to certain limitations. A qualified nuclear decommissioning reserve fund is a segregated fund to be used exclusively for the payment of nuclear decommissioning costs and other related expenses.

The qualified fund constitutes a separate taxable entity and is subject to tax at the maximum corporate income tax rate—currently 34 percent. The assets of a qualified nuclear decommissioning reserve fund, like those of a tax-exempt black lung disability trust fund, may be invested only in Federal, State, or local government obligations or certain bank or credit union deposits.

Although establishment of a qualified fund for decommissioning carries certain tax advantages for utilities, the current restrictions so limit the investment alternatives as to make an election under Code section 468A of limited value. Utilities which establish such a fund generally limit their investments to tax-exempt securities due to the fact that the maximum corporate income tax rate is applied to taxable income of the fund. As a result, the U.S. Treasury is denied significant tax revenue from the qualified funds. The current investment limitations, although well-suited to a tax-exempt black lung trust, are inappropriate when applied to a taxable entity such as a qualified nuclear decommissioning reserve fund.

The Nuclear Decommissioning Reserve Fund Act of 1988 would correct these problems and make establishment of a qualified nuclear decommissioning reserve fund more attractive, by lowering the tax rate on income of such a fund from 34 to 15 percent and eliminating the current restrictions on fund investments. These modifications would encourage utility companies with qualified funds to invest in taxable securities such as U.S. Treasury obligations rather than tax-exempt securities. This revised investment program would benefit utility customers and increase tax revenues from existing qualified funds.

This legislation would reduce the annual amount of decommissioning costs charged to customers. Based on a Price-Waterhouse study, completed in February of last year, if the tax rate were lowered to 15 percent and the current investment restrictions were eliminated, the annual decommissioning collections in calendar years 1989 to 2004 from customers of utilities which already have established qualified funds would drop to approximately $394 million—from approximately $425.8 million under current law—saving nearly $32 million annually and directly benefiting customers by lowering the electricity rates they otherwise would be charged.

Furthermore, based on the same study, if the income tax rate were decreased to 15 percent and the current investment limitations were removed, it is estimated that total tax revenues from existing qualified funds would escalate to nearly $43 million for calendar years 1988 through 1990. This represents an estimated increase of more than $31 million in Federal tax revenue from existing qualified funds over current law.

The Nuclear Decommissioning Reserve Fund Act of 1989 represents an opportunity to create a substantial market for U.S. Treasury obligations and increase tax revenue from existing qualified funds. In addition, the bill would benefit customers through lower utility rates. I am hopeful that my colleagues, recognizing the merits of this legislation, will support this bill.

NUCLEAR DECOMMISSIONING-RESERVE FUND ACT OF 1989

To amend section 468A of the Internal Revenue Code of 1986 with respect to de-

ductions for decommissioning costs of nuclear power plants.

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 "Nuclear Decommissioning Reserve Fund Act of 1988."

SEC. 2. NUCLEAR DECOMMISSIONING RESERVE FUND.

Section 468A(e) of the Internal Revenue Code of 1986 is amended as follows:

a. Paragraph (2)(A) is amended by deleting "equal to the highest rate of tax specified in section 11(b)" and inserting in lieu thereof "of 15 percent", and

b. Paragraph (4) is amended by adding "and" at the end of subparagraph (A), by deleting ", and" and inserting in lieu thereof a period at the end of subparagraph (B), and by deleting subparagraph (C).

SECTION 3. EFFECTIVE DATE.

The amendments to Code section 468A which are made by this bill shall be effective with respect to taxable years beginning after December 31, 1988.

GEICO HONORS RITA CALKINS OF SEMINOLE, FL, FOR SPECIAL WORK IN PHYSICAL REHABILITATION

HON. C.W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 8, 1989

Mr. YOUNG of Florida. Mr. Speaker, the GEICO Insurance Co. yesterday honored Rita Calkins, a constituent from Seminole, FL, with one of its five annual Public Service Awards for her work in the field of physical rehabilitation.

Rita Calkins is a special woman who has overcome great odds to make a significant contribution to a number of local, State, and national civic causes. She is a retired secretary from the Bay Pines Veterans Administration Medical Center who was severely disabled by a cerebral hemorrhage in 1947. Following her stroke, she was confined to a bed for an extended period of time, to a wheelchair for a year, and then was able to walk using leg braces for 6 years.

Although Rita is still considered totally disabled for employment purposes, she has been an active volunteer throughout Pinellas County, FL, for the past 12 years. She was a pioneer in developing and raising funds for the Alzheimer's Disease Fund and was the key to her local chapter's lead in the Florida Federation fund drive. She also donates to the Alzheimer's Fund the proceeds from her famous "10 bean soup mix", which she prepares in packets and sells at the National Association of Retired Federal Employees meetings. Her efforts have inspired the association to make major contributions to the fund.

In addition to her work in support of Alzheimer's Disease, Rita also volunteers her time at the Free Clinics in St. Petersburg and Clearwater. She prepares and serves meals to the indigent as a volunteer at the St. Vincent DePaul soup kitchen in Clearwater, she provides home economics training to the needy through the Pinellas County Extension Homemakers Service, and she is active in her church and church related organizations, particularly outreach ministries to the needy.

GEICO annually honors four civilian Federal employees and one retired Federal employee for their outstanding achievements in the fields of alcoholism prevention and treatment, fire prevention and safety, physical rehabilitation, and traffic safety and accident prevention. This year's awards were presented to Rita Calkins and the other four recipients during a ceremony yesterday at the Botanic Garden.

Mr. Speaker, the purpose of these awards is to recognize outstanding personal contributions to our communities by Federal employees and retirees. This year's presentation to Rita Calkins also recognizes the twin qualities that she exhibits. First, that she is willing to overcome the obstacle of physical disability to serve our Nation's veterans, and in retirement, serve the needy in our community. Second, she exhibits the great American spirit of volunteerism in which she gives back to our community and our Nation so much time and energy to contribute to many worthwhile causes. GEICO is to be commended for recognizing her achievements because they can be an inspiration to all Americans.

THE COMMUNITY EDUCATION CENTER—A MODEL SCHOOL PROGRAM

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 8, 1989

Mr. LANTOS. Mr. Speaker, in 1964, a group of women from Redwood City banded together to form their Spanish-speaking neighborhood's first bilingual nursery school, the Community Education Center [CEC] at the Community Congregational Church. This year, the CEC celebrates its 25th season of service to the Redwood City community.

From its humble beginnings as a twice-a-week nursery school, the center has expanded to care for nearly 50 preschool children 5 days a week, is conducting classes for new mothers, and holds evening English lessons for the neighborhood's adult Spanish-speaking newcomers. In spite of seemingly endless challenges threatening its financing and facilities, the CEC has always managed to meet the need for greater and more varied services.

The greatest praise one can bestow upon the work of the CEC comes in the feedback of both children and parents which, I am delighted to say, has been uniformly positive. Parents' anecdotal stories tell it all: Following their participation in CEC, the children look forward to going to school, they are filled with enthusiasm for doing their homework, and they become quite upset when they can't go to school, even when ill.

The CEC attributes much of the success to its overarching philosophy. The center strives to develop the whole person. In its day school, the social, emotional, intellectual, and physical development of the child takes place in the belief that school should be a fun experience, shared by the entire family. Parents actively participate in the education of their children.

Evidence for the center's success comes from traditional sources as well. Testing has repeatedly shown that children involved in the CEC are well above average. It is no wonder the center's enrollment is always full and the waiting list is nearly as long as the list of those admitted.

The growth of the CEC has been made possible through the generosity of individuals, local businesses, service clubs, charitable foundations, and especially through the dedication of the center's staff, volunteer and professional. The center, however, cannot grow to meet the increasing demand for its services if its current financial needs go unmet.

The CEC's four major funding sources are now demanding greater self-sufficiency. They have limited the CEC's dependence upon any one source to 20 percent and have cut back on future contributions. In response to this new threat to the CEC's activities, the center's parents and children have become involved in a major fundraising effort to maintain the operation. The cost of providing such an outstanding educational experience, however, remains a very difficult challenge.

Mr. Speaker, I commend the staff and parents of the center, which has given thousands of children a solid start in their education and thousands of adults the English language skills necessary to participate fully as Americans.

I commend the small group of inspired women in Redwood City who founded the CEC 25 years ago and took responsibility for their own education and for the education of their children.

I congratulate the Community Education Center on its 25th anniversary, and wish it at least another 25 years of success.

