United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 101st CONGRESS, FIRST SESSION

HOUSE OF REPRESENTATIVES—*Friday, October 27, 1989*

The House met at 10 a.m.

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

Gracious God, we begin this day with gratefulness for the freedoms we enjoy and the heritage of liberty with which we have been blessed. Even as we recall these blessings we remember those who are denied these gifts. We pray for all those who cannot share the love of family and friend, particularly those held hostage. May Your good spirit, O God, that transcends all the barriers of time and space, give to the hostages and their families the hope and the peace that You alone can give. May Your promises and power be with them and each of us, now and evermore. This is our earnest prayer. 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. The gentleman from Missouri [Mr. EMERSON] will come forward and lead the House in the Pledge of Allegiance.

Mr. EMERSON 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. Hallen, one of its clerks, announced that the Senate agrees to the amendment of the House to the bill (S. 1792) "an act to amend the Disaster Assistance Act of 1989 to avoid penalizing producers who planned a replacement crop on disaster-affected acreage, and for other purposes."

The message also announced that the Senate agrees to the amendments of the House to the concurrent resolution (S. Con. Res. 74) "concurrent resolution authorizing the 'Gift of Democracy' from the U.S. Congress to the new Senate and Sejm in Poland. This gift is comprised of equipment and training that is determined to be most useful in helping Poland establish an effective parliamentary system."

The message also announced that Mr. SANFORD be a conferee, on the part of the Senate, on the bill (H.R. 1487) "an act to authorize appropriations for fiscal years 1990 and 1991 for the Department of State, and for other purposes," vice Mr. CRANSTON, excused.

GENERAL LEAVE

Mr. McCLOSKEY. Mr. Speaker, I ask unanimous consent that all Members may be permitted to extend their remarks and to include extraneous material on the special order given today by the gentleman from Illinois [Mr. LIPINSKI].

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

There was no objection.

EARTHQUAKE HAZARDS REDUCTION ACT OF 1977 AMENDMENTS

The SPEAKER. Under a previous order of the House, the gentleman from Missouri [Mr. EMERSON] is recognized for 5 minutes.

Mr. EMERSON. Mr. Speaker, recent events in California have caused all of us to rivet our attention to the destructiveness of earthquakes and heightened our concern about the possibility of earthquakes in other seismic areas around our Nation.

My congressional district in southeast and central Missouri contains what has long been thought to be a strong contender for a very major earthquake. That is the New Madrid Fault which lies principally in the boothill of Missouri, which affected some 18 neighboring States in the last monumental quake of that fault during the winter of 1811 and 1812.

I introduced yesterday, together with a number of my colleagues, including all my neighbors along the fault line, particularly including Mr. POSHARD, Mr. HUBBARD, Mr. TANNER, Mr. SUNDQUIST, Mr. ALEXANDER, Mr. SKELTON, and Mr. HANCOCK, and others who are deeply interested in this problem, I introduced amendments to the Earthquake Hazards Reduction Act of 1977.

We have to prepare our communities and our emergency services to be able to react effectively in the event of major earthquakes.

This legislation has that goal as its purpose. It would increase activities to educate the public about earthquake hazards. It would require a review and an update of building codes and construction guidelines. It would examine the cost of retrofitting existing buildings. It would review the existing earthquake response systems in high potential areas, including the availability of equipment and personnel, the readiness of emergency broadcast system facilities, and preparedness of emergency medical services, and search and rescue operations.

As I mentioned, the last major monumental earthquake of the New Madrid Fault occurred in the winter of 1811 and 1812. There was a series of three earthquakes that rocked the region, the immediate region, but rang church bells as far away as Boston and Richmond, and caused the Mississippi River, we are told by the few people who were actually there and gave an account at the time, the areas then relatively uninhabited, but this earthquake it is said caused the Mississippi to actually flow in a northerly direction for several hours. That gives Members some idea of the magnitude of it.

Earthquake experts tell us today that New Madrid and the surrounding area are hit by minor earthquakes which are detected by instrumentation several times every day, 365 days a

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year, and those that can be detected by humans occur on the average of once every 48 hours.

The Senate has just recently passed legislation similar to that which I and a number of colleagues have introduced. I hope that my colleagues here in the House will join in supporting this bill and that we move very expeditiously to allow this bill to become law.

Earthquake protection is a very serious matter for many geographic regions of the country, and we must all work together to prevent the loss of life and property when such disasters occur.

I invite all of my colleagues to review this legislation and to seriously consider becoming cosponsors of it so that it may move expeditiously.

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

Mr. EMERSON. Mr. Speaker, I am delighted to yield to the gentleman from Kentucky [Mr. HUBBARD], my neighbor across the river.

Mr. HUBBARD. Mr. Speaker, I would like to compliment my colleague from Missouri [Mr. EMERSON] for being the chief sponsor of this legislation. I am grateful for the opportunity to be a cosponsor. Our districts do adjoin each other, the Mississippi River being the dividing line.

Our districts are both in the Madrid Fault zone. We have had earthquakes in the past. We fear another one.

It is a pleasure to join with the gentleman from Missouri in this effort as we work together toward earthquake protection.

Mr. EMERSON. Mr. Speaker, I thank my friend and colleague and look forward to working with him as we pursue the goals of this legislation. I am absolutely delighted to have my friend's cooperation and leadership in this area.

PROTECTING SAFETY OF AMERICA'S FOOD

(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, I commend the President for announcing yesterday his plans to improve the laws and programs by which the safety of the food we eat is protected.

There is no question that Americans enjoy the safest food in the world, but consumers in this Nation are asking that we do better. And we can.

The President proposes that we streamline the process by which EPA considers suspending the use of dangerous chemicals—but shouldn't we require suspension when unacceptable risk is present?

The President supports review of pesticide tolerances to update Federal standards—but shouldn't we allow States to keep higher standards if they choose?

There is good in the President's proposal, but there is also much which can be improved. Let's get on with the task of ensuring Americans that everything possible is being done to protect the safety of the food they eat.

□ 1010

SUCCESS OF MOTION PICTURE INDUSTRY IS UNQUESTIONED

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

Mr. RICHARDSON. Mr. Speaker, as a self-described movie buff I was shocked and dismayed reading in yesterday's Washington Post that former President Ronald Reagan thinks something is wrong with the movies coming out of Hollywood and that the major movie studios might be better off under foreign control.

While I certainly do not like all of the movies I see, I find it amazing to read a foreign influence may be helpful in bringing back decency and good taste to America's movies. Maybe Mr. Reagan has not seen the quality of most foreign films—if he had he would find many are indeed of poor quality and are much more casual about nudity and pornography.

The success of our American motion picture industry is unquestioned—why else would the European Community try to limit imports of American television and motion picture programming? Yet our former President has encouraged the sale of a major motion picture studio to a foreign company—does he forget how important Hollywood was in the war effort. Does Mr. Reagan forget that it is the American motion picture industry that gave him his start in politics.

It is highly unlikely that the change of ownership at Columbia will improve the films being produced. It should be our churches, our schools, our families and national leaders who should be held responsible for teaching American values.

The American motion picture industry offers consumers the world over an unparalleled variety of film entertainment. It certainly deserves more than a slap in the face of the former President. I cannot help but wonder whether the $2 million that Ronald Reagan received from a Japanese media company might have clouded his judgment.

Mr. President, it is okay to take the $2 million, but do not become a flack to get it.

NATIONAL HOSTAGE AWARENESS DAY

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

Mr. HUBBARD. Mr. Speaker, Terry Anderson's 42d birthday is today, his 1,686th day in a dark room somewhere in Lebanon.

At the time of his being kidnaped in Beirut on March 16, 1985, Anderson was chief Middle East correspondent for the Associated Press.

Terry Anderson is the longest held of eight U.S. hostages in the Middle East.

Anderson's sister, Peggy Say of Cadiz, KY, is a friend and constituent of mine. I like and admire Peggy Say and her husband, David Say. Peggy Say works tirelessly to remind people that Anderson is a hostage.

U.S. Senator PATRICK MOYNIHAN of New York stands in the Senate every day to announce the number of days Anderson has been held.

We in the Congress have passed a resolution proclaiming today as National Hostage Awareness Day. Today, many of us in Congress and many other Americans nationwide are wearing yellow ribbons and, yes, we are praying for the hostages.

Former hostages and relatives of those still held will participate in a "Mass of Hope" today at Georgetown University in Washington.

Since his kidnaping, Anderson's fiancee has given birth to their daughter, and his father, Glenn, has died of cancer.

His fiancee, Madeleine Bassil, made a videotaped plea for his release last year with their daughter Sulome, 4, whom Anderson has never seen.

Anderson's last general contact was an October 1988 videotape. His family says he looked strong and determined.

We need to continue to remember and pray for Terry Anderson and the other Americans being held hostage in Lebanon by inhumane, vicious terrorists who have no respect for freedom or human life.

HISTORICAL OPPORTUNITY NEARING FOR THE UKRAINIAN CATHOLIC CHURCH

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

Mr. LIPINSKI. Mr. Speaker, I rise today to once again call attention to the Ukrainian Catholic Church, whose plight has been documented many times in this Chamber since the initiation of Gorbachev's liberalizations in the Soviet Union. While I am discouraged that the persecution of Ukrainian Catholics in the Soviet Union remains a fact, I have great hope that this injustice may finally end in the very near future. This new sense of hope lies in the historical meeting to take place at the Vatican in November between Mikhail Gorbachev and Pope John Paul II.

For all its significant results within the Soviet bloc, one remarkable fact about Gorbachev's glasnost remains: There is always another hurdle to surpass.

Unfortunately, one major hurdle unaddressed by Gorbachev is the status of the Ukrainian Catholic Church, which remains illegal and unrecognized in the Soviet Union.

It was the spring of 1988 when this Congress commemorated the millennium of the Ukrainian Catholic Church, joining in the celebration with millions of Ukrainian Catholics from the Soviet Union to Chicago. At that time, with Gorbachev's liberalization process in full swing, I thought the future looked bright for Ukrainian Catholics. Leading the international call for justice in the Ukraine, the United States Congress demanded that Gorbachev cease "the active persecution of the Ukrainian Catholic Church and its forcible incorporation into the Russian Orthodox Church."

I take great pride in the year long celebration of the millennium of Christianity in the Ukraine, and the role this body played in that important event. However, I am deeply discouraged that, over a year later, we are still making the same call for justice, the same call for the legalization of the Ukrainian Catholic Church.

Fortunately, Mikhail Gorbachev has an unprecedented opportunity to correct the injustice levied against Ukrainian Catholics by the Soviet Union for the last 43 years. Within a month, Pope John Paul II will meet Gorbachev in an unprecedented exchange between the Pope and the leader of the Communist world.

The plight of Ukrainian Catholics will top the agenda at that meeting, as Pope John Paul has made it clear that normalization of relations between the Vatican and the Soviet Union depends upon legalization of Ukrainian Catholicism.

Fighting for the freedom of religion, the United States must be sure to put this historic meeting in the international spotlight. This summit presents yet another opportunity for the West to show that our acceptance of glasnost relies on continued real results for the people of the Soviet Union. Glasnost must include new freedom and openness for all peoples of the Soviet Union, not just state approved providers of dissent. Until the Ukrainian Catholic Church is legalized, its suppression will undermine the legitimacy of all Gorbachev's other programs.

Along with the opportunity represented by the Vatican meeting, the Ukrainian Catholic Church can gain confidence from recent developments in the Ukraine. Although events are marching in the right direction, we must remember that the battle is not won until the church is legalized, recognized, and free.

We can take heart in last month's show of strength in Lvov, when over 150,000 Ukrainian Catholics demonstrated for the legalization of the church, on the anniversary of the Soviet annexation of the Ukraine. The size of the demonstration was vital in dismissing the Soviet authorities' claim that Ukrainian Catholics were actually very small in number; 60,000 also demonstrated in Kiev.

Even more dramatic are reports just confirmed this week by sources within the Ukraine that a Ukrainian Catholic Church has officially reopened its doors. Church officials in Rome reported that Ukrainian Soviet authorities allowed a Ukrainian Catholic Church in the western Ukrainian town of Yavoriv to reopen as a Catholic parish, as they handed the keys over to Rev. Petro Zeleniukh. Thousands gathered for a prayer service on the next Sunday, October 8. Hopefully, this event signals a nationwide change which Gorbachev is prepared to undertake.

Furthermore, the Soviet press and human rights activists continue to highlight the injustice in the Ukraine, and cite the need for greater religious freedom. Andrei Sakharov put it simply when he was in Italy. He stated, "There is an absolutely anomalous situation in which an entire church with its great number of faithful finds itself in an illegal, clandestine situation."

Like these human rights activists and writers and Ukrainian leaders, the United States Congress realizes the status of the Ukrainian Catholic Church is an anomaly, completely against the tide of change underway in the Soviet bloc. Gorbachev must know that there is only one measure which will amend this injustice. The Ukrainian Catholic Church must be legalized and recognized, to allow Ukrainian Catholics to worship God in the manner of their ancestors and in accordance with their conscience.

I urge my colleagues to signify that the Ukrainian Catholic Church is at the top of our congressional agenda as well as the international human rights agenda. Over 80 colleagues have already written to President Gorbachev, urging him to legalize Ukrainian Catholicism at his meeting with the Pope in November. This active American participation on behalf of the church will play a significant role in finally bringing about justice for the Ukrainian Catholic Church, and I invite Members to join in the effort.

Mr. HOYER. Mr. Speaker, I am pleased to take part in today's special order on behalf of the Ukrainian Catholic Church in the Soviet Union, and I commend my colleague, Mr. LIPINSKI, for raising this timely issue on the floor of the House.

All of us here are familiar with the history of the Ukrainian Catholic Church. We remember how Stalin tried to physically eradicate the church by killing and imprisoning its clergy and confiscating its property, and later how for decades the Soviet Government claimed that a confession with millions of adherents was no more than a creation of "bourgeois nationalists" in the West. But the Ukrainian Catholic Church in western Ukraine could no more be destroyed by Moscow today than could the early Christian church be destroyed by the pagan emperors of Rome. The faith was too strong then, and it is too strong now.

The situation of the Ukrainian Catholic Church presents a significant contrast in the area of religious liberties in the Soviet Union today. Under the leadership of Mr. Gorbachev, major improvements can be seen, at least in practice, if not in law. Sometimes when I read about what is occurring in the Soviet Union in terms of religious activities, I find it difficult to believe that this is the same country where, when the Helsinki Review Conference opened in Vienna in November 1986, Roman Catholic and Russian Orthodox priests, Baptist pastors, Pentecostal emigration activists, and a host of other believers were serving labor camp sentences for practicing their faith. Even those who were not imprisoned endured discrimination and harassment for practicing their faith openly.

Three years later, we see Bibles and religious literature being imported in trucks instead of smuggled over the border in double-bottomed suitcases. Churches are being reopened, Evangelical services held in parks and public buildings with the approval of local authorities. Congregations are being allowed, even invited, to take part in charitable activities in the community. In Soviet-occupied Latvia, pastors and church members are involved in an active prison ministry. In neighboring Lithuania, a second Roman Catholic seminary has been opened, and seminary authorities decide which candidates are to be admitted, not the KGB.

Meanwhile, in western Ukraine, Ukrainian Catholics have to gather for their services in front of padlocked church doors. Priests who celebrate Masses outdoors are threatened and fined, and Masses themselves have been broken up by police. Lay activists have been assaulted by unknown assailants in the street.

Moreover, in recent years Russian Orthodox churches of somewhat doubtful pedigree have suddenly appeared in villages where the population is overwhelmingly Catholic. We have been informed that even local government officials, representatives of an officially atheistic government, have signed up as members of a Russian Orthodox Church Council and arranged to have a local church opened in order to prevent the Ukrainian Catholic congregation from seeking use of the same church. Let me emphasize, however, that reformers within the Russian Orthodox Church oppose this sort of subterfuge and have called upon the Soviet Government to recognize the Ukrainian Catholic Church.

Still, small positive steps can be noted. Moscow is no longer denying that the Ukrainian church exists. When the Helsinki Commission visited Moscow in November of last year to discuss human rights with members of the Supreme Soviet, our interlocutors acknowledged the church's existence and claimed that legalization of the Ukrainian Catholic Church was being considered by the Government. Ukrainian Catholic clergymen have been interviewed in the Soviet press, and Fyodor Burlatsky, a leading Soviet spokesman in the area of human rights, recently predicted legalization of the church with passage by the Supreme Soviet of a proposed new law on freedom of conscience.

And yesterday the Helsinki Commission received word from Rome that a Ukrainian Catholic Church near the Polish border has been officially recognized by local authorities and the keys to the church turned over to the church council. We hope this is only the first of many such reports.

Mr. Speaker, as we know, Mr. Gorbachev plans to visit the Vatican later this year. Pope John Paul II has been a vigorous supporter of Ukrainian Catholics in their struggle. On October 5, he called upon Soviet authorities to grant immediate legal status to the Ukrainian Catholic Church. In the words of John Paul II:

The readiness and good will of the authorities must be brought to bear so that they may, after decades of neglect, solve the problem of the recognition of the rights of the Ukrainian Catholics seeking the right to pray in public.

And to this call to conscience, we in the Congress add our voices. We hope and pray that Mr. Gorbachev will have a positive response for the Pontiff, and for Ukrainian Catholics and their supporters throughout the world.

Mr. ANNUNZIO. Mr. Speaker, I rise to join with my colleague from Illinois, the Honorable WILLIAM LIPINSKI, and the other Members of the House of Representatives in urging Secretary General Mikhail Gorbachev to legalize the Ukrainian Catholic Church in the Soviet Union, and immediately end human and religious rights violations against the Ukrainian people.

This November the Secretary General will be meeting with Pope John Paul II, and it is important to let him know that the United States is deeply concerned about the plight of Ukrainians. Like many Members of Congress, I was glad to take this opportunity to send a letter to Secretary General Gorbachev urging him to alter his country's position in this matter. A copy of that letter follows:

OCTOBER 20, 1989.

General Secretary MIKHAIL GORBACHEV,
Union of Soviet Socialist Republics, The Kremlin, Moscow 103132, USSR.

DEAR MR. GENERAL SECRETARY: I am writing to you to express my concern about human rights violations against Ukrainian Catholics living in the Soviet Union, and the banning of the Ukrainian Catholic Church.

Your upcoming meeting with Pope John Paul II in November is a unique occasion to change your country's position in this matter. In the spirit of the new reforms you have proposed for the Soviet Union, I urge you to immediately legalize and fully reinstate the Ukrainian Catholic Church in the Soviet Union, and allow all Ukrainian Catholics to freely practice their religion without fear of persecution, in accordance with the provisions of the United Nations Charter, the Universal Declaration of Religious Intolerance, the U.N. Declaration Against All Forms of Religious Intolerance, and the Helsinki Accords, of which your country is a signatory.

Sincerely,

FRANK ANNUNZIO,
Member of Congress.

Mr. Speaker, it is important that we in Congress focus the attention of the world on the religious persecution of Ukrainians living under the repressive Soviet rule, and we must continue in our efforts until Ukrainians are free to practice their religious beliefs without fear of reprisal and the Ukrainian Catholic Church is legally and officially protected.

Mr. COX. Mr. Speaker, ever since the liquidation of the Ukrainian Catholic Church by Stalin and its brutal incorporation into the Russian Orthodox Church in 1946, its members have been fiercely persecuted throughout the Soviet Union. Even as recently as September of this year, Ukrainian Catholics were harrassed and fined for worshiping God in the manner of their ancestors and in accordance with their conscience. Faithfuls who earned 40 rubels per month were fined 50 rubels for participating in a church service.

Yet, in spite of these impediments, the Ukrainian Catholic Church has grown in numbers and in the strength of religious commitment of its members. The distinguished gentleman from Illinois [Mr. LIPINSKI], who is of Ukrainian descent, has always been in the forefront of efforts to ease the plight of Ukrainian Catholics through the legalization of the Ukrainian Catholic Church in accordance with Soviet law and pertinent international agreements. On July 13, 1989, I was privileged to cosponsor H.R. 2022 that focused Congress' attention on the tenacious and occasionally extremely brutal attack on Ukrainian nationalism and Christianity. I also joined Communist Party General Secretary with Mr. LIPINSKI in urging our colleagues in the House of Representatives to write to Soviet Mikhail Gorbachev on behalf of the Ukrainian Catholic Church.

I am pleased to report that these efforts of our membership have not been in vain. According to our latest information, the Catholic Church of the Dormition of the Mother of God in the western Ukrainian town of Yavoriv was recently opened by the authorities as a Ukrainian Catholic parish.

Again, I would like to thank the many thoughtful Members who participated in this noble and rewarding effort. As Pope John Paul II prepares to meet with Gorbachev this November, it appears that at last the Ukrainian Catholic Church may finally be restored to its previous legal status.

SPECIAL ORDERS GRANTED

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

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

Mr. EMERSON, for 5 minutes, today.

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

Mr. ANNUNZIO, for 5 minutes, today.

Mr. LIPINSKI, for 5 minutes, today.

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

Mr. GINGRICH.

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

Mr. MAZZOLI.

Mr. CROCKETT in two instances.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 1792. An act to amend the Disaster Assistance Act of 1989 to avoid penalizing producers who planted a replacement crop on disaster-affected acreage, and for other purposes.

ADJOURNMENT

Mr. HUBBARD. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 17 minutes a.m.), under this previous order, the House adjourned until Monday, October 30, 1989, at 12 noon.

EXECUTIVE COMMUNICATIONS, ETC.

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

1898. A letter from the Secretary, Department of the Treasury, transmitting an annual report on the operations of the exchange stabilization fund [ESF] for fiscal year 1988, pursuant to 31 U.S.C. 5302(c)(2); to the Committee on Banking, Finance and Urban Affairs.

1899. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 8-92 "Closing of a Public Alley in Square 74, S.O. 86-99, Act of 1989," and report, pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

1900. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 8-93, "The Catholic University of America Revenue Bond Act of 1989," and report, pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

1901. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 8-94, "The Howard University Revenue Bond Act of 1989," and report, pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

1902. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 8-95, "National Rehabilitation Hospital, Inc. Revenue Bond Act of 1989," and report, pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

1903. A letter from the Secretary of Education, transmitting a copy of final regulations—Chapter 1—Migrant Education Program, pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Education and Labor.

1904. A letter from the Administrator, Environmental Protection Agency, transmitting the toxic substances [TSCA] report for fiscal years 1987 and 1988, pursuant to 15 U.S.C. 2629; to the Committee on Energy and Commerce.

1905. A letter from the Director, Defense Security Assistance Agency, transmitting notification of the Department of the Air Force's proposed lease of defense articles to Australia (Transmittal No. 1-90), pursuant to 22 U.S.C. 2796(a); to the Committee on Foreign Affairs.

1906. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting copies of the original report of political contributions for Frances D. Cook, of Florida, Ambassador Extraordinary and Plenipotentiary-designate to the Republic of Cameroon, and members of his family, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

1907. A letter from the Deputy Associate Director for Collection and Disbursements, Department of the Interior, transmitting notification of proposed refunds of excess

royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

1908. A letter from the Under Secretary, Department of the Treasury, transmitting notification of determination that, by reason of the public debt limit, the Secretary is unable to comply with the requirements of 5 U.S.C. 8348(c), pursuant to 5 U.S.C. 8348(1)(2), 8348(i)(2); to the Committee on Ways and Means.

1909. A letter from the Secretary of the Treasury, transmitting his views concerning the necessity of congressional action on the debt limit prior to its expiration on October 31; to the Committee on Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[Pursuant to the order of the House on Oct. 26, 1989, the following reports were filed on Oct. 27, 1989]

Mr. DINGELL: Committee on Energy and Commerce. H.R. 3265. A bill to amend the Communications Act of 1934 to provide authorization of appropriations for the Federal Communications Commission, and for other purposes; with an amendment (Rept. 101-316). Referred to the Committee of the Whole House on the State of the Union.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 3310. A bill to authorize appropriations for activities of the National Telecommunications and Information Administration for fiscal years 1990 and 1991 (Rept. 101-317). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

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

By Mr. MICHEL (for himself and Mr. ANNUNZIO):

H.R. 3541. A bill to provide an additional judgeship for the Northern District of Illinois, to make the temporary judgeship for the Northern District of Illinois permanent, and to provide an additional temporary judgeship for each of the Central and Southern Districts of Illinois; to the Committee on the Judiciary.

By Mr. WISE (for himself and Mr. STAGGERS):

H.R. 3542. A bill to amend the Food Stamp Act of 1977 to require that certain children's clothing allowances, and certain costs associated with seeing eye dogs and hearing dogs, be deducted from income for purposes of determining benefits, and for other purposes; to the Committee on Agriculture.

MEMORIALS

Under clause 4 of rule XXII,

299. The SPEAKER presented a memorial of the Legislature of the State of California, relative to Amtrak sanitation; to the Committee on Energy and Commerce.

ADDITIONAL SPONSORS

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

H.R. 239: Mr. DYSON.

H.R. 2674: Mr. IRELAND, Mr. DANNEMEYER, and Mr. WILSON.

H.J. Res. 420: Mr. WALSH, Mr. BUSTAMANTE, Mr. CAMPBELL of Colorado, Mr. BILBRAY, Mr. BROWN of California, Mr. DIXON, Mr. HAYES of Louisiana, Mr. HUGHES, Mr. NEAL of North Carolina, Mr. ROE, and Mr. SKELTON.

H.J. Res. 421: Mr. FROST, Mr. PARKER, Mr. SYNAR, Mr. MORRISON of Connecticut, Mr. FRENZEL, Mr. HAMMERSCHMIDT, Mr. PAYNE of Virginia, Mr. BRUCE, Mrs. MEYERS of Kansas, Mr. KILDEE, Mr. DORNAN of California, Mr. ENGEL, Mr. DWYER of New Jersey, Mr. FALEOMAVAEGA, Mr. BLAZ, Mr. SMITH of Florida, and Mr. SCHUETTE.

SENATE—*Friday, October 27, 1989*

(Legislative day of Monday, September 18, 1989)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the Honorable HERBERT KOHL, a Senator from the State of Wisconsin.

PRAYER

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

Let us pray:

The Spirit of the Lord is upon me, because he hath anointed me to preach the gospel to the poor; he hath sent me to heal the brokenhearted, to preach deliverance to the captives, and recovering of sight to the blind, to set at liberty them that are bruised.—Luke 4:18.

Mighty God of truth and justice, on this 42d birthday of Terry Anderson, hostage in Lebanon since March 16, 1985, we pray for those who are captive and for their families. Somehow help them to know they are not forgotten. And forbid that we should forget. We remember Terry Anderson, Thomas P. Sutherland, Frank Herbert Reed, Joseph James Cicippio, Edward Austin Tracy, Jesse Jonathan Turner, Alann Bradford Steen, Robert Bruce Polhill. Grant that every possible effort for their freedom be relentless and that release be soon. Encourage their families in the knowledge that millions pray for them. May the peace of God that passeth understanding fill the hearts of these suffering brothers and may hope sustain them hour by hour. In the name of Jesus who understands suffering in its most painful, humiliating form. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, October 27, 1989.

To the Senate:

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

ROBERT C. BYRD,
President pro tempore.

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

RECOGNITION OF THE MAJORITY LEADER

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

THE JOURNAL

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

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

SCHEDULE

Mr. MITCHELL. Mr. President, following the time for the two leaders, there will be a period for morning business until 10:30 a.m., with Senators permitted to speak therein for up to 5 minutes each.

At 10:30 a.m., the Senate will begin consideration of the conference report accompanying H.R. 2916, the VA-HUD appropriations bill for fiscal year 1990.

For the information of Senators, rollcall votes are possible today as the Senate considers the VA-HUD conference report and other conference reports which may be available. This could include the military construction conference report, which I understand the House completed action on last evening.

THE HOSTAGES

Mr. MITCHELL. Mr. President, I begin by commending Reverend Halverson for the moving and thoughtful prayer today opening the Senate session, and particularly his reference to the hostages.

His words remind us of the tragedy which has befallen those individuals and their families and our Nation and calls upon all Americans to remember their plight and to continue to do all possible to seek to gain their freedom.

I believe every Member of the Senate feels a deep, personal concern and a continuing desire to take all steps necessary to obtain their freedom.

I commend Reverend Halverson, and I commend his words to the consideration of all Americans.

AID TO POLAND AND HUNGARY

Mr. MITCHELL. Mr. President, this morning in the Washington Post, an editorial entitled "Slowdown on Polish Aid" expressed its concern about delay in legislation to provide aid to Poland and Hungary as a result of the effort by our Republican colleagues to attach a capital gains tax cut to that legislation.

As we all know, the capital gains issues has nothing to do with aid to Poland and Hungary, and the only effect of this unwise effort will be to delay aid to Poland and Hungary at a time when it is desperately needed and is critical to the success of the democractic effort there.

Winter will soon be upon the Polish people. Inflation is skyrocketing. The economy is in a very difficult and fragile state. Other Western nations are providing assistance, and the United States is being prevented from doing so because an effort is being made to attach a wholly unrelated matter, one which has nothing to do with aid to Poland, to that legislation.

This is most unfortunate for all concerned.

In an effort to expedite action on the Poland legislation, I have agreed to present it to the Senate to encourage prompt action, although I recognize there are legitimate and honest differences of opinion in the Senate on what the best makeup of that package should be, and the distinguished Republican leader has an alternative proposal.

I think that should be fully debated and discussed, and when that is done, the Senate should vote and move to act on that matter and not be delayed by this very unfortunate and completely unrelated action.

So, Mr. President, I ask unanimous consent that the editorial in this morning's Washington Post making that point be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. MITCHELL. Mr. President, it is my hope that this unfortunate effort will be withdrawn and we can proceed to act on the Poland-Hungary bill promptly for the benefit of democracy in Poland, for the benefit of freedom everywhere, and certainly in the interest of the United States.

EXHIBIT 1

[From the Washington Post, Oct. 27, 1989]

SLOWDOWN ON POLISH AID

Getting aid to Poland is a matter of some urgency. Solidarity's success and the survival of its new democratic government are

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

going to require artificial respiration for an economy that has gone into shock. But the Senate Republicans have now brought the emergency aid bill to a dead stop by entangling it in the parliamentary struggle about the capital gains tax.

Cutting the capital gains tax is irresponsible, and the Democratic leadership is blocking it. But President Bush is determined to pursue it and is giving it an importance all out of proportion even to the benefits that its warmest supporters claim. Since the Senate Republicans haven't got the 60 votes to break the filibuster, they have been casting about for a bill that the Democrats want to see enacted. The idea is to attach one to the other.

A delay of a few days might not matter much. But a deadlock that went on for weeks—and that's possible—would greatly diminish the value of American aid when it finally arrived. Winters are long and harsh in Poland, and how well the Poles get through the one ahead will strongly influence the political developments that follow it there and throughout Eastern Europe. It is not necessary to recite here the many reasons to leave the capital gains tax as it stands and to drop this misguided attempt to cut it.

Values sometimes get confused in Senate floor fights when the parliamentary dueling begins to take on a life of its own. In the fascination with tactics people begin to forget what it is that they are fighting about. That seems to have happened here.

The United States is hardly leading the way in Eastern Europe. France has just announced an aid program for Poland that is nearly as large as the one Congress seems to have in mind. When West Germany's Chancellor Helmut Kohl goes to Warsaw next month, he will probably take with him an offer that is larger. The American money will certainly be useful, whenever it arrives. But this time, uncharacteristically, the United States is bringing up the rear. Why? One reason is that Mr. Bush wants his tax cut. Another is that the Senate is taking time off for a routine partisan squabble.

RESERVATION OF THE MAJORITY LEADER'S TIME

Mr. MITCHELL. Mr. President, I reserve the remainder of my leader time, and I am now pleased to yield to the distinguished acting Republican leader.

RECOGNITION OF THE ACTING REPUBLICAN LEADER

The ACTING PRESIDENT pro tempore. The Chair recognizes Senator GRASSLEY.

Mr. GRASSLEY. Mr. President, I have the permission of my leader to use 5 minutes out of his leader time, and I also ask unanimous consent to use the first 5 minutes of morning business time so I may speak uninterrupted for 10 minutes.

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

THE HOSTAGE TRAGEDY

Mr. GRASSLEY. Mr. President, today is the fifth birthday of Terry Anderson while in captivity.

I am an original cosponsor of a bill signed into law 4 days ago by the President to make today, Anderson's birthday, our Nation's Hostage Awareness Day.

I wish to commend Senator DOLE, the chief Senate sponsor, for his efforts on this commemorative. I, too, would like to see this country demonstrate its support by tying yellow ribbons and doing other symbolic acts that keep the hostages in Beirut in our memory.

But that is not why I rise here today. Instead, I would like to throw out a few facts behind the hostage tragedy and get them on the record. These may not be the kind of comments that some would like to hear on a day of commemoration like today, but someone needs to get these facts on the record.

This is a story about how the hostages have become victim to petty jealousies and turf battles, and the kind of bureaucratic inertia that stems from risk avoidance, hidden agendas, and other career-protecting activities.

My interest in this matter began in November 1986, shortly after the Iran-Contra story first broke. I have followed developments on the hostage issue very closely ever since.

In fact, a long time before that, I did it because Thomas Sutherland has deep family interests in my State. The in-laws of Thomas Sutherland, the dean of agriculture at the American University in Beirut, are from my home State of Iowa. Periodically, I have seen Sutherland's father-in-law, professor emeritus Bill Murray, when I go back home. Murray at one time was a candidate for Governor of Iowa. On occasion during my trips through Iowa, I would see Murray and he would ask me to do whatever I could to help free Sutherland and the other hostages. I assured him I would get involved; and that is exactly what I did, in November 1986. After nearly 3 years of dealing with this issue on a quiet basis, I have come to the belief that certain facts now have to be out on the table. In bringing these facts out and on the record, my hope is to turn what has thus far been inactivity on the hostage issue into a resolution of it.

In early 1986, the U.S. Government was beginning to get highly reliable information about hostage locations. The information came from a Christian Militia group. The information was so good, our Government began preparing for a rescue. It has gotten to the point where Delta Force scouts went into Lebanon to make final preparations, sometime in September of 1986. But the effort was short-circuited at the last moment by a group of back-channelers at the U.S. mission.

The rescue was called off not because of potential risks but because these back-channelers were engaged in their own effort: the Iran arms-for-hostages deal. Some details of the rescue mission and its premature demise were included in Steven Emerson's book "Secret Warriors," published in March 1988. Emerson attributed the scuttling of the mission to turf battles.

Additional details of the rescue surfaced again this past July, shortly after a film was released of Lt. Col. William Higgins hanging by the neck. I ask unanimous consent, Mr. President, to have printed in the RECORD several news articles pertaining to the rescue and to our intelligence shortcomings in Lebanon.

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

[From the Defense Week, Aug. 21, 1989]

CRITIC ASSAILS THE PENTAGON'S RELUCTANCE TO GET ITS HANDS DIRTY IN THE ANTITERRORIST FIGHT

DEFENSE WEEK. The president a couple of weeks ago said the lack of intelligence tied his hands. From your experience, is that a legitimate complaint?

COWAN. Yeah, I think it's a fair criticism. Unfortunately, I don't believe the intelligence community in terms of penetrating terrorist-supported elements in Lebanon has done a very good job of trying to be creative. We all know that in the Carter days the focus was taken away from the human aspect of intelligence collection [HUMINT] and passed off to the technical side. Frankly, the intelligence community still suffers from that.

We don't have the mechanisms for human intelligence, that is agent penetration of whatever areas we want to collect against, and we've not done well in Beirut. I would say specifically that the environment in Beirut is one in which intelligence collection has to be based on some pretty sharp new ideas, new approaches to getting in, whether it just be HUMINT or using human sources to place technical collection devices and frankly, from what I know about that environment, we have not done a good job.

DW. But isn't part of it the nature of the sects involved? It's tough to penetrate an agent——

COWAN. You might not be able to penetrate one of the specific groups with a HUMINT agent or the sects with a person, but again, creative thinking. If you know how these people go about conducting their business, you can start thinking of ways to get technical collection devices inside. Now I'm not talking about the big overhead platforms. . . . Just a simple example: you know that they always buy their food at the same market. Some of the food bought at this market is moved to the headquarters of one of the factions. Maybe you want to find some ways to implant a device in say, an orange peel. You know they won't eat the orange peel, they'll throw it away. But if you get something like that in the environment where you can collect on——

DW. Who do you blame for the lack of creativity? It can't be blamed on simply the Carter administration.

COWAN. No. The current people who are working the intelligence programs I would say in Lebanon unfortunately . . . they tried to use the traditional agent operations. They tried to use the traditional overhead platforms and I have not seen a tremendous amount of creativity in trying to find new means and methods of penetrating.

DW. You were one of the agents who attempted to penetrate Beirut——

COWAN. I was involved in operations in Beirut after the bombing of the Marine compound [in October 1983].

DW. How close did you come to spotting hostage locations?

COWAN. There were no hostages at the time I was over there. [CIA station chef] Bill Buckley was kidnapped about two months after I left. Essentially, one of the things we were looking at was some sort of retaliatory options against those who bombed the Marine Corps compound and embassy. And I emphasize those were options. We were going to bring back options to lay before the Joint Chiefs of Staff about the kinds of things they might consider doing.

DW. How successful were you in terms of getting on the ground and checking out possible target areas?

COWAN. I think we were very successful. We passed through various terrorist checkpoints. There was only one area of Beirut we were not able to get into personally, but we did devise means of penetrating it with other people or technical devices.

DW. Say you have an agent who's creative, gets the material and refers it back to the Pentagon or State Department. Where has the process fallen down?

COWAN. It's been a problem in the Pentagon. That's why the Congress passed legislation in 1986 to strengthen, both on the civilian and the military side, our capabilities in counterterrorism, in a larger sense special operations forces. I don't think the Pentagon has done a very good job of preparing plans for options. I don't think that the target folders they developed such as in the case of when [Col.] Rich Higgins was killed a few weeks ago . . . the Pentagon did not have prepared for the president a wide series of military options which he could accept or reject—not the Pentagon accept or reject but the president.

DW. How do you know that?

COWAN. I just know that from friends of mine working the problem inside the Pentagon.

DW. That indicates to you a failure——

COWAN. We spend massive amounts of time, material and dollars making sure every target folder on every Soviet target is complete and updated with all the fine details. We owe the same kinds of details to the president in terms of terrorist options. You know at every time the Israelis suffer some kind of attack at the hands of the Palestinians, they are very quick to respond. They have their targets all prepared. They know exactly what they are going to do. The president needs to be the one who says yes or no against options which are laid out before him. The Pentagon has failed to do that.

DW. Why is that? You'd think that it's a building populated by men of action.

COWAN. I don't think they've had the forceful leadership at the top. Again, I refer back to the 1986 legislation where Congress tried to get the Pentagon moving in the right direction. I think that under Secretary [Dick] Cheney things will change dramatically. He has nominated [Senate Armed Services Committee professional staff member] Jim Locher to be the new assistant secretary of defense for special operations. I think Jim has a very keen understanding of what the purpose of the legislation was, of the need inside that building to make sure all special operations forces and options for missions they may carry out will be prepared and be available.

DW. Is it more of an institutional problem with the Pentagon or a function of personalities?

COWAN. I think it's an institutional problem. The Pentagon is focued on big strategic programs and conventional warfare. But it's just the mindset of trying to focus on targets, sites where terrorists would be—training camps, maybe even possible hostage locations or command headquarters of factions. We just don't have the high-level leadership saying let's devote the time, energy, resources, material, money and men to make sure that we are getting all the information together we need to strike at these things.

DW. Well how does the Pentagon shape up vis-a-vis the Israelis, the Germans and British?

COWAN. We know the Israelis can respond very, very quickly——

DW. Why is that?

COWAN. Because they are prepared. In the Israeli military, every general officer has served in a special operations command. Every general officer understands that the focus from a special operations perspective is much different from strictly the conventional perspective. And I think within the Pentagon the focus continues to be on the Soviet Union, continues to be on the Warsaw Pact.

The French responded immediately when their barracks was bombed the same day the Marine compound was bombed in [October] 1983, running air strikes against known terrorist positions.

DW. In terms of responses, there's the story about how the Soviets responded when one of their officials was taken in Beirut. Apparently, they dismembered . . .

COWAN. I think what I was told at one point was that they castrated [a kidnaper]. I've never been able to pin down whether that story was fact or fiction, but it makes a good story.

DW. But is it question that we are so powerful, we have such an arsenal of massive weaponry we are not capable of the so-called surgical strike or more discriminating violence?

COWAN. We are capable of it. What we failed to have is the will on the part of high level leaders. You cannot go to the National Security Council today and easily convince the NSC that you can run a hostage rescue mission. It's probably like explaining heart surgery to an auto mechanic. You are not going to get anywhere trying to do it.

I believe that there was time during the Higgins capture when there was good information as to where Higgins was being held. There was sufficient information in the minds of many to at least commence the planning process for a rescue mission—I'm not saying execute it—I'm saying to get the planning going, start looking at the target, start talking about now you are going to run special collections, start getting teams ready for deployment, talk about how you're going to put them down, where you are going to put them, how are you going to do the extraction. All these things, which take a period of time to do properly, there was sufficient intelligence at one point to begin that planning process and it never happened.

DW. What point are we talking about? Over the last five or six months?

COWAN. People have told me it was within the past year.

DW. Why didn't that happen?

COWAN. No leadership. If you had a strong assistant secretary of defense for special operations who is entwined in all the information going on about the hostages and terrorism, he should have been there demanding that it happen. He should have been there talking to the secretary of defense saying "Mr. Secretary, let's get going on this."