COAST GUARD ENVIRONMENTAL COMPLIANCE ACT

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 8, 1989

Mr. YOUNG of Alaska. Mr. Speaker, the legislation that I am introducing today is the same bill as H.R. 5089 from the 100th Congress. This legislation will respond to the critical problem of hazardous substance contamination at present and former Coast Guard facilities around the country. The program of compliance with environmental laws mandated for Coast Guard facilities by this bill is modeled after the existing Defense Environmental Restoration Program. This program provides for centralized program management for the cleanup of Department of Defense hazardous waste sites, consistent with provisions of the Comprehensive Environmental Response Compensation, and Liability Act [CERCLA], the Superfund Amendments and Reauthorization Act of 1986 [SARA], and the National Contingency Plan [NCP]. The goals of the Environmental Compliance Program established in this bill are identical to the goals of the DOD program:

First, to identify, investigate, and clean up contaminants from hazardous substances, pollutants, and contaminants;

Second, to correct the environmental damage that creates an imminent and substantial endangerment to the public health or welfare or to the environment; and

Third, to demolish and remove unsafe buildings and structures, including buildings and structures at sites formerly used by or under the jurisdiction of the Secretary of Transportation.

The Secretary of Transportation has identified Coast Guard facilities at four locations as contamination cleanup priorities: Kodiak, AK; Traverse City, MI; Elizabeth City, NC; and Otis Air Force Base, MA. I am pleased that the Representatives of the congressional districts in which these Coast Guard facilities are located and the distinguished chairman of the Coast Guard Subcommittee have joined me as cosponsors of this bill.

In particular, I am concerned that a high level of PCB contamination exists at the Coast Guard Support Center at Kodiak, AK, and at facilities presently owned by the Kodiak Electric Association that were formerly under Coast Guard jurisdiction. The Environmental Protection Agency has been concerned about the level of PCB contamination at these facilities for over 3 years, and discussions on the cleanup of the contamination are presently underway. The EPA has confirmed that the situation that exists in Kodiak is urgent, and that a cleanup program should be developed immediately.

This bill would set up a centralized program to deal with the Kodiak contamination problem and other Coast Guard facility contamination problems across the country. These situations deserve immediate attention, and my cosponsors and I look forward to early action on this bill.

THE NEED TO ESTABLISH A COMPREHENSIVE U.S. OCEANS AND GREAT LAKES POLICY

HON. CLAUDINE SCHNEIDER

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 8, 1989

Ms. SCHNEIDER. Mr. Speaker, I rise today to introduce a concurrent resolution to establish a comprehensive national oceans and Great Lakes policy. The oceans and the Great Lakes of this Nation are in trouble, and it is time for the Congress and the President to address those troubles. The National Oceanic and Atmospheric Administration's [NOAA] recent budget submission to Congress states:

> The degradation of coastal resources is reaching crisis proportions: fisheries are highly variable and may be declining due to human activities; pollution in major estuaries has led to wide-spread prohibitions of fishing and swimming and restriction of the sale of fish and shellfish; and severe storms and other natural hazards are increasingly endangering lives and destroying valuable coastal property.

The first step in defining and eventually coming to terms with any problem is to set an agenda. The United States, however, has not had an oceans agenda since 1969 when the Stratton Commission issued its report. The Stratton Commission recommendations led to landmark legislation in the 1970's, such as the creation of NOAA; the Clean Water Act; the Coastal Zone Management Act; the Ocean Dumping Act; the Fishery Conservation and Management Act; and the Marine Mammal Protection Act.

The 1980's saw new challenges facing our oceans, but the United States never developed a coordinated national agenda to address them. The challenges facing the oceans during the 1980's have been exacerbated by soaring budget deficits, but have also included the proclamation of a 200-mile exclusive economic zone and the newly declared 24-mile territorial sea; dramatically increased degradation caused by coastal and estuarine pollution; the depletion of our fishery resources; and our failure to ratify the Law of the Sea Treaty.

The United States lacks a coordinated comprehensive approach to the oceans by the various Federal agencies which have jurisdiction—there is repetition overlap, and gaps in research, all of which squander precious resources.

An example of this overlap and repetition is perfectly illustrated by the Federal Government's approach to estuaries. If a scientist wanted to collect data on estuarine areas in order to make a model of ecosystem interactions, they would find that there is no single source from which to acquire such data. The scientist would have to obtain similar data from the EPA's Office of Marine and Estuarine Protection; the NOAA Status and Trends Office; the U.S. Geological Survey; the Department of the Interior's Mineral Management Service; and various sea grant programs.

In the next decade the United States must have a comprehensive and coordinated agenda for the proper management and utilization of one of this Nation's most important natural resources—the oceans and Great Lakes. This concurrent resolution does just that—it directs the President to work with the Congress in formulating a national oceans and Great Lakes policy for the 1990's. The United States needs such a policy, and it should be based on a close examination of our past efforts, our current trends, and our future needs and expectations. Now is the time to examine the progress and status of this Nation's coastal and marine initiatives and programs which were developed in response to the Stratton Commission report 20 years ago. I urge all of my colleagues to support this important concurrent resolution which will enable the United States to establish a national oceans and Great Lakes policy to bring us into the next century.

SUPPORT OF VETERANS' PROGRAMS

HON. LARRY J. HOPKINS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 8, 1989

Mr. HOPKINS. Mr. Speaker, since coming to Congress 10 years ago, ensuring opportunities and benefits for our Nation's veterans has been one of my top priorities.

America's veterans have served faithfully during periods of conflict and peace, placing national duty and commitment above personal safety and convenience. I have been proud to play a part in the Congress in fighting to protect, and when necessary, enhance the ability of the Government to provide the benefits our veterans fully deserve.

With this in mind, I want to share with my colleagues a recent letter I received from my constituent expressing his heartfelt gratitude to the American people and to Congress for the benefits he received under the Veterans' Educational Assistance Act of 1984 after retiring from the Navy.

Text of Mr. Dau's letter follows:

> DEAR MR. HOPKINS: I graduated from Eastern Kentucky University on the 19th of December with a B.S. in Agriculture. I enrolled at EKU after retiring from the Navy and was able to fulfill a desire that otherwise would not have been possible. The people of the United States, through the offices of the Veterans' Administration GI bill, put me through school.
>
> I am grateful for the opportunity to complete a college education and would appreciate your expressing my gratitude to your colleagues in the Congress.
>
> Very sincerely,
>
> MICHAEL F. DAU,
> *Richmond, KY.*

So you see our support of veterans' programs does not go unnoticed and I invite you to join me in continuing to support this worthwhile investment.

THE 125TH ANNIVERSARY OF THE KNIGHTS OF PYTHIAS

HON. ROBERT A. BORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 8, 1989

Mr. BORSKI. Mr. Speaker, I rise today to honor the Knights of Pythias on the occasion of the 125th anniversary of their founding.

Mr. Speaker, the Order Knights of Pythias was founded by Justus H. Rathbone in Washington, DC, in 1864. Established during the Civil War, its founder hoped it might help to heal the wounds and allay the hatred of the war's conflict.

The Knights are dedicated to the cause of universal peace and are pledged to promoting the concept of good will among men as the surest means of attaining that peace.

The order is based on a philosophical triad: friendship, charity, and benevolence. Today that triad is carried out through blood banks, support of local hospitals, promotion of research into heart disease and cystic fibrosis and many youth programs.

The Order Knights of Pythias strives to gather into one international fraternity, men who appreciate the true meaning of friendship and who are cautious in word and act. Knights of Pythias endeavor to prevent injustice and promote truth at all times. Their loyalty to principle, family, friends, and their country is well known.

Mr. Speaker, I join Area 1 Knights of Pythias, comprising all Knights in eastern Pennsylvania, in celebrating the 125th anniversary of the order.

FAMILY LIVING WAGE ACT

HON. TIMOTHY J. PENNY

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 8, 1989

Mr. PENNY. Mr. Speaker, a few days ago, I joined Congressman TOM PETRI and a bipartisan group of our colleagues in sponsoring the Family Living Wage Act. This measure is designed to help low-income, low-skilled people support families by working rather than through welfare. I encourage my colleagues to join me in support of this important legislation.

As introduced, the Family Living Wage Act expands the earned-income tax credit [EITC] and adjusts the benefits of that credit to reflect family income and family size. Specifically, this bill combines the existing EITC and dependent care credit [DCC], creating one comprehensive program to help families and children. Under the provisions of the bill, in 1991, the current EITC credit would be adjusted by $700 for each preschool child and $350 for each each school age child, up to four children. The credit for preschool children is higher in order to assist families with child care needs, while the supplement for school age children will help all families with the costs associated with raising children.