DW. You're talking about former Amb. Charles Whitehouse.

COWAN. I am talking about Ambassador Whitehouse.

DW. Are you saying that he fell down on the job in terms of advocating or planning——

COWAN. I say that he didn't exercise strong leadership over those things the Congress wanted him to exercise a leadership role in.

DW. When you were working on behalf of the government in intelligence gathering in this area, did you come across examples where the Pentagon ignored your information?

COWAN. That's a sore subject with me. I'll just speak generally to it. After the [April 1983] bombing of the U.S. embassy myself and some other people did some work in Beirut and developed a series of recommendations [to beef up intelligence and security]. Had those recommendations been carried out it's unlikely that the bombing of the Marine barracks would have occurred as it did. We wrote in our report that it was impossible to assure the secretary that there wouldn't be some major terrorist incident that would take 10 to 15 Marine lives. It would be impossible considering how they were deployed to prevent that.

But the recommendations we made were not only ignored. There were people in the Pentagon who were adamantly opposed to them for turf and bureaucratic reasons and again 241 people didn't have to die as they did. After that bombing, I went back in with another team. We did some more work with respect to how we might take some action against those who had bombed the embassy and compound. That report came back and was also stifled inside the Pentagon bureaucracy. We were supported strongly by Bill Buckley, CIA chief of station, but once it got back into the Pentagon it kind of got lost.

It never got any high level attention. Some of the recommendations involved intelligence operations.

UNITED STATES FAILS TO PLAN FOR HOSTAGE RESCUE

(By Knut Royce)

WASHINGTON.—The U.S. military has failed to prepare operational plans for hostage rescue missions in Lebanon since 1986, when administration officials abruptly ordered the Pentagon to abandon a rescue mission at the last minute and to halt contacts with a Lebanese intelligence network that had been providing detailed information on the hostages' whereabouts, according to knowledgeable officials.

By the time the mission was called off, for reasons that remain unclear, two Delta Force scouts had already entered Lebanon to make final preparations for an assult on a remote site in the Bekaa Valley, according

to sources in the Pentagon and the Chrisian Militia, the Lebanese group that was providing the intelligence information. The military had reported that three or four American hostages were being held there in tents and caves, information confirmed by U.S. reconnaisance photos, according to U.S. intelligence documents.

The Pentagon's failure to prepare operational rescue plans since then—and its resulting inability to mount a rescue without taking unacceptable risks—reduced President Bush's military options after the reported hanging July 31 of Marine Lt. Col. William Higgins, according to the sources, who have first-hand knowledge of U.S. operational capabilities.

"All we've been doing (since 1986) is half-assed, generic planning (for rescue missions)," a Pentagon official familiar with the planning said. he declined to elaborate.

Intelligence documents obtained by Newsday and interviews with Pentagon officials, members of the Lebanese intelligence network and congressional officials who have been briefed on the events paint a tableau of missed opportunities and interagency turf fights hampering efforts to free most of the eight American hostages held by a formidable pro-Iranian foe, the Hezbollah.

Initial contact between the Lebanese network and the U.S. military began in early 1986, when the Christian Militia, also called the Lebanese Forces, approached a representative of the Army's supersecret counterterrorism unit, the Intelligence Support Activity, at the U.S. Embassy in Beirut.

The militia, according to Pentagon sources, proved invaluable because it had well-placed sources among all the ethnic and religious groups inside Lebanon and had developed moles among the guards holding the hostages. This ability to obtain up-to-the-minute information—so-called "real-time intelligence"—is critical for a successful operation, because the location of hostages and the number of guards holding them can change from one moment to the next, according to a State Department counterterrorism expert.

During the first few months the military established its bona fides by providing a bonanza of what proved to be solid intelligence, according to military sources. This included disclosing plans by Abu Nidal to attack a U.S. installation in Adana, Turkey, and identifying the Paris safe houses of Ali Atwa, a Hezbollah terrorist implicated in the 1985 hijack of a TWA jetliner that resulted in the death of Navy diver Robert Stethem.

Military options for a rescue took on added importance in late May 1986, when the National Security Council concluded that the Iran arms-for-hostages initiative had been stalemated, according to the Tower Commission Report. On June 6 President Reagan approved military planning to rescue the hostages, according to the report.

By July the Christian Militia had pinpointed a remote site in Arsall, in the rolling hills of the Bekaa Valley near the Syrian border, where three or four American hostages were being held, according to Pentagon and militia sources. The militia reported there were five tents and several caves in the immediate area where Hezbollah guards and hostages were staying. They noted that a high-voltage cable was strung above the site, a critical detail if helicopters were to be used. They also reported on a top-secret Syrian radar installation 4 miles to the east, which would pick up approaching aircraft.

A U.S. intelligence document obtained by Newsday says that satellite reconnaissance confirmed the hostage site. It said that the militia had not only provided information on the location of hostages and the identity of the captors but "support data necessary to attempt a hostage recovery."

The CIA and Pentagon constructed a detailed mockup of the complex in a table-top sandbox, and two members of the Army's elite hostage rescue team, the Delta Force, were sent into Lebanon for final preparations. Suddenly in the second week of September, the National Security Council called off the operation and the CIA ordered the Intelligence Support Activity to halt all further contact with the Christian Militia, according to officials involved in the planning at the time. The CIA is charged with coordinating all foreign intelligence operations, even if they are conducted by military agencies.

Why the National Security Council called off the operation and the CIA barred further contacts with the militia remains unclear. The ban is still in effect, sources say, though there remain occasional one-on-one contacts between members of the militia and U.S. military officials.

After the rescue mission was canceled, the CIA told the military in followup meetings that the militia, with which the CIA had been dealing until 1983, was untrustworthy, according to sources who were briefed on the subsequent events. Yet a U.S. intelligence document reviewed by Newsday discloses that the CIA station chief in Beirut tried to enlist members of the militia after the Pentagon was ordered not to deal with them. Angered and confused by the sudden cutoff from the Intelligence Support Activity, the militia members refused to cooperate with the CIA. Militia members have told Newsday that they have established only limited contact with the CIA.

CIA spokesman Bill Devine refused to discuss the entire episode.

Military and congressional sources familiar with the events said they believe the National Security Council halted the operation because former National Security Council aide Oliver North had reopened hostage talks in late 1986 with Iranian officials, this time with what the Iran-contra committees called the "second channel," Iranians believed to be more moderate than those who had been negotiating initially.

Then came another flip-flop. In October the National Security Council called the Pentagon and ordered a new rescue attempt, according to a source involved in the planning. He said the Intelligence Support Activity in Lebanon made a quick assessment and determined that some of the hostages could be located "but that we had to get those Christian fellows (the militia) to look at them" for an operation to be successful.

A militia source told Newsday that it had located a building inside Moslem west Beirut, in the neighborhood of Bir al-Abd, where three American hostages were being held. He said his unit had one or more contacts among the guards who provided information on when and where they would be moved.

The Pentagon source involved in the planning of this second attempt said that the Intelligence Support Activity's assessment that the Christian Militia was needed was conveyed during briefings to Pentagon and CIA officials. "It was clear the CIA got nervous," he said.

[From the Australia/Israel Review, Aug. 21-Sept. 4, 1989]

KILLING AMERICANS

(By Tom Clancy)

Another marine has died in Lebanon, just one more to add to all the others. Lieutenant-Colonel William Higgins had been sent into the region to do something or other. It was supported to have had something to do with peacekeeping.

Just one more dead marine, sent like the others on an equivocal mission by a government that showed its loyalty to its own people by doing precisely nothing about their murders.

Not all that long ago William Buckley, a CIA station chief in Lebanon, was captured by other people in the area. Mr. Buckley was tortured to death. A Pan Am 747 was blasted out of the sky around Christmas—remember?—and again a government of, by and for the people has done—what?

There is no activity safer for an international terrorist than to kidnap or kill Americans.

America's options are limited, people say. When Mr. Buckley was being tortured, important people met around tables in the environs of Washington and sagely decided that to attempt a rescue was "too risky". Too risky for whom? The tiger was chewing on Mr. Buckley's face. Too risky for people with reputations and jobs to protect, one supposes. After all, one must have one's priorities properly arranged.

If they do anything to Iran, they say, they run the risk of an adverse political development in the Middle East—as opposed to what exists now. Colonel Higgins was hanged, perhaps not tortured to death. This may reflect moderation in those Iranian elements. It just wouldn't do to offend them, would it?

Lacking the ability, we are told to do something substantive, what can America do? Well for starters, it has already started criticizing Israel for abducting a Shi'ite "religious leader". (To call such a person a religious leader is bigoted mockery of Islam, but that is another question.) Colonel Higgins would not have been murdered, some suggest, except for what Israel did. For those Washingtonians who really think that way, I propose a trip to Georgetown University where a Jesuit might give them a briefing in classical logic. Colonel Higgins was murdered by his kidnappers, not by the Israelis. To say anything else bespeaks a curiously expressive sort of cowardly impotence that has gained currency in the US government.

Colonel Higgins was America's man, serving his country. It is the United States that sent him to Lebanon, and it is the United States that failed utterly to rescue him. One wonders how hard—or even if—it tried to do so.

When three or four Soviets were kidnapped by people similar to Colonel Higgin's captors, the KGB, it is said, bagged several members of the group and returned one with a portion of his anatomy missing. The Soviets citizens were returned forthwith.

Perhaps the Soviets know something that Americans don't. You do have to worry about being taken seriously. How can any foreign power be expected to respect a government that does nothing when its citizens are murdered?

For a generation America has had a fixation with "sending a message" to its enemies. We want to be your friends. The

problem is that very often the other side doesn't bother answering the phone.

A good start, perhaps, would be to demonstrate that the principles for which America stands—the right to pursue one's life with freedom and dignity—are backed by the same force that earned those rights for American citizens; and that he who tries to deny those rights to Americans will be hunted down without remorse to the ends of the earth.

The tools are at hand to do just that. It is dangerous, but America employs hunters who are more than willing to take their chances. It is about time the government found within itself the political will to fulfill its obligations to its own people. Respect will follow. It always has.

(Mr. Clancy is the author of the bestseller "Hunt for Red October". He contributed this comment to the Los Angeles Times.)

[From the Washington Post, July 5, 1989]

A PLEA FOR ACTION TO FREE THE HOSTAGES

(By Jack Anderson and Dale Van Atta)

In an outcry heard all the way to the White House, 146,630 angry Americans took to their telephones the other night and called for military action to free the nine remaining American hostages. Or if a rescue is not practical, many Americans want military retribution against the captors.

This was their thunderous response to our recent television report on terrorism, the results of which we sent to the White House. Only 9,831 callers wanted to continue relying on diplomacy to gain the hostages' release.

From intelligence reports and briefings, we have learned that the American hostages have been singled out for special abuse. Usually they are confined to dark cells, chained to their beds and blindfolded. When they are moved to new locations, they are sometimes wrapped like mummies and transported in wooden coffins.

One hostage has gone mad and babbles incoherently. Two escaped but were caught; they were beaten so mercilessly that they haven't fully recovered. The hostage with the most time in custody, Terry Anderson, once became so frustrated that he smashed his head repeatedly against a wall until blood streamed down his face.

The terrorists responsible for this inhuman treatment, ironically, call themselves the Party of God (Hezbollah). They look to Iran for guidance. Iran's Speaker of the Parliament Hashemi Rafsanjani has jurisdiction over the terrorist underground. He communicates with them through the "Office of Support for Lebanon," located in the Revolutionary Guards' central headquarters in Tehran. President Bush does not disagree with those who want action to free the hostages. "If I could rescue hostages by use of U.S. force and feel that the odds were reasonably good that they would be saved alive," he told us, "I certainly would."

Sources who have studied the possibility of a rescue mission tell us it would be impossible. The hostages are guarded by the Musawi clan, whose members are related to one another and, therefore, cannot be infiltrated. At any sound of commotion outside their makeshift prison, the guards also rush into the cells and put guns to the heads of the hostages.

But military retribution remains an option. We reminded the president that U.S. intelligence agencies possess positive evidence, including intercepted messages, that Hezbollah takes orders from Tehran. Why, we asked, doesn't the United States retaliate against Iran?

"I learned long ago, when I was director of the Central Intelligence Agency, not to comment on intelligence matters," Bush said. But he added quickly, "If the fingerprints of state-sponsored terrorism are found on hostage-taking, that state should be expected to pay a price."

The typical American attitude was expressed bluntly by Col. Leland Holland, himself one of the 52 original hostages taken in Iran, and who was abused by his captors. Even when his life was on the line, he said, he would have liked to see his government react more forcefully.

"The Russians do that," he said. "The Iranians haven't picked on the Russians."

[From Soldier of Fortune, October 1989]

OPERATION BETRAYAL

(By Neil Livingstone and David Halevy)

By late August 1986 nearly all was in readiness for the boldest military operation of the Reagan era: the rescue of the American hostages in Lebanon. U.S. Army intelligence operatives were busy finalizing the last details. Aided by a network of Lebanese allies, safe houses had been set up, vehicles pre-positioned, and infiltration and exfiltration routes identified. The actual operation was to be carried out by members of SEAL Team 6, the Army's Delta Force, and Air Force elements from 1st Special Operations Wing. Under the cloak of darkness they would slip into Lebanon, pluck the hostages from their fetid captivity in the West Beirut suburb of Bir el Aabed and the Sheik Abdallah barracks in Lebanon's Bekaa Valey, and then—if all went well—escape to the sanctuary of U.S. warships anchored off the coast.

If all didn't go well, the U.S. commandos were prepared to make it one hell of a fight.

Shortly before it was scheduled to commence, the operation was put on hold. Although the men involved didn't know it at the time, the reason was that the United States was engaged in secret behind-the-scenes dealings with the government of Iran that would later be called the Iran-Contra scandal. Despite millions of dollars and months of preparation devoted to the operation, it was never revived. And America's hostages continue to languish in captivity.

This is the story of the plan to free U.S. hostages in Lebanon by force, rather than by buying their freedom.

INTELLIGENCE SUPPORT ACTIVITY (ISA)

No problem was more vexing to the Reagan Administration than that of the American hostages in Lebanon. As Oliver North often told friends, "Not a day goes by that the President of the United States doesn't ask about the hostages." In many respects, it was this preoccupation with freeing the hostages that was at the bottom of the Iran/Contra scandal.

In early 1983, the Joint Chiefs had tasked a secret military unit called ISA (Intelligence Support Activity) with developing a viable military operation to free the hostages. Run out of the bowels of the Pentagon, ISA was a good choice for the assignment. No newcomer to the Middle East, ISA had operated in many parts of the Arab world since its creation in 1981, and its agents had worked in Beirut and throughout much of Lebanon. ISA operatives had served under official cover at the U.S. embassy in Beirut and as advisers to the U.S. Marine Expeditionary Force before it pulled out in 1984.

The ISA men were not desk jockeys but "can do" types, with little tolerance for red tape, a quality that often brought them into conflict with Pentagon brass. The highly-classified unit had formed in the wake of the abortive rescue mission to free the U.S. hostages in Iran that ended at Desert One in 1980. Initially called the Foreign Operating Group (FOG), the unit's name was later changed to ISA.

ISA's mission was twofold: to collect tactical intelligence and to provide operational support. Its chief mandate was the collection of precise, detailed intelligence for actual and potential operations conducted by the U.S. special operations community. The lack of such information had contributed to the 1980 failure of "Operation Rice Bowl" in Iran. It was envisioned that ISA would collect the kind of tactical intelligence that the CIA was unable to provide to commando assaults and raiding parties, such as how many guards are at the objective, where they are positioned, what kind of arms they have, which way do the doors swing, and so on.

ISA was also charged with establishing a worldwide logistic network capable of assisting special operations units in executing military operations. Among its responsibilities were identifying and preparing landing and drop zones, conducting reconnaissance, providing transport, and acting as "guides" to raiding parties.

ISA's annual budget was approximately $10 million and it had a staff of around 120 full-time operators, mostly officers and NCOs. ISA teams included SIGINT (signals intelligence) specialists, special equipment specialists, deep cover penetration agents (most fluent in foreign languages), computer wizards, and communications specialists. There was also an action element composed of small teams of ISA commandos proficient in sniping, close quarters combat, unarmed combat, and explosives.

In order to ensure operational security and secrecy, ISA personnel did not appear on the Army's regular listings, and its personnel were carried on the Army's Special Roster, or ASR. This roster includes army personnel whose identities, units, tasks and deployment are a closely guarded secret. No mention of ISA appeared on the personnel records of members of the unit.

ISA operated under the DCOSOPS of the Army and was tasked both by DIA (Defense Intelligence Agency) and by the Army's Assistant Chief of Staff for Intelligence (ACSI). When special operations opponents at the Pentagon recommended in 1982 that the unit be dismantled, it was saved by the ACSI, Lt. Gen. William "Bill" Odom, who later became the head of the National Security Agency (NSA). Those with action-oriented billets often spent time with Delta and other special operations units perfecting their commando and anti-terrorist skills.

Because of internal fighting within the Pentagon and the U.S. intelligence community, ISA had to coordinate all of its activities with the CIA. In an effort to maintain its independence, ISA commanders clashed, at one time or another, with the Joint Chiefs of Staff (JCS) and the leadership of Delta, SEAL Team Six, Seaspray, and the Air Force's special operations wing.

During the 1985 hijacking of TWA flight 847, ISA teams accompanied Delta and SEAL Team Six commandos to Akrotiri, Cyprus, to prepare for a rescue mission into Lebanon in the event that negotiations that eventually led to the release of the hostages broke down. Similarly, ISA operatives were

standing by with Navy SEALs to retake the Italian cruise ship Achille Lauro later that same year. The seajackers, members of the Palestine Liberation Front (PLF), surrendered to Egyptian authorities and the operation was called off. ISA personnel, however, were part of an operation which successfully freed eight American hostages in the Sudan, after they had been kidnapped by south Sudanese rebels. Using intelligence collected by ISA operators on the ground and special training provided by Delta, Sudanese commandos were able to rescue the American church and relief agency officials.

PROFILE OF AN ISA OPERATOR

The military personnel assigned to ISA all generally had some special operations background and experience. Most received additional training once they joined ISA. New recruits went through an ISA six-month basic training course, and afterwards were given additional training by the CIA, FBI and Secret Service. Those involved with ISA's action component also trained with Delta and other special operations units.

For a profile of a typical ISA operator, "Scuba" is very representative. Since he is still involved in special operations with another military unit, his real name cannot be used. "Scuba" was born on 2 July 1947, in Oregon, where he was raised and educated. In 1968, he dropped out of college and joined the army. Upon graduation from OCS (Officer Candidate School) at Fort Benning in 1969, he was sent to jump school and then was attached to the Sixth Special Forces Group at Fort Bragg. Late in 1969, he began a three-year tour of duty in Vietnam, mainly conducting long-range reconnaissance missions and surveillance of the Ho Chi Minh Trail.

After returning to the states in 1972, he served two years with the Second Armored Division and was sent to the Advanced Infantry Course. Upon graduation he was transferred to the First Infantry Division at Fort Riley, Kansas. During his three-year stint at Fort Riley, he got his degree in political science and sociology. After a tour of duty with the Tenth Special Forces Group, he was assigned to FOG, the forerunner of ISA, "Scuba" held top positions with ISA's operations squadron and with its deep cover unit. He stayed with ISA until his retirement in 1987.

LEBANON: HOTHOUSE OF INTERNATIONAL TERRORISM

During the past 14 years, Lebanon has come apart at the seams. In many respects it no longer exists as a viable nation. It is dominated by foreign armies and armed militias, representing different religious factions. One of the unforeseen consequences of the Lebanese civil war has been the rise of the long-oppressed Shi'ites of Lebanon, spurred on by the Iranian revolution and the wave of Islamic fundamentalism that has swept over much of the Middle East.

The leaders of revolutionary Iran viewed Lebanon as another potential Islamic republic. Iran joined the PLO and its leftist allies in an effort to destory the power of Lebanon's Christian minority, who were regarded as allies of Israel and descendents of the hated Crusaders. As many as 1800 Revolutionary Guards (Pasdaran) were sent to Lebanon, most based in the Beckaa Valley. By 1983-1984, Iranian operatives had taken over Herzbollah, the so-called Party of God, and were using it to wage war on Lebanese Christians and all sources of Western influence and culture in the country. The United States was regularly described by the Ayatollah Khomeini and other top Iranian leaders as the "great Satan," and Hezbollah terrorists, often with the aid of Syria, struck out repeatedly at U.S. targets in the country. The U.S. embassy and the embassy annex were both bombed, as was the U.S. Marine barracks at Beirut International Airport, with the loss of 241 American servicemen. On 16 March 1984, the CIA's chief-of-state, William Buckley, was kidnapped in Beirut by Iranian terrorists. Buckley died in captivity the following year after having been subjected to continuous torture and abuse. Over the months that followed Buckley's abduction, other Americans living in Lebanon—journalists, educators, a hopsital official, a priest, and at least one mentally impaired individual—were also seized and disappeared into the terrorist netherworld.

Virtually all of the Western intelligence organizations were "blind" when it came to dealing with the rising tide of Iranian-and Syrian-backed terrorism in Lebanon. Not only were their respective intelligence services forced to deal with a totally fluid situation, where nothing remained the same for long, but all had traditionally ignored Lebanon's Shi'ite community. In the past, the Shi'ite had not been a major factor in Lebanon. Even the Israelis, with a massive network in Lebanon had paid little attention to radical Shi'ite factors like Hezbollah and its Iranian masters—until it was too late.

After the traumas of 1983-1984, and with the epidemic of hostage-taking that began in 1985, the United States was desperate to develop intelligence "assets" in Lebanon. A crash program was launched to collect timely information about terrorist threats and to locate the American hostages. According to a top-ranking ISA officer, "When the hostage crisis started taking on a life of its own, we were tasked to provide intelligence and potential support for any type of rescue operation. Delta was told to start planning a rescue operation and we were tasked, apparently by DIA and Delta, to start a collection operation [intelligence] to support Delta's entry into Beirut."

A small number of ISA men had worked undercover in Beirut ever since the bombing of the U.S. Marine barracks, but given the urgent need for results and the enormity of the task, it rapidly became clear to ISA officials that they would need to find new allies and recruit new personnel for the operation.

RECRUITING THE NETWORK

"It was a blind date," recalled a Lebanese national living in Washington, D.C., who got a mysterious phone call in October 1985. The caller invoked the name of a mutual "friend" in Beirut and asked if Michael would join him for a drink. Michael assumed it was a purely social meeting and agreed without hesitation. When he arrived at the bar at 1600 hours the following day, he was met by a tall, slender American with a mustache. The man was dressed in a business suit and had a mid-Western twang.

In contrast to Michael's expectation of a casual evening of drinks and chit-chat about mutual friends, the American was all business. He introduced himself as a representative of the U.S. Government, but apologized for his inability to show Michael any identification. Not one for small-talk, the American came straight to the point. He wanted to meet a senior Lebanese Forces intelligence official, who lived outside of Lebanon and was a friend of Michael's. He told Michael that there was a highly-sensitive matter that he wanted to discuss with the Lebanese Forces official—some thing that would benefit both the United States and the Christian community in Lebanon.

Michael listened to the man but did not initially commit to help him. The conversation then turned to the situation in Lebanon. After about an hour, the man told Michael that he had to leave. "I'll call you," he asked, and then gave Michael what later turned out to be a false name, Paul Dunbar.

Uneasy about the strange meeting, Michael got in touch with his friend and told him what had happened. Although they had no idea where the contact might lead, "my friend decided to carry on with the 'game'," says Michael.

Two weeks later a second meeting was arranged at an Irish pub in the Washington suburb of Alexandria. When Michael arrived this time, he found Dunbar seated at a table in back of the pub with an associate. The associate was six feet tall and all muscle. "He looked every bit an infantry soldier," recalls Michael. Unlike the first meeting, this time Dunbar was far more relaxed and easygoing, although his companion barely uttered a word. Dunbar asked Michael if he enjoyed Washington and they talked about several extraneous subjects. Finally, the convention took a serious turn. Dunbar told Michael that he was looking for information about Lebanon, very specific information. Michael responded that he needed to know who wanted the information. Dunbar would only say that they were "operating under an inter-agency mandate" and were involved in "antiterrorist activities," Michael asked them to describe the kind of information they were seeking. "Information about terrorist groups in Lebanon," came the reply. Then, as if an afterthought, Dunbar indicated that they were also interested in any intelligence about the American hostages.

"It was very clear to me that their main interest was the hostages," says Michael, "since there are far better sources than me for information about terrorist groups in Lebanon." They told Michael if he could set up the meeting with this friend, they would introduce him to their superiors, so that he could verify their bona fides.

After the meeting, Michael contacted his friend, the Lebanese intelligence official who went by the name of "Shanon," and made arrangements for him to come to Washington. Although a Christian, born in Lebanon, Shanon had been raised and educated in Europe and was, in many respects, more European than Lebanese. However, with the outbreak of the Lebanese civil war, Shanon had voluntarily joined the Christian fighting militia, the Lebanese Forces (LF), and quickly rose to the top rung of its intelligence apparatus, even though he was only in his early 30s. He became chief of the LF international section and was sent abroad to liaise with and establish ties to other intelligence agencies, mostly in the West. In practical terms, he was the chief representative of the Lebanese Forces in the West. But more important to ISA, over the years he had developed many unique contacts both within Lebanon's Shi'ite community and Hezbollah. He had meticulously assembled a network of informers, friends, and other contacts in Lebanon, and had the ability to reach into virtually any faction or militia for information.

ISA had selected the right person. Now it was a matter of recruiting him.

Despite misgivings, Shanon agreed to meet in Washington with Michael's mysterious "friends." Michael and the two ISA men picked him up at National Airport and they

took great care to avoid being spotted or tailed. "We changed cars three times, drove in circles, and took other evasive action," recalls Shanon. "In the end, I was not sure that they even knew where they were heading."

Finally, after about 45 minutes of driving, they pulled into a hotel near the airport. Shanon was shown to a large suite, where he met two other Americans, identified as Dunbar's "ultimate superiors." One introduced himself as "Mr. Lake," and the other remained anonymous.

The meeting was strained and formal; no one relaxed. Shanon was asked about his access to sensitive information, especially relating to various terrorist groups operating in the Middle East, and about the Soviet role in the region. They also wanted to know about certain terrorist activities in Europe. Shanon responded to the inquiries warily, giving short clipped responses, usually "yes" or "no." Finally, they began a probing series of questions about Lebanese Forces, its organizational structure, chain of command, and certain key figures.

Shanon was able to quickly ascertain that they were special operations veterans and had spent some time in Beirut during the 1985 TWA 847 hijacking. It was also readily apparent that their only real concern was the American hostages. What troubled Shanon was why they weren't working through normal channels. Since the Lebanese Forces maintained intelligence ties to CIA, DIA, and the Israelis, it seemed strange that they would use such a circuitous route to obtain his cooperation.

As the meeting drew to a close, Shanon concluded that Dunbar and his companions were "for real" and their operation was sanctioned. Security considerations, he decided, explained the elaborate secrecy and distance from other intelligence organizations.

He agreed to help the American effort, and in the months that followed became the central figure in a network of Lebanese intelligence operatives that would ultimately pinpoint the precise location of all the American hostages. This information, in turn, precipitated the most serious rescue attempt to date to wrench the hostages from their Shi'ite captors.

MOMENTUM

It took about four months before the Lebanese component was fully operational and transmitting hard information back to ISA. All of the data received by ISA was turned over to CIA and NSA (National Security Agency) for further verification. This led to the positioning of a spy satellite over Lebanon that was dedicated to gathering intelligence about the hostages and, as part of that function, to checking out Shanon's information. For the most part, Shanon's information turned out to be extremely accurate and precise.

On 17 May 1986, for example, ISA received a message from Shanon's operations center regarding the "transfer of the hostages to the region of Hakrak." According to the message, "the source of Riad Tleis of Hezbollah have verified that the prisoners and foreign hostages were transferred from the locality of Brital [Britel] and the Sheik Abdalah barracks (in Na'albek) to a Hezbollah military camp located in the region of Hakrak [Hermel] in the heights of the northern Bekaa."

Several weeks later, Shanon's operatives reported further developments. "On 12 June 1986, the American hostages were transferred from 'Miqraq' fort (compound) in the Ba'albek area to the headquarters of the Iranian Revolutionary Guard [sic] located at 'Breetal' [Britel] town; and they are still there," wrote the ISA man who transcribed the message.

As Shanon's men closed in on the hostages, the U.S. spy satellite monitoring events in Lebanon was repositioned to get a better look at the village of Britel in the Bekaa Valley. This followed receipt of the following message, which was translated from French:

Please note the positioning of the hostages;

1. CR [cable reference] 46 where the hostages are probably 70 percent being detained at the moment.

2. Concerning Breetal [Britel] village (in the Bekaa) specific sources identify the detention area of the hostages in the 'al-Husayniya' building or barracks situated at the Breetal village with map coordinates: 221440/189200. Coordinates from the 'Shiek Abdallah' barracks (the main barracks for Hezbollah in the Bekaa valley) in the Breetal (also Brital) area with the deployment of the DCA.

194480/227980,
193980/227980,
194420/227620.

PS Coordinates of the Mosque of Brital are 188700/221500.

So successful was the operation that Shannon's men were generating literally hundreds of pages of intelligence material every week. "We did not bargain over the intel," says Shanon. "The traditional way the Lebanese Forces and the Lebanese Government handled intel of this kind was to send 90 percent and bargain over the rest. We gave ISA everything we got. Everything on the Palestinians, Shi'ites, Libyan agents, Iranian agents, Syrian activities." In addition, America's clandestine cooperation with the LF began to take other forms. During the September 1986 hijacking of Pan Am flight 73 to Pakistan, for example, the LF permitted Delta Force to secretly use its facilities in East Beirut in anticipation that the plane would ultimately be diverted to Lebanon. The hijacking, however, was resolved in Karachi after a shootout. Shanon's operators also gave the United States valuable intelligence about terrorist operations in other parts of the world, including an attack on a U.S. base in Turkey.

SO CLOSE YET SO FAR

By the middle of the summer of 1986, Shanon's men had, according to ISA sources, identified where all of the U.S. hostages were being held. CIA sources, by contrast, claim that, "They had a fix on five hostages and did not know where the others were. . . . It was a cat and mouse game, and you can't launch an operation based on this kind of intelligence." An ISA officer disagrees. "They [Lebanese Forces intelligence] provided us with the exact location of every hostage," he claims. They told us where they were being moved to, each new location. We were able to verify this by other means. We could have launched the operation and freed the hostages."

So good was the information being supplied to ISA that the other U.S. intelligence agencies soon were in an uproar. Since ISA had little analytical capability, the information from Lebanon, in its raw form, was fed into the computerized data banks of the U.S. intelligence community. This meant that CIA, NSA, the National Security Council, and certain elements at the State Department ultimately had access to it. As a result, they bombarded ISA with scores of questions and clarifications, often demanding to know the precise source of a specific piece of intelligence. "Everyone wondered where we were getting this unusual and accurate information," said a former ISA man.

Despite bureaucratic jealousies and bickering, however, in July 1986, planning for an operation to rescue the hostages in Lebanon was authorized. That same month, an ISA colonel with the code name "Gabby," traveling undercover and in disguise, was dispatched to Lebanon to get a firsthand look at the situation. He arrived at the Christian-controlled port city of Juniyah and spent 10 days in-country. He inspected the staging areas set up by the Lebanese Forces and actually observed some of the sites where the hostages were being held. At the same time, Gabby was assessing—before American forces were placed in jeopardy—the efficacy of the Lebanese Forces intelligence network and the key individuals that would be part of any future operation. He was even permitted to meet with some of the LF intelligence "assets" and informers.

Satisfied with what he had seen, upon Gabby's return ISA began pulling together a rescue operation, working with other special operations elements that would be involved. By the end of August, most of the planning was complete and intelligence collection had been stepped up to monitor the situation in Lebanon as closely as possible. Shanon's network was working around the clock on logistics matters and to detect any changes in the hostages' condition or location that would affect the operation. Overheard, U.S. KH-11 spy satellites were conducting photo recon missions so that highly detailed maps of certain areas in West Beirut and the Bekaa Valley could be produced. NSA, meanwhile, had accelerated its "collection" activities, and was monitoring virtually all phone traffic in the country.

THE PLAN

The final mission plan called for assembling a combined force of 50 to 60 Delta and SEAL Team 6 commandos on a supply ship steaming with the Sixth Fleet. At a designated location north of Cyprus, the commandos would be transferred under cover of darkness to a Christian-operated cargo vessel, which traveled regularly between Lebanon and Larnaca, Cyprus. There would be four empty cargo containers on deck to conceal the presence of the commandos. While the commandos would be ferried to the Christian vessel in small boats, their equipment would be transferred via ship-to-ship cables. The whole procedure was not expected to last more than a half hour.

The equipment being carried by the commandos included special eavesdropping devices that permitted them to monitor events in bunkers, closed rooms, and cellars; satellite communications gear to link the commandos directly to the White House, the Joint Chiefs, and mainframe computers operated by the intelligence community; a secure communications system that would allow the raiders to communicate among themselves without fear of compromise; and portable computers designed to transmit and receive encripted messages. In addition, they carried certain special weapons, explosives, first aid gear, and equipment for breaching doors. Shannon and his men were asked to provide them with unmarked AK-47s, M16s, and Uzis that could be used in the operation and left behind. The commandos were supposed to dress in civilian clothing of non-identifiable battle fatigues.

When the vessel reached the port of Beirut, it would put in at dock number five, which was controlled by the Lebanese Forces. The five containers, with the commandos and their equipment inside, would be off-loaded and taken to a remote storage area within the port. Later that night, a Lebanese Forces convoy—including jeeps and six-wheeled trucks—would pick them up and transport them to Christian-controlled East Beirut. There, at safe houses provided by the LF, the commandos would divide into three pre-assigned teams.

Guided by Shanon's men, the first team would enter Moslem West Beirut and make their way to Bir el Aabed, where some of the hostages were being held. The second team, also guided by Lebanese Forces intelligence operatives, would strike out for the Bekaa Valley and the Sheik Abdallah Barracks. The third team would remain behind, held in reserve in case either of the other two units encountered serious problems.

To transport the commandos inside Shi'ite-controlled areas, station wagons, sedans, and Land-Rovers bearing Amal and Hezbollah markings had been assembled. The necessary travel and identification documents had been bought, stolen, and otherwise obtained, and then provided by Shanon to ISA, where they were duplicated.

The operation would be masked by threatening maneuvers, conducted by two Lebanese Forces intelligence teams, designed to draw Shi'ite and Hezbollah units away from the target areas. However, as one American participant remembers, "We did not rely heavily on the Lebanese Forces to fight or even to conduct operations that could have supported us. We were ready to do the operation alone, single-handed, and come home with the hostages." Although the Christian-dominated Lebanese Army had also expressed, through the CIA, its willingness to be of assistance in the event a rescue was attempted, for security reasons the offer was not accepted.

"The operation was 'Made in the U.S. of A.'," says an ISA operator. "We could have used additional support, but the idea was to carry out a clean, neat, quick operation. Every support activity would only have complicated matters. This was supposed to be a quick and dirty operation."

Timing was all important. The strikes against the two Hezbollah prisons were to be closely coordinated. There was little margin for error. It was expected that the raiders would meet with little resistance at the two prison facilities, since Hezbollah and the Pasdaran operated on the principle that it was not the number of guards but the frequent movement of the hostages that guaranteed their security. As a result, there were only a small number of guards at each facility. Once the operation at Bir el Aabed was complete, the commandos and, hopefully, the hostages, would head for the coast, using one of a number of potential escape routes. There, they would rendezvous with ISA operators and be evacuated by means of swift boats or helicopters to U.S. naval vessels standing by a short distance away.

The operation in the Bekaa was more complicated and the escape options more limited. The plan called for the team that hit the Sheik Abdallah Barracks to reach the coast and to leave via the sea. In the event of an emergency, however, there was a direct line of communication to the Israelis. Although they had not been informed of all of the operational details, the Israeli defense and intelligence established had agreed, in a "worst case" situation, to come to the assistance of the commandos or to provide for "quick entry" into Israeli-controlled territory.

INTERNECINE WARFARE

As usual, there were those at the U.S. embassy in Beirut and in the American intelligence community that were opposed to a high risk operation to rescue the hostages. Some opposed any operation that was not under their personal or institutional control; others refused to enlist behind any idea that was not their own. There was a third category, however, of "weak sisters" and so-called "Arabists," mostly at the State Department, that harbored intense antipathy toward Israel and its Lebanese Christian allies. For political and ideological reasons, they were not above "selling out" an operation that would strengthen American ties to the Christians or provide Ronald Reagan with a dramatic victory in Lebanon.

Relations between the ISA operators and the U.S. embassy in Beirut were virtually nonexistent. The embassy was viewed as having its own agenda, which did not include a military rescue of the hostages. Because of what were seen as past betrayals, ISA and the special operations components involved in the rescue mission treated the American ambassador, the CIA chief-of-station, and other embassy personnel as "the enemy." By contrast, they viewed Shanon and his men as "friends," whose agenda was right out in the open. "They wanted to get recognition for the LFI [Lebanese Forces Intelligence]," says a former ISA officer, "and wanted support from the U.S. of their independent stand in Lebanon." Despite certain bureaucratic problems, however, the CIA ended up providing ISA with cover and other support.

The operation received a major setback in July when a number of the ISA men and commandos were pulled out of the Lebanon operation in order to beef up security in New York. Federal officials were afraid that there might be some kind of foreign terrorist attack in conjunction with the Statue of Liberty centennial celebration on the Fourth of July that was to be attended by the president, although there was little hard evidence to sustain such fears.

Between August and October 1986, ISA and the commandos rerhearsed the operation and "sat on their suitcases" waiting for the signal to "go." The Lebanese Forces even provided two ships and there was a dry run involving the transfer of men and equipment from one-vessel to the other.

END OF THE ROAD

On 11 October 1986, the fax machine began to whine in the small office in suburban Virginia, near the Pentagon, that served as the operational nerve center of ISA. The message being transmitted had originated in Beirut and was forwarded to the Arlington address from Montreal, via secure telephone line. As the slick pages were spewed from the secure machine, a boyish-looking major grabbed them and jammed them into a red cardboard folder. There were no identifying markings on the pages or on the folder.

The major quickly crossed the corridor with the folder tucked underneath his arm and opened a heavy steel-reinforced door which, like the pages and the folder, was unmarked. He did not knock. Across from the door, behind an almost-bare government-issue metal desk, was a grim-faced lieutenant colonel. Without a word, the major handed the folder to his superior and stood motionless in front of the desk.

The colonel placed the folder squarely on the desk in front of him, opened a locked drawer, and extracted a small code pad. He perused the faxed pages slowly, glancing from time-to-time at the code pad. Once he had finished, he reviewed the message a second time for accuracy, then handed both the folder and the code pad to the major.

"Read it," he said bitterly. "We're in trouble. The bad guys won."

The major took a chair and did as instructed, a sense of dread began to grow in his gut. The message confirmed his worst fears. Finally, he closed the folder and replaced it on the desk, along with the code pad.

"It's all over, colonel. Finished," said the major in a stony voice. "What now?"

The Colonel didn't reply. He knew that this was the end of the line and that their promising military careers were most likely over. He also realized that the American hostages were unlikely to be freed any time soon.

The text of the message was as follows:

* * * 10/11/86 12:56.

Attn: Frankie/Oscar [code names for ISA officers]

From: Shanon [the Lebanese network]

Subject: Current situation

We believe the DST [French intelligence] and your bad guys [CIA] are on Tessin's [Syria's] side.

Number of reasons:

1. On 10/11/86 meetings were held in Tessin [Syria] between SIS [Syrian Intelligence Service] and DST. At the same time the Iranian Minister for the Revolutionary Guards, Mr. Mohsen Daoust is in Tessin [Syria] for conversations with Tessin [Syria] high level.

2. Colonel Ghazi Kanaan, chief of SIS in our place [Beirut] left Martyr [Lebanon] in a hurry to Tessin [Syria] to take part in number one.

3. Big bargaining is being discussed:

A. A deal on Cargo [hostages] with the complete approval of the bad guys [CIA], DST. Green light for Tessin [Syria] on the subject.

B. To take over by Tessin [Syria] the western suburbs [West Beirut].

C. Complete cover to Tessin [Syria] in exchange for the Cargo [hostages].

D. Green light to Tessin [Syria] to move on Felix [Lebanese Christian Forces] and put Felix finally out of the "Game" [rescue operation].

E. It's clear that this will happen in the next weeks.

Baba on Felix [ISA's independent network in Lebanon and the Lebanese Christian Forces]

Best regards.

Keep you informed.

The rescue operation was being sold out. But why? And by whom? The colonel could only guess at the answers to those questions, but within weeks it would become abundantly clear. First, came the revelations about the Reagan Administration's secret arms-for-hostages dealings with the Iranian government. Then, on 29 October 1986 the French and Iranian governments publicly announced that they had reached a settlement involving a $1 billion loan. This would pave the way, nearly two years later, for the release of the French hostages being held by Hezbollah.

In restrospect, there could be little question but that the rescue mission had been put on "hold," and subsequently "sold out," because White House policymakers and intelligence officials were afraid to undertake any rescue operation that might impact negatively on their secret negotiations with

Iran. in their defense, it could be asserted that they felt that negotiations, rather than force, held greater promise for the successful release of the hostages. Nevertheless, in hindsight there is little question but that they became so committed to the Iranian initiative that they lost sight of everything else, and gave far too little thought to the consequences—for the hostages—if their negotiations failed.

By the time Lt. Col. Oliver North was fired from the National Security Council staff, on 25 November 1986, for his part of the Iran-Contra scandal, the clandestine operation being mounted by ISA and its Lebanese network had already been dismantled. Virtually every trace of the operation was shredded or burned. It was almost as if it had never existed. The most successful operation to penetrate Hezbollah and to collect vital intelligence on Lebanon was over, and along with it any chance of securing the release of America's long-suffering hostages.

ADDRESS BY MSGR. ELIAS EL-HAYEK, THE INTERNATIONAL CLUB, AUGUST 23, 1989, WASHINGTON, DC

LEBANON TODAY: CONSPIRACY OF SILENCE

I would like to thank Mr. Frank Ahmed, President and to Mr. Carl Levin, member of the Board of the International Club, for inviting me to speak to you tonight on the subject of "Lebanon Today."

Lebanon has become unfortunately known for the atrocities and crimes which racked its population for the past 14 years. Today it finds itself drowned in a bloodbath and its civil population threatened by the Syrian onslaught the like of which no people has seen since World War II.

The daily shelling of the civilian population and the threat that it poses to their existence, is compounded by a well orchestrated campaign of disinformation aimed at camouflaging the real intentions of the aggressors and their identity.

It is evident that the conflict does not oppose so-called "progressives" to "conservatives", nor Christians to Muslims. But in reality the conflict consists of the invasion by the Syrian army of the sovereign state of Lebanon in an attempt to subjugate its people and destroy its institutions.

When the invitation was issued to address the International Club just a few weeks ago, the relentless shelling of the Christian areas by the Syrians was the only story coming out of Lebanon.

But on July 31, Lt. Col. William Higgins, an American hostage, was reportedly hung in retaliation for the Israeli kidnapping of a Hezbollah leader, Sheikh Abdul Karim Obeid. These events brought to the forefront, once again, the burning issue of the hostages, compounding the already complex conflict in Lebanon.

Although the time allotted to me is relatively short, I feel it necessary to address these two interconnected issues—the conflict in Lebanon and the Hostage situation. Hopefully, we will be able to cover additional ground during the question and answer period.

Despite the fact that Col. Higgins was kidnapped, beaten, interrogated and eventually shot by Hezbollah terrorists probably in March of this year according to credible individuals; some American officials seemed poised to condemn the Israelis, which can only make any sense, if the goal of such criticism was to deflect Public and Media attention and condemnation away from the real culprits.

This is what is known as a "Knee-Jerk" reaction. And quite rightly so, because the last thing the administration wants at this time, is any sort of serious, sustained media or congressional focus on the plight of the hostages in Lebanon, lest it embarrass or obstruct the Syrian effort to establish its political and military hegemony over Lebanon and particularly over the defiant Christian Community under the leadership of constitutionally appointed Prime Minister, Gen. Michel Aoun. I would like to underscore what I have said, by providing you the following perspective:

Current U.S. Policy to Lebanon and Syria was initiated in the mid-70s during the days of Henry Kissinger's mid-east shuttle diplomacy. Since then Syria has been effectively mandated by the United States to:

Curb, confront and defeat PLO forces in Lebanon preventing them from taking over the country.

Prevent dominance of any one Lebanese faction over another.

Act as a good faith mediator amongst the Lebanese leading to a constitutional convention to resolve the Lebanon problem.

In sum, current U.S. policy which was devised over 15 years ago, sees Syria as the agency for stability in Lebanon particularly through the use of Syrian "Peacekeeping" forces.

This policy has been based on the assumptions that Syria has no territorial ambitions in Lebanon and that Syria is the proper surrogate to establish an "Independent, Sovereign and Democratic" government in Lebanon with a market economy, a representative parliament and a free press.

That these assumptions defy logic and fact goes without saying and it points to the irrationality and the corruption of the U.S. policy in Lebanon. Let me explain briefly.

President Assad is a brutal but clever dictator. By sponsoring Palestinian terrorist groups in the "1970s" and by creating an alliance with the Islamic republic of Iran in the "1980s" Assad was able through violence and intimidation to force various American administrations to "freeze" the favorable pro-Syrian policy construct of the mid-seventies.

As a result the United States has been forced to act like "Alice in the Looking Glass." It rationalizes the role of Syria in whatever way the Syrians want at any given moment. As an example: on July 10, N.Y. Times correspondent Alan Cowell, reported that:

"The United States Ambassador Edward P. Djerejian, said 'U.S. policy is not to exclude Syria from the peace process'. The Ambassador arrived here one year ago with instructions to expand American-Syrian relations."

The bombings of the U.S. Embassy in Beirut, the destruction of the marine barracks, the interrogation and executions of William Buckley and Col. Higgins, the bombings of Pan Am 103 and the Dec. 1985 Gander explosion with 248 members of the 82nd Airborne Division were all acts of Syrian directed and/or sponsored terrorism of the type of warfare, known to experts, as low-intensity conflict.

Quite bluntly, this war against America has cowed the United States government into accepting and justifying the Syrian aggression, brutality and rape of a small country. No better example of this perversion of the laws of International behavior exist; than the administration's mouthpiece editorial in the N.Y. Times of Weds. Aug. 16:

"But the new carnage has been unleashed by the deliberate suicidally stubborn strategy of one man, Gen. Michel Aoun, the Maronite Catholic army leader. He deliberately, provoked a ruthless enemy, Syria, to murderous violence in the hope of compelling the West to come to his rescue. Western leaders would serve the interests of all Lebanese by making clear that they will not be drawn in.

"It is unrealistic to expect unilateral Syrian withdrawal outside the context of an overall Middle East settlement—at the moment a remote prospect. It is equally unrealistic to expect the West to champion the Maronite cause at the very moment it is seeking Syrian help on the hostage issue."

Is it not sick and twisted logic that the legally appointed Prime Minister of Lebanon and a General of the Lebanese Army, who can still retain the loyalty of the Muslim soldiers who make up 30% of his Direct Command, is castigated as the agency of destabilization, because he seeks to rid his own Country of a belligerent occupying foreign army that deliberately targets innocent Lebanese civilians with 240 mm shells. The issue of power sharing among the various factions is the smoke screen used to hide the real intentions of the Syrians and their supporters.

Clearly, this perverse attempt to justify the annexation of Lebanon to an outlaw terror and Police State like Syrian at the expense of a million people, that the N.Y. Times has selectively labeled as the "Maronite Catholics" smacks of an endorsement of mass slaughter or even of genocide.

This is not an exaggeration. On Aug. 15, His Holiness Pope John Paul II, His Voice ringing with an emotion I have never seen or heard before said:

"In the name of God, I appeal to the Syrian authorities, asking them to cease the bombings that aim at destroying the capital of Lebanon and the entire country".

"Before the eyes of all the world, Lebanon is being consumed by a process, I would say, of genocide, a process that involves the responsibility of the entire international society. It is a process that is leading to the destruction of Lebanon."

Since that statement, the level of violence and the totally evil bombardments have subsidied, and we can only hope that American officials will show courage and change their policies to Lebanon, including immediate shipments of humanitarian aid to all Lebanese.

I believe, that the only way to break the conspiracy of silence that has been imposed upon the horrible events concerning Lebanon, must come from the American press and from the U.S. Congress.

In that respect it is very encouraging to have finally read some of the real activities concerning the hostages in Lebanon. In particular, I am referring to the recent nationally syndicated story by noted Middle East Experts Neil Livingston and David Halevy, and the investigative front-page N.Y. Newsday article by Pultizer prize winner, Knut Royce.

These reports detail how it was the work of a Lebanese-Christian unit who, at risk of their own lives, provided the N.S.C. and the Pentagon, with accurate, credible and detailed information on the location, status and condition of the hostages and their captors. So good was the information that the U.S. seriously prepared for a rescue mission, until these efforts were "spiked" because it would upset the still secret Iran-Contra operation.

For over two years, this flow of information on the hostages which could even have possibly saved the life of Col. Higgins, was

readily available. For over two years, the American administration has said it will talk to anyone who could help on the hostage situation. As you all know, the U.S. has talked to the Iranians, the Syrians, the Soviets, the Pakistanis, the Japanese, even the P.L.O. It has talked to everyone, but it has deliberately barred itself from talking to the very people who proved their ability to help and to this day still offer to provide the United States Government precise and accurate information on hostages including a direct channel into the Hizbullah command for possible direct discussions leading to the safe release of the American captives. Of course the administration professes not to be aware of anything like this despite the fact that NSC memos do outline this specific opportunity.

Why?

To answer that question, I refer to Steve Emerson's important book "Secret Warriors of the Reagan ERA."

In 1985, the U.S. Government, through certain secret agencies, requested the assistance of a Lebanese-Christian intelligence group to deliver accurate information on the hostages. So successful was this group in doing what had been asked of them, that they eventually posed a danger in exposing the hypocrisy and deception in the United States Policy to Lebanon, Syria and the Hostages. From certain segments of the administraton the group was derisively labelled as 'Anti-Syrian' and had to endure political and even physical threats from these same elements of the U.S. Government who so piously espouse their concern over the hostages.

In reference to this, I quote from the August 11 Newsday article;

"Why the NSC called off the operation and the CIA barred further contacts with the Christians remains unclear. The ban is still in effect, sources say, though there remain occasional one-on-one contacts between members of the militia and U.S. military officials.

"At the State Department there had been concerns that a unilateral military move by the United States would upset the Syrians whom the department believed could be helped in freeing the hostages, according to officials involved in the deliberations at the time. The State Department's belief in the importance of Syria appears to have continued. A confidential cable dated last August to the U.S. embassies in Beirut and Damascus directed them to notify the Syrians, "in line with our practice of passing to the Syrians from time to time hostage location information. . . ."

Can anybody in this audience, explain how it is that a government which professes not to have information on hostage locations, is able to pass such information on a regular basis to the very country, Syria, which it continuously singles out as the only country that can locate and release the hostages? In fact Syria and its allies in Iran have been using those very hostages as bargaining chips in secret negotiations with the United States.

In the case of Syria, as Messrs. Halevey and Livingston have shown, the Syrians used the Hostages as the Political leverage to secure a green light from the United States to enter and occupy West Beirut. This is but one segment of the Iran-Contra story the public has not been entitled to know about.

The truth about the hostages has been barred from reaching the American people.

I anticipate, that certain groups or agencies in the administration will try to discredit these beacons of light from the media by claiming that the information the Christians provided was actually Syrian in origin, they may even go so far as to "rent" some Lebanese authority who may participated in operation to engage in a discreditation process.

Finally, from all this, I can only conclude, that it is Syria and President Assad, through the use of violent force and political leverage, who dictate the U.S. policy to Lebanon and who make a mockery of all the brave Americans who have died in the terrorist-related events that I mentioned earlier.

This conspiracy of silence against an entire country and in particular against one religious community must be looked into by the appropriate congressional committees before any more Americans and Lebanese die in vain.

The paralysis of the International Community in front of the threat of terrorist retaliation against any state which dares supply even humanitarian aid to their own citizens caught in this war of extermination is underscored by Jacques Daniel in the french magazine Le Nouvel Observateur:

"The International Community and both superpowers do very well in funerals look what they did in Cambodia". My friends we are witnessing another holocaust in Lebanon and we are offering only condolences for the dead.

[From Newsweek, Nov. 7, 1989]

IGNORING HOSTAGE TIPS—IS WASHINGTON TOO WARY OF PRIVATE CHANNELS?

(By Richard Sandza and Douglas Waller)

Question: You are a State Department official who receives a call from a retired military officer who claims to have important information about American hostages in Lebanon. Specifically, he offers to set up a meeting with a contact who can provide news of the fate of Marine Lt. Col. William R. Higgins. The contact has a handwriting sample and a recent photograph of Higgins, who was kidnapped near Tyre on Feb. 17 and has not been heard of since. Do you:

(a) Invite him to your office and arrange a briefing for the secretary of state?

(b) Arrange to meet the man in a movie theater in Chevy Chase, Md.?

(c) Thank him for his interest, assure him the safe return of the hostages is a primary goal of U.S. foreign policy, and hang up?

It goes without saying that the administration wants to bring home the nine American hostages who have been held in Lebanon for as long as three and a half years. But not, it seems, at the risk of another humiliation like the Iran-contra scandal, with its unsavory cast of fanatic colonels and high-living fixers. "We've made it very clear we're not going to use any private channels to get the release of the hostages," says L. Paul Bremer III, the State Department's top counterterrosim official. The administration will talk only with official representatives of recognized governments, meaning in practice Iranians. As the election nears, this approach has been pursued with even greater delicacy. "The guidance is, 'Keep everything off the headlines'," says one government intelligence analyst.

The retired officer, who just suffered through a month of cold shoulders from various agencies, is one of dozens of would-be middlemen who have run up against the policy. Some were undoubtedly frauds. Others, say disgruntled officials in the military and intelligence communities—some of whom are itching to try another rescue mission—may have been genuine. In an incident dating to 1986, a source who offered what he said was detailed information on where the hostages were being held—down to the floor and room of the building—was cut off totally by American agents. In another case just this fall, an American was approached by a Lebanese contact who offered a meeting with a ranking member of Hizbullah, the radical Shiite Muslim group believed to be behind most or all of the kidnappings. The Hizbullah official was said to have first-hand information about the conditions of the hostages—but there has been no effort even to determine whether the offer was genuine. The message, according to a White House aide, is: "If you think you can get them released, go get them released. But don't come ask us for an entree to begin some kind of negotiation. The only negotiation I'm interested in is where we will pick them up."

Actually, says Bremer, the government would welcome genuine information about the hostages, as distinguished from help in getting them out. But in practice all such contacts have been rejected for the simple reason, he says, that they turn out to be worthless. "The people who have surfaced in the last two years have simply not been credible. None of them were worth a dime to make a phone call." He puts them in three categories: con men seeking money or favors; *agents provocateurs* with political motives, such as embarrassing the United States, and well-meaning dupes of one of the above. At least one dubious contact asked a hostage family for $200,000 to get their man out. In another case, the middleman turned out to be an Arlington, VA, rug merchant trying to peddle his wares in the State Department. Last week Italian police arrested a Lebanese woman as she attempted to enter the country with $1,000 in counterfeit U.S. currency and photos and letters purporting to be of hostages Terry A. Anderson and Alann Steen. The documents proved to be fakes, and investigators now suspect she may have been part of a plot to swindle U.S. intelligence agents. Under State Department rules, a contact who asks even for expenses is presumptively a swindler. The man offering word about Higgins may have run up against this rule when he mentioned that he would need a plane ticket to a neutral site. Critics point out, though, that U.S. intelligence pays for information all the time.

LINGERING BELIEF

The more serious objection is that a policy of dealing only with official Iranian representatives amounts to a policy of doing nothing. Naturally, the hostage families feel this most keenly. Anderson's sister Peggy Say held a press conference last Thursday to mark his 41st birthday, his fourth since being kidnapped. The administration, she charged, appears to "consider it a point of honor not to be involved in anything" that could help the hostages. Even some disinterested observers dispute the premise that, as one senior administration official puts it, "the hostages are going to come out when the Iranians decide to get them all out." "There's still this lingering belief in the State Department that somebody out there is in charge," says Yahya M. Sadowski, a Mid-east expert at the Brookings Institution. He thinks Hizbullah is more a loose federation of clans than a monolith taking orders directly from Teheran. "It's demeaning for people in the State Department to think about negotiating with all these petty

arms merchants and drug dealers who are used as intermediaries by the different groups that hold our citizens," Sadowski says. "The fact is, that's all you've got."

Mr. GRASSLEY. Mr. President, the reason these stories appeared in July and August is because there is a direct link between the scuttling of that rescue mission and our lack of human intelligence today in Lebanon, particularly Beirut. It was rather obvious that our options for responding to the Higgins affair were sharply limited, and our intelligence was extremely poor. You may recall, Mr. President, that the issue of poor intelligence came up repeatedly at that time.

The net effect of our lack of human intelligence in that area is that the President of the United States does not presently have a military option, whether to use or to have that option in his back pocket. The military has not seriously prepared operational rescue plans since the fall of 1986. And do you not think the Hizbullah knows that we have no military option there?

The resulting effect of certain backchannelers scuttling the rescue effort has permanently hurt our human intelligence capability in Lebanon. A lot of good people who put themselves at risk were hung out to dry.

I began looking at this issue, Mr. President, only after the fact. My concern at that time was to pick up some of the pieces and try to get reliable information flowing once again to the U.S. Government about the health and locations of the hostages. I can tell you, Mr. President, from my own experience, that the administration did not want to listen. I am not talking about the current administration, of President Bush, but I am talking about the previous one.

Publicly, the administration was saying it would talk to anyone about information related to the hostages. The report by the Task Force on Combating Terrorism, put out in 1986, said we will take information from all sources, that we will leave no stone unturned. Well I am here to tell you, Mr. President, that there were more stones sat on than turned over.

For the 2 years from November 1986 to the end of the last administration, I studied three separate cases, and watched them as they developed, in which the Government, when either presented with hard and reliable information or with overtures from credible sources, said not only "no," but "heck no." The information became like a football. It was lateraled from agency to agency, not vertically up the chain of command, but horizontally.

I will not go into details about any of these cases; I have supplied details to two congressional committees. But suffice it to say that when it came to putting their actions where their rhetoric was, that administration, The Reagan Administration was nowhere to be found.

Now, Mr. President, let me stress the fact that these circumstances occurred during the last administration. I want to be very clear about that. And consequently, this administration has a long way to go to restore major deficiencies in our intelligence capabilities in Lebanon and our ability to maintain military force as a viable option. And of course most important, and why we are commemorating this day—the National Hostage Awareness Day—because as a nation we have a need to know the status and whereabouts of the hostages.

I have asked two committees of Congress to look into this matter, Mr. President. I personally find it frustrating to learn that information about the hostages in Lebanon was being ignored, and that some Government officials may have short-circuited efforts to gather information on the hostages and even opportunities for gaining their release.

In summation, I will continue to press this matter, to push for investigations here in Congress, and to work with this new administration so that certain mid-level bureaucrats cannot frustrate the will of this President when he says we are doing all we can for the release of the hostages.

Mr. President, I reserve the remainder of the leader's time, if there is any, beyond my 5 minutes of morning business.

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

MORNING BUSINESS

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

CAPITAL GAINS RATE

Mr. SYMMS. Mr. President, I would just like to comment on the remarks that the distinguished majority leader made here this morning with reference to the capital gains tax and tying it to the Polish package.

It seems to me there is probably nothing more important with respect to aid to Poland than having the United States do things that reduce the cost of capital in the United States, that make us a better example of a bastion of free enterprise, capitalism, production; and opportunities than to reduce the capital gains rate and to increase the opportunity for viable individual retirement accounts and to deregulate excessive interventions on the part of the Government with employer-provided health plans, which is in the Packwood amendment.

I would say that if we want to make the Polish package sustainable and healthy for Poland for the long run, one of the best things we could do, in the midst of that package, is reduce the capital gains rate here. The votes are here to do it. It is very clear to this Senator that the majority leader does not want to vote on it because he knows the votes are here in the Senate to reduce the capital gains rate. That is what the American people want. I think that is what we are elected to do; to respond to those wishes, demands and needs.

I hope that the majority would allow a vote on the Packwood amendment and if it passes, we pass it with the Polish package and go from there. I hope we do that.

The Senator from Colorado [Mr. WIRTH] is recognized.

AID TO POLAND

Mr. WIRTH. Mr. President, I want to briefly remark on the leader's comments the first thing this morning.

We have drifted too long on Poland and Hungary. Here we have an extraordinary change going on in central and eastern Europe. It is getting the attention now in the U.S. Congress which it deserves. Unfortunately, there was too much drift downtown for a period of time.

We recognize that the world is changing. The cold war is ending where it began. We have a political obligation to move very quickly, and we also have a humanitarian obligation. Winter is coming. People are starving and these economies are not working.

Let us get on with it and not get it all tangled up with the capital gains issue.

GLOBAL WARMING

Mr. WIRTH. Mr. President, I want to return very briefly to the issue of global warming and the question of why this administration has not focused on the global warming issue and the obligations that we in the United States have.

Two or three days ago, I laid out in the RECORD a long history of the administration's promises and its noncommitments to those promises. This has gone on since January. We had very noble rhetoric from President Bush as a candidate about the White House effect. Unfortunately, that rhetoric has not been met by commitments of people at the highest level in the administration.

Yesterday I discussed what can be done. Some arguments have been made that if we move aggressively on global warming, that puts us at a competitive disadvantage. As I discussed

yesterday, that just is not the case. We should pursue energy conservation, auto efficiency, forestation programs, alternative fuels programs, even if there were not any global warming threat. Yet, the threat is very, very real. Even if that did not exist, these are steps that we ought to take anyway for the purposes of strengthening our economy and our national security and for good environmental policy right here at home.

These steps do not put us in a noncompetitive position. That is not an argument for the United States to forgo a leadership position.

So, as I was musing on this last night, Mr. President, I asked myself: Well, maybe the White House has information that we do not have. Maybe they have information that the problem of global warming is not a real problem. Perhaps they do.

Maybe they have gotten different information from the scientific community on the outside. But I believe that overwhelmingly, within the scientific community, the question is not, "Will we warm?" But it is, "How much? How fast?" Maybe the White House has other information.

If they do, I do not know who they talked to; they have certainly not talked to the research community that has so much involvement in Washington, the World Resources Institute, and other research organizations in Washington. They have not spoken to NASA or taken advantage of the extraordinary expertise that exists at the National Center for Atmospheric Research. They have certainly not talked to the research complex on the west coast. When I say "they" I mean people at the highest level in the White House.

What I would suggest, Mr. President, is that the White House, for the purposes of the President's information and that of the chief people in the White House, ought to convene a conference or seminar of the best scientists in the United States on this issue of global warming.

I think President Bush ought to be brought up to speed about the fact that this is no longer a research issue. We do have other research to do; yes. But overwhelmingly we know the atmosphere is changing and the planet could warm at alarming rates. Only recently there was a major report in Science magazine on what we are finding out about the warming of the continent in China during the last 10,000 years. What is going on internally in China is exactly what would be predicted by the models of global warming.

I urge the White House staff at the highest level, Mr. President, to pull together the best scientists in the country and let the President know firsthand what is going on. Do not block the information from him. Give him the information. I think he truly cares. I think he is truly committed to being a President who has a commitment in this direction. But I think the information is being blocked out.

Finally, Mr. President, I will have printed in the RECORD a letter which Senator JOHNSTON and I sent out dated October 26, to the President, urging him "to meet his May 1989 commitment to convene an international conference in Washington to identify the potential effects of a global climate change. The United States should join with the majority of nations that support the early development of a general framework convention on climate modeled after the existing Vienna Convention for the Protection of the Ozone Layer. We believe negotiations on a framework convention should be held in the United States * * *."

Twenty-six Senators in a day have signed this letter, Mr. President. If the United States were to move now, Mr. President, the chances are we might be the host of the major United Nations conference. If we said we wanted to move, let us do it and do it very rapidly. We have that opportunity.

I ask unanimous consent that this letter be printed in the RECORD at this point.

Ms. MIKULSKI. Will the Senator withhold offering his unanimous consent? I would like to be on the letter.

Mr. WIRTH. The letter now has 27 cosponsors and I ask all my colleagues to join on. Why are we not out in front as leadership?

The distinguished Senator from Maryland has done a wonderful job as chairman of the Appropriations Subcommittee and is shoring up a lack of will by funding programs that address these issues.

Ms. MIKULSKI. I thank the Senator for his kind comments. In a few short minutes we will be bringing up the VA-HUD-EPA appropriations.

We tried to put in the financial resources that even the administration would not ask for on all matters related to the environment. The administration came in and asked for a $300 million cut.

The ACTING PRESIDENT pro tempore. Time has expired.

Mr. WIRTH. Mr. President, I ask unanimous consent the Senator be allowed to continue for 2 additional minutes.

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

Ms. MIKULSKI. They came in for a $300 million cut. We said heck no, that cannot go, cleaning up our environment. So we not only made sure the EPA budget made 1989 levels but we added a substantial amount of money so there will be essentially an appropriation of $5,600,000,000.

We are going to put the resources there but we cannot put the will there. We cannot put the will there to clean up the environment. I do not know if it takes jawboning or whatever.

I think the Senator has taken significant leadership and I am happy to be a full-time partner with him on this and other environmental issues.

I thank him for his persistence and sustainability here.

Mr. WIRTH. I thank the distinguished Senator for her good work on the Appropriations Committee. We have to move.

There is an urgency to this, Mr. President. That urgency has to be transmitted to the administration at the highest level. We have extraordinary opportunities. Let us take them.

I now ask unanimous consent the letter dated October 26, 1989, to President Bush, be printed in the RECORD.

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

U.S. SENATE,
Washington, DC, October 26, 1989.

Hon. GEORGE BUSH,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: We note with dismay the recent decision of the White House to reject the suggestion of Environmental Protection Agency Administrator, William K. Reilly, to convene an international convention on global climate change in Washington next year. The United States must seize this opportunity to establish a leadership role in the fight to protect our global environment through the development of energy, commercial, agricultural, and environmental policies which reduce the release of carbon dioxide and other trace gases into the atmosphere. Continued U.S. inaction and ambivalence on the single most important environmental issue of the century sends a dangerous signal to the rest of the world that we can no longer be counted as leaders in the effort to establish an international dialog on global environmental change.

We, therefore, urge a reiteration of your May 1989 commitment to convene an international conference in Washington to identify the potential effects of a global climate change. The U.S. should join with the majority of nations that support the early development of a general framework convention on climate modeled after the existing Vienna Convention for the Protection of the Ozone Layer. We believe negotiations on a framework convention should be held in the United States to clearly demonstrate this country's commitment to address the global climate change issue.

In addition, we strongly urge your support for a decisive U.S. role in future international conferences, including the upcoming November meeting of seventy environmental ministers in the Netherlands, to identify and discuss the issues related to rising atmospheric concentrations of carbon dioxide and other trace gases. The development of an aggressive domestic agenda for mitigating greenhouse gas emissions as well as the development of specific economic and environmental policies for dealing with this issue, must be one of this nation's highest concerns. We hope your oft quoted phrase

". . . those who think we [the U.S.] can do nothing about the greenhouse effect are ignoring the White House effect," will continue to be a driving force behind Administration policy.

Sincerely,

TIMOTHY E. WIRTH.
J. BENNETT JOHNSTON.

COSIGNERS OF JOHNSTON-WIRTH LETTER

Senator Johnston, Senator Wirth, Senator Fowler, Senator Metzenbaum, Senator Heflin, Senator Lautenberg, Senator Kerrey, Senator Kohl, Senator Conrad, Senator Matsunaga, Senator Baucus, Senator Biden, Senator Sarbanes, Senator Gore, Senator Daschle, Senator Bryan, Senator Lieberman, Senator Pryor, Senator Kerry, Senator Levin, Senator Adams, Senator Sanford, Senator Nunn, Senator Hollings, Senator Bingaman, Senator Sasser, Senator Mikulski.

Mr. DOLE. Mr. President, I ask to be recognized for 2 minutes.

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

APPLAUDING SECRETARY BRADY

Mr. DOLE. Mr. President, I wanted to have printed in the RECORD a letter received yesterday by myself and other members of the leadership on both sides, and I assume Senators BENTSEN and PACKWOOD. It is a letter from Secretary Brady indicating he is going to borrow $17 billion to make certain we protect senior citizens and Social Security payments which are supposed to go out on November 3.

I applaud Secretary Brady for this action. I think he had a real concern about whether or not Congress would act on the debt ceiling by Tuesday night at midnight. There was nothing scheduled, no indication we were going to take up the debt ceiling.

There were a number of amendments that would have been offered and this will delay the deadline to November 7. It will give us time to consider extending the debt ceiling at an appropriate time.

Again, I applaud the Treasury Secretary for doing what I think he had to do in this case. Otherwise, there would have been some concern whether we would have finished action in time so the checks which were to be mailed out on November 3, to millions and millions of Social Security recipients—whether or not that could have been done.

I ask unanimous consent to have printed in the RECORD at this point the complete text of the letter from the Secretary of the Treasury, Nicholas F. Brady.

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

THE SECRETARY OF THE TREASURY,
Washington, DC, October 26, 1989.

Hon. ROBERT DOLE,
Republican Leader,
U.S. Senate, Washington, DC.

DEAR MR. LEADER: I am writing to reemphasize the immediate need for action by the Congress on debt limit legislation.

As I indicated in my letter of October 16, without any action prior to the expiration of the debt ceiling on October 31, our current projections indicate that the Treasury could run out of cash on November 2, and is certain to default on its obligations on November 3. In light of the uncertainty surrounding Congressional action on debt limit legislation and the necessity of issuing Social Security checks on November 3, I have explored extraordinary administrative actions that could be taken to enable the Federal Government to temporarily meet its financial obligations beyond the November 3 default date.

Our most recent estimate indicates that there will be approximately $17 billion of unused statutory borrowing authority when the temporary debt limit expires at midnight on October 31. In order to extend the period during which we would have sufficient cash to pay Social Security benefits and other Government obligations, the Treasury would need to borrow up to the debt limit before the debt ceiling reverts to its permanent level of $2,800 billion on November 1.

For the reasons stated above, Treasury intends to proceed with plans for such borrowing. Our current cash flow estimate, which assumes no unprecedented cash demands, indicates that this action should provide sufficient cash to cover obligations presented for payment through November 8. However, even with this borrowing up to the debt limit, it is important that Congress act on debt limit legislation no later than November 7, in order to ensure adequate time to arrange market borrowings to avoid default.

I must emphasize that we are aware of no other realistic measures, other than debt limit legislation, that could further extend the anticipated date of default.

Sincerely,

NICHOLAS F. BRADY.

Mr. DOLE. Mr. President, I also ask we have some indication when the debt ceiling legislation will be coming to the Senate floor because there will be amendments, I assume on both sides, and it may take a number of days.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from New Mexico [Mr. BINGAMAN].

CAPITAL GAINS: THE PRESIDENT'S SOLE DOMESTIC AGENDA ITEM

Mr. BINGAMAN. Mr. President, I want to take a few moments this morning to express my growing frustration, and I am sure that of many colleagues, at the unwillingness that seems to exist to move forward on the real problems facing us in the country. The sole item we seem to be focused on at this point, and that the President's domestic agenda contains, appears to be this capital gains tax reduction.

It is hard to say in the foreign policy and defense policy areas we have any real plan or idea of where we are headed either, since we recently had statements by Mr. Darman and by Congressman GINGRICH, indicating they would feel comfortable accepting a permanent sequester which would involve about a $13 to $14 billion decrease in defense spending. They think that would be preferable to accepting a reconciliation bill without a capital gains tax reduction attached to it.

Mr. President, the subcommittee I Chair on the Armed Services Committee tries to oversee procurement. Every study that has come out of there indicates that the greatest single waste in procurement on defense derives from budget instability.

This sequester that is now in effect and is continuing because of our inability to resolve this issue on capital gains tax reduction is adding greatly to that instability. In my home State, if this sequester were to become permanent, a $13 billion decrease in defense spending would mean that real people in our national laboratories, at our military facilities in Albuquerque, and Los Alamos in Clovis and Portales and North Van Nuys and Alamagordo and Las Cruces would, in fact lose their jobs.

I do not believe it makes sense for us to continue to play politics with various issues, rather than getting that sequester put aside and going forward as necessary.

We have a great many issues that are discussed by the administration—education, child care, environment, drugs—but in fact when we look at all of these areas and look at what has occurred this year, it is the Congress that has proposed the modest increases in resources that have been spent to address these various problems.

So, we have a great deal of rhetoric about them but very little action and very little leadership to bring about that action.

In my view, Mr. President, the time has come to move beyond this obsession with capital gains. In the remaining weeks of our legislative session, our job and the President's job needs to be to complete the business at hand, three major items. The appropriations bills, we are getting ready to deal with one of those shortly; the reconciliation bill; and the debt limit bill.

I believe we need to avoid a permanent sequester which, in my view, would make shambles of our claim to a foreign or defense policy. It would also fall disproportionately on areas such as education, the environment, drug abuse prevention and research in order to maintain the technological competitiveness of this country.

In the President's zeal to reduce taxes for the rich, this sequester

threatens to become permanent. If that happens we will all have failed, but I believe the President will have failed first and foremost. The consequences of that failure will be with us for some time.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Time for morning business has expired.

EXTENSION OF MORNING BUSINESS

Mr. SYMMS. Mr. President, I ask unanimous consent that time for morning business be extended for 7 more minutes.

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

The Chair recognizes the Senator from Idaho [Mr. SYMMS].

THE VALUE OF THE AMERICAN DOLLAR

Mr. SYMMS. Mr. President, it seems it has become a very popular issue nowadays to discuss the appropriate exchange value of the American dollar. There are many people in this country, largely among major exporters, who would like to see the dollar depressed in price. Exporters believe they may sell more goods and make more profits. But, Mr. President, it is a fallacy—an example of the "broken window" fallacy.

A cheaper dollar may bring in more dollars for some U.S. exporter, but it won't bring in more yen, or more francs, or more marks. And everything we import would cost some other American more dollars. We would not be better off even if we did finally export more and import fewer goods. Some Americans may be better off, but they will be better off at the expense of some other Americans, who will be worse off.

Mr. President, I just want to make a few comments about currencies. I have some articles I want to have printed in the RECORD. I think first I will say that it is not worthy of a great nation to have a weak currency. Weak currencies are a sign of distrust of a government's future policies, both by its own citizens and by others. The value of our currency is a measure of what other citizens in other countries think of us.

If we think somehow having a weak currency is going to make America a greater nation or make our economy stronger, then I think we should take heed to what Lawrence Kudlow recently said. He was formerly an economist with the Office of Management and Budget. He said, "Were it true that a weak currency would pave the way for a trade surplus, then Argentina should be the center of today's global economy."

I think one should just look at Brazil, Argentina, and Mexico. They would be the world's most successful trading nations. Japan would be one of the weakest traders in the world if, in fact, it paid to have a weak currency when, in fact, it is just the opposite. If the intervention of the Fed and Treasury is effective, it will only raise the price of all imported goods for all consumers in this country. It will generate price inflation, which can lead to further monetary inflation. This would be very destructive to the real growth in the economy and not be at all helpful to the American economy.

In addition to that, Mr. President, a weaker dollar would allow foreign countries to buy America's engines of production more cheaply. So while major exporters, and some of my friends in the agriculture business in Idaho are involved in exporting agriculture products abroad, sometimes get excited about the dollar going down so they can be more price-competitive in those foreign markets, they fail to look at the question all the way through. I always make the point to them, if you are willing to sell your farms to the Japanese, then go ahead and let the dollar go on down. That is exactly the situation that will happen when they come in and start buying up these assets with an undervalued dollar.

I think the real question is, Should we be intervening to try to drive our currency down? I personally think what we need to do is go to the C-7 meetings—and I have discussed this with Secretary Brady—and ask each country to run a sound monetary and sound fiscal policy. That is what we should do and let the currencies seek their own level.

In 1988, the Federal Reserve reported $500 million in losses from its foreign exchange intervention, realized losses. Unrealized losses were greater. The Fed purchased $23 billion in foreign exchange in 1988 and 1989 and already has unacknowledged losses of approximately $4.5 billion. This whole idea of currency intervention is a loser, Mr. President.

So I think rather than berate the dollar and talk the dollar down, what we should do is to encourage a strong, sound policy here in this Congress. That would mean a reduction in spending to meet the targets of Gramm-Rudman and a reduction in the capital gains rate of taxation, and avoiding excessive intervention with respect to our business policy in the country so we can, in fact, produce and maintain a competitive stance.

Mr. President, I ask unanimous consent that an article from the Washington Times newspaper yesterday by a very distinguished economist, Mr. Warren Brookes, be printed in the RECORD.

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

[From the Washington Times, Oct. 26, 1989]

WOBBLY CURRENCY QUANDARY

(By Warren Brookes)

One of the three key planks of the 1980 supply-side agenda was the reform of the monetary system back to some kind of commodity standard and away from central bank manipulation.

Unfortunately, it was largely ignored by President Ronald Reagan, and casually dismissed by President George Bush. But the nation is continuing to pay the price of world monetary instability, which has produced massive trade imbalances, excessively high interest rates, and ever-threatening inflation.

It also produces periodic financial idiocy, as represented by the current efforts of the Treasury to drive the dollar down, even as the Federal Reserve pursues policies that push it up. Obviously, no one can agree about the dollar's "correct" value. That disagreement could badly damage the world economy.

The irony of all this monetary schizophrenia is that last September, Federal Reserve Board Gov. Wayne Angell, along with supply-side guru Jude Wanniski, were invited to the Soviet Union specifically to instruct its leadership on how and why to adopt the gold standard as a way of making the ruble convertible in international markets. Mr. Angell compared the present ruble to a thermometer with lines, but no mercury and no numbers, and thus no common reference of measurement.

But that analogy applies in degree to all the world's major currencies since the United States terminated the Bretton Woods Agreement in 1971 and severed the dollar's final tenuous link to gold.

Since that severance, world interest rates have soared, along with inflation, debt and exchange-rate volatility. As economist David Ranson of H.C. Wainwright in Boston said in a recent paper:

"Prices cannot be stable when they must be expressed in terms of an unstable [paper] unit. Nor can interest rates be stable when the future value of the currency is unpredictable.

"Monetary instability confuses markets, distorts supply and demand, and makes it harder for the economy to operate."

Most of all, it results in the kind of economic nonsense of wasting $5 billion in net taxpayer costs in the last 13 months trying to drive the United States dollar down in value, on the fatally flawed theory that strong currencies produce trade deficits, and weak paper currencies produce trade surpluses.

As Bear Stearns economist Larry Kudlow notes, if this were literally true "Argentina would be the center of today's global economy . . . and Japan and Germany would be first and second on the IMF's debtor watch list." Since the 1971-73 Bretton Woods breakdown, the yen has been the strongest world currency. "Yet contrary to Keynesian assertions Japan over this period has accumulated huge trade and financial surpluses. What's more the yen's strength has been accompanied by the lowest inflation and interest rate structure of any of the major industrialized nations."

In other words, anti-inflationary policies that promote price stability and strong currencies produce very low interest costs of capital and those cost advantages more than offset the competitive disadvantage of the higher exchange rate.

Conversely, inflationary policies that promote currency devaluation, also drive up domestic costs, which more than offset the competitive advantage of lower currency valuations.

The problem is, without any real value standard for paper currencies, all interest rates have to be much higher to reassure investors and give otherwise worthless paper currencies some credibility. This makes anti-inflationary policies, as desirable as they are, economically much more risky in the short run.

Great Britain is a case in point. Even though it is running a huge fiscal budget surplus, it is running a massive trade deficit, which is relatively equivalent in size to a $190 billion trade deficit in the United States. That deficit was fueled in part by inflationary monetary policies followed by Chancellor of the Exchequer Nigel Lawson after the 1987 stock market crash, when interest rates were lowered to 7.5 percent, and the pound fell sharply as U.K. inflation rates suddenly doubled, to more than 8 percent.

If the floating-exchange-rate Keynesians had been right, the falling pound should have produced a trade surplus. Instead, it coincided with the worst trade deficit in U.K. history.

Yet, to fight soaring inflation and support the pound, Mr. Lawson has now had to put interest rates up to 15 percent, and this in turn has made Britain even less competitive.

This illustrates the basic dilemma of purely paper currency systems managed by fallible central bankers. In the long run, Federal Reserve Chairman Alan Greenspan's stated commitment to zero inflation, and against foolish currency-market intervention or pegging is surely the best way to promote U.S. competitiveness.

Unfortunately, in a purely paper money world, Mr. Greenspan has discovered it is very difficult to get real price stability without waging a Phillips-curve interest-rate war against growth, and risking driving up the dollar and the trade deficit.

Mr. Kudlow correctly argues that "the goal of U.S. monetary policy should not be a higher dollar or a lower dollar but a stable dollar," and he salutes "the Fed's effort to maintain monetary discipline by linking the dollar to broad commodity indexes including gold" which he argues "could lead to astonishing results if it continues."

Those results, he says, could be 2 percent or less inflation, interest rates of 6 percent or less, and "American business and capital costs could be sufficiently low and competitive so as to generate a flood of exports and a virtual end to the trade deficit."

But Mr. Kudlow argues the only way that will happen is if the Treasury Department "moves away from willy-nilly currency intervention" and pushes for "an international commodity standard. Exchange rates should be anchored to gold and commodity indexes. This is a prescription for expanded world trade, economic growth, international cooperation and prosperity."

Unfortunately, Mr. Kudlow fails to note that central bankers, finance ministers and their bureaucracies understand all too well that taking such a prescription would be institutional suicide, while monetary instability gives them power and well-paid employment.

This is why the ruble is more likely to become gold-convertible than the dollar or the pound.

Mr. SYMMS. Mr. President, I ask unanimous consent that an article by Keith Bronstein of Glencoe, IL, entitled "Neville Chamberlain Economics" be printed in the RECORD. I think it is significant for my colleagues to read this. When he talks about how for us to think we can solve our trade problems by manipulating the value of the dollar he makes my central point clear. What we have to do is be more competitive, make better goods and services available to export and that will do for us everything that needs to be done.

Mr. President, I also ask unanimous consent that a letter from Prof. Steve Hanke at Johns Hopkins University, dated September 27, to me with reference to the Federal Reserve policy be printed in the RECORD. Dr. Hanke has documented how much our government has wasted on behalf of this misguided policy of currency intervention.