The Family Living Wage Act also establishes a minimum EITC benefit that doesn't phase out until family income reaches $40,000. The costs associated with a minimum EITC benefit are the same as the current dependent care credit, but the benefits are spread among all families.

Because the EITC is available to low-income families and is refundable to recipients through their paychecks, it is an equitable way to assist families in coping with the expenses that result from raising a family. Because the EITC is targeted to those most in need of a wage supplement, it is the preferable alternative to a large boost in the minimum wage.

A hike in the minimum wage will increase the buying power of the working poor, but since the working poor constitute less than 20 percent of minimum wage workers, a minimum wage increase will result in a wage hike for a lot of workers—primarily teenagers—least in need. Economists agree on one thing: An increase in the minimum wage will produce displacement of current workers, fewer opportunities for new job seekers, and inflation. An enhanced EITC, on the other hand, will benefit the working poor without the economic consequences of a hike in the minimum wage.

Mr. Speaker, I urge you and my other colleagues to support this important legislation to help America's working poor.

NATIONAL ALZHEIMER'S DISEASE MONTH

HON. BILL LOWERY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 8, 1989

Mr. LOWERY of California. Mr. Speaker, today Mr. DERRICK of South Carolina and I are again honored to submit a resolution designating the month of November as "National Alzheimer's Disease Month."

Alzheimer's disease is a debilitating neurological disorder that affects at least 2.5 million American adults. It is characterized by a deterioration of basic cognitive functions such as memory, thought, language, and judgment. The course of the disease is progressive and irreversible, beginning with simple forgetfulness followed gradually by noticeable and increasingly severe changes in memory and personality. Eventually, the Alzheimer's victim cannot care for himself, and life expectancy is reduced. This disease first destroys the mind and then robs its victims of their dignity and finally, of their life.

Estimates indicate that Alzheimer's disease costs our Nation more than $80 billion annually. As the fourth leading cause of death among older Americans, it accounts for 100,000 deaths each year. Sadly, as our population ages, the number of Americans afflicted with this disorder will only increase and the costs of caring for them will grow dramatically. Within the next 10 years, one out of every three families will be touched by the infirmity.

Recent research has uncovered many important clues about the cause of Alzheimer's disease, but the disorder is still difficult to diagnose and nearly impossible to treat. Science has made many miracles happen in the field of medicine during this century. Let us hope that Alzheimer's disease will someday be listed as one of them.

By declaring November 1989 as "National Alzheimer's Disease Month," we draw attention to the anguish and pain this disorder inflicts on its victims and their families. In addition, we appropriately honor institutions like the Alzheimer's Disease and Related Disorders Association and the American Health Assistance Foundation which have given so much in treating and researching this tragic illness.

Many of our colleagues have joined me in the past 6 years in cosponsoring a similar resolution. On each occasion, the President has signed it into law. I hope that the House of Representatives will again offer an open pledge of support to understanding and eliminating this horrible affliction.

MINORITY FINANCIAL INSTITUTIONS WEEK

HON. KWEISI MFUME

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 8, 1989

Mr. MFUME. Mr. Speaker, today, I am introducing a joint resolution to designate March 13 through March 17, 1989, as "Minority Financial Institutions Week." This resolution simply seeks to commemorate the rich history and the significant role of minority owned and operated financial institutions in the United States.

Minority-owned financial institutions in this country date back to 1888, when the Capital Savings Bank of Washington, DC, and the Savings Bank of the Grant Fountain United Order of True Reformers, of Richmond, VA, were chartered. From 1888 to 1934, African-Americans organized approximately 134 financial institutions, including credit unions, industrial loan associations, and building and loan societies. The first Asian-owned bank, Cathay Bank of Los Angeles, was organized in 1962. In 1969, Centinel Bank of Taos, NM, became the first of the Hispanic-owned banks. Native Americans established their first bank, Lumbee Bank, of Pembroke, NC, in 1971.

These early institutions arose to meet the financial need that the majority-owned financial institutions either would not or could not satisfy. Within the last decade, rapid changes in economic and demographic patterns coupled with technological advances have created a highly competitive and sophisticated market for financial services. This competition has also intensified the pressure on financial intermediaries to increase profit margins which creates incentive for many institutions to close their less profitable operations in low-income neighborhoods, often comprised primarily of ethnic minority groups. While increased competition often stimulates financial innovation, the ultimate result in minority neighborhoods is that hundreds of thousands of low- and moderate-income Americans are being deprived of access to basic financial services.

Examples of the critical need for financial institutions to meet the credit demands of inner-city, low-income, and predominately minority neighborhoods are indeed numerous. As recently as last year, a major effort was mounted to enhance enforcement of the Community Reinvestment Act [CRA], an act which substantiates the affirmative obligation of lending institutions to help meet the credit needs of their communities. CRA, originally enacted some 10 years ago, sought to address longstanding practices by financial institutions of reducing the level of lending or imposing less favorable credit criteria in certain areas often identified with high percentages of low- and moderate-income residents or areas distinguished by certain racial or ethnic minority populations. The evidence gathered during hearings on this issue demonstrates a real connection between the decline in financial services in the inner-city and urban deterioration.

In recognition of the special role of minority-owned financial institutions in their inner-city communities and particularly in the development of minority business enterprise, President Richard M. Nixon, in 1970, issued an Executive order from which the Minority Bank Deposit Program [MBDP] was established. MBDP requires Government agencies to include minority- or female-owned financial institutions in the selection pool of financial intermediaries to provide banking services to Federal agencies.

More recently, section 412 of Public Law 100-86, the Competitive Equality Banking Act, was enacted to require the Department of the Treasury, in conjunction with other regulatory agencies, to develop procedures for increasing the use of underutilized minority-owned thrift institutions. Treasury, acting within its regulatory authority, expanded the scope to include all minority financial institutions—banks, thrift institutions, and credit unions—that participate in the MBDP. In a letter from Treasury to management officials at 22 Feder-

al agencies and departments encouraging their participation in the MBDP, an observation was made that "[t]he nation's minority banks and thrift institutions, through their lending and other activities within the communities they serve, provide an ideal vehicle through which the economic and business needs of these communities can be met."

Technology advances, demographic movements, and increased competition notwithstanding, minority owned and operated financial institutions have maintained their commitment to providing needed services to their communities which have been and continue to be abandoned by majority-owned institutions.

In an effort to publicly recognize the unique role that minority-owned financial institutions have assumed in their communities by providing employment opportunities, business capital for minority entrepreneurs, and urban development, I am introducing a joint resolution to designate March 13 through March 17, 1989, as "Minority Financial Institutions Week." Again, this resolution seeks to acknowledge the fortitude and commitment of minority financial institutions in providing economic stability to underserved communities, particularly low-income, inner-city minority neighborhoods, and further commemorates their unprecedented accomplishments.

LINE ITEM VETO

HON. BOB STUMP

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 8, 1989

Mr. STUMP. Mr. Speaker, the propensity of Congress in recent years to present the President with huge take-it-or-leave-it omnibus continuing resolutions has caused a breakdown in the budget process. The President has been effectively shut out of the process, subverting our constitutional system of checks and balances.

For the Federal budget system to work, balance between the executive and legislative branches must be restored. To achieve this balance, we need to enact line-item veto legislation.

Such a proposal is not as radical as many would make it out to be. Between 1789 and 1974, the President had an effective impoundment power. Every President from George Washington to Richard Nixon reduced or eliminated spending for many programs, subject to few constraints. In fact, President Washington regularly transferred funds between departments without the express consent of Congress, and President Franklin Roosevelt routinely reduced or deleted appropriations ranging from $1.6 million to $95 million.

Enactment of the 1974 Budget and Impoundment Control Act, which greatly reduced the ability of the President to impound appropriations, essentially deprived the President of powers similar to line-item veto authority. The results have been staggering. The budget deficit has grown from $6 billion in 1974 to more than $155 billion last year, and the public debt is now in excess of $2.7 trillion.

In stark contrast, State governments have been able to maintain fiscal balance. In 1987, the States had an aggregate surplus of $4.7 billion, and the estimated 1988 surplus is $4.4 billion. This is not surprising; 43 governors have among their fiscal control powers line-item veto authority.