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

JOHNS HOPKINS UNIVERSITY,
DEPARTMENT OF ECONOMICS,
Baltimore, MD, September 27, 1989.

Senator STEVE SYMMS,
Senate Hart, Room 509, Washington, DC.

DEAR STEVE: The Federal Reserve has pursued monetary restraint since May 1988. To date, this has proven to be a prudent policy, since the economy has continued to grow and inflation has moderated. In consequence, the nominal exchange value of the dollar has risen.

The dollar's strength has motivated politicians to claim that our competitiveness is being damaged. This claim is largely unfounded. Our competitiveness depends on real, inflation-adjusted exchange rates, not nominal rates. To appreciate this point, consider that, if our inflation rate fell five percentage points relative to our foreign competitors', an increase of five percent in the nominal exchange value of the dollar would be required to keep dollar's real exchange rate and our competitiveness constant.

To accommodate political pressures, the Federal Reserve has engaged in sterilized intervention on a massive scale. This policy has no lasting effect on exchange rates.

Intervention (the acquisition of foreign currency) requires the Federal Reserve take a speculative position: that foreign currencies will appreciate vis-a-vis the dollar. In other words, it requires the Federal Reserve to gamble that its inflation control policies will fail.

If this type of government speculation were not bad enough in principle, it is very costly. In 1988 the Federal Reserve reported $500 million in losses on foreign exchange intervention. However, the Shadow Open Market Committee points out that the losses are much greater because (1) the Federal Reserve only reports realized losses (Unreported losses on the $23 billion of foreign exchange purchased in the 13-month period ending in July 1989 were about $4.5 billion), and (2) the Federal Reserve fails to report losses on the Treasury's secret Exchange Stabilization Fund.

Allow me to urge you to do everything in your power to convince your colleagues (and the Federal Reserve) that foreign exchange intervention is a misguided and costly policy. In addition, you should insist that the Federal Reserve be required to report all of the realized and unrealized losses from U.S. foreign exchange intervention if it should occur.

With my best wishes, I am

Yours sincerely,

STEVE H. HANKE,
Professor of Applied Economics.

NEVILLE CHAMBERLAIN ECONOMICS

(By Keith Bronstein)

The United States administration's economic policy makers have somehow been mistakenly convinced that the road to economic prosperity is through making exchange rates the principle focus of policy. One need only to look at Great Britain's obsession with the value of the pound, to see the folly in this idea. If all a country sets out to do is to manage its exchange rate, then that economy is destined for trouble.

Exchange rates in a free environment are a reflection of monetary, fiscal and macroeconomic policy, economic trend developments and investments and capital formations strategy with sound responsible exchange rates arriving at efficient levels. Nevertheless, United States administration economic policy makers have chosen to manipulate the exchange rate policy as a panacea for whatever economic problems appear to exist in the world today.

This exchange rate policy can take us into the 1990's on one of two paths. The first path is that of a country with a strong currency, which in turn makes the cost of imports low, reduces inflation pressures and allows our economy to expand vigorously. This is possible with the low interest rates and a strong monetary growth that a strong currency make possible.

The second path and preferably "the road not taken", is that of the dollar debasement. This bumpy road brings with it inflationary pressures, economically strangling monetary growth restraint and high interest rates. All of this will eventually lead to economic stagnation at best and more probably, to a worse-case scenario of a severe contraction. Lacking in the necessary fundamental understanding of economic history, these strategists have chosen to follow this road and will thus fall prey to "history repeating itself" with the most negative consequences.

All of this leads, even the casual observer, to ponder if those in charge of our economy have discussed the following questions. "Has there ever been a time when a nation prospered by pursuing a policy of debasing its currency?" "Are we modeling exchange rate policy after that pursued by economic 'sick men' like Great Britain and our more immediate neighbors of Mexico and Brazil, or, are we trying to copy the economic titans like Japan and West Germany?" "Is there any logic to the arguments put forward by the other G-7 nations at these semi-annual U.S. bashings?"

If, in fact, any of these questions had been asked, they would lead to some tragic conclusions. For just a moment, let's review our recent history with regard to the debasement of currency. In the 70's, the Nixon administration presided over a dollar debasement process. This was accompanied by a rapidly expanding money supply which led to an explosion of inflation. This was then followed by the most severe economic contraction since the Great Depression. On the heels of this collapse, the 70's Carter admin-

istration also pursued a dollar debasement strategy. Again exploding money supply growth and a collapsing dollar, resulted in inflation and ultimately, very high interest rates and another severe economic contraction.

Since 1987, was have been practicing "Dollar Debasement—Part III". This time, however, there is a difference. Now, Federal Reserve officials have refused to play the game. Money supply growth has been held at very constrained levels. By almost any measure, liquidity has grown at the lowest rate in 20 years. Thus, without the complicity of monetary officials, the treasury, and its foreign "bosses", (or the more benign sounding "G-7 Partners") can only lower the dollar by selling dollars. Federal Reserve officials clearly understand that if they pursue a constructive pro-growth, anti-inflation policy, that the market forces will assure the fair economic exchange rate.

This brings us to G-7 and Neville Chamberlain. Reading the reams of public statements that surround these talks, I continue to wonder why U.S. officials seem so unable to grasp economic reality. For example, during the late 70's, our trading partners rightfully accused the U.S. of being the international "engine of inflation" because of our double-digit money supply growth and collapsing currency flooding the world. They maintained responsible money supply growth and were rewarded with low interest rates and very strong currencies. Ultimately market discipline forced much higher interest rates in the U.S. and after a severe economic shake-out, we returned to monetary sanity.

Now, just a few years later, these same trading partners insist that by running a responsible monetary policy which has contributed, along with our firm economic growth, to a strong dollar, that the U.S. is again the "engine of inflation". The fact that Japan's money supply grows at double digit rates, flooding the world with Yen liquidity and European Central Banks follow a similar, although less dramatic policy, makes the U.S. again the villain in the inflation debate. Even a child can see that this is a case of "heads I win, tails you lose". Could it possibly be that our economic policy decisions are being made by someone less astute than a child?

Our trading partners say that we should protect their relative monetary profligacy by bashing our currency so that they can maintain relatively low interest rates with buoyant money growth and booming domestic economies. Then as an added bonus, they have the leverage to purchase U.S. assets at fire-sale prices. These fire-sale prices exist since all U.S. assets become cheaper denominated in Yen and Deutchmarks, et al. This, of course, includes the fact that there are a phenomenal amount of Yen being created and loaned to Japanese businesses and investors at 5 percent interest rates versus much higher rates in the U.S. Is it any wonder that our property and desirable productive assets are being snapped up?

Japanese capital spending is growing at the fastest rate in 15 years. They are investing in all of the productive assets and capital improvements that will assure them control of the world's economic future. Certainly, they are entitled to whatever economic success they achieve, but why are we financing this expansion through our mindless exchange rate policy? Can we really compete if we finance our competition?

How about this awful trade imbalance the G-7 asks? Since 1987, the U.S. trade balance has narrowed to some degree. Since 1985, however, the dollar has been virtually halved against the Yen and our trade balance has improved only imperceptively. Are there some other dynamics at work here? Are we debasing our currency, and subsidizing the economic growth of our international competitors at a tremendous cost, with little or no benefit?

Thus our economic policy makers surely deserve comparison to the famous Prime Minister of Great Britain. Neville Chamberlain lacked vision and understanding of dynamic foreign affairs in Europe between the wars. This lack of vision, understanding, will and the courage to stand up for the right principles, allowed him to be bullied into fatal errors in negotiations with Hitler's Germany.

Now, 50 years later in the arena of internaitonal economic relation, the U.S. has lost its vision, its belief in rational economic thought and clearly its will to negotiate on an equal footing with our G-7 partners. If we fail to quickly get our wits about us, raise our sights and pursue national policies, including the vision to realize that with fundamentally sound monetary and fiscal policy, we must undertake domestic, long-term projects like education and rebuilding our infrastructure, that our standard of living will decline dramatically.

Now is the time to stop subsidizing everyone else's growth at our own expense by bashing the dollar. Instead, we must allow the dollar to seek, in the world market place, a value that is commensurate with economic and monetary fundamentals. If we fail to heed the warnings of the past, then the year 2000 will look very different for the people of the United States. The U.S. runs the risk of matching the rest of the Western Hemisphere with its high external debt, a "junk" currency, sky-high interest rates, a depressed standard of living and all worthwhile property and worthwhile productive assets, owned by everyone . . . but ourselves.

It is not too late to learn a lesson in tactics from Neville Chamberlain's failure . . . but the clock is ticking very fast.

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

Mr. SYMMS. I thank the distinguished Presiding Officer.

IN MEMORY OF FORMER CONGRESSMAN ROBERT ASHMORE

Mr. THURMOND. Mr. President, on October 5, 1989, our country lost an outstanding statesman and dedicated public servant with the death of former Congressman Robert Thomas "Bob" Ashmore. Congressman Ashmore was a respected leader who believed that to be an effective public servant one must serve the people with dedication, honesty, and compassion. It is for this reason that I rise before you today to pay tribute to Congressman Ashmore.

A native of Greenville, SC, Bob Ashmore was born on February 22, 1904. He attended public schools in Greenville County and was graduated from Greenville High School. While a student, Bob Ashmore worked part-time in agriculture, retailing and also was employed as a substitute rural mail carrier. He later attended Furman University where he earned his law degree.

In 1927, he was admitted to the South Carolina bar and opened a law practice in Greenville. In 1930, he entered public service by being elected solicitor of Greenville County. He served in that capacity until 1936 when he was elected solicitor of the 13th judicial circuit. As a circuit court judge during this period, I had the opportunity to observe Mr. Ashmore in court on many occasions. He was an efficient solicitor, and I found him to be extremely effective in this capacity.

During World War II, Mr. Ashmore took a leave of absence from his duties as solicitor to enlist in the Army. He served as a lieutenant colonel from 1942 until 1946, remained in the Reserves, and was promoted to the rank of colonel in 1955.

In June 1953, Mr. Ashmore was elected to the 83d Congress to fill a vacancy created by the death of Joseph Bryson. He served 15 years as the U.S. Representative from the Fourth District before retiring in January 1968. He was a respected Member of Congress and served on both the House Administration Committee and the House Judiciary Committee.

Upon retiring, Congressman Ashmore returned to Greenville County and resumed his successful law practice. He continued to take a leadership role in his community, serving as director, vice president and president of the Greenville Jaycees; president of the South Carolina State Jaycees; a charter member and president of the Greenville Exchange Club; a member and chairman of the Appalachian Regional Planning and Development Commission, and as a member of the Men's Garden Club of Greenville.

Mr. President, our entire State mourns the death of this great American and I feel a deep personal loss in his passing. My wife Nancy joins me in sending our deepest sympathies to his lovely wife, Willie Vance Linthicum (Billy) Ashmore; his daughter, Nancy Vance Ashmore of Columbia; and a sister, Mrs. Claude Eskew of Greenville.

I ask unanimous consent that the following article which appeared in the Greenville News and Piedmont be included in the RECORD immediately following my remarks.

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

FORMER CONGRESSMAN ROBERT ASHMORE DIES

(By Dale Perry)

Robert Thomas "Bob" Ashmore, a Greenville attorney who served 15 years as U.S. Representative from the 4th District, died today. He was 85.

Ashmore, who was born Feb. 22, 1904, was first elected to Congress as a Democrat in 1953 and held the seat until he decided not to run for re-election in 1968. He was 4th

District representative longer than any other person in the last 100 years.

Former Gov. Dick Riley described Ashmore as "a political person who was very honorable" and "a man of integrity who served the public well for many, many years."

Riley said Ashmore was a role model for him when he was young. "He was in public office during my formative years, those years when I was taking an interest in government and politics—and I always had a very high respect for Mr. Ashmore."

Riley's father, E.P. "Ted" Riley, also recalled that Ashmore's political career was one that attracted the support of thousands for many years because of his interest in people.

"I often kidded Bob that I was the one who really got him started in his long political career back in the 1930s, when four of us Democrats ran for County Attorney—Bob and I were in a runoff, and he beat me. From then on he served well many years as county attorney, solicitor and in Congress."

U.S. Sen. Strom Thurmond, recalled, "I held court and tried many cases in Greenville County as a judge when Bob Ashmore was the solicitor, and I found him to be very effective," Thurmond said. "I also served with him in Congress, and he was an able member who always upheld the traditions of South Carolina and this great country."

Schaefer Kendrick, who worked in Ashmore's eight congressional races, described him as "truly a congressman who cared about people and using the position to help them." "His life covered a span that saw many drastic changes—the Depression, two world wars—and I'd say he was a man who adjusted to it all very well," he said.

Ashmore, of 100 Manley Drive, was a son of the late John Thomas and Lena Smith Ashmore. He attended public schools in Greenville, graduated from Greenville High School and received a law degree from Furman University.

He began his law practice in Greenville in January 1928. He was solicitor of Greenville County for 1930 to 1934 and then solicitor of the Thirteenth Judicial Circuit from 1936 to 1953. In June 1953 he was elected to the 83rd Congress to fill a vacancy caused by the death of Joseph Bryson. He was reelected to the 86th through the 90th Congresses before retiring in January 1968.

Ashmore served as director, vice-president and president of the Greenville Jaycees. He was instrumental in organizing the State Junior Chamber of Commerce, was first president of the State Jaycees and vice president of the United States Junior Chamber of Commerce.

He was a charter member and past president of the Greenville Exchange Club. He was a member of the Junior Order of United American Mechanics, Odd Fellows, Woodmen of the World and the Men's Garden Club of Greenville. He was a member and former chairman of the Appalachian Regional Planning and Development Commission.

He was a U.S. Army veteran of World War II, a colonel in the Army Reserves, a member of the Reserve Officers Association and the American Legion.

He was a member of White Oak Baptist Church, and had served as a Deacon and Superintendent of the Sunday School. Surviving are his wife, Willie Vance Linthicum (Billy) Ashmore of the home; a daughter, Nancy Vance Ashmore of Columbia; and a sister, Mrs. Claude (Lucille A.) Eskew of Greenville.

Funeral services will be 4 p.m. Friday at White Oak Baptist Church. Burial will be in the church cemetery. Visitation: Thursday from 6:30 until 8 p.m. at The Mackey Mortuary.

Memorials may be made to White Oak Baptist Church Renovation Fund, 1805 Wade Hampton Blvd., Greenville 29609 or to the charity of one's choice.

MEMORIAL TRIBUTE TO MAJ. CHARLES JEROME "JERRY" HUNEYCUTT, JR., USAF

Mr. SANFORD. Mr. President, Arlington National Cemetery is the final resting place of this Nation's most honored heroes. Every day that we conduct the business of the Nation in this Chamber, another hero is laid to rest amongst the rolling green hills just across the Potomac. Monday, October 30, 1989, is no exception. Maj. Charles Jerome "Jerry" Huneycutt, Jr., USAF, will be laid to rest, a casuality of the Vietnam war.

Major Huneycutt was born in Morehead City, NC, on June 20, 1943. As the son of a Methodist minister, many North Carolina towns were his home. Charlotte, NC, was his last official place of residence. Like his mother, Mrs. Alberta Huneycutt of St. Petersburg, FL, he was a graduate of Duke University. As an Air Force first lieutenant he was listed as missing in action in Vietnam on November 10, 1967.

Jerry was one of 60 North Carolinians listed as MIA in Southeast Asia. The wait is over for his family and friends. The anxiety caused by uncertainty turns to the pain of loss and finally yields to the healing that time will bring.

I wish to express my deepest sympathy to the family of Maj. Jerry Huneycutt. Some years ago I had the honor of being on the program with Jerry's mother at a ceremony commemorating the 25th anniversary of the U.S. Air Force. She has endured these 22 years with great strength and dignity. There are thousands of other families across this Nation that continue to endure what she has since the fall of 1967. As we remember Jerry Huneycutt today, we should not forget the other Americans who are still unaccounted for in Southeast Asia.

I join the family and friends of Maj. Jerry Huneycutt, Jr., in their tribute to his memory and his dedication to our country. North Carolina is proud of this native son.

A SATELLITE TRACKING SYSTEM MAY HELP PREVENT OILSPILLS

Mr. PELL. Mr. President, I would like to share with my colleagues a suggestion by Trudy Coxe, executive director of Save the Bay in Rhode Island. Her suggestion, which has been embraced by Rhode Island's congressional delegation, is to use satellite tracking to help prevent oilspills.

I am confident that we all share her enthusiasm for a demonstration of this tracking system, called a global positioning system [GPS]. In addition to seeking funding for a demonstration, members of the delegation are encouraging the Coast Guard to conduct its first trial of the system in Narragansett Bay.

All members of the delegation were on hand during the Coast Guard's response to a spill in June when the tanker *World Prodigy* ran aground on Brenton Reef, off Newport, RI. The response was magnificent and we were fortunate, but we must do what we can to prevent another spill and the threat of a future environmental disaster.

Mr. President, I ask unanimous consent that the text of an op-ed piece by Trudy Coxe, entitled "Eyes Above Will Halt Oil Spills Below," from the Providence Sunday Journal of October 22, 1989.

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

[From the Providence Sunday Journal, Oct. 22, 1986]

EYES ABOVE WILL HALT OILSPILLS BELOW

(By Trudy Coxe)

The devastation wreaked by oil spills from Prince William Sound to Narragansett Bay continues to grab the headlines. We can't help but ask ourselves whether Exxon's clean-up or the punishment of a Greek tanker captain has gone far enough to satisfy our deep sense of offense at the violation of America's fragile coast.

Unfortunately, even as we talk about these matters, another spill, under the same circumstances, could be taking place off Brenton Reef. For all the outcry for more equipment, clean-up crews and double-hulled tankers, the key principle is being overlooked: Prevention.

Prevention in this case is eliminating the navigational errors that were the common denominator in all of this year's disturbing accidents. Fortunately, the means of prevention are at hand, through the sophistication of modern technology. These are satellites, now orbiting the earth, which can be used to track ships to within 10 yards of where they are sailing, and alert a helmsman and the local Coast Guard station when a ship is heading into troubled waters.

In April this year, in response to the *Exxon Valdez* disaster, the Coast Guard unveiled a research study done in Groton, Conn., which recommended a state-of-the-art spill prevention system that would employ military satellites in what is called a Global Positioning System (GPS). The Coast Guard's conclusion was emphatic in recommending that this high-tech satellite system should be employed to ensure against further spills.

Put simply, the system is designed to set off bells and whistles, figuratively, on the bridge of the ship and at the local Coast Guard station when a ship is beginning to stray into a dangerous area. Monitored by three separate satellites, the movement of the tanker is constantly relayed to the ship and Coast Guard base. If the ship begins to stray off course, the Coast Guard and pilot

house are immediately alerted, and assistance may be radioed out to the vessel in order to halt it before there is an accident.

Whether a pilot is or is not aboard, the helmsman knowledgeable of the waters or not, or the captain lost in a fog or drunk below deck, the warnings are incapable of being ignored, except by premeditated choice.

The Defense Department has invested $12 billion in satellites for this system. Like a radio signal to which millions of people may listen at the same time, the satellites have an unlimited capacity. They may be used as navigational beacons for water, land and/or air traffic monitoring simultaneously, as the demand warrants.

Because these satellites are available, the tracking system can be implemented at a fraction of the cost of radar systems, with much higher efficiency. Current radar systems cost about $50 million per Coast Guard station over 10 years, while the new GPS system would cost only $5.6 million over the same span of time. The cost of the shipping industry is also minimal: A mere $26,000 for tracking equipment per vessel guarantees the safety of a multimillion-dollar ship and our invaluable natural resources.

Since the time Save the Bay discovered the existence of the Coast Guard's proposal, and its inspiring viability and potential, we have pushed to have a demonstration of the system conducted in Narragansett Bay. The tracking equipment necessary is being produced in the United States, and manufacturers are eager to show how well their wares can combat future oil spills.

Prototypes of the GPS system have been used to monitor barges dumping sludge off the Eastern seaboard, and the upgraded system is being pursued by the Federal Aviation Administration for safer air traffic control.

Now the decision rests with Congress. Rhode Island's congressional delegation must find the necessary funding to conduct a demonstration of the system in Rhode Island. If the trial proves successful, Save the Bay would urge that Narragansett Bay become the first port in the world to utilize this satellite tracking system. A move is under way to bring the demonstration to Rhode Island.

Senator Claiborne Pell has written to the Coast Guard Commandant, Adm. Paul Yost, expressing interest in having the Rhode Island coast be the site of the test run. Senator John Chafee and Representative Claudine Schneider are attempting to include language in oil spill prevention bills in their respective houses of Congress which would provide the estimated $500,000 a demonstration would cost, as well as having the satellite navigation system featured in further research and development work called for in the separate bills.

Working with Schneider is Rep. Ron Machtley, an avowed supporter of satellite tracking, who has also written directly to Admiral Yost to urge him to test the GPS in Rhode Island waters.

As we discovered last June, even with an incredibly rapid reaction and properly functioning equipment—described by Robert Duce, head of the Graduate School of Oceanography at the University of Rhode Island as "a perfect response to the spill"—we still found our shores awash in fuel oil that skimmed over the booms.

In the Delaware Bay, a pilot well acquainted with the area was aboard when the spill occurred. In Alaska, scientists later projected that, even with a double-hulled tanker, the Exxon Valdez disaster would still have occurred. Prevention, not measures taken after the fact, is the key to the navigational error factor that can solve the oil spill puzzle.

After the World Prodigy spill, many of us rolled our eyes to heaven to despair over this frightening threat to our greatest natural resource. Now, with optimism, and in hopes of never experiencing another nightmare in Narragansett Bay, we should again turn our eyes to the sky—because that is where the solution truly lies.

HONORING THE MEN OF FIRE DISTRICT NO. 1, OCEAN PARK, WA

Mr. GORTON. Mr. President, in recent weeks we have watched the heroic efforts of Americans helping Americans in the aftermath of several natural disasters, Hurricanes Hugo and Jerry, and the San Francisco earthquake. It is heartwarming to watch and reaffirms our faith in one another. If there is a silver lining to these tragedies, it is that they bind us together as a people, differences of color and creed and geography forgotten as we strive toward a common goal.

But, Mr. President, one need not await a disaster of the magnitude of a hurricane or earthquake to witness the acts of heroic Americans. Many smaller scale incidents occur in this country that never gain wide media attention, though the actions of those involved are no less deserving of accolades. I would like to recount one such story, in homage not only to those involved, but also as a tribute to the thousands of other unsung heroes across America whose efforts have saved lives and averted disaster.

On August 8 of this year, near Ocean Park, WA, six teenagers were swimming. Amy Pearsall, Jayme Sasse, Stacey Tiffaney, Nicole Claybaugh, Sean Boland, and Heather Williams suddenly found themselves being swept out to sea by a strong undertow.

An observer, Melody Killens, who is also to be commended, saw the danger and swam out to assist. Unfortunately, the strength of the undertow prevented her from rescuing any of the group, and in fact, subjected Ms. Killens herself to the danger of drowning.

The next person to join in the rescue attempt was Mr. Norman Thomas, the grandfather of one of the teenagers. Mr. Thomas, too, was overcome by the power of the sea, and soon needed rescue as well.

Finally someone notified Fire District No. 1 of Ocean Park of the crisis. Fire Chief George Hill and fireman Charles Sexton were the first to arrive on the scene. Mr. Sexton immediately swam out a half mile to those endangered, while tethered to a rope held by Chief Hill. In two trips he managed to rescue three teenagers and Ms. Killens, though the rope broke once and his foot became entangled in it another time. Both incidents contributed to the panic of those being rescued, thus making that rescue even more difficult.

In the meantime, two more members of Fire District No. 1, Tom Downer and Dean Byrd, arrived with a skiff and managed to save two more of the teenagers. The last teenager was able to swin back on her own.

By this time the Coast Guard had arrived, and managed to pull Mr. Thomas from the surf. Tragically, the ordeal proved too strenuous for him, and he later died at the hospital.

Mr. President, the courageous men of Fire District No. 1 in Ocean Park, WA, have received commendations for their actions from the Pacific County Commissioners, and from Washington State Gov. Booth Gardner as well. It is praise well-deserved, and earned at great personal risk.

I ask today, Mr. President, that we in the Senate also recognize and commend these heroic actions. In so doing, we honor not only the bravery of four men from Washington State, but also their many counterparts who, unsung and unrecognized on a national level, have risked the ultimate sacrifice to help their fellow Americans.

Chief Hill, Mr. Sexton, Mr. Downer, and Mr. Byrd: On behalf of a grateful and admiring country, we salute you and we thank you.

ASSASSINATION

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that an exceptional, insightful, blunt, and truthful editorial from the Rochester Democrat and Chronicle be put in the RECORD at this point. The headline says it all: "No Shortcut to Democracy—Assassination Is No Way To Advance American Interests in the World."

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

[From the Rochester Democrat and Chronicle, Oct. 22, 1989]

NO SHORTCUT TO DEMOCRACY—ASSASSINATION IS NO WAY TO ADVANCE AMERICAN INTERESTS IN THE WORLD

The United States has a right and a duty to support the democratic ideals of the victims of tyranny.

Of course, that's easier said than done. An effective policy—one that supports but does not instigate revolution—has long eluded American presidents.

New ideas are always welcome. But softening the ban on assassinating foreign leaders, suggested last week by CIA director William Webster, is an idea that's neither new nor welcome.

In the finger-pointing rituals after the failed coup in Panama two weeks ago, some Bush administration officials blamed U.S. indecisiveness on the no-assassinations order.

The alibi goes like this: CIA officers backed away from discussions with the coup

plotters for fear that Gen. Manuel Noriega might be killed in the revolt.

In an interview with The New York Times, Webster said that he'd like to see a less strict interpretation of the ban—so intelligence agents would be free to offer advice to would-be revolutionaries.

That's a smokescreen, plain and simple. In interviews with The Washington Post last week, two of Webster's deputies said the ban did not hinder operations in Panama.

The order has led to a "proper caution" on the part of agents, said Richard F. Stolttz, the CIA's deputy director for operations.

Yes, the order is restrictive: "No person employed by or acting on behalf of the United States government shall engage or conspire to engage in assassinations."

But American hands ought to be tied when it comes to someone else's revolution. Giving American agents the right to pull the trigger would only tempt presidents to "terminate" their enemies in the name of democracy.

Remember that the ban was imposed, not just in reaction to reports of CIA plots to kill Cuban leader Fidel Castro, but in response to successful U.S.-backed killings of Chilean President Salvador Allende and South Vietnamese President Ngo Dinh Diem. Neither advanced American interests, let alone democracy.

When popular opposition to a dictator is deep enough and broad enough, citizens will rise up and remove him—often by firing squad.

The U.S. should support those efforts, but not try to lead them.

When U.S. bullets outrun the natural pace of a revolution, the result is likely to be resentment and backlash—and more tyranny.

Assassination is a bad idea: There is no shortcut to democracy.

The trouble isn't that the CIA can't give advice. The trouble is that agents often can't distinguish between disgruntled and democratic opposition. And too often they are serving a president who isn't willing to wait for nature to take its course.

HURRICANE HUGO AGRICULTURE RELIEF ACT

Mr. HOLLINGS. Mr. President, I rise to address the urgent needs of farmers and rural communities that suffered catastrophic losses from Hurricane Hugo. I want to let the farm community know that Congress has not forgotten them.

Today I would like to describe legislation that I have drafted to meet the needs of our farmers. I am working to have this legislation included in a broad, bipartisan package that the Senate will soon offer to address the natural disasters that have recently hit our country.

Permit me to begin by briefly enumerating the four major components of the agriculture provisions that I have drafted: First, amendments to clarify the Disaster Assistance Act of 1989 to ensure that relief payments will be forthcoming to Hugo-impacted farmers; among these amendments is a provision clarifying that fall and spring vegetable crops will not be averaged together in determining eligibility for disaster payments; second, a cost-sharing program to assist orchard owners in clearing and replacing uprooted trees; third, provisions authorizing the transfer of funds from the Federal Emergency Management Agency to the Emergency Watershed Protection Program and to the Emergency Conservation Program; and fourth, expansion of funding authority for Agriculture Extension Service in disaster areas for purposes of providing technical assistance, training and counseling.

Quite frankly, Mr. President, the media have focused almost exclusively on Hugo's impact on urban areas such as Charleston, Myrtle Beach, and Charlotte. That is understandable; it is logistically easier to report from cities, and, of course, millions of people around the country feel a special attachment to Charleston and were hungry for news about the damage there. But, in the process, the media missed a major chapter of the story of Hurricane Hugo, which was the tremendous destruction wrought by the storm across vast stretches of inland rural areas. At farm after farm, crops just ready for late-summer harvest were completely wiped out. And more than 20 largely rural counties in South Carolina, many of them already cursed with extensive poverty and unemployment, were dealt a catastrophic, long-term economic setback by Hugo.

Mr. President, to date, help to rural areas in South Carolina has been excruciatingly slow and inadequate. Many farmers in particular are on the brink of financial catastrophe. They have gone into debt to finance their inputs: seed, machinery, fertilizer, labor, you name it. And now their output has been cruelly wiped out. I emphasize that we are talking about good, extremely hard-working people. They want a helping hand, not a hand-out. They want and deserve a fair chance to get back on their feet and to keep their land and livelihoods.

Mr. President, farmers represent an absolutely vital component of South Carolina's economy. Let me give you some idea of the farm losses that were inflicted on September 21 and 22 as Hugo raked across the State. Bear in mind that not many crops, or even trees for that matter, can withstand 135 mile-per-hour winds. Vast acreage of vegetables were wiped out. Prior to Hugo, cotton farmers were expecting one of the best crops in years, but across the length and breadth of some 100,000 acres, Hugo plucked the cotton right out of the bolls. Soybeans, corn, beans, tomatoes, and cucumbers fared no better—and the list goes on.

Losses in commodities are estimated to be as high as $92.7 million. Some $3 million worth of livestock was destroyed. Damage to farm buildings accounts for another $200 million, while damage to machinery is estimated at $14 million. However, the immediate farm losses do not begin to describe the true economic impact. The shock waves ramify across every segment of the rural economy.

Mr. President, my agriculture proposals will address many of the most pressing emergencies facing the agricultural community. However, I make no pretense that this bill will be a panacea for our hard-hit farmers. Quite apart from the Hugo disaster, America's farmers need a long-term commitment by Congress to addressing their needs, beginning with reform of the Crop Insurance Program and the Farmers Home Administration.

This summer, the distinguished chairman and ranking member of the Senate Agriculture Committee worked diligently to fashion a disaster relief package that covers farmers all across the country. Under the Disaster Assistance Act of 1989, farmers who suffered substantial losses from Hugo will receive payments that will keep their farms viable until next year's harvest. My proposal will clarify the provisions of the Disaster Act to ensure that South Carolina's farmers receive their urgently needed payments.

The administration interpreted the Disaster Act as excluding payments on repeat crops of the same commodity in the same year. For instance, our vegetable farmers in South Carolina often plant two crops, one in the spring and one in the fall. Both crops require capital, and these farmers should get equitable treatment under the Disaster Act of 1989. My proposal clarifies that each normal harvest period in Hugo-impacted areas will be eligible for disaster payments, provided that acreage planted in subsequent crops shall not be planted on the same acreage as the first crop.

This proposal also clarifies that "related conditions" determining disaster-relief eligibility will include hurricanes for purposes of granting assistance for orchards. It also ensures that payments will be made on tobacco losses for tobacco that farmers had already taken to warehouses to be auctioned.

The Disaster Assistance Act of 1989, while reasonably generous in many respects, does not adequately address orchards devastated by a natural catastrophe such as Hurricane Hugo. Some 2,500 acres of peach trees were leveled by Hugo, and the pecan crop was largely lost. In fact, the vast majority of trees in the 2- to 5-year age range were literally ripped from the ground. Accordingly, I have come up with a plan to authorize a program through which the Secretary of Agriculture will cost-share to help orchardists remove uprooted trees and other debris and to replace the lost stock from the orchards. Under this plan, the Government would pay up to 75

percent of costs associated with clearing and replanting.

Yet another major problem in Hugo's aftermath has been the damage done to South Carolina's watersheds. USDA has estimated that the need for assistance under the Soil Conservation's Emergency Watershed Program is $100 million. The post-Hugo need in South Carolina alone simply overwhelms the capacity of this program under regular appropriations. It is imperative that we cut through the redtape preventing immediate restoration of the damaged watersheds, which currently pose a major health and safety danger.

In the aftermath of Hugo, the Soil Conservation Service declared an exigency situation in 20 counties in South Carolina. SCS has identified at least 2,385 miles of water courses or major floodways in these counties that are clogged with fallen trees and debris. In addition to the inland destruction from Hugo's powerful winds, the storm also brought in a 17-foot tidal surge that flooded our low-lying coastal areas. Following the hurricane, we experienced the highest tides of the decade, and subsequent rains have further saturated the State. To add to the problem, sewage from the many broken lines is spilling into these waterways, and the waterlogged soils and floodways are fast becoming a fetid breeding ground for mosquitoes and other insects.

Under the able direction of Mr. Billy Abercrombie, the State conservationist in South Carolina, SCS has done work in as many areas as possible. However, they have now simply run out of money. I am sad to report that, 1 month after the hurricane, a bureaucratic logjam is holding up new funding and is preventing the hard-working people of the Soil Conservation Service from doing their job. It simply compounds the tragedy of Hugo to deny SCS—an agency with great expertise and ability—the opportunity to remove these threatening situations simply because the Federal Government cannot cut through redtape in an emergency situation.

It is precisely the purpose of my proposal to cut through this tape by allowing the Federal Emergency Management Administration to allocate a portion of its funds to do work through the Emergency Watershed Progam. This provision also allows FEMA to divert some of its funds to the Emergency Conservation Program, which is a program that helps farmers clear debris out of their farmland and to help prevent further erosion to damaged farmland. Estimates for need under the Emergency Conservation Program are $29 million for areas hit by Hugo. Again, this need greatly overwhelms available funds in the program, and the act enables FEMA to help out with the situation.

Finally, this act authorizes additional funds for the Extension Service in Hugo-impacted areas for purposes of assessing damage in rural areas and for providing counseling services. The Extension Service of South Carolina, which is run very ably by experts at Clemson University, has an excellent track record of providing technical expertise and advice to our farmers. Over and over again I hear our farmers praise the Extension Service and its ability to guide farmers in the right direction. In this time of our greatest need, the Extension Service experts at Clemson can provide invaluable services to our stricken farmers, but first we must provide the funding to make this possible.

Finally, let me speak to the issue of the Farmers Home Administration. Regrettably, the problems of FmHA have impacted all American farmers, not just those hit by Hugo. I am hopeful that Congress will soon address these problems.

Of course, we all want our Government to be accountable for the money it spends. Accordingly, our FmHA loan programs are structured to require extensive proof that the loan recipient is truly in need of the loan. However, this whole process has not accommodated the immediate and urgent needs of our farmers in the wake of a disaster of the magnitude of Hugo.

I have heard from a farmer in Rock Hill, SC, who spent weeks running around attempting to meet all the paperwork requirements for a FmHA loan. He finally finished the initial paperwork, and when he turned it in they gave him yet another stack of paperwork. Meanwhile, rains are soaking his exposed farm equipment as well as his barn, which is roofless courtesy of Hugo. He has had to drive to York several times to meet with FmHA officials—time away from the work on his farm. And he is lucky, relatively speaking, because he has a car to drive to all the places he is directed by FmHA. Many people lost their vehicles in the hurricane.

Meanwhile, our farmers are becoming frustrated and resentful of FEMA officials boasting on national news shows about people being able to get a $10,000 grant just by filling out a one-page application. I don't blame our farmers one bit for being angry. Congress has a profound obligation to see that the problems at FmHA are fixed, so that victims of the next Hugo-like disaster do not have to suffer the same runarounds and delays.

For the time being, however, let's keep our eye on the ball, which is providing urgent relief to the farmers who have been devastated by Hugo. I expect a bipartisan comprehensive relief bill to be available within the next week. I urge my colleagues' support for this important relief bill. And, by all means, let us act as expeditiously as possible.

PESTICIDES AND FOOD SAFETY

Mr. CRANSTON. Mr. President, yesterday the Bush administration announced its proposal to reform our Nation's pesticide and food safety laws.

While pesticide and food safety is a national issue, nowhere would the impact of the Bush administration's proposal be felt more profoundly than in the State of California.

As the Nation's leading agricultural State producing more than 200 different commodities, California uses the largest percentage of the agricultural chemicals sold nationwide.

California has one the most stringent pesticide programs in the country, with tougher standards than those of the Federal Government.

In 1986 California voters overwhelmingly approved proposition 65 to require that the public be warned about exposure to chemicals which cause cancer and birth defects when levels exceed "no significant risk." I strongly believe the public is entitled to this information.

The Bush administration proposal, however, would preempt California's law. I strongly believe the preemption is unjustified.

In December 1988 a White House Working Group reviewed the economic impacts of proposition 65 and concluded that the costs of compliance have been minimal and that industry has greatly overestimated the costs for out-of-State food producers. The Working Group also concluded that very few products contain amounts of chemicals sufficient to require warnings. Moreover, since the Working Group report was issued, a number of other concerns about proposition 65 have been resolved, such as the decision not to require warnings for vitamin A in milk.

I want to advise my colleagues that I cannot support the Bush administration's new pesticide proposal. It is not in the interests of California.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, as I have done every day that we have been in session since March, I rise to inform my colleagues that Terry Anderson's ordeal has not ended. In fact, today marks the 1,686th day that Terry Anderson has been held in captive in Beirut. More, today is his 42d birthday.

Terry Anderson is in his fifth year of captivity. In these years, his father and brother have died. He probably does not know this. Three months after he was taken hostage, his daughter was born. He has not seen her.

An excellent journalist, a robust young man, Terry Anderson has been kept hidden, often chained to a bed and blindfolded, abused mentally and physically. This we know from other hostages who have been freed and from a handful of reports.

Mr. President, this must not continue. On this, Terry Anderson's 42d birthday and "National Hostage Awareness Day," we will keep Terry Anderson in our thoughts and prayers; we must also resolve to bring him home.

I ask unanimous consent that a recent article and chronology on this subject be printed in the RECORD.

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

ANDERSON ENDURES 5TH CAPTIVE BIRTHDAY

AMERICAN HOSTAGE HAS BEEN SILENT FOR YEARS

(By Christine Lata Rook)

Terry Anderson used to tease the Rev. Lawrence Jenco, saying that he was lazy because Anderson's self-winding watch would run down when Jenco wore it during the day.

Anderson managed to keep his sense of humor, despite years of harsh captivity, said David Jacobsen, who spent 16 months in captivity somewhere in Beirut with the Former Batavia resident in 1985 and 1986

"The only way you can survive is with a sense of humor," Jacobsen said in a recent interview. The former director of the American University of Beirut was released Nov. 2, 1986, a few months after he was kidnapped.

It's been almost a year since the world has heard from Anderson, who was chief Middle East correspondent for The Associated Press when he was kidnapped March 16, 1985. Since then, Anderson's sisters, brother, wife, and friends have had to rely on a few letters, video tapes and scraps of information relayed by other hostages who have shared the dismal rooms in which Anderson is held prisoner—chained and stripped to his underwear.

He will celebrate his 42nd birthday—his fifth in captivity—on Friday.

Anderson, a man who friends say always knew what he wanted, can do nothing. Only his humor and perseverance keep him going.

"He's a very persistent, resilient, gutsy guy. He does not give up easily," said the Rev. Benjamin Weir, who shared a windowless room with Anderson for two months in 1985. Weir was released in September 1985 after 16 months.

The image most Americans have of Anderson is from the series of stern-looking photographs seen on television and in newspapers during his years of captivity. His sister, Peggy Say, who moved from Batavia, Genesee County, to Kentucky last year, has worked tirelessly to keep his cause alive.

But most people in his home town of Batavia recognize Anderson's name from news reports, but few other than his Beirut coworkers know his ambition and compassion.

"He was a reporter's reporter. He was the best of the best," said Bonnie Anderson, an NBC reporter when Anderson was kidnapped.

She cried during a recent interview as she recalled how Anderson covered the terrorist bombing of the U.S. Marine barracks that killed 241 on Oct. 23, 1983. He spent 1½ hours collecting names and telephone numbers of dazed soldiers. "When he was done with his story, he called hundreds of Marine families to let them know their sons were OK."

Anderson had the ability to remain calm, even under heavy shelling and gunfire, his co-workers said.

During the Israeli invasion of Lebanon in the summer of 1982, Anderson was brought in from South Africa to assist in reporting, said Nick Tatro, 42, former Beirut bureau chief.

A building had collapsed in an air raid and Anderson and another reporter were interviewing survivors when two car bombs went off.

Despite the danger. Anderson searched for his comrade and helped console the man, who had been interviewing a pregnant woman when the blast cut her in half, Tatro said. "With bombs falling all around you, if you're not pretty well wrapped, you're going to fall apart in a hurry."

Beirut tested everyone's ability to remain calm.

"You could have a fire fight break out over a parking space," said Bill Foley, 34, an AP photographer who lived in the same Beirut apartment building as Anderson. "It seemed all so senseless. People were being killed by snipers on the way to the grocery store."

But Terry Anderson and other reporters felt they were there for a reason.

"The slaughtering wasn't going to go away once we left. It would go unnoticed," Bonnie Anderson said.

Terry Anderson was a victim of opportunity for the Muslim extremist group Islamic Jihad. He was a promiment American in West Beirut, highly visible and easily accessible.

"Before Terry was taken, we all felt safe—that we were telling their story," Foley said. "Of course we were all wrong."

Once Anderson was kidnapped, the feelings changed and AP pulled its American staff out of Beirut, he said.

"If it wasn't Terry, it would have been somebody else," said Don Mell, 27, who was with Anderson when three gunmen and their driver forced him into a green Mercedes. "It was a roll of the dice."

The kidnapping that morning on the Rue Graham was well choreographed, recalled Mell, an AP photographer and photo editor in Beirut at the time.

The Mercedes had passed Anderson's car twice that morning, but Mell could only see a driver and therefore didn't think much of it as they made a few stops after playing tennis.

The kidnappers forced Anderson out of his car at gunpoint and into the Mercedes, leaving Mell shaken and confused in the street.

"I didn't understand why I was left behind," said Mell, who now works for AP in New York as a photo editor. "Later I learned they had picked him as the kidnap victim and I was picked as the witness."

Neither Anderson's bosses nor his coworkers saw him as a risk-taker—no more than anyone else who chose to be a foreign journalist in war-torn Lebanon.

"All of us realized there was no story worth being killed for," Mell said. But Anderson always wanted to write the perfect story, Bonnie Anderson said—with every word being the proper and correct word in the right place, with all the facts straight and a little heart in it."

"There was no end to his curiosity," Foley said. "The more he knew, the more he wanted to know. It was part of the reason he was good."

Anderson always seemed to want to improve his lot, said Richard Pyle, who worked in the Tokyo bureau in 1979 as an editor at the time Anderson was there. "Terry's a guy who was determined to make something of himself."

As an editor, Anderson was punctual and worked his staff hard, associates said.

"He beat you over the head if you didn't do it right but made you feel good once it was done right." Mell said.

"He had no tolerance for fools or jerks," Pyle said.

Anderson was born in Lorain, Ohio, a hard-working steel town just west of Cleveland on the Lake Erie shore.

"They struggled like the rest of us," said Anderson's cousin, Peggy Craig, of nearby Sheffield Village.

Anderson's father, Glenn Sr., drove a beer truck for a time and then took a job with the U.S. Steel mill that dominates the northeast section of the city of about 75,000.

Working-class bars still dominate 28th Street near the mill. Steel workers gather at places like Biggy's Pub to drink and talk politics.

It was in the same neighborhood that Terry's grandfather, Gustav Anderson, carved out a new life as a teen-aged Swedish immigrant. The grocery store he ran has been replaced by a duplex, but the oak tree that grew in front still stands.

Anderson's 66-year-old cousin, Jim Anderson, of Lorain, said the family was taught to live by a few basic rules.

"You give 'em eight hours good work for eight hours pay, and if you can't be loyal to the man you're working for then quit," he said.

Glenn Anderson carried those blue-collar values with him when he and his wife, Lily, moved Terry and his two older brothers and sister to Albion, in Orleans County, when Terry was about 9. The Andersons had another daughter and son after they moved to Albion.

Anderson's father drove a tractor-trailer for a Waterport egg farmer and his mother waited tables at what is today the Elks Lodge on Route 98.

The gray house where Anderson lived while in elementary school is now a flower shop, but Lynn Miller, 44, Anderson's childhood friend, still remembers the war games they used to play in the vacant lot in back.

"We always played war and capture the flag and cowboys and Indians," said Miller, who lives on West State Street.

"In the summer we would walk down the railroad tracks and go swimming in one of the quarries."

Anderson had a toothy, friendly smile, friends say. And while he was rough and tumble, he didn't get into fights.

The family moved to Batavia the summer of 1960 as Anderson prepared to enter eighth grade.

From a distance, he seemed quiet and studious. Those closer to him saw Anderson as a comic.

"He created the Royal Order of the Mushroom or something and had a bunch of guys running around with underwear on their heads," said Gary Heale, of Elmgrove Road in Greece, who was in Boy Scouts with him.

Anderson's closest friend, Mark Abrams, who recently moved from Batavia to Fort Payne, Ala., remembers a young man who hungered for knowledge.

"He was the kind that carried a little pocket (size) book when everyone else carried slingshots. No matter what happened, it always seemed like he was two or three pages ahead of everyone else," Abrams said.

From the time he was in seventh grade, Anderson wanted to be a Marine, Miller said.

Anderson graduated from high school in 1965 and joined the Marines. It was there that he got his start as a journalist in 1967 as a reporter for the Armed Forces Radio and Television Service in Japan.

Anderson met his wife, Mikki, there in 1967 and they married in 1968.

He went back to the states in 1969 for training before being sent to Vietnam, where he served as a combat correspondent.

Friends say Vietnam strengthened Anderson, and his training there, if anything, will bring him through his current ordeal.

"He's probably clinging to a greater good. I don't think he's focused on himself because if he does, he dies," said Dale Dye, 45, who trained Anderson for six months in Da Nang.

In 1970, his final year in the Marines, he was a public affairs officer at the recruiting station in Des Moines, Iowa.

"He so hated that job," said Mikki Anderson, speaking in a telephone interview from her Tokyo home.

Before leaving the Marines as a staff sergeant, he already was working for the former KRNT Television and Radio. In 1971, he enrolled at Iowa State University in Ames.

Anderson chose a double major in political science and journalism/mass communications.

University adviser Jack Shelley remembers Anderson as determined, with a sense of purpose. "When he came in, it was strictly business."

Anderson was older than his classmates, said a professor, Lorraine Wechsler, who now heads the science writing program at the university. He said he wasn't the best but he was an A student, she said. And she knew he would do well.

While others covered campus activities, Anderson interviewed a parole officer in Des Moines and wrote about justice, Wechsler said.

Anderson graduated in May 1974 and joined the AP in Detroit on temporary assignment. He worked for six months at the *Ypsilanti* (Mich.) *Press* and then returned to the AP, where he was promoted in March 1976 to the foreign desk in New York. A month later, his daughter, Gabrielle, was born.

In January 1977, he was transferred to the Tokyo bureau as a reporter and editor.

"We always talked about going back to Japan," Mikki said.

Anderson had studied hard to learn Japanese, and although he wasn't fluent, she said, it was part of the reason he was chosen for the Tokyo bureau.

Roy Essoyan, 70, the former Tokyo bureau chief, remembers Anderson as capable. "He looked forward to becoming a bureau chief somewhere and moving up the ladder of life."

In September 1981, Anderson and his family moved to Johannesburg, South Africa, where he worked as news editor. A little over a year later, he was transferred to the Beirut bureau, and was named chief Middle East correspondent a year after that.

Anderson had wanted the challenge of Beirut and decided to take the job partly because the stories were hot and partly because of his dislike for South Africa, where his Japanese wife and daughter were classified as honorary whites.

Anderson's daughter Gabrielle has always been important to him, Mikki said.

"He would buy for her some interesting children's books," Mikki recalled from her home in Japan. They often went on family outings to the zoo or museums.

Anderson was looking for a challenge in Beirut, Mikki said. "He really wanted to go. . . ."

Mikki and Gabrielle followed in November, but the bombings and violence frightened them.

"If they not fight, that's good . . . It's a beautiful country (Lebanon) but they fight."

In August 1983, Mikki and Gabrielle were evacuated to Cyprus for a couple of weeks. They were evacuated again in February 1984. Gabrielle had been out of school for about a year because of the destruction, Mikki said. The fighting did not look like it was going to cease, so the two went to Japan in April for the start of the school year.

Anderson stayed because it was his responsibility, she said. "I don't think he enjoyed it but he had to—(because of) his job."

To cope with the stress, he played poker, tennis, jogged and cooked. Sometimes, he simply worked harder, his associates said.

"We would drink a lot. We would party a lot. We would play poker once a week," said Bonnie Anderson.

They would turn up Linda Ronstadt to drown out the shooting and spend hours playing chess and double solitaire.

His friends say he was happy—that he had found himself, and hoped to head a major bureau somewhere.

After Mikki and Gabrielle had been evacuated from Beirut a second time, Anderson asked Mikki for a divorce, she said.

"I can't understand, we come back to Japan . . . waiting for his transfer to someplace else. He said he (would) not come back to me. . . . (He didn't give any reason)."

She said he had stopped in New York City in the spring of that year to ask for a transfer out of Beirut.

She said she found out a year later that Anderson had another daughter, by a woman named Madeleine Bassil, who had worked in Beirut with Bonnie Anderson monitoring radios. She and Terry had started seeing each other in 1984, Bassil said in an interview several years ago. Bassil, contacted through an intermediary, declined to be interviewed because she believed it might jeopardize Anderson's safety. A year ago, she made a videotaped plea for his release. The tape showed their daughter, Sulome Teresa.

Anderson has never seen Sulome. He was snatched off the street in Beirut three months before her birth.

After 4½ years in captivity, Anderson is fighting feelings he has been forgotten, Bill Foley said. Former French hostages have relayed that message, he said. "He's angry and he's mad. I think by and large, his profession let him down. There are people in this country who don't know who he is."

Most frustrating to Anderson, Jacobsen said, is not being able to contact his family.

"We knew where we were," he said. "But our families had absolutely no knowledge of us."

Anderson's last contact with the world was a videotape he made in late October 1988.

Anderson's family said he looked strong and determined in the tape, which was released a year ago.

His sister, Judy Walker, 34, of Ocala, Fla., said his faith will carry him. "He has a belief in God and a belief in himself." Peggy Say declined to be interviewed.

But after 4½ years of yellow ribbons on posters and prayer gatherings, it is still easy to find people in his native city of Lorain, Ohio, who have never heard of him and those who have heard of him but don't care.

To many, he is a face on a poster or a name in the news.

Weir, Jacobsen and others who have spent time in captivity with him say Anderson has found ways to save his sanity.

He has constructed playing cards from bits of cardboard and made chess pieces from aluminum foil. He studies Arabic, exercises, and sweeps and mops the floor to pass the time.

"I think he has some hope," Mikki said. "I think that's why he can stay strong."

PRE-1985

Oct. 29, 1947: Terry Anderson is born in Lorain, Ohio. He moves with his family to Albion, Orleans County, seven years later and then to Batavia, Genesee County.

May, 1974: Anderson graduates from Iowa State University and takes a job with The Associated Press.

October, 1982: Anderson is transfered from South Africa to Beirut.

1985

March 16: Anderson is kidnapped by gunmen in West Beirut.

April 21: Anderson's sisters, Peggy Say and Judy Blouin, film a videotape pleading for their brother's release.

April 25: The Rev. Jesse Jackson contacts Say and Blouin, offering his help in bringing Anderson and other hostages out of Lebanon.

May 15: Anderson's captors make their first threat to kill the hostages if their demands are not met. The Islamic Jihad, in messages to Lebanese newspapers, says the hostages will be hanged if members of the extremist group are not freed from a prison in Kuwait.

June 7: Anderson's daughter, Sulome Teresa, is born in Batavia.

July 21: "Terry Anderson Day" is held in Lorain, Ohio, where Anderson was born and lived until he was 7 years old. He and his family then moved to Albion, Orleans County, and later to Batavia.

Sept. 15: The Rev. Benjamin Weirs' 16-month ordeal ends when he is the first of seven hostages to be released.

1986

Feb. 12: Anderson's father, Glenn, 69, dies of cancer. June 7: Anderson's brother, Glenn Jr., dies of cancer. July 26: The Rev. Lawrence Jenco, a hostage for 19 months, arrives at the U.S. Embassy in Damascus. He was freed because of failing health.

Oct. 29: A one-minute video-tape of Anderson's 16-month daughter, Sulome Theresa, is broadcast by Beirut television stations.

Nov. 2: Hostage David Jacobsen is freed by Islamic Jihad.

Nov. 19: Reagan defends the "high-risk gamble" of secret weapons sales to Iran, saying that they had resulted in the release of three American hostages. Dec. 1: So says the Reagan administration.

* * * * *

1987

Jan. 20, 1987: Church of England envoy Terry Waite captured.

Dec. 24: Anderson sends videotaped message to his family and government and says he is in "good health but tired and very lonely."

1988

March 16: Prayers and yellow ribbons in Batavia and Washington mark Anderson's third anniversary in captivity.

April 10: Islamic Jihad threatens "slow and quiet massacre" of hostages if demands in Kuwait jumbo jet hijacking not met.

May 7: Madeleine Bassil goes public; makes plea to Reagan to work for Anderson's release. June: Say moves to Cadiz, Ky., to escape reporters and press conferences.

REGULATION OF PESTICIDES AND CHEMICALS

Mr. REID. Mr. President, 5 weeks ago today, on Friday, September 22, I chaired a hearing on pesticides in the Senate Subcommittee on Toxic Substances, Environmental Oversight, Research and Development.

At that hearing, we released a 75-page report recommending extensive changes in the way the Evironmental Protection Agency regulates pesticides and chemicals.

The message at that hearing—from witness after witness—was that the danger from pesticides and chemicals in our food supply did not end when the use of Alar was cut back by the Apple industry.

Alar was just one chemical out of thousands used on the food we eat in this country. The problem with Alar got out of hand because the EPA regulations didn't protect families or consumers by pulling Alar off the market.

In chairing that hearing 5 weeks ago, I said that it would be a mistake to rely on this same regulatory process to protect children and consumers from poisons on the grocery shelf and on the dining room table.

It was obvious then—as it is today—that Congress and the administration have a responsibility to do something about this problem. It is our responsibility as legislators—and theirs as Administrators—to learn from past mistakes by reforming and streamlining the regulation of pesticides by EPA.

It's this simple: We don't want another Alar disaster.

Along with Senators WARNER, LIEBERMAN, CHAFEE, and RIEGLE, we succeeded in solving the Alar problem. This success came out of another hearing held in my subcommittee—this one in May of this year—to consider the risks from pesticides on the food we eat.

As we said at the time, the Alar controversy was just the tip of the ice berg.

Yesterday—apparently in recognition of the work begun here in the Senate—the President announced plans to introduce legislation that he promised would speed up the removal of dangerous chemicals from the food supply.

The President yesterday recognized what we in Congress have known for a long time: People are worried about pesticides and chemicals in the foods we eat.

The responses to the President's announcement, by those who follow the issue most closely, are not encouraging. His so-called plan has been criticized as involving "small advances but major retreats." Others have suggested that the plan puts profits and pesticides before consumers and children.

The regulation of pesticides is not a PR problem—it is a health and safety problem.

It is not enough to offer up a steady diet of tough words, but timid policy. It's okay for the President to have the right rhetoric, but you have to follow it up with the right policy.

I look forward to working with the President in order to turn this latest news announcement into a policy with which the American people can live—and eat safely.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

DEPARTMENT OF VETERANS AFFAIRS, HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES, BOARDS, COMMISSIONS, CORPORATIONS, AND AFFAIRS APPROPRIATIONS, FISCAL YEAR 1990—CONFERENCE REPORT

Ms. MIKULSKI. Mr. President, under the previous order, I submit a report of the committee of conference on H.R. 2916 and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2916) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1990, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The ACTING PRESIDENT pro tempore. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of October 18, 1989.)

Ms. MIKULSKI. Mr. President, I am pleased to submit the conference report for the 1990 appropriations for the Departments of Veterans Affairs, Housing and Urban Development and 20 miscellaneous Federal agencies.

Mr. President, I think it is fair to say that the 1990 appropriations bill for the VA-HUD Subcommittee was one of the toughest we have had to piece together.

As I have said on many occasions since I first took over this subcommittee in January, I thought I was given a Federal checkbook. After having gone through our hearings, Senate action and conference with the House, I now realize it was a change purse, and not a checkbook, that I was given.

We began our task with a 302(b) allocation that was $1.5 billion short in outlays from what we determined was needed to meet all of our programmatic responsibilities.

In addition, we faced a large number of meritorious requests from members. In the Senate alone, we received about 550 requests, with a dollar value totaling $33 billion.

Because we only had $48 billion to work with in our allocation, it simply was not possible to accommodate every one of these items. Nevertheless, I believe the conferees have made a solid, good-faith effort to do as much as possible.

Because of our outlay limits, we were forced to make up some of our 302(b) shortfall with scorekeeping adjustments to avoid cuts that would have been forced on high outlay programs, like NASA and VA medical care, which between them represent almost 73 percent of the new outlays in this bill.

And even with the use of these scorekeeping techniques, we were still forced to take a 1.55-percent across-the-board cut from every program, project and activity in the discretionary accounts in the bill, except VA medical care, where a 1-percent reduction was made.

Like all conference agreements with the House, this bill contains some compromises that modify the original Senate-passed legislation. However, on balance, the conference report represents a balance between the many diverse and important agencies which it funds.

I would like to outline some of the most important highlights in the conference report:

WAR ON DRUGS

The conference report fully funds its component of President Bush's call for a war on drugs, by providing over $138 million for drug treatment and enforcement activities.

These funds are in addition to money for housing and veteran drug programs included in the Byrd amend-

ment to the Transportation appropriations bill.

First, we have included over $49 million in drug elimination grants for public housing. The conferees believe strongly that public housing should be part of America's opportunity structure for the poor, not a small business incubator for drug dealers.

This $49 million, coupled with the $50 million in the Byrd amendment for public housing, will help Jack Kemp and local public housing officials make sure public housing is the gateway to a better life it was meant to be.

In addition, the conference agreement provides almost $89 million for drug treatment funding under VA medical care, about $9 million more than requested by the President. These funds will help provide badly needed treatment at the VA's 172 medical centers.

When coupled with the additional $50 million in the Byrd amendment, VA drug treatment programs will receive a total of nearly $139 million in 1990, up over 80 percent from last year.

VETERANS

The bill recommends over $29.3 billion for the Department of Veterans Affairs. Within discretionary programs for the VA, the bill provides funds well above the President's request.

In VA medical care, one of this committee's most important concerns, the bill provides, after all across-the-board reductions, $693 million more than the Bush budget. When the $50 million from the Byrd amendment is added, the increase is over $743 million over the budget request, an increase of about 6.9 percent.

These funds will be used to:

Restore staffing levels to the congressionally mandated staffing level of 194,720 positions;

An additional $135 million for equipment, materials and supplies, for a total of $2.1 billion;

An additional $100 million for community nursing homes above the President's request, for a total of $308 million;

A total of $30 million for homeless programs for veterans; and

An extra $6 million for post-traumatic stress disorder activities for Vietnam era veterans.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

The bill recommends almost $15.1 billion for HUD, an increase of over $2.3 billion over fiscal year 1989 and more than $2.1 billion above the President's request.

Almost half of this increase, however, about $1.1 billion, is to renew 40,000 section 8 contracts which would otherwise expire. 1990 is the first year when we need to renew a substantial number of these contracts.

Unfortunately, HUD underestimated the amount of units in the President's budget needing renewal by about 80 percent, forcing the conferees to absorb about $430 million not provided for in either the budget or our 302(b) allocation.

So we had no choice but to absorb this error or run the prospect of having thousands of families face the prospect of going homeless.

We have also proposed almost $3 billion to continue the CDBG program, a cornerstone for more than 2,000 cities and towns over the last 15 years.

Also included in the conference report is almost $450 million for homeless Americans, $180 million more than the 1989 level. In providing these funds, the conferees have placed a stronger emphasis on providing permanent and transitional housing. We did so because it is only through guaranteeing decent and affordable housing for all Americans that we will end the scourge of homelessness on our streets.

Finally for HUD, the committee has proposed an increase in the Department's staffing levels by about 900 staff-years above the President's budget.

This will be used to help offset the severe reductions which the Department has suffered over the last 8½ years, when HUD's staff has been cut by about 40 percent.

While there has been much talk about HUD reform in recent months, the administration has failed to propose giving HUD the people and the dollars it needs to ensure proper oversight of its programs. This conference report, by increasing HUD staffing, matches our money with our rhetoric.

ENVIRONMENTAL PROTECTION AGENCY

For the Environmental Protection Agency, we have provided just over $5.6 billion, an increase of over $745 million, or more than 15 percent, above the President's budget, and 8 percent more than last year.

The conference report includes over $1.55 billion for Superfund, an increase of $125 million over last year, and $2.018 billion for sewage treatment construction grants, more than $800 million above the President's budget request.

In addition, there is a 12-percent increase in EPA operating programs, up $217 million over last year. This includes $50 million for EPA's asbestos-in-schools removal program and $40 million to begin the section 319 nonpoint-source pollution grant program.

These increases will help sustain major efforts to increase environmental protection throughout the Nation and help make our Nation and our world a cleaner place to live.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

For America's space program, we have provided nearly $12.4 billion, an increase of $1.7 billion over last year, or 16 percent. NASA has one of the most important responsibilities in our bill and as a result, the conferees took our commitment to it very seriously.

Within the amount for NASA, $1.8 billion is for the space station, twice the amount provided for last year. While not as much as we wanted, I believe it is a good number given how lean this year's budget was.

The subcommittee has also included $70 million above the President's request for key space science projects, for a total space science budget of $2.065 billion.

Included in the conference report is: $30 million for the CRAF/Cassini new start; $22 million to continue the Gravity Probe-B; and $10 million to continue work on the total ozone mapping spectrometer satellite, as part of the Earth probes portion of the mission-to-planet-earth global change initiative.

NATIONAL SCIENCE FOUNDATION

Finally, the committee has provided $2.07 billion for the National Science Foundation, about $186 million, or nearly 10 percent, above last year's regular appropriation.

Included in this amount is $1.688 billion for research and related activities, an increase of almost 7 percent above last year's regular appropriation, with particular importance given to global change research.

We have also included $153.5 million for NSF's Antarctic research programs, an area of study that is crucial to help us understand the phenomena of global warming.

The conference report also includes over $206 million for science and engineering education, $35 million, or 20 percent, above last year's appropriations. While this sounds like a large increase, it represents about half the level at which this account was funded in 1968.

Promoting science and engineering education is particularly important to me as we continue to hear report after report challenge America's competitiveness in math and science. I hope that the conferees action in this area renews NSF's own commitment to its science and engineering education directorate, a commitment that is reflected in their 1991 budget request.

Finally for NSF, the conference report includes $20 million for the new facilities modernization program. This is an important first step in helping many small- and middle-sized schools cope with compelling facility and equipment needs.

CONCLUSION

In conclusion, I believe this bill represents a strong, balanced program for the agencies within its jurisdiction, particularly given the enormous 302(b) allocation problems which we have had to face.

It represents our best efforts to provide funds for America's future in space, science and the environment, while not deserting our commitment to those with inadequate housing and America's veteran population.

I want to thank a number of key people who have been instrumental in my first year as chair of the VA-HUD Subcommittee.

First, my full committee chairman, and the distinguished President pro tempore of the Senate, Senator ROBERT C. BYRD. His advice and counsel have been invaluable to me, particularly in this first year, and I deeply appreciate it.

I also appreciate the help of our committee's staff director, Jim English, as well as all the members of the full committee staff who have helped us behind the scenes on this legislation.

In addition, I want to thank our full committee's ranking member, Senator MARK HATFIELD, and the ranking member on the subcommittee, Senator JAKE GARN. They too have been steadying forces whose cooperation has made this difficult process far less so than it otherwise could have been.

Finally, I want to thank the subcommittee staff, Kevin Kelly, Carrie Simmons, Sharon Whitlock, and Stephen Kohashi, for their hard work and dedication on this legislation.

This conference report is a sound and balanced one, and I urge my colleagues to support it.

In addition, we faced a large number of meritorious requests from Members. In the Senate alone we received over 500 requests with a dollar value of over $33 billion. We evaluated those requests in light of national interests, compelling local need, and also fiscal resources. We had a limited amount, and it was simply not possible to accommodate those requests, but I do believe we did meet the test for those individual requests.

Because of our outlay limit, we were forced to make up some 302(b) shortfalls with some scorekeeping adjustments to avoid cuts that would have been forced in high outlay programs like space and veterans medical care which between them represent almost 73 percent of the new outlays in this bill.

Like all conference agreements with the House, this bill contains some compromises that modify the original Senate-passed legislation. However, on balance, the conference report represents a balance between the many and diverse important agencies which it funds.

That is budget kind of talk, Mr. President, but I would like to outline what we did in this bill. For the war on drugs, it will contain over $138 million for the treatment and enforcement programs managed by VA and HUD. These funds are in addition to the money for housing and veteran drug programs included in the Byrd amendment.

For American veterans, those ordinary men and women who were called to do extraordinary things in World War II, Korea, and Vietnam, it includes $29.3 billion for essential veterans programs that will go to every State in this great Union. Of the greatest importance is an increase for veterans medical care of almost $750 million more than was requested by the administration.

For housing, this bill reverses a decade of decline in HUD's budget with an increase of over $2.3 billion over last year. My colleagues should not be deceived by the size of this increase. Almost half of it will go to renew 40,000 section 8 contracts which would otherwise expire. There are substantial increases, however, in HUD staffing so that we can clear the decks, reform HUD, restore its integrity, so that we can then move on to ingenuity. About $3 billion will go to the community development block grant program because Republicans and Democrats alike agree that creativity lies at the local level. We intend to support Secretary Kemp with his issues related to reform.

For the environment, this bill represents a significant achievement. The EPA will receive over $5.6 billion, an increase of over $745 million, 15 percent more than the President's request.

These numbers do not say anything even when I read them; it does not create a picture, but, Mr. President, we are going to clean up the Superfund sites in this country. We are going to have sewage treatment money so local communities can deal with those point source pollutions, and we hope that EPA will have the resources to meet the environmental challenges.

For America's space program, we provided $12.4 billion, an increase of over 16 percent. This means we will fund the space station at $1.8 billion, full funding for CRAF/Cassini, a new start, and increases to maintain the safety and reliability of the space shuttle program.

Finally, for the National Science Foundation, we provided $2.7 billion, nearly a 10-percent increase above last year's regular appropriations. Within these funds we have provided a substantial increase for science and engineering education, the request for the Antarctic program and new starts for facility modernization.

In conclusion, I want to thank my entire subcommittee for the work they have done, the way they have attended hearings and participated, but I would also like to thank my ranking minority member, Senator GARN, for his advice and assistance.

We had the cooperation of BOB TRAXLER and BILL GREEN on the House side, but I would also like to thank the President pro tempore, Senator BOB BYRD. His advice, his counsel, and his 302(b) allocation were absolutely invaluable. I also want to thank our staffs, Kevin Kelly, Carrie Simmons, Sharon Whitlock, and Stephen Kohashi for their hard work and dedication.

Mr. President, I think we have done a good job.

I now submit this report to the Senate, and at the appropriate time, I will move its adoption.

Mr. LAUTENBERG. Mr. President, I want to express my concern about a proposal I understand is under review by the Department of Housing and Urban Development to move the Public Housing Division Development Office that is now part of the Newark, NJ, area office to the Department's regional office in New York City.

Mr. President, public housing authority officials throughout New Jersey rely on the Newark Division office for numerous services and benefit from its proximity to their facilities. Moving the development office would impose a significant inconvenience on New Jersey PHA's. Housing officials would be forced to travel to New York City for meetings and information.

In addition, the move would create confusion, as New Jersey's PHA officials would be required to deal with the Newark office for the comprehensive improvement assistance program and operating subsidy matters, and with the New York office when planning the construction of new units.

Moreover, given the questions that have been raised recently about the functioning of the New York office, it would seem inappropriate to expand the authority of that office at this time.

As relocation of the Public Housing Division Development Office could disrupt the efficient development of public housing in New Jersey, I would urge HUD to retain responsibility for the management of New Jersey public housing development in the Newark office.

I yield to my distinguished colleague, the Chair of the VA, HUD and Independent Agencies Subcommittee, for any comments she may have on this matter.

Ms. MIKULSKI. I share the concerns expressed by the Senator from New Jersey. Before the Department takes any steps to reassign functions now performed by the Newark office, as Senator LAUTENBERG has mentioned, it should consult with the VA, HUD and Independent Agencies Subcommittee and give the subcommittee sufficient lead time to review the proposal and its asserted justification.

Mr. LAUTENBERG. I thank the distinguished Chair of the VA, HUD, and

Independent Agencies Subcommittee for her statement.

Mr. KERREY. Mr. President, I wish to ask the Chair of the subcommittee for a clarification.

One of the items in amendment 37 is the Center for Paralyzed Veterans and the Chronically Disabled in Omaha. Unfortunately, we have been plagued by a typographical error in connection with this project. The amount needed for the center is $1,450,000. That is the amount which was included in the errata sheet—middle column, item 15—which was printed in the September 28, 1989, CONGRESSIONAL RECORD, page S12055, when the appropriations bill was originally considered and it is the amount which was listed in the conference notes when we conducted the conference on the bill. However, the conference report lists this project at $1,250,000. So, I would like to ask the Chair to confirm that the figure was suppose to be $1,450,000 and that the reduction is the result of a technical error.

Ms. MIKULSKI. We intended that the figure be $1,450,000 and I would encourage the Secretary of the Department of Housing and Urban Development to support the project at that level.

Mr. KERREY. I thank the Chair of the subcommittee. She has been most helpful both with this project and with several others of importance to my State. I appreciate her assistance and counsel.

Mr. MURKOWSKI. Mr. President, I rise in strong support of the conference report on H.R. 2916, the Departments of Veterans Affairs and Housing and Urban Development, and independent agencies appropriations bill for 1990. As ranking minority member of the Committee on Veterans' Affairs, I am most pleased that the conference report includes a generous allocation of funds for VA.

Specifically, with regard to the proposed fiscal year 1990 appropriations for VA medical care, the bill will provide $11,549,431,000. This is truly an extraordinary amount of money.

There will be those that argue that this amount is insufficient. We may never have enough to do all we would like. However, we must live within the fiscal realities which we face.

I thank the Appropriations Committee members on both sides of the Capitol for their fair treatment of VA programs as outlined in this legislation.

ASTRONOMY OBSERVATORIES IN ARIZONA

Mr. DECONCINI. Mr. President. I commend Senator MIKULSKI for her efforts in placing the proper priority and emphasis upon radio and optical astronomy. As the Senate committee report noted: Astronomy research has taken a back seat to other priorities of the National Science Foundation. Astronomy research must receive the adequate resources to insure the viability of the national astronomy centers.

I agree with the committee's statement. Most university astronomers depend upon the national observatories for their research. The National Radio Astronomy Observatory and the National Optical Astronomy Observatory operate in Arizona. These facilities operate world-class telescopes for visiting astronomers. Last year alone the Tucson radio telescope housed 127 astronomers from 58 institutions, including representatives from 10 foreign countries. Recently, several Arizona newspapers have carried articles that express grave concern over the financial viability of the Kitt Peak facility during fiscal year 1990. Therefore, I would like to ask the Senator from Maryland if the bill now before the Senate provides adequate funding to the National Science Foundation to insure the continued operation of these observatories in fiscal year 1990?

Ms. MIKULSKI. The fiscal year 1990 appropriations for the National Science Foundation's "research and related activities" adequately funds astronomy research endeavors. The committee has expressed its concern to the National Science Foundation regarding the priority of astronomy research. Accordingly, we are confident that the National Science Foundation will distribute the research funds equitably to insure the continued success of U.S. astronomy research in addition to the continued operation of the National Radio Astronomy Observatory's millimeter-wave research facility and the National Optical Astronomy Observatory in Arizona.

Mr. DECONCINI. I thank the Senator very much for clarifying the committee's intent with regard to astronomy research. Her comments have given me confidence that the NSF will have the funds necessary to insure that these astronomy observatories in Arizona will be maintained at current levels. This funding will provide the scientific community with the continued access to these internationally recognized research facilities.

Mr. GARN. Mr. President, the standard line floor managers give during debate on a conference agreement is it is the best we could get. Unfortunately, so it is with this appropriations bill. We did the best we could in impossible budgetary constraints with the differing priorities of the House and the Senate, but in my judgment it is the best we could expect and that is a tribute to the skill and hard work of the Senator from Maryland, the chairman of our subcommittee.

Mr. President, the measure before us cuts nearly $800 million in outlays from the level requested by the President for discretionary programs within our jurisdiction. This is after adding over $700 million in budget authority, $423 million in outlays to the budget request for veterans medical care. In other words, we cut the President's request by a total of $1.2 billion in outlays so that we could satisfy political demands for veterans medical care and remain within our constrained budget allocation.

Unfortunately, virtually the entire cut was taken in the budget request for NASA, $995 million in outlays, and the National Science Foundation research, $97 million in outlays. When only 16 percent of those veterans receiving VA medical care are being treated for service-connected injuries or disabilities, I consider it outrageous that we are forced to augment this account at the expense of investment in science, space and technology which represents our Nation's best hope for continued prosperity and economic security in the future.

As a veteran, it disturbs me that so much political hoopla is made over the need to provide these costly medical services when the vast majority of the program is a form of welfare. The poor veterans should be provided adequate medical care but in my view deserve no special treatment not otherwise available to all Americans.

Of course—and I wish to emphasize—those veterans who are suffering from injuries or disabilities resulting from military service deserve the finest medical care that we can provide. They ought not to be lost in the shuffle to fund an empire of hospitals, clinics and nursing homes serving any veteran for any medical problem.

It has now been nearly 30 years, 30 years in January, since I was released from active duty as a naval aviator. I am in better shape and 30 pounds lighter today than I was at that time.

My point is with nonservice-connected disabilities, I simply do not understand, nor do those in the vast majority who served our country willingly and had no difficulties as a result of service, the ongoing obligation, but I do want to emphasize that we could do a better job for those who were injured or had illnesses as a result of their service. We owe even more to them.

Mr. President, as I said before, the conference report before us represents a compromise between very differing priorities. Compromise is difficult and painful when resources are as constrained as they are in our subcommittee budget allocation but given the political realities confronting us, the conference report reflects the best deal possible.

I urge its adoption, and again I thank the Senator from Maryland [Ms. MIKULSKI] for a fine job under very difficult circumstances.

Mr. BENTSEN. Mr. President, I ask unanimous consent to speak out of order.

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

Mr. BENTSEN. Mr. President, last evening I received a call from Secretary Brady and then it was followed up by a letter. It informs me of an action by the administration which really is quite surprising. It is astonishing and deeply troubling to me. If there is one trademark which underpins the stability of the financial markets of this country, and to a great extent of the world, it is confidence in the U.S. Treasury and the securities that it sells.

One of the main reasons for that kind of confidence is that the Treasury Department has among its professional personnel competent debt management people, a debt management team. And that team handles the sale of T-bills, notes, bonds, in a manner that is designed to promote the best interests of the United States and to maintain stable markets on our securities. They do not gamble and they do not play politics with the credit of the United States.

And so I was astonished and troubled to learn that the White House has ordered these professionals who manage our public debt to do what they have always resisted doing.

They have been ordered to depart from the normal, ordinary debt issuance procedures. They have been ordered to speed up the borrowing, even though that will likely raise interest costs. They have been ordered to stockpile cash. They have been ordered to take an action based on a gamble that Congress and the President might do this year what they have never done before, force the country to go into default. We have never done that.

I do not see how such an action can fail to undermine confidence in the integrity of our national credit operations, to lessen the Treasury Department's own credibility, and to undermine the certainty that default will never be tolerated.

I am puzzled about why this administration made this kind of a decision. The letter from Secretary Brady cites uncertainty about whether the Congress is going to raise the debt limit and the need to assure that Social Security payments will be made. But that is not a new and different situation from previous times when we have reached a debt limit. We have been there before. And every time we have acted responsibly.

This situation did not cause previous administrations to panic. I might understand that action—though I would still not agree with it—if the Congress was tied up in knots over a heavily amended debt limit bill; but that is not the case. I might understand it if the leadership of the Congress were threatening to use the debt limit to provoke some kind of a confrontation with the President. That is not the situation here.

What we have on the Senate calendar is a debt limit bill that has already passed the House of Representatives. What we have is a clean bill; a clean, long-term debt limit bill. That is just the kind of a bill that previous administrations, previous Secretaries of the Treasury, have asked for, and that is the kind of bill I want to see as chairman of the Finance Committee.

Far from threatening confrontation, the chairman of the Finance Committee, the majority leader of the Senate, are ready, willing, and—I believe—able to ask their colleagues to send that bill on to the President in just that form. And I would ask the leadership on the other side to join in this effort.

There was no danger that Congress would fail to pass a debt limit bill in the time to assure that Social Security checks could be issued. I do not know anyone in this Senate, Democrat or Republican, who would be politically dumb enough to hold Social Security payments as hostage for achieving some other aim.

I feel certain I can speak for the Democratic Members of the Senate on that, and I also do not believe there are any Republican Senators who would want to threaten Social Security checks. If the White House is aware of some who would, then they ought to let that be known. But it sure would surprise me.

Then why did the Treasury take this kind of an extraordinary action? I have heard only one explanation that hangs together, although I am reluctant to believe it. I have difficulty with the idea that the administration would compromise the professionalism of the Nation's debt management operation, damage to the Treasury Department's credibility with the Congress, and possibly create instability in the markets all for the attainment of a short-term political victory.

Nevertheless, there seems to be only one reason why the Treasury would disrupt the normal debt issuance process to gain a single week, and a dubious one at that, of additional debt limit time. That reason is to let the administration make yet another attempt to attach a capital gains proposal to a bill where it really does not belong.

Let me show you the record on this one. On October 16, 10 days ago, the Secretary of the Treasury sent me a letter which really represents the best professional judgment of that Department, and that letter says that November 1 is the very last day before default. In fact, it says there is "no opportunity for administrative actions to prolong the availability of cash." That is what was said just 10 days ago to me; no availability, no option to get additional cash. Ten days later the administration sends us a letter which says Treasury can pull a rabbit out of that hat and get us to November 8.

What happened in those 10 days? Why this sudden change? What happened was that the administration found that Republican Senators were not ready to play that capital gains game if it meant endangering the issuance of the November Social Security checks. So the administration orders the Treasury Department to tear up that original letter, forget it, and find some way to push the default date past November 3. If that is not what happened, I would sure like to hear another credible explanation.

But, in any case, I have to give the administration the bad news. If that is what you are up to, it is just not going to wash. The fact is the action the Treasury Department has just taken does not protect Social Security recipients. It does much the opposite. It is true that Social Security checks are issued on the 3d, but the crucial question is not whether or not they are issued but whether or not they are any good when the recipients bring them to the bank on the 6th, 7th, and the 8th, and throughout the month. The question is will the Treasury have enough cash to honor those checks?

With or without this new trick, the Treasury's ability to raise cash gets cut off at midnight Tuesday. True, they will be stocked up a bit, but predicting cash balances when your credit has been cut off is a very tricky business.

So how sure can you be that checks issued on the 3d will turn out to be good? Well, if current projections hold and if there is no unpredictable cash demands, then there should be enough cash to make it to the 8th of November. You say, well, is that some Democrats' alarm bell that he is ringing? No. That is not my analysis. That is the analysis of the Secretary of the Treasury because in his latest letter he says just this:

"Our current"—current—"cash flow estimate which assumes"—assumes—"no unprecedented cash demands indicates, that this action should—"should" is the word—"provide sufficient cash to cover obligations presented for payment through November 8."

I am not willing and I do not believe any other Senators, Democratic or Republican, will be willing to ask the older citizens of this country to gamble their November Social Security checks on that kind of halfhearted assurance that the money should be there.

I hope my interpretation is dead wrong and that this action was just a momentary lapse rather than a convoluted plot to trade the sanctity of our national credit and the security of our older citizens for a capital gains law. But in any case, we have to pass this debt limit.

I hope that Secretary Brady and the President will prove my theory wrong by publicly and privately requesting all Senators to agree to let the debt limit go forward without any amendments from Republicans or Democrats.

Let us take care of the primary obligation of this country and pass that debt limit, without amendment. Let us ask unanimous consent that we do it that way. Let us see who wants to stand up and object to that.

Thank you, Mr. President.

Mr. BYRD. Mr. President, will the distinguished Senator yield?

Mr. BENTSEN. I yield.

Mr. BYRD. I compliment him on his statement, and he is exactly right in encouraging the administration and the Congress to pass a clean debt limit.

There is another aspect of this. We are told by the chairman of the Ways and Means Committee in the House that if we pass a clean debt limit, we will also get a clean reconciliation bill from the conference.

Our leader showed real leadership a few days ago when he recommended that we strip out what I am told was more than 600 extraneous items from the reconciliation bill, and the distinguished Republican leader joined that.

I complimented them both on that occasion for their act of statesmanship. That took statesmanship. That was real leadership, and the Senate followed that leadership, and we stripped down that bill.

Our work is only half done, and we have this opportunity, with the House being willing to strip out those items and come back with that clean reconciliation bill, as well, if we will pass the clean debt ceiling bill.

We ought to take up that offer and demonstrate to this country that we are serious and mean business about the financial matters that confront this country, and serious about cleaning up our own house when it comes to discipline in the appropriations and budget process.

I join the distinguished Senator in his support for a clean debt limit bill and a clean reconciliation bill. We ought to stop playing these games. We have all played games at one time or another, but it is time to stop it. Now is a good place to stop it.

I thank the Senator. I think he has made a fine statement and has rendered a real service, and I hope we will take heed.

Mr. BENTSEN. I thank the distinguished President pro tempore of the U.S. Senate for his generous comments. Between the Ways and Means Committee and Finance Committee, the jurisdictions are such that a great part of reconciliation falls to these two committees. We have many things in there that we worked a long time on, like child health care, rural health care, many things that we thought were important and should be carried on.

But in trying to move this thing forward and really cut that deficit, and do it expeditiously, we chose to put those off to another day. The distinguished ranking member of the Budget Committee held up that reconciliation bill, and he said, "If we keep on like this, we are going to be measuring reconciliation by the pound."

My reply was, "If we do not cut this deficit, and do it effectively, we are going to be measuring reconciliation by the yen." That is what can happen in this country, unless we aggressively cut this deficit, get the interest rates down, and increase investment capital and get personal savings up. That is the responsible action to take.