Mr. Speaker, it is time we ended our pork-laden largesse. The bill that I am introducing today will enable us to do just that. This constitutional amendment will:

1. Allow the President to veto any item in any bill making any appropriation. Not only will this provision allow the President to veto appropriations, it will also allow him to veto authorizations if they are attached to appropriation measures, providing an enforcement mechanism to current prohibitions against combining authorizations with appropriations;

2. Allow the President to return the line-item vetoed provisions separately or grouped in any combination he deems to be appropriate. This provision will prevent Congress from considering an omnibus line-item veto override, which might have a greater chance of obtaining the necessary two-thirds vote. This provision would further force legislation to stand on its own merits.

Mr. Speaker, I urge serious and timely consideration of this proposal.

FREE ELECTIONS IN EL SALVADOR

HON. JOHN J. RHODES III

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 8, 1989

Mr. RHODES. Mr. Speaker, I rise today to reaffirm the concerns of this body that the continuation of democracy in El Salvador be a strong and overwhelming objective for all of the nation. Yet even as we consider the prospects of a renewal of national elections, a potential threat to this process is evident.

Here in this country, Congress worries openly over the chances for defeat of the Christian Democrats and the victory of the ARENA party. Though it is undeniably our responsibility to point out human rights abuses from both the right and left, we cannot let ourselves be in the position of dictating, tacitly or otherwise, who should be the eventual winner of the upcoming election. Though we may have strong opinions about who we feel is the best candidate, our threatening sanctions against a possible winner amounts to de facto undermining of the entire process of democracy and could be construed as attempting to interfere in the internal affairs of a sovereign nation.

It is unquestionably our collective responsibility not to threaten to withhold aid to El Salvador by placing it contingent on the proper outcome of the elections. Credibility dictates that we allow the true functioning of democracy by respecting the outcome, basing our future aid decisions not on the party in charge, but on the actions of the leaders themselves.

Anything else places us in the position of attempting to direct the young democratic tradition, replacing the full will of the people, and denying them the right to decide on their own the future of their nation by reminding them their vote may determine whether they continue receiving aid from the United States.

Mr. Speaker, I ask that this body strongly consider these words and those of my colleagues. The goal should not be to predetermine a leader, but rather to support a truly free and democratic election and respect its outcome. Let us respect democracy.

TRIBUTE TO PETER AGRIS

HON. EDWARD F. FEIGHAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 8, 1989

Mr. FEIGHAN. Mr. Speaker, it is with deep sadness that we mourn the passing of Peter Agris. His devotion to his family, his friends, and to his life's work on the Hellenic Chronicle are a testament to the gifts Peter Agris brought to this world, and they measure how much we now miss him.

Opening the pages of the Hellenic Chronicle was often more gratifying than reading my hometown Cleveland newspaper. Peter Agris, through the force of his convictions and his commitment to seeing justice done, was one reason why this Irish Congressman took an early interest in speaking out on Greek-American concerns and for justice on Cyprus. Day after day, week after week, no other publisher kept the issue of Cyprus alive—not only in the Greek-American community, but within the policy community in Washington.

His efforts served to lift my spirits when all others said it was time to quit. He said fight on when colleagues said "Let's put Cyprus on a back-burner." He said speak out when others said that Greek-United States relations were not important to United States foreign policy.

Peter Agris was a loyal friend, a valued counselor and a man whose life's work embodied the love of freedom and our democratic system. I know I can speak for my colleagues when I say that we will all dearly miss Peter Agris. At this time, I offer my own personal condolences to Peter's wife, Ann, and his children, Peter and Nancy.

IN RECOGNITION OF JUNIOR ACHIEVEMENT OF MIDLAND, MICHIGAN, INC.

HON. BILL SCHUETTE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 8, 1989

Mr. SCHUETTE. Mr. Speaker, I rise today to pay tribute to a very special organization and a young man who I would like to recognize for outstanding achievement. Junior Achievement of Midland, MI, is an association dedicated to providing students of the Midland public schools, Meridian public schools, Coleman public schools, and Bullock Creek public schools with an opportunity to learn about our free enterprise system through actual work experience. During the 1988–89 year, 17 companies were formed to design, manufacture, and market a variety of products. The student

chosen as the "Outstanding President" for 1988–89, Batoc Phung, of Herbert Henry Dow High School, will be honored with the "Schuette Award" given in memory of my late father. Each year since 1963, my family has had the privilege of recognizing an outstanding young man or woman for this award.

Batoc is president of Achievers in the Making [AIM], a company which manufactured and marketed recycled boxes and note pads. I am sure that the success of this project was clearly enhanced by the fine leadership that Batoc provided.

Batoc is the son of Son Phung, of Midland, and he is currently a junior at H.H. Dow High School. 1988–89 was Batoc's second year in the junior achievement program.

Programs such as junior achievement, will provide our country with business leaders of the future who will continue to lead the United States in economic development and a vigorous and expanding economy based on the free enterprise system.

A TRIBUTE TO SGT. DAVID ELINE, NEVADA MEDAL OF VALOR RECIPIENT

HON. JAMES H. BILBRAY

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 8, 1989

Mr. BILBRAY. Mr. Speaker, I rise today to honor Sgt. David Eline, a hero in the true sense of the word. Sergeant Eline, was honored at the U.S. Air Force Tactical Fighter Weapons Center Honors Ceremony on Thursday, February 16, 1989, at Nellis Air Force Base. He was awarded the first Medal of Valor ever presented by the Nevada Highway Patrol for saving the life of a highway patrolman on September 28, 1986. Mr. Speaker, Sergeant Eline's heroic act is truly deserving of this recognition.

Sgt. David Eline, the 25-year-old former member of the Marine Corps, has been in the Air Force since 1985. The Gettysburg, PA native was stationed at the 554th Combat Support Squadron at Indian Springs Auxiliary Air Field when he saved the life of a State trooper. This action lead to the arrest and conviction of two men, both of whom had outstanding warrants for their arrest.

Sergeant Eline and the State trooper both stopped to help two men who had been in a traffic accident on U.S. Route 95 in Indian Springs. One of the men tried to fire a pistol at the officer's head. The gun failed to fire, and Sergeant Eline grabbed the pistol when the patrolman and the attacker started struggling. "I was there so I helped," reflects Sergeant Eline on the incident.

Mr. Speaker, Sergeant Eline's actions in risking his own life to save the State trooper earned him the Highway Patrol's Medal of Valor, keeping with the highest tradition of the U.S. Air Force. This act of true heroism and brevity deserves the praise and recognition of all Nevadans. Sergeant Eline's act of rare valor is an inspiration for us all to the spirit of faith and pride characteristic in our country's real heroes. I urge my colleagues to join me in honoring Sgt. David Eline for his outstanding character and this heroic act.

RESEARCH PAPER ON FEDERAL PAY RAISES

HON. THOMAS J. TAUKE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 8, 1989

Mr. TAUKE. Mr. Speaker, I wish to call to the attention of my colleagues a major research paper prepared by the Library of Congress entitled, "Federal Executive, Legislative, and Judicial Compensation: The Situation and Choices for the 101st Congress."

The author of this outstanding work is James P. McGrath, an analyst within the Library's Congressional Research Service [CRS] Government Division, who has served as Congress' resident expert on Federal personnel and pay questions for nearly 15 years. This study by Mr. McGrath is an important contribution of the highest quality, and I commend him and the Congressional Research Service for their invaluable input into this debate. We are indeed fortunate to have someone of his caliber working for us.

NEW DISTILLERY

HON. PETER SMITH

OF VERMONT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 8, 1989

Mr. SMITH of Vermont. Mr. Speaker, I rise today to call the U.S. House of Representatives attention to the fact that Vermont has, once again, offered a leader and leading concept to the country. I speak of the Vermont distillers who have recently opened the first distillery ever in the State of Vermont and the first in the United States of America since 1970.

Not only do these individuals exemplify the well-known virtues of entrepreneurship and initiative that we all admire, but they have added a vital new ingredient to the mix: corporate responsibility. The Vermont distillers products will carry on the label a warning and admonition to the purchaser to drink responsibly as well as a visual symbol which says don't drink and drive. They are looking beyond current practice in a very competitive market to a vision of how business should be done in the 21st century and breaking their own path. I can only hope that larger, more established distillers around America will follow their most courageous, innovative, and responsible lead in terms of labeling, the drinkers responsibility, and drunk driving.

Certainly if a small, new distillery in an economically precarious position can take this step some of the more established giants in the field can follow along. I am very proud that this group of Vermonters has taken this step in business and in responsible behavior as I am to offer their example to you and to the Members of this distinguished body.

KILDEE HONORS UAW LOCAL 659

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 8, 1989

Mr. KILDEE. Mr. Speaker, I rise today to bring to the attention of my colleagues in the House of Representatives, and my fellow citizens throughout the Nation, an event that commemorates an historic achievement 50 years ago in my hometown of Flint, MI.