I yield the floor.

(Mr. FOWLER assumed the chair.)

Mr. BUMPERS. Has the Senator from Texas yielded the floor?

Mr. BENTSEN. Yes.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I rise first of all to say to both the Chair and the ranking Member that I, too, want to applaud them for a bill that I know has been very difficult to achieve a consensus on, and I have the utmost respect and admiration for both of them and the members of the committees.

But I am troubled by one aspect of the bill, and I want to first of all propound a parliamentary inquiry to the Chair. The inquiry is this: When the House has one funding figure and the Senate has another, is there any obligation on the conference committee to work within those parameters?

The PRESIDING OFFICER. The Chair will advise the Senator from Arkansas that based on recent precedents, if the figure in question is reported out within the conference report, it is not challengeable upon the grounds that the Senator inquired about.

Mr. BUMPERS. Further inquiry, Mr. President. In the House version of this VA-HUD Appropriations bill, the bill contained $384,300,000 for "construction of facilities" in NASA.

The Senate struck the $384,300,000, and inserted $341,000,000 instead. It came back from conference at $601,300,000 or $217,000,000 above the higher of the two figures.

Parliamentary inquiry. Did the conference committee have the authority to exceed the level approved by either the House or the Senate—in this case, by $217,000,000?

The PRESIDING OFFICER. I say to the Senator from Arkansas that it is the judgment of the Chair, after consultation with the Parliamentarian, that the understanding is this: The conferees took no action on the amendment in question by the Senator from Arkansas. The amendment was reported in disagreement so that the requirements of rule XXVIII are not at issue, and what we are left with is an independent action by the other body, which, I am advised by the Parliamentarian, we could confirm at this time or be subject to further amendment.

Mr. BUMPERS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BUMPERS. Is it necessary for the distinguished Chair of the VA-HUD Subcommittee to move to recede and concur in the House position on the bill on this particular amendment?

The PRESIDING OFFICER. The Chair will say to the Senator from Arkansas that basically he is correct that the course he just described is the option.

Mr. BUMPERS. Further inquiry: There are a series of amendments here. The two that troubled me most, of course, were 93 and 95. Are those amendments a part of the bill, or is it necessary for the floor managers to move the adoption of those amendments? That is, amendment No. 93, Mr. President.

Ms. MIKULSKI. Will the Senator yield for a comment?

Mr. BUMPERS. Yes.

Ms. MIKULSKI. Those amendments are in technical disagreement. At the appropriate time I was going to offer the appropriate amendments to bring us back into the necessary conformity.

Mr. BUMPERS. May I ask the distinguished floor manager, while we are waiting for the Parliamentarian, what would be the nature of the motion?

Ms. MIKULSKI. I will have to go back to my notes. I believe the Senator is talking about amendment 93.

Mr. BUMPERS. Amendment 93 especially. There are a whole series of amendments, as the Senator knows.

Ms. MIKULSKI. While the Parliamentarian is going over his precedents, let me go back over our amendments to see the exact nature.

The PRESIDING OFFICER. The Chair will state to the Senator from Arkansas—I do not think he completed his parliamentary inquiry.

Mr. BUMPERS. My inquiry simply was—I guess it is necessary for the floor manager of this bill to move to recede to the House on those amendments or to recede and concur or simply concur in those amendments?

Ms MIKULSKI addressed the Chair.

The PRESIDING OFFICER. Will the distinguished Senator withhold until we work out this parliamentary inquiry?

Ms. MIKULSKI. Yes.

The PRESIDING OFFICER. I say to the Senator from Arkansas, and I hope this is responsive to his parlia-

mentary inquiry, that if the Senate desires to agree with the House position on one of the amendments in disagreement, then, yes, we would have to concur by taking the appropriate action to concur with the House.

Mr. BUMPERS. Mr. President, on page 43 of the conference report, the first paragraph at the top of page 43, it states:

> Amendment No. 93 reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows: In lieu of the sum proposed by said amendment insert the following, "$601,300,000".

And then there are additional specific provisions.

What I want to know is, if this is an amendment in technical disagreement, whose amendment is it? Is it the House's or the Senate's? Who added the $217 million, and who has to concur in that addition?

The PRESIDING OFFICER. It is the opinion of the Chair that amendment No. 93, reported in technical disagreement, is a House amendment currently pending before our body.

Mr. BUMPERS. So in order for that money to be added, the Senate will have to move to concur in that amendment. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. BUMPERS. Mr. President, let me ask one further parliamentary inquiry to which I already know the answer, because I have visited with the Parliamentarian about it. It is this: Is there a 1985 precedent on this question? And, if so, what is the precedent that allows a conference committee to go and, in this case, almost double an appropriation in excess of what either the House or the Senate adopted? I want to know what the precedent is that allows that to happen.

The PRESIDING OFFICER. The Chair will consult.

Mr. BUMPERS. Let me further phrase it. Will a point of order lie against that and, if not, why not, and what is the precedent for it?

The PRESIDING OFFICER. The Chair will once again attempt to satisfy the inquiries of the distinguished Senator from Arkansas. After research and consultation, it is the opinion of this Chair that the 1985 precedent cited by the distinguished Senator from Arkansas is not a precedent to the facts before the body in the material at issue today. It is the understanding of the Chair that the 1985 precedent involved material entirely within the purview of the conference committee and that the point of order that the Senator from Arkansas might have anticipated would not apply because the material at issue today is outside the conference report in an amendment in disagreement.

Mr. BUMPERS. Mr. President, as I understand it, the Senate is now in the position of validating an amendment adopted by the House that came back from the conference. Restated or saying it another way, the conference committee came up with an addition to NASA construction of over $200 million. It went back to the House as an amendment, I guess, from the conference committee and the House adopted that amendment. Now the bill is over here and it is up to us to concur in that amendment. Is that a fair statement?

The PRESIDING OFFICER. Trying to be precise on the language, the Chair says to the Senator from Arkansas, the amendment in issue was a recommendation by the conference committee, which was adopted by the House.

Mr. BUMPERS. They adopted a recommendation of the conference committee, is that correct?

The PRESIDING OFFICER. That is the Chair's understanding of the appropriate legal description.

Mr. BUMPERS. Let me ask one further parliamentary question. Once the House and Senate have debated a bill, such as the VA-HUD appropriations bill, and we have, both sides, given formal, final approval to what is in that bill, are there rules in either the House or Senate which specifically state that this procedure can be used to go outside the scope of either bill, or is that simply a practice that has been permitted?

The PRESIDING OFFICER. The Chair advises the Senator from Arkansas, obviously the Chair cannot speak to House rules, but there is nothing within the rules of this body that prohibit the increasing or decreasing of a monetary figure included in an amendment by the House sent to this body in disagreement having been adopted outside the rules of the conference.

Mr. BUMPERS. A further inquiry: If the House has a rule which permits such an amendment, adopting a recommendation of the conference and their rules permit that, but our rules would not permit the same procedure, then does a point of order lie because it is a violation of Senate rules? Or are we simply dealing with an amendment that came over from the House to which we must either concur or reject?

The PRESIDING OFFICER. The Chair will again advise the Senator from Arkansas, it is the opinion of the Chair that the amendment in question does not violate the rules of the Senate and, therefore, this body is free to concur with it, reject it, or amend it in any way, as it would any other amendment in disagreement coming from the other body.

Mr. BUMPERS. Mr. President, I believe the Parliamentarian is correct. The reason I raise these issues this morning is because it is really a sad commentary that we debate endlessly here on these bills and think we have put them to bed, in the certain knowledge that the conference will be obligated to operate within the limits of the two bills.

I am sure that this is not a first. But I have never seen anything quite like this since I have been in the Senate. Obviously, we have the right to amend.

Parliamentary inquiry: Is that not correct, Mr. President, that anybody in the Senate can amend any of these amendments that are in disagreement?

The PRESIDING OFFICER. The Chair responds to the Senator, as he knows, with the provision that when the House has added language, yes, any member of the Senate can amend that language.

Mr. BUMPERS. And this is language apparently that was added by the House. We have to concur in it or not concur in it.

So my point is simply that if somebody wants to strike the $217 million, he or she can just make the argument that it is a very bad precedent to allow the conference to almost double an appropriation.

Now I am going to let my good friend from Louisiana and my good friend from Mississippi heave a sigh of relief because I am not going to offer an amendment to this amendment. My phone started ringing off the wall this morning about this, almost before I got up. And I understand it. I have been in that position many times myself.

For the benefit of the body, what we are talking about here is a new facility to manufacture advanced solid rocket motors for the shuttle. And there is not anybody in this body, certainly nobody's concern for the space program and the safety of the shuttle exceeds that of the Senator from Utah, who is the distinguished ranking member of this subcommittee. And I have visited with him about it.

Having said that, I want the Senate to know now that this bill left here with $10 million in it for the construction of a facility to manufacture advanced solid rocket motors at Yellow Creek, MS. The House bill which we were dealing with at the time had zero for this facility. Prior to that time, there had been a debate going on about whether to allow private contractors to involve themselves in this or whether this should be a government facility.

The distinguished Senator from Ohio [Mr. METZENBAUM], as we say in Arkansas, "raised Cain" about the private sector getting involved in this. And I am told one of the reasons the House appropriations bill did not have anything in it was because they thought private capital was going to finance and build this facility. But be-

cause he raised so much Cain about it, that decision was reversed and now it is going to be a totally Government financed operation. The contract will go to Lockheed to build an advanced, hopefully safer, rocket motor for the shuttle.

But, when this bill came back from conference, instead of the $10 million the Senate had, or the zero figure from the House, it had $90 million for construction at Yellow Creek, MS.

One of the reasons I do not intend to offer an amendment is because Arkansas and Mississippi are neighbors, and I have done everything I know how to scream my head off in the Senate the last 2 years to help this region. I got a bill passed creating a Delta Commission to deal with poverty in the Delta.

Incidentally, this facility is sort of in three corners. I thought for awhile talking on the phone this morning that this facility adjoined every State in the Union. But apparently it is in the corner of Alabama, Mississippi, and Tennessee. And I am extremely pleased Mississippi is going to get this facility.

I have said on this floor and in committee more than 100 times, one of the ways we can redress poverty in that area along the Mississippi River, from the southern tip of Illinois to the mouth of the Mississippi in New Orleans, is to build Federal facilities.

The Government is the biggest buyer of all kinds of products in the United States. We ought to be giving people an advantage, to go in there and manufacture things for the Government and bring those people into the economic mainstream of this Nation. So I am immensely pleased this is going to be built in Mississippi. It is like Arkansas. We are both poor States. It is going to provide a lot of jobs and a lot of resources.

But I am deeply troubled about two or three things. I say this for our future use and reference. No. 1, it is not customary for us to be undertaking a $530 million expenditure for a facility before the research is begun on the purpose for the facility. Presumably the research is not going to be done at this facility, but once the research is done and the rocket motor is to be built, it will be built in that facility. But this is a big undertaking.

Second, Mr. President, I am really troubled about this process. We worry around here about the line item veto. I worry about it. I do not believe in it. I hope President Bush will not attempt to exercise a line item veto, as he is threatening to do, without a change legislatively or constitutionally.

I am not going to argue the line-item veto here but I will say this. This body, and the House body, is giving a line item veto in a perverse way, every time we pass a bill and it goes to conference. If the precedents and the rules are as stated by the Chair this morning, then I do not see any reason to debate these bills on the floor. We can just appoint conferees and say, you folks go out there and figure this out and bring it back to us.

I have been in the Senate now almost 15 years, and I have been in a lot of conference committees and I have seen a little Mickeying around here and a little Mickeying around there. But it never occurred to me that the conference has the kind of latitude that the Chair this morning said it has. I do not intend to try to stop this because, as far as I am concerned, it is fairly meritorious—even though I have a document here that says it is not meritorious at all. But I am going to let the Senator from Utah address that.

My point is I am not going to try to stop this project. I am certainly not going to try to stop it on a procedural ground. As I said, if they are going to build it, I want it either in Mississippi or Arkansas. But there are very few Senators in this body who would have ever dreamed that a conference committee could take a bill, an appropriations bill, and sit down and almost double the appropriation for a specific purpose and bring it back to the body for their concurrence. It is a very bad precedent and I think it ought to be changed.

Mr. President, apparently there are virtually no rules governing conferences, and there ought to be. I can think of a half a dozen things right now that have come up in conferences in the last few months, where we make a parliamentary inquiry to whoever the presiding chairman is of that particular conference, and he does not know the answer. The reason the chairman does not know is because there is no answer. That is no way to run a railroad. It is certainly no way to run a government.

Maybe that is the reason everybody in the country thinks the Government is out of control. We certainly cannot deal with the deficit. And certainly cannot deal with it when we come back here with double appropriations.

Having said that, I am elated. Some of my very best friends in this body come from the three States that are going to derive a tremendous economic benefit, and I am elated for them and I am pleased for them. But the process here is a very bad one. The rules ought to be written. There ought to be a task force, and I may just attempt to get a Senate resolution passed here to do precisely that.

Somebody ought to sit down and figure out what are the parameters of these conferences, what the rules are for governing a conference, and so on.

Mr. President, with that I yield the floor.

The PRESIDING OFFICER. The Senator from Utah [Mr. GARN].

Mr. GARN. Mr. President, I will not take long but I do wish to comment on the remarks of the Senator from Arkansas.

First of all, under procedures, he is absolutely correct. This is not the only time it has been done. I can think of other instances, on many occasions, where we have gone into conference with the House on an issue, the Senate has had one number, the House has had another, and we have come out with a higher figure. I do not think that is right even though it has been done many times.

So, procedurally I object. I completely agree with the Senator from Arkansas.

This was not done by accident, it was done deliberately. Because of the constraints on NASA's budget, there was not enough money to go ahead with the so-called go/go, or Government-controlled facility. So, coming out of both subcommittees in the House and the Senate there was zero dollars for this facility.

When the Senate Appropriations Committee met, the distinguished Senator from South Carolina put in his amendment for $10 million. This was all planned, I say to the Senator from Arkansas. The $10 million there was insignificant. It was deliberately put in there as a placekeeper, as we would call it, so when we went to conference we could work that out, where the House had nothing; work it out of the construction budget and divert the $90 million.

First of all, the precedent is wrong. Second, it is wrong when you cannot get your way openly and aboveboard through the committee process, to use these kind of gimmicks. I think the Senator from Arkansas is correct. One of the reasons the American people get upset with us is because of the games.

It seems to me if we cannot get our way or our positions openly and aboveboard through the rules, we should not be able to do it. The Senator is absolutely right. On the precedents, it is not a proper way to work. It should not have been done. It was set up through the process. I could see it coming and could not do anything about it simply because we have to have 50 percent of the votes in this body, and I did not have 50 percent of the votes in that committee.

Having said that, let me comment on the substance because I think a couple of things are fair to say that nobody can dispute. I suggest there is nobody in this body who has spent more of a percentage of their time over the last 15 years, trying to build up science, the National Science Foundation, and NASA in this country. I probably spent about 50 percent of my time trying to do that, above all other interests.

That is one of my primary concerns in this body because of the future of our technological base in this country. Not just a space shuttle, not just solid rocket motors, not just a space station, but science education. Do we have enough science and math teachers in this country? Do we have enough engineers? No, we do not.

The West Germans, the Russians, the Japanese are training a lot more than we are.

I had a Japanese delegation say to me one of the reasons we have such a big trade deficit with Japan is because in our country we train attorneys and in their country they train engineers. Eighty percent of the world's attorneys are in the United States. There are more attorneys in Washington, DC than there are in all of Japan.

Do we have enough science and math teachers? We wonder why we are losing our technological lead. I do not think we have to look very far to figure that out. So I make no apology for trying to fund NASA, and science education and the National Science Foundation adequately. We only spend 1 percent of our entire national budget on NASA.

Look what we are going to learn from Galileo. I was very proud last week when the commander of *Atlantis* inserted that into orbit and sent it on its way, to arrive at Jupiter by 1995, because Don Williams was the pilot on my flight.

Yet we are so shortchanging the future for the present. Well to the substance of the issue.

I think the second thing I can say that nobody will dispute, there is not anybody else in this body who I see or around the Senate who has ridden solid rocket boosters into space, except this Senator. I know what it feels like. I know what it feels like when they ignite. For 2 minutes you are riding a controlled explosion. It is an incredible experience.

I will say, first of all, I would ride those same solid rocket boosters tomorrow morning without even fixing the O-rings, as long as it was a warm day. there was nothing wrong with those solid rocket boosters. I am constantly asked, "Well, after *Challenger*, wouldn't you be afraid? Weren't you scared?" No, I would not have gone the first time if I had been.

There is nothing wrong with those solid rocket motors, except there was a decision made to fly them out of design tolerances. It is like taking a 5-mile-an-hour bumper on your car. They say if you run them into the wall at 5 miles an hour, there is no damage to the car. Well, if you run them into a wall at 25 miles an hour, they fail. That is not the fault of the 5-mile-an-hour bumper and it is not the fault of those solid rocket motors because they decided to fly them on a day icicles were forming off the tank of the liquid nitrogen and oxygen. That is why I said I would ride them again tomorrow morning without a fix, as long as it was a nice warm day. Give me 60 or 70 degrees, and I would love to ride them again.

What do we conclude after all of the redesign, several successful flights now with no problems whatsoever with those that we need an advance solid rocket motor? I do not dispute that. That is not the issue. Sure we want to improve; certainly we want to go on with improved products, and we want to make it as safe as possible, although you simply cannot guarantee safety in space. I do not care how careful we are, how long it takes, you cannot guarantee safety in space. You cannot guarantee your safety on the Capital Beltway. I think I will take my chances in space compared to the Capital Beltway. You certainly cannot guarantee safey in space. You do the very best job you can.

I am not opposed to the proposition to improve the boosters, to continue to improve the Orbiter and make it better, get the best performance we can and higher lift capabilities out of it. There are other options. We ought to go ahead with shuttle C, as well with heavy lift capability. But the issue of suddenly deciding that a Government-controlled facility is the best way to produce safer solid rocket motors just boggles my mind. When has this Government done something better than the private sector? I would like to know.

I am not going to take the Senate's time to go over and over the failures of Government. Look how well we have done with HUD. Wonderful working relationship we have had with HUD and all of the scandals and talk about the S&L crisis. I defy anybody to give me a good example of when Government is efficient, when we have done something well, and when we have gotten away from private contractors bidding and doing the best job they can. I object in principle to a Government-owned facility wherever it is. It just does not make any sense to this Senator.

Then we got into the argument about where it should be and the transportation of the solid rocket motor segments and all of that. That is one of the reasons that we do not build them in Utah anymore. That is fine. Thiokol decided not to bid on this contract anyway, so that is not unusual.

If you want to eliminate transportation, where do you build it? You build it at the cape. The only reason we have the Johnson Space Center in Texas and the launching facility in Florida is because Lyndon Johnson was President of the United States. It had nothing whatsoever to do with whether it makes sense, and it does not make any sense to have all the astronaut corps trained in Houston and then every time we wanted to train on the orbiter, both *Challenger* and *Discovery*, in my case, we had to fly to the cape and have another facility there.

So a political decision was made, you cannot launch in Texas. I am sure President Johnson would have had the launch facilities there if it had fit the right parameters, but it did not. Obviously, we need to launch on the east coast of Florida so you launch out over the ocean. But we put all the training facilities there. Once again, we made a political decision. We decided to go to Mississippi because the two chairmen of the Senate and House Appropriations Committees were from Mississippi. I do not begrudge them for trying to do that for their State. I try to do things for my State. That is not the problem. I have no personal criticism of them.

No Senator has loved a fellow Senator like I loved John Stennis. I served on the Armed Services Committee with him. There has never been a finer human being or finer U.S. Senator than John Stennis, so I do not want my remarks misinterpreted. But, nonetheless, it was a political decision, not based on the merits.

No. 1, we decided a Government-controlled facility is better, which I think is ridiculous, and, No. 2, we picked a site on the political basis, and, No. 3, we are playing games with the process to get it done, rather than doing it up front.

Then we have claims from NASA engineers, and I very rarely disagree with NASA. In fact, the press is always talking about how I never disagree with them. I do on this one. They are telling me, an old Navy and Air Force pilot with over 10,000 hours of pilot experience, that they have a design sitting on a drawing board for an advanced solid rocket motor that is going to meet all these design specifications, and yet they have never begun to put one together yet.

They have not done the research and development. That is ridiculous. That is insulting to my intelligence. I can see airplanes on diagrams. I never liked to fly them or decide what their design parameters would be until they had been tested. We are making claims for a solid rocket motor that may or may not come true. I guarantee you something else. You will not see one flying until after the year 2000. Their timetable is ridiculous.

Take an even much simpler flight system. Look at an F-16 which has never been controversial at all. It is a remarkable airplane. But look at the problems they had through the test phase. Look at the delays. Virtually every earthbound airplane that we deal with has been delayed because of the research and development in test phase. It takes longer.

I do not have any objection to improving the solid rocket motor. We should, but the process bothers me and the claims for when it will be available. I guarantee you we will be building current generation, and improving as we go along, of solid rocket motors well beyond the year 2000 because this new one will not be ready.

I wish we could do things more straightforward and more on the basis of substance. I just do not understand why the Senate and the House have to behave in this manner. I do not wish to delay my colleagues any longer except to say some of you, if you are still around—I do not expect to be here around the year 2000; in fact, I guarantee you I will not be—some of you will be around and look in the CONGRESSIONAL RECORD where Senator JAKE GARN said the advanced solid rocket motor will not be flying until after the year 2000; they will never meet their timetables, and you are not going to improve the quality or the safety because Government owns the facility. That is the most ridiculous concept of all, considering their record. Ask the American people what they think about the record of Government performance compared to the private sector.

I understand the position of the Senator from Arkansas. I did not intend to bring this up today, but I could not let it pass without commenting because I asked special hearings to be held on this issue. I have more than had my opportunity. The Senator from Maryland allowed me that privilege. I held one when I was still chairman. We discussed this whole thing, and NASA sticks to their position; come hell or high water, they have their minds made up. It does not make any difference, and their friends here in Congress will push it no matter whatever means.

I wish we could get that kind of consensus on adequate funding for a space station. I wish we could get that kind of drive to increase money for the National Science Foundation and for math and science teachers in this country.

I wish we could get some adequate money for the Orient Express, which we are barely hanging on to that vital airplane. I wish we could get some adequate money for shuttle C. NASA has a tight budget, but we are going to move ahead with a Government-controlled facility to build a solid rocket motor that has not yet been invented.

Mr. President, I yield the floor.

Mr. BUMPERS. Mr. President, I certainly will not take but a few moments of the Senate's time to comment on some of the things that the Senator from Utah has said well and better than I could.

There is a facet to this which he talks about that ought to at least be of concern, and it is not that you would want to torpedo this whole project, or that we do not want to improve the safety of the existing solid rocket motors on the shuttle. But NASA has, for 21 years, had an aerospace safety advisory panel. The chairman of that panel is Joseph Sutter. Joseph Sutter was the chief designer of the Boeing 747, and that panel said that this plan ought to be put on hold for a number of reasons. Mr. President, I will at the conclusion of my remarks send excerpts from that report to the desk to be inserted in the RECORD.

But if safety is really the concern, the main engine on the shuttle ought to be a concern. On the Galileo launch, which took place last week, according to NASA, the main engine on that shuttle flight had a 63-percent higher probability of failure than the solid rocket motors. And so it seems to me, if you are going to spend money for safety, at least some of the money should have gone into redesign of the main engine. If we have concerns about the existing solid rocket motors, which apparently we do not, why are we accelerating shuttle launches? Those two do not jibe.

Mr. Sutter, the head of the safety panel I mentioned a moment ago, says that the safety changes which need to be made could be made much faster and a lot cheaper in the existing solid rocket motors than starting from scratch and spending $2 billion to try to build new ones.

Mr. Sutter goes on to say that the current redesigned booster is a booster that we feel is safe. The question is, When we get this new booster built, are we going to feel any safer about it? You think of all the testing we are going to have to go through. Then the Senator from Utah mentioned the shuttle C, which is a proposed unmanned configuration of the space shuttle. The Senator from Utah mentioned the space station. There is not a dime in here for the shuttle C, and yet it would take only 5 launches by the shuttle C, as envisioned, to build a space station where it would take 14 launches with the existing shuttle, even with the new, advanced solid rocket motor. Yet we say we want a space station and we are talking about the difference between 14 and 5 launches to build it.

Mr. President, I hope I have made my point. I want to return to my initial reason for being on my feet, and that is there is something really anachronistic about this body appropriating money in both Houses and then allowing a conference committee to literally torpedo all the endless hours that have gone into debate on the floors of both Houses. It is crazy. It makes no sense.

I repeat again, I am pleased for a State like Mississippi, with a low income per capita, low median family income, just as in my State. If we are going to build this facility, I could not be more pleased for them that they are getting it, but I can tell you that the process lends itself to bad results.

Mr. President, I compliment again, the Senator from Maryland, for bringing this bill to us and say again, I do not intend to ask for a rollcall on final passage. Unless somebody else does, we should be able to proceed to final passage.

Mr. President, I ask unanimous consent that excerpts from NASA's Aerospace Safety Advisory Panel, March 1989 annual report be printed in the RECORD at this point.

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

ADVANCED SOLID ROCKET MOTOR (ASRM)

NASA has received well deserved worldwide congratulatory comments on the successful resumption of Space Shuttle flights. Of particular interest at this time has been the performance and post-flight condition of the solid rocket motors. Examination of the motors thus far has not disclosed any flaws or unusual condition that would indicate cause for concern about the safety and reliability of the Redesigned Solid Rocket Motor (RSRM). In view of this it is difficult to understand NASA's determination to proceed with the procurement of a new solid rocket motor—designated as the Advanced Solid Rocket Motor (ASRM)—for which is claimed superior safety and reliability. As discussed in the section of this report devoted to the Solid Rocket Booster, the Redesigned Solid Rocket Booster (RSRB) has corrected the major design deficiencies of the STS 51-L SRMs and improved other components that were considered marginal.

NASA's premise is that the ASRM will benefit from advanced solid rocket motor technology and automated manufacturing methods and thus evolve into a safer and more reliable solid rocket motor than the current RSRM. It is not evident why such improvements, as they develop, could not be introduced into the current production process. In any event the current STS schedule, if successfully carried out, would see more than 180 uses of the RSRMs before the new ASRM is introduced. With such a history behind it, any quantitative risk assessment analysis would most certainly favor the RSRM as regards reliability and safety.

In view of this situation—and because other elements of the STS system, if modified or replaced, could contribute more to improving safety margins—the Panel recommends that NASA reexamine the plan to procure the ASRM and study other options for the replacement of the current solid rocket motors. Such options should consider liquid rocket motors including the pressure-fed type. Safety and reliability should be the prime objective but it is believed these features can be achieved along with any desired performance enhancement.

The ASAP endorses the liquid pressure-fed rocket technology program being undertaken at MSFC and recommends that NASA support and expedite their effort. Also, rocket technology improvements arising from the Advanced Launch System (ALS) technology program should be carefully monitored and applied to the manufacturing processes of the current rockets.

ADVANCED SOLID ROCKET MOTOR (ASRM)

Finding: NASA's decision to procure the Advanced Solid Rocket Motor (ASRM) is based on the premise that the new motor will benefit from advanced solid rocket motor technology and new manufacturing methods and thus would evolve into a safer and more reliable motor than the current redesigned solid rocket motor (RSRM).

On the basis of safety and reliability alone it is questionable whether the ASRM would be superior to the redesign solid rocket motor which has undergone extensive design changes until the ASRM has a similar background of testing and flight experience. This may take as long as 10 years from go-ahead. In the interim, the current design is expected to have had over 160 additional firings prior to the introduction of the ASRM.

Furthermore, it is not evident why the new manufacturing processes planned for the ASRM cannot be applied to the manufacture and assembly of the RSRM. Consequently, it is not clear to the ASAP why NASA is proceeding with its plan to develop a new and expensive solid rocket motor, especially as there are still many elements of the STS system which, if modified or replaced, would add significantly to the safety of the operation. Furthermore, NASA has not thoroughly evaluated other alternative choices to the ASRM such as liquid rocket boosters.

Recommendations: The ASAP recommends that NASA review its decision to procure the Advanced Solid Rocket Motor and postpone any action until other alternatives, including consideration of long range objectives for future launch requirements have been thoroughly evaluated.

ADVANCED SOLID ROCKET MOTOR (ASRM)

The continuous program to increase the safety and reliability of the current solid rocket motors which will be used for the foreseeable future raises the question as to the wisdom of proceeding with the procurement of a new solid rocket motor which, by the time it is introduced, will have less proven and documented safety and reliability features than the current Redesigned Solid Rocket Motor (RSRM). The ASAP recommends that NASA reconsider its intention to procure the ASRM because for a small and questionable increase in reliability over the continually improved RSRM it will command large expenditures which should better be directed towards the improvement of the STS's overall safety. Furthermore, as NASA has not yet decided on those steps it will take regarding Space Shuttle and Expendable Launch Vehicle evolutionary development, it would be prudent to delay the ASRM decision until these future launch vehicle decisions are made. Among the things that should be included in this evaluation are an independent risk assessment and the possibe replacement of the solid motors with liquid rocket boosters.

Mr. COCHRAN. Mr. President, I am not going to take the time of the Senate with prolonged debate over the correctness or accuracy of the NASA decision to recommend the construction of the advanced solid rocket motor facility and to locate that facility at Yellow Creek, MS. There is an abundance of evidence to support that decision. The matter has been carefully reviewed by both the Congress and the officials who direct the programs at NASA. That is the decision. It has been made.

There is also ample evidence to support the decision to move forward to a new generation of rocket motors for our space program. There is of course no unanimity among those familiar with the issue, and a very eloquent statement has already been made by the distinguished Senator from Utah on the other side of that issue.

Let me make just a few points, Mr. President, and then I am going to yield the floor.

According to information from NASA itself, the design of the advanced solid rocket motor eliminates many of the failure points found in the current rocket motor. Not only will the design improve safety; it will also provide the ability to lift heavier payloads into orbit, which is essential to development of the space station. The manufacturing process will be extensively automated to minimize defects and to reduce costs significantly. Improved payload performance will also reduce program costs, and the payback will begin with the first flight. The advanced solid rocket motor will increase the utilization of the shuttle by 17 percent, an equivalent of 2.4 additional shuttle flights per year.

Mr. President, these are examples of reasons why it is important for us to move forward and approve the appropriation of these funds for this important new program for NASA.

I thank the distinguished Senator from Arkansas for his willingness to refrain from pushing an amendment to delete these funds. I understand his concerns and respect him as a neighbor and a friend. We appreciate very much his willingness not to press forward on this issue today.

Mr. HEFLIN. Mr. President, I congratulate the distinguished chairman of this Appropriations Subcommittee dealing with VA, HUD and Independent Agencies which contains the appropriations for NASA, and the ranking minority member, Senator GARN, for their diligent work in regards to taking an allocation which was, in my judgment, exceptionally low for this subcommittee's work, including all of the departments and agencies that were involved, and coming up with an appropriations bill that, while it did not meet the expectations, hopes, or the aspirations that I might have and that they also might have pertaining to the space program, did an outstanding job with work that had.

I feel they accomplished a great deal. They got nearly the amount of money that NASA wanted on the space station—$1.8 billion, whereas NASA had requested $2 billion relative to the building of the space station.

The House figure was some $200 million below that. I think this allows the space station to go forward without at this time having to go through a reconfiguration or redesign of the space station for the future. It may well be somewhere in the future that may occur.

I think they are to be congratulated relative to the inclusion of some money pertaining to the shuttle C. There is $10.5 million for the shuttle C that is included in this final conference report. This bill allow studies for this very important program to continue. The Nation needs this heavy-lift launch vehicle.

I was very much interested in the advanced solid rocket motor [ASRM]. I anticipated in the debate on the NASA authorization bill last year the Senate-passed language which would allow for the private development of the advanced solid rocket motor, including language dealing with contingent liability. The House failed to include that contingent liability in their bill, and when last year's bill was finally passed, a provision for contingent liability for the ASRM facility as not included.

There was some $27 million included for the construction, after a detailed colloquy on the floor with the distinguished chairman of the Commerce Committee and myself in which NASA and the space program comes within their purview.

I entered into a colloquy pertaining to contingent liability where the bidding could go forward, and the awarding of a contract could be announced pertaining to the advanced solid rocket motor.

But nevertheless, if we were going to pursue the private financed approach for the ASRM facility, it was necessary that the contingent liability—that is, termination of liability—be passed. Termination liability is required on a Government program which contains an element of private financing and then the Government, on its own, makes a decision, say, in a depression or war or for some other reason, that it will cancel the contract.

There are liabilities out there that the private sector would be involved in, and therefore this termination liability or contingent liability provision was necessary if that route were to be followed.

I introduced a bill which would provide that this year. It ran into some opposition, as was mentioned by the distinguished Senator from Arkansas, from several, and those who voiced some ideas that this might violate the Gramm-Rudman-Hollings budget act.

When the appropriation bill came up, there were discussions and it was determined that if we had an amount in it for the construction, a decision could be made to switch from the private financing to public financing if that proved to be the best approach for this program. In that regard, the

Senator from South Carolina [Mr. HOLLINGS] offered on behalf of myself and other supporters of this program to provide $10 million for the construction of a Government-owned ASRM facility.

We had researched this issue extensively with regard to Senate rules and scope of the conference and felt it would be within the purview of the conference to raise that figure if possible and necessary. That is, of course, what happened.

I would like to say a few words about the advanced solid rocket motor. There were problems with the O-ring on the old solid rocket motors. Perhaps the weather problem was the primary problem that caused the disaster of the *Challenger*, but it was the O-ring that failed. NASA has done an outstanding job with regard to the redesigned solid rocket motor and getting the space shuttle, and thus America, flying again.

But nevertheless, on a long-range basis, it is felt by NASA that this new advanced solid rocket motor will make the booster rockets many times safer than the existing solid rocket motors.

The Commerce Committee held hearings on the ASRM. Although not a member of that committee, I attended the hearings. They allowed me to participate in the questioning of the board pertaining to the revision and changes in existing solid rocket motors.

They admitted that even with the many changes made on the currently used sold rocket motors, the shuttle system will still need updated technology and increased safety and reliability. The motors we use now are still 1960's technology. We need to update the motors and the process that we use to build them.

So NASA engineers determined that it was needed and we should go forward under this advanced solid rocket motor program.

I congratulate the Senators for their activities involved in this, the staff involved from the Commerce Committee—particularly Marty Kress—worked exceptionally hard relative to this program. I also want to thank the staff of the Appropriations Committee on both sides of the Capitol, Senate and House, for their efforts on behalf of this program. Also, I appreciate all of the contributions that have been made by the many others who have been involved in this program. This is an outstanding project and is badly needed for our Nation's space program.

NASA has also done an outstanding job on this program. I am sure that in the future they can also continue to do an outstanding job.

Thank you, Mr. President.

Mr. KOHL. I would like to engage in a brief colloquy with the distinguished Senator from Maryland, the chair of the VA-HUD Appropriations Subcommittee.

I would like to begin by extending my appreciation to the Senator for her leadership with respect to the pending VA, HUD appropriations bill. Without her attention, I am sure the conference agreement would not have had the same success.

However, I want to draw particular attention to the decision to eliminate funding for section 8 moderate rehabilitation programs for fiscal year 1990. Given the massive mismanagement of this program by the Housing and Urban Development Agency, I understand the decision made by the House-Senate conference to require better management of certain housing programs at the agency before funding is provided. Unfortunately, some moderate rehabilitation programs never tainted by the recent scandalous behavior, such as one consisting of 95 units in Madison, WI, are being punished for the mistakes of others. More than 1,300 families and individuals are currently on a waiting list for moderate rehabilitation housing in Madison. My concern is not just directed toward my State with respect to moderate rehabilitation housing, but the Nation as a whole. Most States have similar housing programs that will be jeopardized without a boost in funding.

I wonder if the Senator could indicate what her thinking is in regard to the best way to address the continuing need for moderate rehabilitation housing.

Ms. MIKULSKI. I understand the concerns of the Senator from Wisconsin and I share them. I can assure the Senator that I will work diligently with Members of Congress and HUD to reinstitute proper management of the Moderate Rehabilitation Housing Program. I believe we can accomplish this task by fiscal year 1991. The decision to restrict funding for this program was a difficult one, but it was necessary. We need this next year to reevaluate the Section 8 Moderate Rehabilitation Program and make adjustments, if needed, with respect to its management. Once that task is completed, I hope and fully expect that we can resume funding of this program should HUD take the necessary steps to reform it and communities across the Nation, like Madison, continue expressing need for its extension.

Mr. KOHL. I thank the Senator, and I look forward to working with her to make the changes in HUD that need to be made so that we can get back to the business of addressing the housing needs of our people.

Mr. CRANSTON. Mr. President, as chairman of the Veterans' Affairs Committee, I would like to express my support for the provisions of the pending measure making appropriations for Department of Veterans Affairs programs. I congratulate the subcommittee chairperson, Ms. MIKULSKI, for her strong efforts to provide adequate VA funding levels in this measure. VA appropriations in the conference report include primarily $16,196,146,000 for benefits programs, the amount requested by the administration, and, in the so-called discretionary accounts, $11,434,092,000 for the medical care account, $454,592,000 for construction programs, $212,652,000 million for the medical and prosthetics research account, and $830,292,000 for the general operating expenses account. These figures reflect both the 0.43-percent reduction made in all discretionary accounts in this measure to provide for the war-on-drugs funding being appropriated in the Transportation and Related Agencies Appropriations Act, 1990 (H.R. 3015) and the general 1.12-percent reduction—0.56 percent in the case of the medical care account—that the conferees made in the discretionary accounts in this measure in order to keep the overall discretionary funding total within the Budget Act section 302(b) overall allocation for those accounts. Since VA's medical care account is also receiving $50 million of the war-on-drugs funds in order to expand VA drug and alcohol treatment programs, the actual total currently being made available in that account for fiscal year 1990 is $11,484,092,000.

MEDICAL CARE

In general: Even though the $11,484,092,000 being appropriated to VA's medical care account is below by some $77 million the $11,561,431,000 passed by the House and below by some $31 million the $11,514,938,000 in the Senate version—which also included a provision to give the Secretary of Veterans Affairs authority to transfer up to an additional $50 million to this account from the construction, major projects account—the final amount is still $742,661,000 more than the amount proposed by the administration, a 7-percent add on. It is very disappointing that, despite repeated urgings, the Bush administration never revised the initial, terribly inadequate request proposed by the previous administration on January 9, 1989. The fiscal year 1990 appropriation for this account continues a most regrettable pattern throughout the 1980's of disastrously low administration requests for VA medical care, leaving it to the Congress to find the funds necessary for this account to which the Congress attaches a very high priority.

If the administration had this year requested the funds necessary to continue the program level supported by the fiscal year 1989 appropriation with the $345 million July supplemental—which would have required at least $800 million over the administration request—or to restore the cuts in serv-

ices and programs made during fiscal year 1989—which would have required about $1.1 billion—I am confident Congress would have responded. Finding $742.7 million over the administration request was a mammoth undertaking by the Appropriations Subcommittees and their leadership.

Over the past 4 years alone—fiscal years 1987 through 1990—Congress has added $1.757 billion to the administration's requests for VA medical care. Just as the administration requests have been extremely disappointing and inadequate, the efforts of the very able chairperson of this Appropriations Subcommittee, Ms. MIKULSKI, and of the distinguished chairman of the VA-HUD Appropriations Subcommittee in the House, Mr. TRAXLER, and the ranking minority members of the two subcommittees, Mr. GARN and Mr. GREEN, this year carry on a strong tradition of remedial congressional action to maintain the ability of VA's health-care programs to provide quality care to our Nation's sick and disabled veterans.

Post-traumatic stress disorder: Mr. President, I am especially grateful that the conferees have honored my recommendation, in my June 22, 1989, letter to Senator MIKULSKI, which appears on page S11379 of the RECORD for September 19, 1989, to add $6 million for post-traumatic stress disorder [PTSD] treatment activities. In a statutorily mandated VA contract study on Vietnam veterans' psychological readjustment problems, which the Research Triangle Institute [RTI] completed last year, RTI found that nearly half a million Vietnam veterans currently suffer full-blown cases of PTSD while another 350,000 suffer from some PTSD symptoms. Even more disturbing, the RTI study showed that almost 40 percent of those with full-blown PTSD have never been seen by a mental-health professional and that, in the 12 months prior to the study, almost 80 percent had not used any mental-health services. These data show a vast, unmet treatment need among Vietnam veterans which this funding will help to address.

As specified in the joint explanatory statement accompanying the conference report (H. Rept. No. 101-297, page 6), of the $6 million earmarked for PTSD treatment, at least $5 million is for the establishment of not less than 20 PTSD clinical treatment teams, with not more than $500,000 to be used for PTSD treatment-related activities, such as education, research, and evaluation, and not less than $500,000 to be used for the National Center on PTSD. These funds are in addition to the $5 million PTSD add on included in the fiscal year 1989 appropriation at my request and annualized in the fiscal year 1990 request.

Mr. President, the conference report does not contain the Senate add on of $1 million to VA's medical and prosthetic research account for a study of PTSD and other psychological problems of minority Vietnam veterans. Instead, the conferees have directed VA, through the National Center on PTSD, to study how best to provide outreach to and treatment for minority Vietnam veterans, including women Vietnam veterans, who are experiencing PTSD and other psychological problems in readjusting to civilian life. I urge VA to begin this most important study as quickly as possible.