It was on March 18, 1939, that workers at Chevrolet-Flint Plant 9 united in solidarity and won the right to bargain collectively as United Auto Workers Local 659. That event of 50 years ago will be remembered and celebrated during founding day ceremonies at local 659 on March 19, 1989. Those in the vanguard of today's labor movement, together with those of us who have benefited from that continuing effort, will be there to honor the proud past and dynamic present of a UAW local whose roots were formed and character fashioned during the famous Sitdown Strike of 1937.

From that hard-fought victory emerged a union whose workers charted a path toward growth, independence and maturity and the creation of Chevrolet Local 659. Once part of Amalgamated Local 156, Chevrolet workers sought a stronger union and petitioned for a separate charter covering Chevrolet-Flint workers only under the progressive banner of the UAW–CIO. Although they are no longer with us, the 18 Chevrolet workers who petitioned for UAW–CIO affiliation will be remembered during this historic golden anniversary as courageous visionaries. They are: William McCartney, Chalmar Hearod, Terrell Thompson, Dow Kehler, Ed Cronk, Maurice Steinhardt, Kermit Johnson, Roy Davison, Carl Bibber, Gilbert Rose, Wynford Haynes, John Hutchinson, Tom Kelley, William Roy, Walter Metzgar, Jess Moss, William Freeman and Cecil McNeese. One of the original 18 pioneers, Terrell Thompson, went on to become the first in a long line of great presidents of local 659 that include its current leader, President Billy W. Bradshaw.

Mr. Speaker, as a result of the great efforts of these workers, and others like them, the UAW has been a stabilizing force in our national economy and a bulwark of our democratic society. Their legacy lives in the spirit of a vital organization of dedicated workers led by strong, thoughtful men and women who are guided by respect for the dignity of every individual. On this historic golden anniversary celebration, I ask my colleagues in the U.S. House of Representatives to join me in paying tribute to UAW Local 659 and the men and women whose tireless efforts have improved the quality of life for all Americans everywhere.

TRIBUTE TO STAN ZICKLIN

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 8, 1989

Mr. BERMAN. Mr. Speaker, it is a pleasure to ask my colleagues to join me in saluting a respected and popular member of the community, Mr. Stan Zicklin, who has been chosen by Temple Beth Shalom as Man of the Year. Mr. Zicklin is being honored because of his enduring interest in social issues, his many contributions to the Jewish community, his charitable work for seriously ill children, and his commitment to the welfare of humanity.

Stan Zicklin symbolizes the spirit, energy, and future of the San Fernando Valley. He is currently senior vice president/financial consultant with Shearson Lehman Brothers, where his leadership has led to great successes in the business world. His pleasant personality and willingness to be helpful has endeared him to both his colleagues in the financial consulting business and the public he has served so well.

Stan's compassion has enhanced the lives of many seriously ill children and is responsible for hospital and home visits to brighten the spirits of these children. His many charitable contributions include his long-time participation in the Kidney Foundation of Southern California. He raised funds for the purchase of dialysis machines and set up hemodialysis centers and hospitals throughout southern California. He also worked with patients at Children's Hospital projects. As a result of his hard work and excellent performance, he enjoys respect and support throughout the San Fernando Valley.

Throughout his career, Stan has always shown a willingness and desire to give freely of his valuable time to aid organizations and causes important to this community. He served on the board of directors of the Kidney Foundation of Southern California, and presently is membership chairman, Ways and Means chairman and president of San Fernando Valley Chapter of Kidney Foundation of Southern California. In 1987, Stan was chairman of the convention of Shearson Lehman Brothers Brokers.

Stan Zicklin has selflessly served the Jewish and secular communities locally for many years and has always shown a willingness to aid organizations important to Judaism. He has been very active with Valley Beth Shalom Synagogue since 1974, and has served as vice president of ways and means, financial vice president, youth vice president, chairman of the board of directors and president, Presently, he is the building fund campaign manager. He is also the recipient of the prestigious University of Judaism Merit Award for community service.

Stan Zicklin is a native of Brooklyn, NY. He graduated from Bernard Baruch School of the City College of New York in 1959 with a degree in business accounting. He has been married to Arlene (Bogert) for 27 years and is the proud father of three sons, Andy, Steve, and Scott.

Few people have given of their time and energy as selflessly as Stan. It is my distinct honor to ask my colleagues to join me in honoring Stan Zicklin, an invaluable member of the community.

INTRODUCTION OF LEGISLATION ON CABLE TELEVISION DEREGULATION

HON. BRIAN J. DONNELLY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 8, 1989

Mr. DONNELLY. Mr. Speaker, I am introducing legislation today to repeal a provision of the 1984 Cable Communications Policy Act—Public Law 98-549—the cable television deregulation legislation—which has caused enormous problems for several local communities across the country.

The provision to which I refer, Mr. Speaker, is apparently being interpreted as allowing cable companies to abrogate the terms of contracts which the companies had executed with communities prior to enactment of the 1984 act. Specifically, section 625(d) of the act provides that cable companies operating in communities whose rates are deregulated are permitted to "rearrange a particular service from one service tier to another, or otherwise offer the service * * *." cable companies evidently take the position that this subsection gives them nearly an unrestricted ability to delete service tiers or restrict the ability of homeowners to subscribe to certain service tiers—in direct contravention of contracts which they have executed with local communities.

Quite frankly, Mr. Speaker, this is an outrageous abuse of the deregulation legislation. When Congress passed the legislation in 1984, I believed that we were deregulating rates—no more, no less. We were not giving carte blanche authority to cable companies to do what they felt like doing. To the extent that cable rates were previously set in contract negotiations, the 1984 act impaired those existing contracts—something that States are proscribed from doing under article I of the Constitution. Although the Federal Government may apparently impair the obligation of contracts, it is a step taken cautiously and with deliberation. And I do not believe that Congress should have gone further than rate deregulation in 1984. My bill therefore conforms the 1984 act to what I believe the intent should have been.

My legislation is effective as of the date of enactment. It is my understanding that there may be some litigation outstanding that may be affected by my legislation. No inference should be drawn, by the introduction of this bill, as to the proper interpretation of section 625(d) of the act. In addition, I recognize that this effective date may have to be further clarified in the legislative process. I plan to work with the authorizing committees toward that end as my bill moves through the legislative process.

PLIGHT OF LURIE FAMILY STILL UNRESOLVED

HON. ANTHONY C. BEILENSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 8, 1989

Mr. BEILENSON. Mr. Speaker, today I would like to take a few minutes to draw my colleagues' attention to the plight of Emmanuel and Judit Lurie, and their daughter, Bella.

Emmanuel and Judit first applied to emigrate from the Soviet Union in 1979, and were initially granted permission to emigrate in December of that year. However, on February 4, 1980, the deputy head of OVIR advised Emmanuel that, after reviewing his application, it was discovered that he had been exposed to classified information during his employment as a chemical researcher 17 years earlier. The family's exit visa was revoked, and only Judit's mother was allowed to emigrate to Israel, until last November when the Luries' oldest daughter, Anna, was allowed to emigrate to Israel with her son. Since the family's initial refusal, Emmanuel has been unable to return to his post as a researcher at the Moscow Institute of Organic Compounds, and has been forced to settle for a job with requirements far below his level of training and expertise.

I urge the Soviet Union to honor its international commitments as outlined in the Helsinki Final Act, of which they are a cosignatory, and allow the Luries to join their family in Israel. Such action would be a positive example of the continued success of the glasnost campaign and would help further amicable relations between our two great nations. I look forward to a day when pleas like this one will no longer be necessary.

CYPRUS

HON. NORMAN D. SHUMWAY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 8, 1989

Mr. SHUMWAY. Mr. Speaker, once again I rise in support of the peace talks currently underway between the Turkish Cypriots and the Greek Cypriots. Since August, U.N. Secretary General Perez de Cuellar and his representative on the island, Oscar Camillion, have hosted numerous meetings between the leaders of both communities in an effort to encourage constructive discussions regarding the establishment of a bizonal federal republic on the island.

These discussions are particularly timely since other nations with histories of deeply rooted problems and intercommunal disputes are working toward peace settlements. I commend U.N. Secretary General Perez de Cuellar for his leadership in addressing some of these difficult global problems. With regard to the Cyprus dispute, he has shown genuine comprehension of the historical differences and problems between the two communities including the tragic events of the 1960's and 1970's.