Drug and alcohol treatment: Mr. President, I am pleased to note that the conference report contains an increase of $10 million above the budget request of approximately $80 million for drug treatment and prevention activities for veterans. In fiscal year 1989, cutbacks in drug and alcohol treatment programs led to the closing of eight VA programs which annually had over 4,500 inpatient and more than 8,600 substance abuse outpatient program admissions. Section 2502 of the Anti-Drug Abuse Act of 1988 authorizes funding of $15 million for each of fiscal years 1989 and 1990 for VA drug treatment programs, over and above basic appropriation levels. This authorization level was derived from an earmark of funding for VA that I had succeeded in having included in the Senate version of that legislation.

This year, I had recommended to the Appropriations Subcommittee an add on at that full authorization level in order to restore treatment programs that were cut in fiscal year 1989 and to expand modestly VA's ability to provide treatment to substance abusers. Although the full amount that I had proposed could not be provided, the $10 million add on will be of substantial help in restoring program cutbacks and making some expansions, and I am grateful for the subcommittee's work in this regard as well.

As I mentioned earlier, I am also very pleased that an additional $50 million is being appropriated in the fiscal year 1990 Transportation and Related Agencies Appropriations Act for additional support of alcohol and drug treatment programs within VA.

Prosthetics: Mr. President, the conference committee has wisely provided expressly for $5.6 million to help eliminate VA's backlog in providing prosthetic devices and to enable VA to provide timely and necessary service to veterans requiring prosthetics. This figure represents the amount I recommended to Senator MIKULSKI for this purpose in my June 22 letter, and I thank her for her sympathetic consideration of my request. In the fiscal year 1989 supplemental appropriation that I referred to earlier, my recommendation of an additional $5 million was included for prosthetics purchases. Together, these two amounts are designed to eliminate the prosthetics backlog of $10.6 which VA reported to use earlier this year. However, I must point out that recent committee investigative work indicates that the prosthetics program may be suffering from major management and procurement deficiencies, including an inability to determine accurately what its backlog is.

AIDS: Mr. President, recognizing the enormous, growing costs of AIDS treatment in VA and the inadequacy of VA's resource allocation mechanism to provide equitably for these costs in the VA health-care facilities which provide care for large numbers of AIDS patients, the conferees directed that VA make a special AIDS allocation for the first quarter of fiscal year 1990 to the 16 VA hospitals with the highest AIDS caseloads (H. Rept. No. 101-297, page 6). In addition, VA is directed to submit by December 1, 1989, a report on the adequacy of fiscal year 1990 funds to cover the actual costs of caring for AIDS patients. Although I had recommended in my June 22 letter that an additional $50 million be appropriated specifically for AIDS care, the subcommittee chairperson and I agreed on this direction in the Senate report to get funds to those facilities which need it most for AIDS care and to require VA to report on AIDS funding adequacy. I am delighted that this direction was maintained in conference. I believe these steps will assist in better identifying and focusing on VA facilities' needs in the very important area of caring for AIDS patients.

MEDICAL AND PROSTHETICS RESEARCH

Mr. President, although the $212,652,000 million that the conference committee has proposed for medical and prosthetics research is nearly $7 million less than the amount proposed by the Senate, it nevertheless represents a very significant increase—$15,342,000—over the level proposed by the administration. VA research activities have contributed greatly to many important modalities available to care for veteran patients. This appropriation will assist VA in continuing to make such contributions.

Also, as many of my colleagues are aware, VA is experiencing a physician shortage in certain specialties and in specific geographic areas. In addition to salary increases, one of the best methods to attract high-caliber doctors is to maintain a well-supported VA research program. Certain physicians are willing to work in VA for less money than they could elsewhere if research funds are available in VA.

GENERAL OPERATING EXPENSES

Mr. President, in regard to the general operating expenses [GOE] account, the conference report has provided an appropriation of

$804,395,000—which is only $916,000 over the administration's request.

However, the conference report includes discretionary authority for the Secretary to transfer, as proposed by the Senate, to the GOE account from the construction, minor projects account up to $21 million which is $6 million more than the $15 million transfer authority provided for in the House-passed bill.

I join with House Veterans' Affairs Committee Chairman MONTGOMERY in urging the Secretary to use this authority in order to enable the Veterans' Benefits Administration [VBA] to carry out vitally important functions in fiscal year 1990—including its critical ADP modernization program. The VBA and its predecessor, the Department of Veterans' Benefits, had to absorb huge staffing cuts since fiscal year 1980, resulting in a serious decline in VA's ability to provide benefits on a timely and effective basis. In my June 22 letter to Senator MIKULSKI, I indicated that, compared to the administration's budget, VA needs $8 million and 250 more full-time employee equivalents [FTEE's] for VBA staffing needs to reduce unacceptable delays in claims adjudication; $10 million and 244 more FTEE's to improve loan guaranty counseling; $4.2 million and 121 more FTEE's to reduce vocational rehabilitation counselor caseloads to acceptable levels; and $10.5 million for necessary contract support for the 12-point ADP modernization plan and to acquire equipment to implement the Automated Information Exchange System. VA also needs $1 million more than the administration requested to help enable VA's General Counsel to discharge its new responsibilities, in representing VA before the new U.S. Court of Veterans Appeals.

Although the conferees clearly recognized the needs in many of these areas, the conference report would enable VA to fund only a fraction of these critical needs. I truly regret that the transferred funds would decrease the construction, minor projects account, but it is clear to me that VBA's immediate needs for serving veterans must take priority at this point.

U.S. COURT OF VETERANS APPEALS

Finally, Mr. President, I am pleased that the pending measure would provide $3,938,000 for the new U.S. Court of Veterans Appeals—which is only $62,000 less than the $4 million passed by the Senate, compared to the $3 million originally passed by the House.

I am also pleased to note that the conference report contains the provisions of an amendment which the committtee's ranking minority member, Mr. MURKOWSKI, and I authored and which was agreed to by the Senate on September 18 to first, exempt the court in its first full fiscal year from section 509 of the bill, a general provision prohibiting any funds appropriated by this measure for personnel compensation and benefits from being used for other purposes, and second, require the chief judge of the court to transfer back to VA's medical and prosthetics research account such amount, not to exceed $1 million, as the chief judge determines by July 1, 1990, to be excess to the needs of the court during fiscal year 1990. As my colleagues will recall, VA's research account was the source of the $1 million add-on provided in our amendment for the court. Should the full $1 million not be needed by the court in fiscal year 1990, it should be returned to that account. Although I regretted drawing funds from VA research for this purpose, I believed it was necessary for veterans, given the budgetary uncertainties that the new court faces in its first year of operations, to make sure that the court has the resources it needs to handle veterans' appeals while at the same time providing that unneeded funds are restored to the VA research account.

CONCLUSION

Mr. President, I wish again to express my gratitude for the efforts of Senator MIKULSKI and the other members of the conference committee for their efforts to provide adequate and equitable funding levels for veterans' programs, given the constraints under which they had to work. Although I believe that additional funding for VA's medical programs is needed and desirable, I also recognize the work that the conferees and their staff members put into the crafting of this measure with a view toward minimizing for veterans programs the fiscal sacrifices that are currently required under the budget process.

NEW JERSEY CENTER FOR THE PERFORMING ARTS

Mr. LAUTENBERG. Mr. President, this bill includes $1.2 million that I requested for the New Jersey Center for the Performing Arts, an important project that will help revitalize the city of Newark, NJ.

Mr. President, the State of New Jersey has initiated an ambitious plan to develop cultural and performing arts centers throughout the State. The New Jersey Center for the Performing Arts is the cornerstone of this plan. Located in downtown Newark, the arts center will be financed through a multimillion-dollar public-private partnership.

In addition to providing a home for cultural and artistic activities in Newark, the arts center will serve as the catalyst for commercial and economic development in the city. It is expected to stimulate the development of restaurants, cafes, shops, and other uses which will reinforce the redevelopment of the area and provide widespread economic benefits for the entire city.

The $1.2 million would help fund planning, design, site preparation and construction of outdoor public spaces at the center. These would be available to the general public.

Mr. President, Mayor Sharpe James of Newark has made significant progress in restoring a sense of pride and progress throughout his city. But much work remains to be done. The city is still economically distressed—unemployment and poverty remains high, as does crime.

Newark is trying to lift itself up by its own bootstraps, Mr. President, and the performing arts center is an integral part of that effort. The local and State business community is committed to providing $33 million for the project. In addition, the New Jersey State government will be providing assistance—the State legislature has voted to issue $20 million in bonds to help purchase the site and has also provided direct appropriations.

Mr. President, this is exactly the kind of project that the Federal Community Development Program was designed to promote. A description of the project and the proposed funding in the bill was submitted to the Department, which confirmed that it met the statutory requirements of the CDBG Program.

We have an economically distressed city. Its residents are suffering from the ravages of unemployment, crime, and poverty. Its business community is putting up real resources. The State government is pitching in. And we have a project that promises to make a real difference.

Mr. President, revitalizing cities like Newark is in everyone's interest. Economic development means better lives for the people in these areas. But it means much more than that. It also means reduced demands on the Federal and State governments—everything from lower welfare and unemployment compensation payments to reduced needs for law enforcement and anti-drug assistance. And, significantly, it means more revenues to reduce the deficit and to pay for other Federal and State programs.

Mr. President, the arts center is an important project that will make a real difference to one of our Nation's most economically depressed cities. I urge my colleagues to support it.

Mr. BIDEN. Mr. President, there is a provision in the Veterans-HUD appropriations bill that is critically important to the veterans of Delaware. The bill specifies that $1 million shall be spent on design work for the proposed clinical addition to the Elsmere Veterans Hospital in Delaware. This clinical addition is badly needed, and work should begin immediately.

Mr. President, we as a nation have a very serious commitment to our veterans. They have sacrificed much for us, and we remain a free people because of their efforts.

Unfortunately, the quality of veterans medical care has not kept pace with the needs of veterans, or with our national obligation. Cuts in the Veterans' Administration budget during the Reagan administration caused the quality of care for veterans to suffer. Funds have not increased as quickly as the demand for medical care, due to an aging veterans population, or as quickly as inflation in health costs. In many parts of the country, there has been an erosion in the quality of care. In particular, some facilities are outdated, antiquated, and overcrowded.

The Elsmere Veterans Hospital in Delaware is one of the most serious examples of such a facility. When it was built in 1948, in the wake of World War II, its outpatient facilities were designed to serve about 25,000 patients. Last year, it served 73,000 patients. It is expected to serve 80,000 patients by 1991.

Unfortunately, a number of its outpatient facilities are overwhelmed. The critical surgery suite was built in 1950 and has never been renovated. The laboratory and radiology services are outdated, cramped, and inadequate. Veterans have been forced to wait for surgery or tests in the halls or on gurneys, subjecting already anxious persons to the additional stress of having dozens of people pass them in their hospital gowns.

The Elsmere facility's pharmacy is also inadequate. Many veterans must literally wait for hours to have their prescriptions filled. In addition, the pharmacy is located next to the boiler room. As a result, it is so hot in the winter that there have been incidents where medications melted down or were altered.

This crowded, obsolescent atmosphere not only has serious implications for the quality of medical care for the patients being served, but it can also make it extremely unpleasant for the hospital's staff. There have even been concerns that the Jefferson medical students would refuse to work in the facility, which would dramatically affect the quality of medical care.

Plans for this clinical addition have been on the drawing boards since 1973, when it was first proposed in a quality of care report to the Congress from the Veterans' Administration. Over 90 percent of the goals and projects recommended in that report have been met, but the Elsmere clinical addition is still needed. I believe that it is high time that it was built.

For each of the last several fiscal years, when the VA has recommended that this project be funded, the Office of Management and Budget has opposed that recommendation. The crux of the OMB's opposition has been that the VA has assumed too many inpatient beds in its calculations, making the overall job more expensive than it needs to be. The VA performed $1.5 million of design work about 10 years ago, and the subsequent trends toward inpatient care have shown that the early assumptions about outpatient beds were excessive.

Congressman TOM CARPER and I recently met with Secretary of Veterans Affairs Edward Derwinski, and with representatives of the OMB, to discuss the Elsmere clinical addition. We have found general agreement with both sides that while there is a serious need for the clinical addition to improve the hospital's outpatient facilities, the number of inpatient beds in the Elsmere facility could be reduced substantially. The space saved could greatly reduce the cost of the proposed clinical addition, and help eliminate the basis for the OMB's historic objections to this facility. This $1 million will help the DVA to reconsider and update that earlier design work.

It is now 16 years since this clinical addition was first proposed. That is a long time—too long a time—to wait. The veterans of Delaware have watched with dismay as this important, needed project has been bounced back and forth and tied up in bureaucratic knots for too many years. It is time to break through this logjam. It is time for common sense to take over, and for us to do what all experts agree is necessary—start the work on designing and building this clinical addition.

By funding this crucial redesign work, this bill takes an important first step. I intend to make sure that we continue on this course next year and the year after, until this addition is not only redesigned, but is built and standing. The veterans of Delaware deserve no less.

Mr. LAUTENBERG. Mr. President, I rise in support of the conference report on fiscal year 1990 VA, HUD, and independent agencies appropriations bill.

Mr. President, I first want to express my thanks to the chair of the VA, HUD, and Independent Agencies Appropriations Subcommittee, Senator MIKULSKI, for her outstanding work on this bill and for her help in securing funding for several items that I had personally requested. Senator MIKULSKI has taken on one of the most difficult subcommittee assignments in the Senate, and has done a remarkable job in a very short time. Her excellent staff, led by Kevin Kelly and Carrie Simmons also deserves enormous credit. I would also like to thank our distinguished ranking minority member, Senator GARN for his efforts to shape this bill, and to note the fine work of Stephen Kohashi of his staff.

Mr. President, I am especially pleased that this bill includes $50 million for the Public Housing Drug Elimination Act, a program I developed in the 100th Congress. The problem of drugs in public housing has reached crisis proportions. Many housing projects are virtual war zones. Tenants are afraid to leave their apartments, and violence has become routine.

The Public Housing Drug Elimination Act will provide tenants and housing authorities with much-needed tools to fight back. The act establishes a competitive grant program, under which funding is provided for additional security, tenant patrols, physical improvements designed to enhance security, and innovative antidrug programs.

Earlier this year, the Congress approved $8.2 million for the program in the fiscal year 1989 supplemental appropriations bill; $50 million therefore represents more than a 500-percent increase.

Since the supplemental appropriations bill was enacted, HUD reports that it is being inundated with inquiries from housing authorities around the country. I know in New Jersey there has been a tremendous response to the program. Clearly, the need for such funding is enormous.

Mr. President, I am also pleased that the bill includes $1.2 million for the planned Newark, NJ, Performing Arts Center. The center promises to contribute significantly to the revitalization process now underway in Newark.

I am also pleased that the bill includes a provision to increase the FHA mortgage limit from $101,250 to $124,875. This will be very useful in high cost areas in New Jersey.

Mr. President, this bill also does a very good job of addressing many of our environmental priorities. While I would have liked more for Superfund, I realize the constraints the subcommittee chair labored under. The bill achieves the highest Superfund appropriation in the history of the program, funding the program at $1.575 billion. That is $150 million more than the House and last year's appropriation. While I supported even higher levels for Superfund, I appreciate the efforts of our House colleagues and Senator MIKULSKI to achieve at least the level in the Senate bill, given the funding constraints under which the subcommittees worked.

We achieved this Superfund level while increasing construction grants by $800 million above the President's budget. The administration's failure to request sufficient resources for construction grants and other programs made it very difficult to address the growing needs of the Superfund program. I hope President Bush will respond to this conference report by realizing that future budgets must address not only Superfund, but construction grants and other vital programs at EPA.

I would like to note a number of provisions in the conference report to which I have given special attention.

The conference report has a special provision for the Lipari Landfill, the No. 1 site in the Nation. The measure includes $273,000 to study the health consequences on area residents of exposure to Lipari Landfill.

The bill also includes what would be the highest appropriation to date for implementation of the Emergency Planning and Community Right to Know Act, title III. I have sponsored a series of measures that raise total funding for this program by about $10 million and 42 FTE's above the President's budget request, including $3.84 million for State grants by the Federal Emergency Management Administration under section 305 of title III. The measures I sponsored in the EPA accounts provide additional headquarters and regional resources and personnel for the Office of Solid Waste and Emergency Response, the Office of Pesticides and Toxic Substances, the Office of Enforcement and Compliance Monitoring, and the Office of Research and Development.

The language of the Senate report, which is binding given that it is not superseded by either the House report or conference report, identifies a number of priorities to be included in EPA's implementation of title III, both with funds assumed in the President's fiscal year 1990 budget and with the increased funds provided by the conference report.

The Senate includes an itemization of emissions inventory activities and emergency planning activities, as well as some activities, such as technical assistance and enforcement, which apply to both planning and emissions inventory work. As the Senate report makes unmistakably clear, while emissions inventory activities are critical, it is the Appropriations Committee's intention that both in implementation and allocation of resources, EPA play a major role in carrying out the emergency planning provisions of the title III. The committee states clearly that the role of EPA on emergency planning, although different, is equal to that of State and local entities. The equal emphasis placed on emergency planning and emissions inventory should be reflected in EPA's use of funds in the President's budget as well as the increased funds for the salaries and expenses account and the abatement, control and compliance account provided by the conference report.

As should be clear from these observations, merely adding up the number of activities identified in the Senate report attributable to either the emissions inventory or emergency planning components of the title III program will not provide proper guidance in allocating funds. Those activities listed in the Senate report are not intended to be an all-inclusive list of how funds should be spent, but are instead the minimum of priorities that must be addressed in allocating funds.

To allocate title III funds, EPA must start with the premise that the Appropriations Committee considers both planning and inventory work as equal partners in the title III program. The Agency must then allocate resources in a manner that addresses the threshold activities identified in the Senate report as well as the needs of the various Agency offices involved in title III implementation, and is consistent with the underlying congressional philosophy on the equal importance of emergency planning and emissions inventory work. Only through such an approach can EPA allocate funds and staff in a manner consistent with this bill to the various offices involved with implementation of title III.

The conference report includes $3.84 million for title III's section 305 grants, as well as $120,000 for administration of the grants program. Because neither the House report nor conference report supersedes the Senate report language concerning these grants, FEMA is bound by the Senate report language to assure that these grants are issued without restrictions on the percentage of State training courses or personal services. FEMA should also carefully heed the Senate report's directive to take a more aggressive approach to implement Federal emergency response and training in the hazardous materials area, and to assure that such efforts are coordinated with EPA. Coordination by FEMA with EPA in implementing title III is necessary for effective implementation of title III.

I also note that, like the House report, the Senate report includes language clarifying that funds requested in the budget for assistance to States for AHERA and funds for assistance for State efforts under title III, including those of State emergency response commissions and local emergency planning committees, should be provided pursuant to section 28 of the Toxic Substances Control Act.

The conference report includes necessary statutory authority to allow EPA to receive a Defense Department helicopter to perform medial waste surveillance flyovers of the New Jersey-New York shore.

I am encouraged by the $40 million increase in the measure for the Clean Water Act's nonpoint pollution program to provide money to States to address water pollution due to such causes as runoff from land. Nonpoint pollution is a major threat to coastal waters, and this bill would do much to boost support to States to attack this threat.

We have also provided a $50 million increase for EPA's asbestos mitigation loans and grants program for schools. Although the administration was content to ignore this program, Congress is not.

As a continuation of our previous support for the development of a hazardous waste laboratory in Edison, NJ, the bill includes statutory authority for the New Jersey Institute of Technology to lease space from EPA for a joint university-EPA hazardous waste facility, previously funded through provisions in prior appropriations measures. This statutory language should clear the way for the project to move forward.

We have also continued support of $250,000 for a group of eight Northeastern States, including New Jersey and New York, for coordinated efforts to address interstate ozone and air pollution problems. Interstate transport of pollution is a problem for my State and the Nation, and I am hopeful that these coordinated efforts will help us achieve some progress on this problem.

Mr. President, the bill also includes $3.1 million for expanding the clinic laboratories at East Orange VA Hospital in Newark. These funds would permit the renovation of the first floor of building 7 to accommodate clinic research, and the renovation of backfill space in the main hospital building for clinic labs. These facilities are needed to carry out important research at Lyons that will contribute to the improved health of veterans.

The bill also includes $10.7 million for renovations at Lyons VA Hospital in Lyons, NJ. These funds will permit the renovation of the three floors of a psychiatric care unit to improve patient privacy, provide a new elevator, and correct life safety code and other deficiencies in the structure. These renovations are important to providing the best possible care for our veterans. I am also pleased that we were able to provide an increase of $6,000,000 for posttraumatic stress disorder treatment activities over the President's budget request.

Mr. President, I am also pleased that the conference report includes an earmark of $750,000 for the disrict heating and cooling program. As I noted in an earlier floor statement, this program offers great promise for cities such as Camden, NJ.

I am also pleased that the House receded to the Senate position on the ACTS Program and the final version of the bill includes $62 million for ACTS. These funds will enable NASA to continue with the ACTS program, which is critical to maintaining America's leadership in communications satellite technology.

We also increased funds for the training program authorized by section 126 of the Superfund Amendments and Reauthorization Act of 1986. Training skilled workers through

a bonafide, established training program is essential if Superfund is to succeed. The Congress recognizes that need and realizes that the American Trade Union movement through established training programs is a vehicle that is in force to produce the necessary skilled workers to work in the Superfund Program, and that many of the affiliates of the AFL-CIO are grantees of the Superfund training program. It is our intent that the necessary funds be provided for training programs. We realize that union related programs are helping to ensure that America's future will be dedicated to a safer environment that is protective of human health.

Mr. President, while I would note that all of the specific levels I've mentioned above will be affected by relatively minor across the board reductions to conform the bill to the subcommittee's allocation, on the whole I believe this is a strong bill, and I commend the subcommittee chair and ranking minority member for their efforts.

Mr. DOMENICI. Mr. President, I rise to address the conference report accompanying H.R. 2916, the VA-HUD independent agencies appropriations bill for fiscal year 1990.

The conference agreement, as adjusted, provides $65.7 billion in budget authority and $69.6 billion in outlays for fiscal year 1990. The conference report is technically under the subcommittee's 302(b) allocation by $0.2 billion in budget authority and $0.1 billion in outlays.

The conference report is technically under the Senate subcommittee's 302(b) allocation, but that result is achieved by using budget gimmicks which are not based on sound policy or budgetary considerations.

This conference report contains many budget gimmicks, including delays in the obligation of funding for NASA, the National Science Foundation, and VA programs; the reprogramming of NASA and VA funding from slow to high spending accounts, which will increase outlays outside of the regular budget process; and a lease-purchase agreement to finance a new EPA project. Although several objectionable provisions have been stricken by the conferees, this is still the "short" list of budget gimmicks in this bill.

I feel it necessary to mention a worrisome pattern that is clearly present in the VA-HUD appropriations bill. That pattern is the narrow focus of reaching 1-year deficit reduction targets at the expense of making sound policy decisions.

We have become so fixated on meeting 302(b) allocations that we often lose sight of larger budget and policy considerations. I believe this trend remains evident in the VA-HUD appropriations conference report before us today.

I hope it is clear that next year when the outlays associated with the delays in obligations occur, the results of these budget actions will have to be absorbed within the Appropriations Committee's domestic discretionary totals. These gimmicks will affect the level of new spending available to the overall committee in fiscal year 1991, not just the VA-HUD Subcommittee.

A glaring example of the budget gimmicks is the inclusion of eight different provisions to delay or limit the obligation of domestic discretionary appropriations until a later point in the fiscal year. These provisions allow approximately $575 million fewer outlays from being scored against this bill for fiscal year 1990.

Another example of these budget gimmicks is an amendment to increase the mortgage limit for the Federal Housing Administration [FHA], which will generate $104 million in fees. These fees are intended to cover losses on defaulted mortgages.

This subcommittee spends these receipts as an offset for other discretionary spending. Using these fees to offset current appropriations means, in effect, that we are spending these funds twice.

As I understand the situation, CBO has scored the outlay savings resulting from these provisions, and that is acceptable to the chairman of the Budget Committee. It is not acceptable to this Senator for several reasons.

First of all, the delays in the obligation of funding until the middle or end of the fiscal year puts an extreme burden on the executive branch to administer the programs Congress has authorized in law. Delaying obligations forces agencies to reassess their priorities. This disruption will occur because the conferees put their focus on meeting the 302(b) allocation at the expense of agency program needs.

The delays in the obligation of certain funding included in this bill will affect NASA's space station program, space transportation, space science, and space flight, control, and data communications programs. In other words, virtually every major activity of NASA will be limited under the conference agreement.

In addition, the Senate bill first attempted to shift $83 million in domestic discretionary spending from the National Science Foundation's U.S. Antarctic Program to a new defense account. Reclassifying this account would have violated the spirit of the bipartisan budget agreement. Instead, the conference report has just turned this into another delay in the obligation of funding.

My concern, Mr. President, is that although these provisions will save outlays in the short-term, these are not good decisions on the basis of larger policy or budgetary considerations.

I do not believe this is a responsible approach to Congress' budgetary responsibilities, and I fear that there will be a significant price to pay for our shortsightedness in the not too distant future.

Mr. THURMOND. Mr. President. I rise in strong support of passage of the conference report on H.R. 2916, the VA, HUD, independent agencies appropriations bill. I am pleased that under this bill, the Environmental Protection Agency construction grants program will provide $6.8 million for the construction of a connector sewer line between the towns of Honea Path and Ware Shoals, SC.

Mr. President, I want to now include some background information on this grant. At the present time, none of the wastewater treatment facilities serving the small town of Honea Path, SC, are capable of operating at acceptable discharge limits. Accordingly, the State of North Carolina has imposed a consent order on the town to construct a new facility, that would comply with acceptable wastewater treatment standards.

The town of Ware Shoals, which is only 10 miles away, has an existing wastewater treatment facility that has the capacity to treat not only its own discharge, but also all of the wastewater of Honea Path. Although the facility at Ware Shoals has the capacity to treat 4.5 million gallons per day, it presently treats an average of 300,000 gallons per day. A sewer connection between these two towns will provide for the efficient use of this excess capacity, and enable one community to share their resources with another. It just makes good economic sense. Accordingly, the $6.8 million will specifically provide for the installation of a series of four pump stations, and a main trunk line connecting the towns of Honea Path and Ware Shoals. With such a hookup, everyone will benefit.

Mr. President, providing for such a connector sewer line promotes the underlying policies of the clean water programs of the EPA and I am pleased that this provision was included in this bill.

I am pleased to offer my strong support to the conference report.

Mr. KERRY. Mr. President, I rise in support of the conference report on VA-HUD and independent agencies appropriations bill for fiscal year 1990.

I would like to commend my distinguished colleague from Maryland [Ms. MIKULSKI] for her leadership as chairman of the subcommittee and congratulate her for her excellent work as a leader of the conference and as manager of this bill.

The legislation before us today includes a number of important alloca-

tions. First and foremost, the bill contains the first significant increase in funds for housing programs in more than 8 years. I am extremely pleased to see that Congress has finally seen its way clear to reverse the downward trend that characterized housing and the funding of housing programs during the last administration.

In the housing area, this measure includes important funds to assist the homeless. As the "Housing Now" march on Washington earlier this month clearly demonstrated, the pervasiveness of the concern for homelessness throughout this country is widespread. As we work to eliminate homelessness through the provision of decent, safe and affordable housing, we must also ensure that the winds of winter do not find our fellow citizens homeless and freezing on our streets.

The measure also includes funds to provide for public housing modernization and public housing operating subsidies. These resources should go a long way to ensuring that our current housing stock is adequately maintained; that dilapidated units are brought up to speed and that our public housing authorities have the resources they need to fulfill their mandated roles as overseers of the Government's housing supply.

Mr. President, I am also pleased that H.R. 2916 addresses two other important housing related concerns. First, the measure includes an increase in funding over last year's level for the Community Development Block Grant [CDBG] Program. This important program is instrumental in providing a variety of essential services to low- and moderate-income populations throughout the country, ranging from housing development and rehabilitation to day care, home health care and job training and counseling. CDBG plays a vital role in helping local governments meet the needs of their communities.

Second, H.R. 2916 includes about $1 billion to fund expiring section 8 contracts. Mr. President, this foresight in funding will help prevent thousands from potential homelessness and will ensure that 42,167 units of housing will remain available to low-income persons in 1990.

Finally, Mr. President, the VA-HUD and independent agencies appropriations bill contains a number of important allocations in the environmental area. In this regard, I am quite pleased that H.R. 2916 includes $20 million for the Boston Harbor cleanup project. This $20 million installment on the $100 million commitment that was approved in 1986, represents an important component of the crucial Boston Harbor cleanup project. The funds approved by passage of this measure today will be used to begin to develop new primary treatment facilities and to prepare Deer Island for the new primary treatment facility that will be built there.

Ms. MIKULSKI. Mr. President, I believe the conference report has had adequate and spirited debate. The issues raised about both the NASA allocation and the policy issues of the advanced solid rocket motor I think have also been adequately debated. I am not going to add to that.

I certainly believe the subcommittee acted both in terms of solid policy, since the policy we advocated was recommended by the authorizing committee, No. 1; No. 2, in terms of the fiscal propriety of what we have done in the conference report. We were talking about apples and oranges. What we essentially came up with was a new fruit stand, because the amount in the VA-HUD 302(b) was more than the House amount. That was disallowed. Then they went back to the drawing boards and gave us a new allocation which we specifically used for NASA.

So that is why the numbers have changed. That is why the numbers have expanded. But we feel, whether we came in with a lemon or an orange, we ended up with a pretty good situation.

Mr. President, now that we have completed that, I am going to ask unanimous consent to dispose of all amendments in disagreement prior to the vote on the VA-HUD conference.

I ask unanimous consent to be able to dispose of those amendments.

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

Mr. GARN addressed the Chair.

The PRESIDING OFFICER (Mr. KERREY). The Senator from Utah.

Mr. GARN. Mr. President, if I could interrupt for just a moment and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Ms. MIKULSKI. Mr. President, I move adoption of the conference report, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from New Jersey [Mr. BRADLEY] and the Senator from Nebraska [Mr. EXON] are necessarily absent.

Mr. DOLE. I announce that the Senator from Minnesota [Mr. DURENBERGER], the Senator from Texas [Mr. GRAMM], the Senator from Vermont [Mr. JEFFORDS], the Senator from Mississippi [Mr. LOTT], the Senator from Indiana [Mr. LUGAR], the Senator from Idaho [Mr. MCCLURE], the Senator from Wyoming [Mr. SIMPSON], and the Senator from Virginia [Mr. WARNER] are necessarily absent.

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

The result was announced—yeas 84, nays 6, as follows:

[Rollcall Vote No. 277 Leg.]

YEAS—84

Adams	Fowler	McConnell
Baucus	Garn	Metzenbaum
Bentsen	Glenn	Mikulski
Biden	Gore	Mitchell
Bingaman	Gorton	Moynihan
Bond	Graham	Murkowski
Boren	Grassley	Nickles
Boschwitz	Harkin	Nunn
Breaux	Hatch	Packwood
Bryan	Hatfield	Pell
Bumpers	Heflin	Pressler
Burdick	Heinz	Pryor
Burns	Hollings	Reid
Byrd	Inouye	Riegle
Chafee	Johnston	Robb
Coats	Kassebaum	Rockefeller
Cochran	Kasten	Rudman
Cohen	Kennedy	Sanford
Conrad	Kerrey	Sarbanes
Cranston	Kerry	Sasser
D'Amato	Kohl	Shelby
Danforth	Lautenberg	Simon
Daschle	Leahy	Specter
DeConcini	Levin	Stevens
Dodd	Lieberman	Thurmond
Dole	Mack	Wallop
Domenici	Matsunaga	Wilson
Ford	McCain	Wirth

NAYS—6

Armstrong	Helms	Roth
Dixon	Humphrey	Symms

NOT VOTING—10

Bradley	Jeffords	Simpson
Durenberger	Lott	Warner
Exon	Lugar	
Gramm	McClure	

So the conference report was agreed to.

Mr. GARN. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Ms. MIKULSKI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the amendments of the House to the amendments of the Senate in disagreement be considered and agreed to en bloc with the exception of amendment 25.

The PRESIDING OFFICER. Is there objection? Without objection, the amendments are agreed to.

The amendments in disagreement agreed to en bloc are as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 4 to the aforesaid bill, and concur therein with an amendment as follows: Restore the matter stricken by said amendment, amended to read as follows: ": *Provided,* That of the sum appropriated, $7,250,000,000 is available only for expenses

in the personnel compensation and benefits object classifications".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 8 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum inserted by said amendment, insert "46,112,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 9 to the aforesaid bill and concur therein with an amendment as follows: In lieu of the sum inserted by said amendment, insert "$817,059,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 17 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert:

GENERAL PROVISION

Notwithstanding the earmarking of funds for the Veterans Benefits Administration identified in this Act within the general operating expenses appropriation, $565,329,000 of the $817,059,000 appropriated shall be for the Veterans Benefits Administration.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 18 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter stricken and inserted by said amendment, insert:

(INCLUDING RESCISSION AND TRANSFER OF FUNDS)

For assistance under the United States Housing Act of 1937, as amended ("the Act" herein) (42 U.S.C. 1437), not otherwise provided for, $8,115,221,525, to remain available until expended: *Provided,* That of the new budget authority provided herein, $134,373,600 shall be for the development or acquisition cost of public housing for Indian families, including amounts for housing under the mutual help homeownership opportunity program under section 202 of the Act (42 U.S.C. 1437bb); $457,717,000 shall be for the development or acquisition cost of public housing, including major reconstruction of obsolete public housing projects, other than for Indian families; $2,030,000,000 shall be for modernization of existing public housing projects pursuant to section 14 of the Act (42 U.S.C. 14371); $2,500,000 shall be for technical assistance and training under section 20 of the Act (42 U.S.C. 1437r); $883,830,000 shall be for assistance under section 8 of the Act for projects developed for the elderly under section 202 of the Housing Act of 1959, as amended (12 U.S.C. 1701q) and $180,000,000 for amendments to section 8 contracts for projects developed for the elderly and handicapped under section 202 of the Housing Act of 1959, amended; $1,148,332,500 shall be for the section 8 existing housing certificate program (42 U.S.C. 1437f), of which $47,302,500 shall be for eligible tenants affected by the demolition or disposition of public housing units (including units occupied by Indian families) and $112,350,000 shall be for certificates to assist in the relocation of other eligible tenants or for project-based section 8 assistance to help implement plans of action approved under title II of the Housing and Community Development Act of 1987; up to $318,545,152 shall be for section 8 assistance for property disposition; $782,521,950 shall be available for the housing voucher program under section 8(o) of the Act (42 U.S.C. 1437f(o)); and $1,373,060,823 for amendments to section 8 contracts other than contracts for projects developed under section 202 of the Housing Act of 1959, as amended: *Provided further,* That of that portion of such budget authority under section 8(o) to be used to achieve a net increase in the number of dwelling units for assisted families, highest priority shall be given to assisting families, who as a result of rental rehabilitation action are involuntarily displaced or who are or would be displaced in consequence of increased rents (wherever the level of such rents exceeds 35 percent of the adjusted income of such families, as defined in regulations promulgated by the Department of Housing and Urban Development): *Provided further,* That up to $143,490,000 shall be for loan management under section 8; and, any amounts of budget authority provided herein that are used for loan management activities under section 8(b)(1) (42 U.S.C. 1437f(b)(1)) shall not be obligated for a contract term that is less than five years: *Provided further,* That those portions of the fees for the costs incurred in administering incremental units assisted in the certificate and housing voucher programs under sections 8(b) and 8(o), respectively, shall be established or increased in accordance with the authorization for such fees in section 8(q) of the Act: *Provided further,* That of the $8,115,221,525 provided herein, $324,062,500 shall be used to assist handicapped families in accordance with section 202(h) (2), (3), and (4) of the Housing Act of 1959, as amended (12 U.S.C. 1701q) and $50,000,000 shall be for amendments to contracts under section 202(h) (2), (3), and (4) of the Housing Act of 1959, as amended (12 U.S.C. 1701q); and $25,000,000 shall be for assistance under the Nehemiah housing opportunity program pursuant to section 612 of the Housing and Community Development Act of 1987 (Public Law 100-242), but such amount, and the $20,000,000 appropriated under Public Law 100-404 for such program, shall be obligated under title VI of the Housing and Community Development Act of 1987, notwithstanding the sunset provision in section 613 thereof; and $50,000,000 shall be used for grants under the Public Housing Drug Elimination Act of 1988 (42 U.S.C. 11901 et seq.): *Provided further,* That amounts equal to all amounts of budget authority (and contract authority) reserved or obligated for the development or acquisition cost of public housing (including public housing for Indian families), for modernization of existing public housing projects (including such projects for Indian families), and except as hereinafter provided, for programs under section 8 of the Act (42 U.S.C. 1437f), which are recaptured during fiscal year 1990, shall be rescinded: *Provided further,* That 50 percent of the amounts of budget authority, or in lieu thereof 50 percent of the cash amounts associated with such budget authority, that are recaptured from projects described in section 1012(a) of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (Public Law 100-628, 102 Stat. 3224, 3268) shall not be rescinded, or in the case of cash, shall not be remitted to the Treasury, and such amounts of budget authority or cash shall be used by State housing finance agencies in accordance with such section: *Provided further,* That notwithstanding the 20 percent limitation under section 5(j)(2) of the Act, any part of the new budget authority for the development or acquisition costs of public housing other than for Indian families may, in the discretion of the Secretary, based on applications submitted by public housing authorities, be used for new construction or major reconstruction of obsolete public housing projects other than for Indian families: *Provided further,* That up to $14,000,000 of the funds provided under this heading may be transferred, merged, and added to sums appropriated for "Salaries and expenses" and any amount or amounts earmarked under this heading may be reduced accordingly.

Section 6 of the United States Housing Act of 1937 (42 U.S.C. 1437d) is amended by inserting after subsection (a) the following new subsection:

"(b)(1) Each contract for loans (other than preliminary loans) or contributions for the development, acquisition, or operation of public housing and public housing for Indians and Alaska Natives in accordance with the Indian Housing Act of 1988 shall provide that the total development cost of the project on which the computation of any annual contributions under this Act may be based may not exceed the amount determined under paragraph (2) (for the appropriate structure type) unless the Secretary provides otherwise, and in any case may not exceed 110 percentum of such amount unless the Secretary for good cause determines otherwise.

"(2) For purposes of paragraph (1), the Secretary shall determine the total development cost by multiplying the construction cost guideline for the project (which shall be determined by averaging the current construction costs, as listed by not less than 2 nationally recognized residential construction cost indices, for publicly bid construction of a good and sound quality) by

"(A) in the case of elevator type structures, 1.6; and

"(B) in the case of nonelevator type structures, 1.75.".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 19 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert:

ASSISTANCE FOR THE RENEWAL OF EXPIRING SECTION 8 SUBSIDY CONTRACTS

For assistance under the United States Housing Act of 1937 (42 U.S.C. 1437) not otherwise provided for, for use in connection with expiring section 8 subsidy contracts, $1,091,978,475, to remain available until expended, of which $517,777,500 shall be for existing certificates, $449,145,000 shall be for housing vouchers and $125,055,975 shall be for loan management under section 8: *Provided,* That funds provided under this paragraph may not be obligated for a contract term that is less than five years: *Provided further,* That to the extent any amount in this paragraph is insufficient for the purpose for which it is earmarked, the Secretary may supplement such amount with up to $90,000,000 from funds otherwise earmarked under this paragraph: *Provided further,* That to the extent such supplement is insufficient, the Secretary may, from the Annual Contributions for Assisted Housing paragraph, transfer to, add to, and merge with the amounts appropriated under this paragraph up to $90,000,000 to fund such insufficiency, and the $1,373,060,823 earmarked for amendments to section 8 contracts other than contracts for projects developed under section 202 of the Housing Act of 1959, in the Annual Contributions for Assisted Housing paragraph, shall be reduced by an amount equal to the amount transferred.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 37 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert "$93,400,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 38 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert ": *Provided further,* That $1,200,000 of the $93,400,000 shall be available for a special project under section 107 for infrastructure development on Hawaiian home lands by the Hawaii State Department of Hawaiian Home Lands, notwithstanding the provisions of section 107(d)(1)".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 39 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert ": *Provided further,* That of such $93,400,000, notwithstanding any requirements or other provision in title I of the Housing and Community Development Act of 1974, as amended, $16,000 shall be available for the communities of Parshall and New Town, North Dakota, for municipal services provided in connection with properties owned by the Fort Berthold Indian Reservation Housing Authority, and $500,000 shall be available for West Valley City, Utah, for basic infrastructure in connection with the West Ridge Commerce Industrial Park".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 40 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter stricken and inserted by said amendment, insert "provisos".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 43 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum inserted by said amendment, insert "and for reimbursement to the Resolution Trust Corporation for properties conveyed by such Corporation for such use, in accordance with section 810(g)(3) of such Act, $13,200,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 46 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum inserted by said amendment, insert "$738,530,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 47 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum inserted by said amendment, insert "$397,278,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 48 to the aforesaid bill, and concur therein with an amendment as follows: Restore the matter stricken by said amendment, amended to read as follows: ": *Provided,* That during fiscal year 1990, notwithstanding any other provision of law, the Department of Housing and Urban Development shall maintain an average employment of at least 1,402 for Public and Indian Housing Programs".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 55 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert:

If the Secretary of the Department of Housing and Urban Development has not issued the lead-based paint technical guidelines on reliable testing protocols, safe and effective abatement techniques, cleanup methods and acceptable post-abatement lead dust levels by April 1, 1990, the Department's September 29, 1989, draft guidelines shall take effect and remain in force until revised by the Secretary.