I commend Rauf Denktash, elected by the Turkish Cypriots as their President, for demonstrating his steadfast willingness to negotiate a peace settlement with the various Greek Cypriot leaders. Mr. Denktash's efforts focus on reaching an agreement ensuring the Turkish Cypriots of security and political equality so that intercommunal strife will never again plague the island.

As recently as 1985 and 1986, Mr. Dentash accepted U.N. Secretary General Perez de Cuellar's draft framework agreement which set forth plans to resolve issues of disagreement between the two peoples of Cyprus, including one of the most controversial issues—the withdrawal of non-Cypriot troops from the island.

In the context of their talks under U.N. auspices, on November 22, Mr. Denktash presented a document to the Greek Cypriots which addressed issues of greatest concern to both communities. Greek Cypriot President George Vassiliou reciprocated by submitting his proposals to the Turkish Cypriots on January 30. I view this exchange of documents as an encouraging sign that the two leaders are committed to the negotiation process. Further discussions between the two leaders are scheduled to take place during the next 2 months. Timely progress on the key substantive issues would indeed be a welcome development.

A peaceful resolution to the Cyprus dispute is of great importance to its citizens and the world. Therefore, I urge the United States Congress and administration to join me in supporting and encouraging the Turkish Cypriots and Greek Cypriots during this important period.

RECOGNITION OF NAIA DIVISION II NATIONAL CHAMPIONS WESTMINSTER COLLEGE

HON. THOMAS J. RIDGE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 8, 1989

Mr. RIDGE. Mr. Speaker, I rise today to speak of a championship football team. The national champion of which I speak has as proud and memorable tradition as either the Super Bowl Champions, the San Francisco 49'ers, or the Division I collegiate champion, Notre Dame.

I am pleased to recognize the student athletes at Westminster College, a small liberal arts school in New Wilmington, PA. The Westminster Titans, led by head coach Joe Fusco, won the NAIA [National Association of Intercollegiate Athletics] Division II championship on December 10, 1988. This title is an unprecedented fourth national championship for Westminster. The Titans were victorious over the University of Wisconsin Lacrosse, by the score of 21–14. Westminster scored the winning touchdown with 7 seconds left in the game, a fitting and final reminder of the maturity, ability and poise of the young athletes of this team. Top individual performances that sparked the 1988 winning season belonged to quarterback Joe Micchia, who was 136 for 276 in passing and scored 28 touchdowns, including all three in the NAIA championship game. NAIA Division II All-America tailback Brad Tokar, NAIA Division II All-America defensive tackle Dave Blazer, NAIA Division II All-America and Kodak, NAIA and Academic All-American linebacker Kevin Meyers.

These men and the entire team of 95 young men enjoyed a spectacular season. The No. 1 ranking came long before the cold Saturday in December, when Westminster won the actual championship. During the sixth week of the season they were named No. 1 and they held that position for the rest of the year. The Titans rightly deserved this top ranking considering their 14–0 record, which was the best of any college football team in the country.

I would like to join the many friends, family, and supporters of the Westminster football team in congratulating them on this exceptional year and this great honor they have achieved. This championship is an experience these players will remember as they continue to succeed in life both on and off the field. Their competitive spirit, winning attitude, and commitment to succeed and to one another is worthy of this special recognition as "National Champions."

TRIBUTE TO THE ADRIAN JOURNAL

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 8, 1989

Mr. SKELTON. Mr. Speaker, I take this opportunity today to pay tribute to the Adrian Journal, a community newspaper which recently celebrated its 100th anniversary. The Adrian Journal is the oldest continuous business in Adrian, and the long and impressive record of this newspaper testifies to many years of dedicated service to the people of Adrian and the Adrian community.

The Journal began its many years of service to the Adrian community in 1889 when the paper was established by Hutchinson and McBride. The Journal was struggling to survive in 1890, and the local bank asked John E. Dowell, Sr., to take over the operation of the paper. Mr. Dowell was publisher of the Journal from 1890 to 1935. For nearly 20 years, Mr. Dowell also served as mayor of Adrian, and served concurrently as police and judge. Upon his death, his son, John Dowell, Jr., took over the operation of the newspaper and served as publisher until 1947.

When John Dowell, Jr., died in 1947, his widow Alyeene Moore Dowell and his son Emery B. Dowell assumed operation of the paper. Emery (Soap) Dowell became a third generation publisher of the newspaper and the Journal continued as a family operation until 1950. Sixty-one years of family management came to an end when the Dowells leased the Journal to Bill and Shirley Vick of Kansas City. The Vicks operated the Journal for 1 year, and then turned over the newspaper once again to the Dowells. Emery returned to the Journal and operated it for 1 more year before selling it to Jack and Elaine Curtis of Worland, WY.

Jack and Elaine Curtis operated the Journal for 4 years and then sold the paper to Bob and Lila Gunn, who assumed management of the Journal on October 1, 1956. Mr. Gunn had been employed by the Journal for 6 years before becoming the owner. The Gunns were sole managers of the Journal until April 1982, when the Journal was incorporated and Steve and Linda (Gunn) Oldfield became coowners of the newspaper. In addition to the Journal, the Oldfields publish the Archie News and the Star Lite Shoppers Guide. They also operate a commercial printing department and have a rubber stamp and trophy business.

On January 21, 1989, a centennial celebration was held by the current owners of the Journal, the Gunns and the Oldfields. The centennial was also attended by former owner Emery (Soap) Dowell, currently of Sacramento, CA. I would like to extend my warmest congratulations to the Adrian Journal for their many years of dedicated service to the Adrian community. I sincerely hope that their current anniversary celebrations mark the first of such happy events, and that the Adrian Journal continues to prosper as it enters its second century.

CONGRATULATIONS TO DELBERT R. DUNBAR, FULTON COUNTY, OH "CITIZEN OF THE YEAR"

HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 8, 1989

Ms. KAPTUR. Mr. Speaker, if, as the ancient philosopher Seneca once said, "all art is but imitation of nature," Ohio's Ninth District can claim as its own a true master in the art of cultivating Earth's natural beauty. The city of Delta in Fulton County, OH, has been gifted within the determination of one gentleman to make the world a little more beautiful beginning right in his own backyard. This Saturday evening, I will join the citizens of Delta in honoring Mr. Delbert R. Dunbar as "Citizen of the Year" for his enthusiastic efforts to beautify his community's landscape for over 30 years.

Mr. Dunbar's first efforts were inspired by his idea to transform an area of his newly purchased property, previously not much more than a litter-strewn slope, into a horticultral showpiece visited by hundreds each year. More than 3,000 individual flowers are planted by Mr. Dunbar and his wife Dorothy annually, including 10 varieties of petunias, 7 varieties of marigolds, 300 rose bushes, wax leaf begonias, impatiens, and colosia. For his efforts he has been recognized by countless organizations such as: the Fulton County Garden Club, the Central Great Lakes Region of MGCA, and the Royal Horticulture Society of Great Britain, just to name a few.

In addition to the notoriety gained for his "green thumb," Mr. Dunbar has left his imprint on a variety of his community's business and cultural organizations. He is a former vice president of Dunbar Drilling, Inc., a company engaged in water well drilling and related work for municipalities, industries, and agriculture. With his brother, Glenn, he established Dunbar Manufacturing, Inc., a company dealing with hydraulic cranes and related equip-

ment and later served as secretary of the Ohio Water Well Contractors & Equipment Association. He has served as president of the Toledo Rose Society and is a life member of the American Rose Society. He is past president of the Fulton County Men's Garden Club; past president of the Men's Garden Club; past president of the Men's Garden Club of America; past president of the Delta Rotary Club; past president of the Delta Industrial Development Association; and is currently president of the Fulton County Community Improvement Corp. and a member of the Fulton County Board of Elections. One has to wonder how Mr. Dunbar has found the time even to weed his garden, much less cultivate it into a floral masterpiece.

Mr. Speaker, it's a pleasure to offer Mr. Delbert Dunbar our heartfelt congratulations on receiving the "Citizen of the Year" award for his dedicated efforts to enhance the beauty of our community in Fulton County, OH. May his creativity and deep appreciation for nature's unparalleled beauty inspire each of us to do our part in keeping "America the Beautiful" for generations to come.

TRIBUTE TO PERRY JOHNSON

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 8, 1989

Mr. BONIOR. Mr. Speaker, I rise today to pay tribute to a good friend of mine, Perry Johnson. Perry is retiring this year from his position as region 1 director of the international union, United Automobile, Aerospace and Agricultural Implement Workers of America [UAW].

Region 1 of the UAW covers a large part of southeastern Michigan, including most of the area I represent in Congress. It has been an honor to know and work with Perry over the years. He has been an outstanding director and a strong voice for fairness in the workplace. His influence and stature throughout the State and Nation reflect his dedication to bettering the community and to furthering the UAW and its goals.

Having served for 20 years on the UAW staff, Perry is finally taking some time to relax and take life easy. I am pleased to honor him today and to wish him the best in his retirement.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, March 9, 1989, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

MARCH 10

9:00 a.m.
Appropriations
Labor, Health and Human Services, Education Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1990 for ACTION, Federal Mediation and Conciliation Services, National Mediation Board, Railroad Retirement Board, Federal Mine Safety and Health Review Commission, National Labor Relations Board, and the Occupational Safety and Health Review Commission
SD-192

9:30 a.m.
Joint Economic
To hold hearings on the employment-unemployment situation for February.
2359 Rayburn Building

10:00 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1990 for the Bureau of Indian Affairs, Office of Construction Management, and the National Indian Gaming Commission.
SD-138

Appropriations
Treasury, Postal Service, General Government Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1990 for the Internal Revenue Service and the U.S. Postal Service.
SD-116

Armed Services
Projection Forces and Regional Defense Subcommittee
To hold hearings on proposed legislation authorizing funds for fiscal years 1990 and 1991 for the Department of Defense, focusing on the state and capabilities of the Marine Corps for special operations and low intensity conflict.
SR-222

10:30 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings to examine the problems in the savings and loan industry.
SD-538

MARCH 13

9:30 a.m.
Finance
International Trade Subcommittee
To hold hearings to examine the relationship between bilateral trade agreements and the General Agreement on Tariffs and Trade, and the potential for bilateral arrangements to address U.S. trade problems.
SD-215

10:00 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1990 for the Energy Information Administration, Economic Regulatory Administration, Office of Hearings and Appeals, and Emergency Preparedness, all of the Department of Energy.
S-128, Capitol

Appropriations
Military Construction Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1990 for Air Force and Defense Agencies military construction programs.
SD-192

1:30 p.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1990 for the Neighborhood Reinvestment Corporation, National Institute of Building Sciences, and the National Credit Union Administration.
SD-138

Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1990 for the Minerals Management Service, and the U.S. Fish and Wildlife Service, both of the Department of the Interior.
S-128, Capitol

2:00 p.m.
Commerce, Science, and Transportation
Consumer Subcommittee
To hold hearings on proposed legislation authorizing funds for the Consumer Product Safety Commission.
SR-253

MARCH 14

9:30 a.m.
Commerce, Science, and Transportation
Aviation Subcommittee
To hold hearings on S. 341, to prohibit discrimination against blind individuals in air travel.
SR-253

Energy and Natural Resources
To hold hearings on energy efficiency and renewable energy technologies as they relate to S. 324, National Energy Policy Act of 1989.
SD-366

Labor and Human Resources
To resume hearings on proposals to establish a corporation to administer a program of voluntary national service, and to provide for the education and training of participants in such Corps, including S. 3, S. 408, S. 322, and S. 382.
SD-430

10:00 a.m.
Appropriations
Agriculture and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1990 for the Department of Agriculture, focusing on Agricultural Research Service, Cooperative State Research Service, and Extension Service.
SD-138

Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1990 for enlisted personnel programs.
SD-192

Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1990 for the Indian Health Service of the Department of Health and Human Services, and Indian education programs.
S-128, Capitol

Banking, Housing, and Urban Affairs
To resume oversight hearings to examine the problems in the savings and loan industry.
SD-538

Finance
To resume hearings on revenue increases as contained in the President's proposed budget for fiscal year 1990.
SD-215

Judiciary
Technology and the Law Subcommittee
To hold hearings on computer viruses.
SD-226

1:00 p.m.
Appropriations
Transportation Subcommittee
To hold hearings on aviation security issues.
SD-192

2:00 p.m.
Armed Services
Strategic Forces and Nuclear Deterrence Subcommittee
To hold hearings on environmental priorities for U.S. nuclear weapons facilities.
SR-222

MARCH 15

9:00 a.m.
Commerce, Science, and Transportation
Communications Subcommittee
To hold hearings on the proposed Fairness in Broadcasting Act of 1989.
SR-253

9:30 a.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings to review U.S. foreign assistance programs.
SD-138

Appropriations
Treasury, Postal Service, General Government Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1990 for the U.S. Merit Systems Protection Board, Office of Special Counsel, General Services Administration, and the Office of the Inspector General, General Services Administration.
SD-116

Energy and Natural Resources
Business meeting, to resume consideration of S. 406, to establish and implement a competitive oil and gas leasing program for the Coastal Plain of the Arctic National Wildlife Refuge (ANWR), Alaska, and other pending calendar business.
SD-366

Governmental Affairs
To hold hearings on the proposed Federal Advisory Committee Act Amendments of 1989.
SD-342

10:00 a.m.
Finance
To continue hearings on revenue increases as contained in the President's proposed budget for fiscal year 1990.
SD-215

Judiciary
Constitution Subcommittee
To hold hearings on the use of DNA "fingerprinting" as a courtroom tool.
SD-226

Labor and Human Resources
Business meeting, to consider S. 5, to provide for a Federal program for the improvement of child care.
SD-430

MARCH 16

9:00 a.m.
Veterans' Affairs
To hear and consider the nomination of Anthony J. Principi, of California, to be Deputy Secretary of Veterans' Affairs.
SR-418

9:30 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To resume hearings to review the President's proposed budget request for fiscal years 1990 and 1991 for the National Aeronautics and Space Administration, focusing on space station programs.
SR-253

Veterans' Affairs
To hold oversight hearings on veterans' health care issues.
SR-418

10:00 a.m.
Appropriations
Agriculture and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1990 for the Department of Agriculture, focusing on Food and Nutrition Service and Human Nutrition Information Service.
SD-124

Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1990 for the Consumer Product Safety Commission, Office of Consumer Affairs, and the Consumer Information Center.
SD-116

Appropriations
Commerce, Justice, State, and Judiciary Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1990 for the Federal Bureau of Investigation and the Drug Enforcement Administration, Department of Justice.
S-146, Capitol

Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1990 for the Research and Special Programs Administration and the National Highway Traffic Safety Administration.
SD-138

Armed Services
Projection Forces and Regional Defense Subcommittee
To hold hearings to discuss the future of naval forces and the enabling research and development, focusing on electric drive.
SR-222

Foreign Relations
To hold hearings to review the international environmental agenda for the 101st Congress.
SD-419

2:00 p.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1990 for development assistance programs.
SD-138

Armed Services
Strategic Forces and Nuclear Deterrence Subcommittee
To resume hearings on environmental priorities for U.S. nuclear weapons facilities.
SR-222

MARCH 17

9:00 a.m.
Appropriations
Labor, Health and Human Services, Education Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1990 for Physician Payment Review Commission, Corporation for Public Broadcasting, National Commission on Libraries, U.S. Institute of Peace, National Commission on Financing Post Secondary Education, National Commission on Migrant Education, National Commission on Infant Mortality, U.S. Bipartisan Commission on Comprehensive Health Care, Prospective Payment Review Commission, and the Soldiers' and Airmen's Home.
SD-192

10:00 a.m.
Finance
Medicare and Long-Term Care Subcommittee
To resume hearings to examine the current and future status of the Medicare program, focusing on physicians payments.
SD-215

APRIL 3

10:00 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1990 for the Office of Surface Mining, Office of the Secretary, Office of the Solicitor, and the Office of Inspector General, of the Department of the Interior.
S-128, Capitol

1:30 p.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1990 for the National Science Foundation.
SD-138

APRIL 4

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1990 for the Department of Education, focusing on the Office of the Secretary of Education, Salaries and Education (includes Program Administration, Office for Civil Rights, and Office of the Inspector General), Special Institutions (in-

cludes American Printing House for the Blind, National Technical Institute for the Deaf, Gallaudet and Howard Universities).
SD-138

Appropriations
Treasury, Postal Service, General Government Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1990 for the Critical Materials Council, Executive Office of the President, Vice President's Residence, and the White House Residence.
S-126, Capitol

Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To resume hearings to review the President's proposed budget request for fiscal years 1990 and 1991 for the National Aeronautics and Space Administration.
SR-253

10:00 a.m.
Appropriations
Agriculture and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1990 for the Department of Agriculture, focusing on the Food and Drug Administration, Commodity Futures Trading Commission, Farm Credit Administration, and Farm Credit System Assistance Board.
SD-124

Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1990 for the National Science Foundation and the Office of Science and Technology Policy.
SD-116

2:00 p.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1990 for the National Park Service, Department of the Interior.
SD-192

2:30 p.m.
Appropriations
Labor, Health and Human Services, Education Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1990 for the Department of Education, focusing on Compensatory Education for the Disadvantaged, Special Programs, Impact Aid, Bilingual Education, Immigrant and Refugee Education, Education for the Handicapped, Rehabilitation Services and Handicapped Research, and Vocational and Adult Education.
SD-138

APRIL 5

9:30 a.m.
Commerce, Science, and Transportation
Consumer Subcommittee
To hold hearings on proposed legislation authorizing funds for the National Highway Traffic Safety Administration.
SR-253

10:00 a.m.
Joint Taxation
To hold an organizational business meeting.
H-208, Capitol

APRIL 6

10:00 a.m.
Appropriations
Agriculture and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1990 for the Department of Agriculture, focusing on the Animal and Plant Health Inspection Service, Food Safety and Inspection Service, and Agricultural Marketing Service.
SD-124

Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1990 for the Federal Highway Administration and the National Transportation Safety Board.
SD-138

APRIL 7

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education Subcommittee
To resume hearings on proposed budget estimates for fiscal year 1990 for the Department of Education, focusing on Student Financial Assistance, Guaranteed Student Loans, Higher Education, Higher Education Facilities Loans and Insurance, College Housing Loans, Education Research and Statistics, and Libraries.
SD-138

Appropriations
Treasury, Postal Service, General Government Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1990 for the Office of National Drug Control Policy.
SD-116

Finance
International Trade Subcommittee
To hold hearings to examine trade disputes between the U.S. and Canada.
SD-215

APRIL 10

10:00 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1990 for the Bureau of Land Management, Department of the Interior, and the Navajo and Hopi Indian Relocation Commission.
S-128, Capitol

10:30 a.m.
Governmental Affairs
To hold hearings on quality assurance at the Department of Defense.
SD-342

1:15 p.m.
Appropriations
Labor, Health and Human Services, Education Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1990 for the Department of Education and Human Services, focusing on the Office of Civil Rights, Policy Research, and the Office of Inspector General.
SD-116

1:30 p.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1990 for the Environmental Protection Agency.
SD-138

Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1990 for the Forest Service of the Department of Agriculture.
SD-192

APRIL 11

9:30 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To resume hearings to review the President's proposed budget request for fiscal years 1990 and 1991 for the National Aeronautics and Space Administration, focusing on space science and applications programs.
SR-253

10:00 a.m.
Appropriations
Agriculture and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1990 for the Department of Agriculture, focusing on the Farmers Home Administration, Federal Crop Insurance Corporation, and the Rural Electrification Administration.
SD-138

Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1990 for the Environmental Protection Agency and the Council on Environmental Quality.
SD-116

APRIL 12

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education Subcommittee
To resume hearings on proposed budget estimates for fiscal year 1990 for the Department of Health and Human Services, focusing on the Social Security Administration and the Health Care Financing Administration.
SD-138

Appropriations
Treasury, Postal Service, General Government Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1990 for the Office of the Secretary of the Treasury, and the Federal Election Commission.
SD-116

APRIL 13

9:30 a.m.
Appropriations
Agriculture and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1990 for the Department of Agriculture.
SD-124

Governmental Affairs
To hold hearings on S. 253, establishing a coordinated National Nutrition Monitoring and Related Research Program.
SD-342

10:00 a.m.
Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1990 for the U.S. Coast Guard.
SD-138

2:00 p.m.
Appropriations
Agriculture and Related Agencies Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1990 for the Department of Agriculture.
SD-124

2:30 p.m.
Appropriations
Labor, Health and Human Services, Education Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1990 for the Department of Health and Human Services, focusing on the Family Support Administration and Human Development Services.
SD-138

APRIL 14

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1990 for the Department of Health and Human Services, focusing on the Office of the Assistant Secretary for Health and the Centers for Disease Control.
SD-138

Appropriations
Treasury, Postal Service, General Government Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1990 for the Office of Management and Budget (Office of Federal Procurement Policy), Commission on Government Ethics, and the National Archives and Records Administration.
SD-116

Commerce, Science, and Transportation
Foreign Commerce and Tourism Subcommittee
To hold hearings on the importance of scenic byways to national tourism.
SR-253

APRIL 17

9:30 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings on space transportation budget and policy.
SR-253

10:00 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1990 for fossil energy and clean coal technology programs.
S-128, Capitol

1:30 p.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1990 for the Department of Veterans Affairs.
SD-138

APRIL 18

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education Subcommittee
To resume hearings on proposed budget estimates for fiscal year 1990 for the Department of Health and Human Services, Administration and the Health Resources and Services Administration.
SD-116

10:00 a.m.
Appropriations
Agriculture and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1990 for the Department of Agriculture, focusing on Agricultural Stabilization and Conservation Service, Foreign Agricultural Service, Commodity Credit Corporation, General Sales Manager, and Soil Conservation Service.
SD-138

Appropriations
HUD-Independent Agencies Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1990 for the Department of Veterans Affairs.
SD-192

APRIL 19

9:30 a.m.
Appropriations
Treasury, Postal Service, General Government Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1990 for the Office of Personnel Management.
SD-116

Governmental Affairs
To hold hearings on trade and technology issues.
SD-342

10:00 a.m.
Finance
To resume oversight hearings on the implementation of the Omnibus Trade and Competitiveness Act of 1988.
SD-215

1:30 p.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1990 for territorial and international affairs.
SD-192

APRIL 20

9:30 a.m.
Appropriations
Agriculture and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1990 for the Department of Agriculture.
SD-124

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1990 for the Federal Emergency Management Agency.
SD-192

2:00 p.m.
Appropriations
Agriculture and Related Agencies Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1990 for the Department of Agriculture.
SD-124

MAY 1

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education Subcommittee
To resume hearings on proposed budget estimates for fiscal year 1990 for the Department of Health and Human Services, focusing on the National Institutes of Health.
SD-192

2:30 p.m.
Appropriations
Labor, Health and Human Services, Education Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1990 for the Department of Health and Human Services, focusing on the National Institutes of Health.
SD-192

MAY 2

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1990 for the National Aeronautics and Space Administration.
SD-138

2:00 p.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1990 for activities of the Secretary of the Interior and the Secretary of Energy.
S-128, Capitol

MAY 3

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1990 for certain programs of the Departments of Labor, Health and Human Services, Education and Related Agencies.
SD-192

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1990 for the National Aeronautics and Space Administration.
SD-138

MAY 4

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1990 for certain programs of the Departments of

Labor, Health and Human Services, Education and Related Agencies.
SD-116

10:00 a.m.
Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1990 for the Federal Aviation Administration.
SD-138

MAY 5

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education Subcommittee
To hold hearings on proposed budget estimates for certain programs of the Departments of Labor, Health and Human Services, Education and Related Agencies.
SD-192

MAY 8

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1990 for certain programs of the Departments of Labor, Health and Human Services, Education and Related Agencies.
SD-192

MAY 11

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1990 for certain programs of the Departments of Labor, Health and Human Services, Education and Related Agencies.
SD-116

10:00 a.m.
Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1990 for transportation trust funds.
SD-138

MAY 12

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1990 for certain programs of the Departments of Labor, Health and Human Services, Education and Related Agencies.
SD-192

MAY 15

1:30 p.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1990 for the Department of Housing and Urban Development.
SD-138

MAY 16

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1990 for the Department of Housing and Urban Development.
SD-138

MAY 18

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1990 for the Department of Housing and Urban Development and certain independent agencies.
SD-116

MAY 19

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1990 for the Department of Housing and Urban Development and certain independent agencies.
SD-116

CANCELLATIONS

MARCH 9

9:30 a.m.
Energy and Natural Resources
Energy Research and Development Subcommittee
To hold oversight hearings on the Department of Energy budget request for fiscal year 1990 for advanced nuclear reactor technologies.
SD-366

MARCH 10

9:30 a.m.
Select on Indian Affairs
To hold hearings on proposed legislation to establish an Indian Development Finance Corporation.
SR-485

MARCH 16

10:00 a.m.
Finance
To continue hearings on revenue increases as contained in the President's proposed budget for fiscal year 1990.
SD-215

POSTPONEMENTS

MARCH 16

2:00 p.m.
Commerce, Science, and Transportation
To hold hearings in conjunction with the National Ocean Policy Study on global climate change and ocean perspective.
SR-253