Of the amount appropriated in this Act under the heading "Annual contributions for assisted housing" and earmarked for the modernization of existing public housing projects pursuant to section 14 of the United States Housing Act of 1937, as amended (42 U.S.C. 1437), the Secretary shall set aside and may use up to $1,000,000 to indemnify any public housing agency that receives assistance under section 14 of the Act to test and abate lead-based paint in the the Lead-Based Paint Abatement Demonstration Program under section 302(d)(2)(A) of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4822(d)(2)(A)) and any person under contract with such agency, with respect to all or parts of claims arising from such testing or abatement, in accordance with the terms and conditions that the Secretary shall specify for the validation, processing, and payment fo claims, and any other matters concerning the administration of the amount set aside: *Provided,* That any balances not obligated before October 1, 1992, shall be made available without regard to this paragraph.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 57 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum stricken and matter inserted by said amendment, insert "$16,000,000, to remain available until expended".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 71 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum inserted by said amendment, insert "$2,800,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 75 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum inserted by said amendment, insert "$15,000,000, of which $3,000,000 shall be made available as a grant for an environmental laboratory addition to be constructed and owned by the University of Nevada, under such terms and conditions as the Administrator deems appropriate, with all of such sums".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 80 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter stricken and inserted by said amendment, insert:

For necessary expenses to carry out the purposes of the Federal Water Pollution Control Act, as amended, and the Water Quality Act of 1987, $2,050,000,000 to remain available under expended, of which $1,002,000,000 shall be for title II (other than sections 201(m)(1-3), 201(n)(2), 206, 208, and 209) of the Federal Water Pollution Control Act, as amended; $1,002,000,000 shall be for title VI of the Federal Water Pollution Control Act, as amended; and $46,000,000 shall be for title V of the Water Quality Act of 1987, consisting of $7,000,000 for section 510, $20,000,000 for section 513, and $19,000,000 for section 515: *Provided,* That of the funds appropriated in previous fiscal years under this heading to carry out the purposes of section 206(a) of the Federal Water Pollution Control Act, as amended, $47,700,000 are rescinded: *Provided further,* That, notwithstanding sections 602(b)(6) or 201(g)(1) of the Federal Water Pollution Control Act, as amended, of the funds appropriated in this paragraph, amounts awarded in a capitalization grant to an agency of any State, including funds transferred pursuant to section 205(m), shall be available for providing assistance in that State for the construction of publicly owned treatment works as defined in section 212 of that Act: *Provided further,* That, notwithstanding any other provision of law, from sums appropriated under this paragraph and allotted to the State of Texas under section 205 of the Federal Water Pollution Control Act, as amended, the State of Texas is authorized to set aside, at the discretion of the Governor, up to $15,000,000 for the establishment of a special revolving fund for the sole purpose of making loans to residents of colonias in the counties of Cameron, Hidalgo, Zapata, Starr, Webb, Maverick, Val Verde, Terrell, Brewster, Presidio, Hudspeth, and El Paso. Repayment amounts may remain in the special revolving fund for future loans to colonia residents, and funds set aside but not used for loans, including repayment amounts, may be transferred by the State to its general title VI revolving fund. Loans from the special revolving fund shall be made for the purposes of connecting residences to sewer collection systems and making any necessary plumbing improvements to enable such residences to meet existing county or city code requirements. The Texas Water Development Board is authorized to use funds from this set-aside for the administrative expenses of the special revolving fund: *Provided further,* That, notwithstanding any provision of law, from sums appropriated under this paragraph and before allotment of title II funds to the states under section 205, the Administrator shall award a grant under title II for $6,800,000 for construction of a connector sewer line, consisting of a main trunk line and four pump stations, for the Town of Honea Path, South Carolina to the wastewater treatment facility in the Town of Ware Shoals, South Carolina: *Provided further,* That, notwithstanding any other provision of law, sums appropriated under this heading allotted for title VI capitalization grants to American Samoa, Commonwealth of the Northern Mariana Islands, Guam, the Trust Territory of Palau (or its successor entity), Virgin Islands and the District of Columbia, may be used for title II construction grants at the request of the chief executive of each of the above named entities.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 86 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum inserted by said amendment, insert "$142,499,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 90 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter stricken and inserted by said amendment, insert:

For necessary expenses, not otherwise provided for, including research, development, operations, services, minor construction, maintenance, repair, rehabilitation and modification of real and personal property; purchase, hire, maintenance, and operation

of other than administrative aircraft, necessary for the conduct and support of aeronautical and space research and development activities of the National Aeronautics and Space Administration; $5,366,050,000, to remain available until September 30, 1991: *Provided,* That of the funds made available under this heading, $1,800,000,000 is for the space station program only, $750,000,000 of which shall not become available for obligation until June 1, 1990, and pursuant to section 202(b) of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, this action is a necessary (but secondary) result of a significant policy change: *Provided further,* That of the funds made available under this heading, $320,000,000 is for space transportation capability development only, which amount shall not become available for obligation until April 15, 1990, and pursuant to section 202(b) of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, this action is a necessary (but secondary) result of a significant policy change: *Provided further,* That of $2,064,600,000 made available under this heading for space science and applications, only $1,000,000,000 shall be available prior to April 1, 1990, and pursuant to section 202(b) of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, this action is a ncecssary (but secondary) result of a significant policy change: *Provided further,* That no funds appropriated by this Act or any other Act may be used to enter into contracts of the National Aeronautics and Space Administration for the comet rendezvous and asteroid flyby and Cassini missions (CRAF/Cassini) if the estimated total budget authority for development of the two spacecraft, through launch plus 30 days of the Cassini mission, exceeds $1,600,000,000.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 91 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum inserted by said amendment, insert "$4,614,600,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 92 to the aforesaid bill, and concur therein with an amendment as follows: Restore the matter stricken by said amendment, and change the sum named in said matter to read as follows: "$75,000,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 93 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum inserted by said amendment, insert "$601,300,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 94 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum inserted by said amendment, insert "$152,000,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 95 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert ": *Provided further,* That of the amounts transferred under the authority of the foregoing proviso, not to exceed $85,000,000 may be for 'Space flight, control and data communications', and not to exceed $67,000,000 may be for 'Research and program management': *Provided further,* That in addition to the foregoing transfers, up to $25,000,000 of the funds provided by this paragraph may be transferred to and merged with sums appropriated for 'Research and development' ".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 97 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert ": *Provided further,* That of the funds made available under this heading, up to $195,000 may be transferred to the 'Office of Inspector General' : *Provided further,* That the grade retention provisions of 5 U.S.C. 5362 shall remain available to Goddard Space Flight Center employees of the National Aeronautics and Space Administration, displaced by the conversion on September 3, 1989, of their civil service positions to private sector positions, from the time an affected employee is placed in a lower graded position until one or more of the conditions of 5 U.S.C. 5362(d) is met".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 98 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter stricken and inserted by said amendment, insert:

SMALL AND DISADVANTAGED BUSINESS

The NASA Administrator shall annually establish a goal of at least 8 per centum of the total value of prime and subcontracts awarded in support of authorized programs, including the space station by the time operational status is obtained, which funds will be made available to small business concerns or other organizations owned or controlled by socially and economically disadvantaged individuals (within the meaning of section 8(a) (5) and (6) of the Small Business Act (15 U.S.C. 637(a) (5) and (6)), including Historically Black Colleges and Universities and minority educational institutions (as defined by the Secretary of Education pursuant to the General Education Provisions Act (20 U.S.C. 1221 et seq.)).

To facilitate progress in reaching this goal, the NASA Administrator shall submit within one year from enactment of this Act a plan describing the process to be followed to achieve the prescribed level of participation in the shortest practicable time.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 105 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert ": *Provided further,* That none of the funds appropriated in this Act may be used directly or through grants, contracts or other award mechanisms, for agreements executed after enactment of this Act, to pay or to provide reimbursement for the Federal portion of the salary of any individual functioning as a Federal employee at more than the daily equivalent of the maximum rate paid for ES-6 for assignments to Senior Executive Service positions, unless specifically authorized by law: *Provided further,* That notwithstanding the preceding proviso, none of the funds appropriated in this Act may be used to pay the salary of any individual functioning as a Federal employee, or any other individual, through a grant or grants at a rate in excess of $95,000 per year: *Provided further,* That of the funds appropriated in this Act, $900,000 shall be available only for the International Institute for Applied Systems Analysis, and that, notwithstanding any other provision of law, the Director may choose not to obligate these funds for that purpose".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 109 to the aforesaid bill, and concur therein with an amendment as follows: Restore the matter stricken by said amendment, amended to read as follows: ", nor for procurements covered by the GATT Agreement on Government Procurement: *Provided,* That the vessel contracted for pursuant to the foregoing shall be of United States registry".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 110 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert:

UNITED STATES ANTARCTIC LOGISTICAL SUPPORT ACTIVITIES

For necessary expenses in reimbursing Federal agencies for logistical and other related activities for the United States Antarctic Program pursuant to the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861-1875); maintenance, and operation of aircraft and purchase of flight services for research and operations support; maintenance and operation of research ships and charter or lease of ships for research and operations support; improvement of environmental practices and enhancement of safety; hire of passenger motor vehicles; not to exceed $82,000,000, to remain available until expended: *Provided,* That funds made available under this heading shall not become available for obligation until September 30, 1990, and pursuant to section 202(b) of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, this action is a necessary (but secondary) result of a significant policy change: *Provided further,* That receipts for support services and materials provided for non-Federal activities may be credited to this appropriation.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 116 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert:

FEDERAL DEPOSIT INSURANCE CORPORATION

FSLIC RESOLUTION FUND

For payment of expenditures, in fiscal year 1990, of the FSLIC Resolution Fund, for which other funds available to the FSLIC Resolution Fund as authorized by Public Law 101-73 are insufficient, such sums as may be necessary: *Provided,* That the Chairman of the Federal Deposit Insurance Corporation shall provide quarterly reports to the Committees on Appropriations beginning November 15, 1989, on the receipts, disbursements, cash balance, estimated Treasury payments required by fiscal year, and total estimated costs to the FSLIC Resolution Fund.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 122 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter stricken and inserted by said amendment, insert:

After January 1, 1990, and for the duration of fiscal year 1990, within the Department of Housing and Urban Development, the number of noncareer appointees to the Senior Executive Service shall not exceed 13 percent of the total number of Senior Executive Service positions in such department, unless the Office of Personnel Management

approves a waiver to exceed that limitation in accordance with 5 U.S.C. 3134. The Office of Personnel Management, in consultation with the Office of Management and Budget, shall undertake an expedited review of Senior Executive Service positions in the Department of Housing and Urban Development and report its findings, recommendations, and justification for any waiver determination to the Congress by December 15, 1989.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 123 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter stricken by said amendment, insert:

SEC. 517. Notwithstanding any other provision of this Act, amounts otherwise provided by this Act for the following accounts and activities are reduced by the following amounts:

DEPARTMENT OF VETERANS AFFAIRS

VETERANS BENEFIT ADMINISTRATION

"Direct loan revolving fund", $15,000;

VETERANS HEALTH SERVICE AND RESEARCH ADMINISTRATION

"Medical care", $115,339,000;

"Medical and prosthetic research", $3,348,000;

"Medical administration and miscellaneous operating expenses", $715,000;

"Grants to the Republic of the Philippines", $8,000;

DEPARTMENTAL ADMINISTRATION

"General operating expenses", $12,664,000;

"Office of Inspector General", $340,000;

"Construction, major projects", $6,514,000;

"Construction, minor projects", $1,762,000;

"Parking garage revolving fund", $455,000;

"Grants for construction of State extended care facilities", $651,000;

"Grants for the construction of State veterans cemeteries", $68,000;

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

HOUSING PROGRAMS

"Annual contributions for assisted housing", $125,786,525;

"Assistance for the renewal of expiring section 8 subsidy contracts", $16,925,475;

"Rental rehabilitation grants", $2,015,000;

"Housing for the elderly or handicapped fund", $7,442,000;

"Congregate services", $93,000;

"Payments for operation of low-income housing projects", $27,832,000;

"Housing counseling assistance", $54,000;

"Federal Housing Administration Fund" (limitation on guaranteed loans), $1,162,500,000;

"Federal Housing Administration Fund" (temporary mortgage assistance payments), $1,373,000;

"Nonprofit sponsor assistance", $17,000;

GOVERNMENT NATIONAL MORTGAGE ASSOCIATION

"Guarantees of mortgage-backed securities", $1,286,500,000;

HOMELESS ASSISTANCE

"Emergency shelter grants program", $1,162,000;

"Transitional and supporting housing demonstration program", $2,015,000;

"Supplemental assistance for facilities to assist the homeless", $170,000;

"Section 8 moderate rehabilitation single room occupancy", $1,162,000;

COMMUNITY PLANNING AND DEVELOPMENT

"Community development grants", $46,500,000;

"Community development grants" (by transfer), $775,000;

"Community development grants" (limitation on guaranteed loans), $2,232,000;

"Urban homesteading", $205,000;

POLICY DEVELOPMENT AND RESEARCH

"Research and technology", $325,000;

FAIR HOUSING AND EQUAL OPPORTUNITY

"Fair housing activities", $198,000;

MANAGEMENT AND ADMINISTRATION

"Salaries and expenses, $11,447,000;

"Salaries and expenses" (by transfer, limitation on FHA corporate funds), $6,158,000;

"Office of Inspector General", $481,000;

"Office of Inspector General" (by transfer, limitation on FHA corporate funds), $102,000;

INDEPENDENT AGENCIES

AMERICAN BATTLE MONUMENTS COMMISSION

"Salaries and expenses", $248,000;

CONSUMER PRODUCT SAFETY COMMISSION

"Salaries and expenses", $553,000;

COURT OF VETERANS APPEALS

"Salaries and expenses", $62,000;

DEPARTMENT OF DEFENSE—CIVIL

CEMETERIAL EXPENSES, ARMY

"Salaries and expenses", $195,000;

ENVIRONMENTAL PROTECTION AGENCY

"Salaries and expenses", $13,556,000;

"Office of Inspector General", $492,000;

"Research and development", $3,743,000;

"Abatement, control, and compliance", $12,864,000;

"Buildings and facilities", $232,000;

"Hazardous Substance Superfund", $24,412,000;

"Hazardous Substance Superfund", (limitation on administrative expenses), $3,410,000;

"Leaking underground storage tank trust fund", $1,178,000;

"Leaking underground storage tank trust fund", (limitation on administrative expenses), $93,000;

"Construction grants", $31,775,000;

EXECUTIVE OFFICE OF THE PRESIDENT

"Council on Environmental Quality and Office of Environmental Quality", $23,000;

"National Space Council", $15,000;

"Office of Science and Technology Policy", $45,000;

FEDERAL EMERGENCY MANAGEMENT AGENCY

"Disaster relief", $1,550,000;

"Salaries and expenses", $2,209,000;

"Office of Inspector General", $41,000;

"Emergency Management Planning and Assistance", $4,267,000;

"Emergency Food and Shelter Program", $2,077,000;

GENERAL SERVICES ADMINISTRATION

"Consumer Information Center", $21,000;

"Consumer Information Center" (limitation on administrative expenses), $32,000;

DEPARTMENT OF HEALTH AND HUMAN SERVICES

"Office of Consumer Affairs", $29,000;

INTERAGENCY COUNCIL ON THE HOMELESS

"Salaries and expenses", $17,000;

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

"Research and development", $84,174,00;

"Space flight, control and data communications", $71,526,000;

"Construction of facilities", $9,320,000;

"Research and program management", $30,724,000;

"Office of Inspector General", $136,000;

NATIONAL CREDIT UNION ADMINISTRATION

"Central liquidity facility" (limitation on direct loans), $9,300,000;

"Central liquidity facility" (limitation on administrative expenses, corporate funds), $13,000;

NATIONAL INSTITUTE OF BUILDING SCIENCES

"Payment to the National Institute of Building Sciences", $8,000;

NATIONAL SCIENCE FOUNDATION

"Research and related activities", $26,582,000;

"Research and related activities" (program development and management), $1,517,000;

"Academic research facilities", $310,000;

"United States Antarctic program activities", $1,147,000;

"United States Antarctic logistical support activities", $1,271,000;

"Science education activities", $3,255,000;

"Office of Inspector General", $40,000;

NEIGHBORHOOD REINVESTMENT CORPORATION

"Payment to the Neighborhood Reinvestment Corporation", $423,000;

SELECTIVE SERVICE SYSTEM

"Salaries and expenses", $408,000.

In carrying out these reductions, each amount earmarked in this Act and not otherwise specified in this section shall be reduced in proportion to the overall reduction in the applicable account with the exception of the earmarking for personnel compensation and benefits costs carried in the Department of Veterans Affairs "Medical care" appropriating paragraph which shall not be reduced.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 124 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert:

SEC. 518. The authority of the Department of Veterans Affairs in section 618 of Public Law 100-440 to operate a leave transfer program for employees subject to section 4108 of title 38, United States Code, is extended through December 31, 1989. The provisions of the final sentence of such section 618 shall apply to transferred leave that is unused as of December 31, 1989.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 128 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert:

SEC. 519. None of the funds appropriated under title II of this Act under the heading entitled Community Planning and Development, Community Development Grants, to any department, agency, or instrumentality of the United States may be obligated or expended to any municipality that fails to adopt and enforce a policy prohibiting the use of excessive force by law enforcement agencies within the jurisdiction of said municipality against any individuals engaged in nonviolent civil rights demonstrations.

AMENDMENT IN DISAGREEMENT NO. 25

Ms. MIKULSKI. Mr. President, I ask that the clerk read amendment 25.

The PRESIDING OFFICER. The clerk will read amendment 25.

The assistant legislative clerk read as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 25 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert:

FEDERAL HOUSING ADMINISTRATION FUND

For payment to cover losses, not otherwise provided for, sustained by the Special Risk Insurance Fund and General Insurance Fund as authorized by the National Housing Act, as amended (12 U.S.C. 1715z-3(b) and 1735c(f)), $350,093,000, to remain available until expended.

During fiscal year 1990, within the resources available, gross obligations for direct loans are authorized in such amounts as may be necessary to carry out the purposes of the National Housing Act, as amended.

During fiscal year 1990, additional commitments to guarantee loans to carry out the purposes of the National Housing Act, as amended, shall not exceed a loan principal of $57,290,172,000

During fiscal year 1990, gross obligations for direct loans of not to exceed $88,600,000 are authorized for payments under section 230(a) of the National Housing Act, as amended, from the insurance fund chargeable for benefits on the mortgage covering the property to which the payments made relate, and payments in connection with such obligations are hereby approved.

Mr. GARN. Mr. President, the motion to disagree with the amendment of the House simply reaffirms the original Senate-passed limitation on overall FHA mortgage guarantees. The limitation of $57 billion proposed in the amendment of the House will artificially constrain FHA activity, and will likely force a supplemental early next summer, just as the peak homesale period picks up steam.

When the Senate set a higher limitation of $75 billion in its version of the bill, we had just agreed to an amendment which provided for an increase in the maximum individual mortgage size to $124,875. The higher aggregate FHA limitation reflects the anticipated demand for FHA mortgage guarantees based on this expanded eligibility standard.

The conference agreement adopted both of these amendments of the Senate. Unfortunately, because of a twist in the rules of the House, and because of a procedural interpretation of the application of the Budget Act, the House departed from the conference agreement and adopted this more restrictive limitation.

The motion to disagree with the House amendment should be adopted to avoid any unnecessary disruption of FHA activities. Furthermore, unless the higher Senate-passed overall limitation is enacted by the Congress, the previously adopted increase in individual mortgage eligibility will have the unanticipated effect to reducing the number of low and moderate income families that can obtain FHA assistance.

I therefore am hopeful and expect that when the House reconsiders this matter, they will concur in the original Senate position.

I urge adoption of the motion.

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the Senate disagree to the amendment of the House to the remaining amendment of the Senate in disagreement numbered 25.

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

Ms. MIKULSKI. Mr. President, that completes the consideration of the HUD-VA and independent agency conference report.

Mr. MITCHELL. Mr. President, I congratulate the managers of the bill for their prompt action in disposing of this matter.

SCHEDULE

Mr. MITCHELL. Mr. President, for the information of Senators regarding the schedule for the remainder of today and on Monday, it is my intention shortly to move to the conference report on the military construction appropriations bill. I have checked with the distinguished Republican leader. We know of no Senator who requests a rollcall vote on that conference report. Unless some Senator indicates now a desire for such a vote, it is my intention to state that there will be no rollcall vote required on that, which means that this vote just having occurred will have been the last vote today.

Not hearing any response, Mr. President, I therefore accept that no Senator seeks a rollcall vote on the military construction appropriation conference report. Therefore, the vote having just occurred will be the last vote today.

On completion of the military construction appropriations conference report, pursuant to discussions I have had with the distinguished Republican leader, it is my intention to return to deliberation of the Poland-Hungary aid bill, with respect to which the capital gains amendment is pending, for the purpose of 3 hours of debate on that measure, equally divided, with the understanding that there will be no motions or amendments or cloture motions or any other action taken. It will be for purposes of debate only.

Upon the conclusion of that debate, the Senate would go out until Tuesday morning. The Senate would not be in session on Monday. On Tuesday morning it is my intention, depending upon the status of conference reports, to proceed to the consideration of at least two more remaining reports, one being State, Commerce, Justice, the other the legislative appropriations conference report.

I want to make that clear for the benefit of Senators' schedules. I apologize to those Senators who had been anticipating a session on Monday which earlier in the week I indicated would be required. However, that was in anticipation of the Tuesday midnight deadline on the debt limit extension. And in view of the action announced yesterday by the Treasury Department, which was completely unknown to and unexpected by me, that action, the requirement of proceeding to that debt limit extension, no longer had the same degree of urgency that it had earlier this week.

I am going to ask the distinguished Republican leader to comment here in a moment. But to recapitulate, there will be no further rollcall votes today. We will complete action on the military construction conference report by voice vote. We will then proceed to debate for 3 hours equally divided on the pending amendment to the Poland-Hungary aid bill, with the understanding that there would be no action taken during that period.

We will then go out until Tuesday morning, when it is my present intention, barring something intervening that is not now anticipated, to attempt to complete action on two of the remaining appropriation conference reports, State, Commerce, Justice, for the first one, and then the legislative appropriations conference report.

I would like not to yield to my distinguished colleague to make certain what I have just stated accords with the prior discussion we have had and that his views are consistent with mine on that.

Mr. DOLE. If the majority leader will yield—and they are consistent—I just want to make certain when we bring down the proposed Polish aid bill, the reference to "no amendments, no motions" refers to everything, not just the substitute, but the committee substitute, and any other part of the bill.

Mr. MITCHELL. Yes.

Mr. DOLE. It will be for debate only, 3 hours equally divided.

Mr. MITCHELL. That is right.

Mr. DOLE. So everybody understands, debate only, no amendments, no motions, whatever. And we will on Tuesday, hopefully, take up additional conference reports. I understand there may be two available on that date.

Mr. MITCHELL. That is correct, yes.

Mr. DOLE. In the meantime, I understand the majority leader will discuss how we may proceed with the rest of next week.

Mr. MITCHELL. The Senator is correct. It is my understanding the agreement with respect to motions and cloture motions, amendments, and anything else relates to the entire legislation. It is just for purposes of debates.

I did not intend—perhaps I inadvertently did so—to limit debate just to the capital gains provisions. It is understood any aspect of the legislation

will be open for debate for any Senator who wishes to do so.

MILITARY CONSTRUCTION APPROPRIATIONS, FISCAL YEAR 1990—CONFERENCE REPORT

Mr. MITCHELL. Mr. President, I submit a report of the committee of conference on H.R. 3012 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The bill clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3012) making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1990, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of October 24, 1989.)

UNANIMOUS-CONSENT AGREEMENT—S. 1582

Mr. MITCHELL. Mr. President, I ask unanimous consent that upon disposition of H.R. 3012, the Senate resume consideration of S. 1582, the Poland-Hungary aid bill with the agreement that consideration be for 3 hours of debate, equally divided, and no action to occur during that period; that is, there are to be no amendments, no motions, no cloture petitions; that there be no action of any kind other than debate on the measure to be equally divided with the time to be under the control of the majority and minority leaders or their designees and in the usual form.

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

Mr. MITCHELL. Mr. President, I thank my colleagues, and I thank the distinguished Republican leader.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from Tennessee.

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

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

MILITARY CONSTRUCTION APPROPRIATIONS, FISCAL YEAR 1990 CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

Mr. SASSER. Mr. President, I am pleased to bring before the Senate the conference report on the military construction appropriations bill for fiscal year 1990. The conference report we are presenting today is within the revised 302(b) budget allocation for both budget authority and outlays.

This agreement represents more than a 14-percent real reduction in military construction funding levels from the military construction funding levels of last year. The amount provided for the regular military construction accounts, funded in this bill, is $7,999,000,000. That amount is $55 million under the President's budget request and is more than $960 million under appropriations for fiscal year 1989.

Mr. President, this year we had more than 380 differences in conference between the House and Senate and we had to make many difficult decisions, the distinguished ranking member, Senator GRASSLEY, and I, in order to comply with the necessity of holding down Government spending on this military construction bill.

I believe it is entirely appropriate that military construction funding be moderated, as all Government spending must be moderated, during this time of fiscal austerity. I think we have seen the peak of military construction spending for several years to come.

It is likely that next year's military construction budget will be even smaller than the bill that we approve here today.

Mr. President, we should continue to moderate new military construction investments until we can get a clearer picture of the changes that will be coming in the future as a result of force structure reductions and perhaps further base realignments and closures. Certainly, I do not want to be misunderstood. There are legitimate military construction and family housing needs which we must meet. The bill before us today continues to meet the highest priority needs for fiscal year 1990.

We made substantial changes from the priorities included in the President's original budget request. The conferees have eliminated more than $550 million for projects that were requested by the President for construction at overseas military bases. Funding for overseas military bases, that is, bases outside the continental United States and Hawaii and Alaska, will continue to be a low priority until our allies substantially improve their contributions to the common defense and until the results of arms control talks and base rights agreements are known.

Mr. President, the conference report provides an increase over the budget request of more than $209 million for what the committee deems the more cost-effective National Guard and Reserve components. That is a 46-percent increase over the amount requested by the administration and indicates the high priority that the committee and the Congress places on our National Guard and on our Reserve.

I hope the leadership of the Department of Defense takes note of the priority that we continue to place on the Guard and the Reserve. This Nation, I believe, must begin placing more reliance for our national security on a ready and active National Guard and a ready Reserve where we clearly get more bang from the defense buck.

The Department of Defense continues to greatly underfund the National Guard and the Reserve. Our committee believes the Department is being shortsighted and we will continue to shift priorities in the budget to place appropriate resources at the disposal of both the Guard and the Reserve.

I hope the Department of Defense understands this. Congress is not going to approve future budget requests which underfund the Guard and the Reserve while at the same time, in our view, taking those resources and overfunding certain components of the active force structure.

Mr. President, the active military services, of course, do not want to make the hard decisions that must be made on force structure. That is understandable. No one wants to make the decisions along that line.

But changing realities in the world—we must accept the fact—may permit force structure reductions which also need to be made for budgetary reasons.

Even as we bring this military construction bill to the floor here in the U.S. Senate, not many feet away from where I speak, members of the Supreme Soviet are meeting with their counterparts here in the U.S. Senate. I joined other Senators in discussion with these members of the Supreme Soviet this morning and they were telling us of their efforts to control military spending in the Soviet Union and to have the Supreme Soviet have substantial control and say so about military expenditures and indicated they look forward to a continued reduction of military expenditures in their country.

So if we find that arms control permits reductions in forces stationed abroad, we should disestablish those units and reduce active military manpower and strength. That is the only way that conventional arms control is going to translate into budgetary savings. In such an environment, the roles and missions assigned to the Guard and Reserve must necessarily

be increased if we are to continue to maintain stability and deterrence throughout the world.

I have no concern about placing more national defense responsibility in the Guard and Reserve. With proper resources, our citizen soldiers have always been up to task. They will keep the peace while returning a fiscal dividend to the U.S. Treasury.

Mr. President, there is one additional item included in the conference report which I will discuss. The committee of conference agreed to place an additional $500 million in the military construction bill to capitalize the base closure account. My colleagues will recall that jurisdiction over the base closure account in the Senate had been in the Subcommittee on Defense Appropriations.

The distinguished chairman of the Subcommittee on Defense Appropriations, Senator INOUYE, who also serves as the senior member of the Military Construction Subcommittee, agreed in conference to permit base closure funding to be included in the bill before us today.

Mr. President, the original authorization for base closures in the Senate was $300 million. Based on agreements which have been reached in the defense authorization conference, the conferees on the military construction appropriations bill agreed to provide $500 million for base closure activities, and that is the level that was requested by the Bush administration.

Mr. President, the conference report also places a legislative cap of $2.4 billion on the amount of construction that may be undertaken to support base closure activities. The conferees are very concerned, I might emphasize, that the cost estimates for construction to support base closures have already risen one-third over the amount initially identified by the Commission on Base Realignments and Closure. The legislative cap that is included in this bill will help ensure that there will be no gold-plating at military bases as a result of base closure activities.

Mr. President, many of our Members have legitimate concerns with the way the Base Closure Commission selected bases for closure and what appear to be faulty assumptions and data that were apparently used by the commission staff. But the House and Senate approved by large margins the legislation creating the commission and by large votes defeated amendments by Members seeking to alter base closure decisions.

There was no option open for the conferees but to recognize the reality of the votes in both Chambers and to approve the administration's request and to approve the authorized level of funding.

I understand the Department of Defense may be considering even more base closure and realignment actions in the fiscal year 1991 budget, which will be submitted next January. Next year, the department will have no special legislation or committee to insure that any new base closures will be automatically approved as they, in essence, have been this year.

Whether or not base closure actions are approved by the Congress in future years will depend entirely on the quality of the package submitted by the Department of Defense. If that package is not balanced, if it fails to provide for actual manpower and strength reductions, if it does not include base closures overseas, that package is going to be dead on arrival.

Many Members are not convinced that the package of base closures recommended by the Commission earlier this year will result in appreciable budgetary savings. The package results in no personnel end strength reductions and no bases overseas were included for closure. Without the automatic pilot provided by last year's base closure legislation, the Commission's package might never have been approved by the House and Senate. So I hope that the Department of Defense has learned from the mistakes of base closures undertaken this year and is prepared in any future submission to present the Congress with a balanced and well-thought-out package that will result in tangible budget savings.

Mr. President, I am pleased to yield to the distinguished ranking member from Iowa, Senator GRASSLEY, at this point and to say, Mr. President, that it has been a genuine pleasure to work this year on the military construction bill with my friend from Iowa, Senator GRASSLEY. He has made countless, varied constructive contributions to this bill and to our deliberations. For that I thank him and yield to him at this time.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I thank my colleague for yielding and for his outstanding statement, particularly as that statement looks to the next fiscal year. I also rise in support of the conference agreement to H.R. 3012. This, of course, makes appropriations for military construction for the fiscal year 1990. The conference committee agreement appropriates $8.5 billion in new budget authority for fiscal year 1990 to support military construction and family housing requirements. Also included is $500 million for the initial increment of funding to implement the Base Closure Commission recommendations.

Mr. President, the bill before us is within the subcommittee allocations for budget authority, as well as outlays. It is $65 million under the President's budget request, and it is nearly $500 million under last year's appropriation. I stress that because there are not too many appropriations bills that pass this body or this Congress or are signed by the President that appropriate less money this year than the year before.

Mr. President, at this time I want to commend the distinguished chairman of our subcommittee, the Senator from Tennessee [Mr. SASSER] for his leadership in bringing this bill before the Senate today. His work over the last 6 or 7 months on this legislation, this subject of military construction, has taken much of his time because of his leadership as chairman of this subcommittee.

We were faced in this subcommittee with many problems in reaching agreement on this bill. The chairman was able to work with the House and reach agreement on over 300 differences. The funding in this legislation will provide the Department of Defense with vitally needed facilities to support new missions as well as to continue on with a much-needed modernization of our aging bases throughout the world.

Mr. President, our bill follows closely what we expect will be the conference agreement on military construction authorization. However, we have provided funding for several urgent items and have directed the department to seek the necessary authorization as appropriate.

Another item of particular interest should be the increased level of funding provided for the Guard and Reserve components. Mr. President, for many years, the Congress has increased funding for the Guard and Reserve. I support this position. I believe it is safe to say that it will continue into the future. The Department of Defense should recognize the need for increased funding in the Guard and Reserve and provide increases in these accounts in the future.

Mr. President, in closing, I want to once again thank the chairman for his diligence, but I also want to take some time at this hour to thank all members of the subcommittee for their cooperation. But most especially we ought to remember the senior member of the subcommittee, the Senator from Hawaii [Mr. INOUYE], for his support of the bill because during the conference, our House colleagues expressed an extremely strong position on funding for the base closure account. In so doing, they expressed doubt over two items of interest to Senator INOUYE, neither of which had any direct bearing on the base closure account.

The distinguished Senator from Hawaii had to make some very tough decisions to give up money from the defense bill to bring our conference to a close. In the true spirit of compromise, he did so. He deserves all of our

thanks for allowing the bill to be before us today.

Mr. President, the conference agreement before us is fair and equitable. It deserves our support, and I urge my colleagues to vote in favor of this legislation.

Mr. SASSER. Mr. President, I thank my distinguished colleague for his statement, and also for his generous remarks about the chairman personally.

Mr. President, I ask unanimous consent that a table entitled "Budgetary Impact of Conference Report" be printed in the RECORD.

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

BUDGETARY IMPACT OF CONFERENCE REPORT—PREPARED IN CONSULTATION WITH THE CONGRESSIONAL BUDGET OFFICE PURSUANT TO SEC. 303(a), PUBLIC LAW 93-344, AS AMENDED

[In milions of dollars]

	Budget authority		Outlays	
	Committee allocation	Amount of bill	Committee allocation	Amount of bill
Comparison of amounts in the bill with committee allocations to its subcommittees of amounts in the First Concurrent Resolution for 1990: Subcommittee on Military Construction	8,500	8,500	8,580	[1] 8,580
Projections of outlays associated the recommendation:				
1990				[2] 3,105
1991				3,011
1992				1,454
1993				527
1994 and future years				402
Financial assistance to State and local governments for 1990 in bill		105		13
Credit authority estimates, 1990	[3]	[3]	[4]	[4]

[1] Includes outlays from prior year budget authority.
[2] Excludes outlays from prior year budget authority.
[3] Direct loans.
[4] Loan guarantees.

Mr. DIXON. Mr. President, I rise to inquire of the Senator from Tennessee and floor manager of the conference report on H.R. 3012, about the conference agreement's effect on the ongoing Comptroller General review of the recommendations of the Commission on Base Closure and Realignment, a review requested by the Senate and House Committees on Armed Services.

I understand that the joint explanatory statement of the committee of conference emphasized the need for the Department of Defense to comply with the directives pertaining to base closure contained in the House reports. The report of the House Appropriations Subcommittee on Military Construction noted the preliminary findings of the Comptroller General that the Base Closure Commission's estimate savings were overstated in some cases. Furthermore, the House report expressed deep concerns over the fact that environmental cleanup costs were excluded from the Base Closure Commission's calculation of base realignment and closure costs. Particular concern was expressed in the House report that bases not remain unutilized—or, I would say, unusable—for years after closure due to insufficient progress on environmental cleanup.

Since the Comptroller General's analysis already has broached the issue of environmental cleanup costs in connection with my Readiness Subcommittee's hearing on base closure, I ask whether it is the understanding of the committee of conference that the Comptroller General should include in his report analysis of environmental cleanup costs as part of its review of the Base Closure Commission's estimates of cost savings from base realignment and closure.

Mr. SASSER. The Senator from Illinois is correct and raises a good point. The committee of conference on H.R. 3012 has expressed a deep concern about environmental cleanup costs, yet no particular analysis of these costs has been performed. Both the Congress and the Department of Defense will benefit from a review by the Comptroller General of the potential cleanup costs associated with the proposed base realignments and closures.

Mr. DIXON. I thank the Senator for his clarification and would like to ask one other question. Since the committee of conference has agreed to the funding level of $500,000,000 for base realignment and closure, is it the intent of the committee of conference that some of those funds be used for environmental cleanup to ensure that the property of the bases complies with all applicable environmental laws prior to closure?

Mr. SASSER. The Senator from Illinois is correct. It is the intent of the committee of conference, consistent with the directive articulated in the House report on H.R. 3012, that the vacated property of a base be cleaned up before the land and facilities are sold.

Mr. DIXON. I thank the Senator from Tennessee for his additional clarification.

Mr. DOMENICI. Mr. President, the Senate is now considering the conference agreement accompanying the fiscal year 1990 military construction appropriations bill.

I commend the distinguished chairman and ranking member of the subcommittee, Senators SASSER and GRASSLEY, for reporting a military construction appropriations bill that advances the modernization of the Nation's defense infrastructure and promotes the well-being of our military personnel.

I understand that an appropriate reallocation of budget authority and outlays has been made to the Military Construction Subcommittee to accommodate the conference agreement.

With that reallocation, I am pleased to support the conference report.

Mr. President, the conference agreement provides $8.5 billion in budget authority and $3.1 billion in new outlays for military cosntruction and family housing activities in fiscal year 1990.

When outlays from prior-year budget authority are taken into account, the bill totals $8.5 billion in budget authority and $8.6 billion in outlays for these programs in fiscal year 1990.

With the inclusion of the House language and funding for the Base Realignment and Closure Program and other initiatives, the conference agreement exceeded the Senate subcommittee's 302(b) allocation. The Senate had included this initiative in the Defense appropriations bill.

It is my understanding that the revised 302(b) allocation for the subcommittee accommodates the final bill.

I thank the subcommittee for its endorsement of numerous military construction projects in my home State of New Mexico. I wholeheartedly endorse their recommendations for additional National Guard and Reserve activities in my State.

I am especially pleased that the conferees have agreed to include planning and design funding for the large blast thermal simulator [LBTS].

The House Defense appropriations bill denied these funds, while the Senate Defense appropriations bill recommended that the planning and design money be included in the military construction appropriations bill.

I strongly supported the Senate approach on this project. The military construction appropriations bill approved in the Senate not only included the $9.6 million needed for planning and design for the LBTS, it also directed the Department of Defense to request construction funds in the fiscal year 1991 military construction budget request.

The Defense Nuclear Agency is prepared to complete the planning and design of the LBTS as quickly as possible so that construction can begin on approximately this schedule.

I thank the distinguished chairman and ranking member for their strong support of this initiative in the Senate and in conference with the House.

I urge the adoption of the conference report.

Mr. SASSER. Mr. President, I note the distinguished Senator from Rhode Island [Mr. CHAFEE], is on his feet. It is my understanding he has a quesiton about this military construction bill.

Mr. CHAFEE. Mr. President, I thank the distinguished senior Senator from Tennessee. I do have a question.

My question deals with the family housing units at Newport Naval Education and Training Center in New-

port, RI. It is my understanding that this is explicitly taken care of in the conference report or in the overall measure, that the 220 units for the Naval Education and Training Center in Newport are included and will be covered in this legislation. Am I correct in that?

Mr. SASSER. The Senator is correct. The 220 units at the Newport Naval Training Facility are included in this military construction bill. It is my understanding that they will also be included in the authorization bill when it becomes final.

Mr. CHAFEE. I thank the distinguished floor manager for that reassurance. I also thank the minority floor manager, Senator GRASSLEY.

This is very important to us. We have turned in Rhode Island, for reasons that sometimes are hard to fathom, into a State in which housing has become quite expensive, and thus these 220 units for those enlisted men and officers who are stationed in Newport and going through the training facilities are extremely important.

I thank both Senators and their counterparts on the Milcon Appropriations Subcommittee for these 220 units.

Mr. SASSER. I might say parenthetically, Mr. President, on my trips through Newport, I have seen many expensive houses lined up along the beach, and I can understand why perhaps housing throughout Newport is rising to that level.

But in any case, we are pleased to include this in the bill.

Mr. GRASSLEY. If the Senator from Rhode Island will yield, I concur in the statement made by the distinguished chairman of the subcommittee, Senator SASSER. That is my understanding of how we have taken care of the situation. This Senator is very certain that the goods will be delivered.

Mr. CHAFEE. Good, I thank the Senator from Iowa for that reassurance, because, as I indicated before, this is extremely important and I am gratified. I appreciate that.

I thank the Chair.

Mr. SASSER. Mr. President, I know of no further debate on this military construction bill. With the acquiescence of the distinguished ranking member, I move adoption of the conference report.

The PRESIDING OFFICER (Mr. LAUTENBERG). The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. SASSER. I move to reconsider the vote by which the conference report was agreed to.

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

The motion to lay on the table was agreed to.

Mr. SASSER. Mr. President, I ask unanimous consent that the Senate concur en bloc with the amendments of the House to the amendments of the Senate.

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

The amendments of the House to the amendments of the Senate agreed to en bloc are as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 3 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum inserted by said amendment, insert "$1,139,250,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 6 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum inserted by said amendment, insert "$1,227,296,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 10 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum inserted by said amendment, insert "$537,440,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 13 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum inserted by said amendment, insert: ": *Provided further,* That, effective February 1, 1990, none of the unobligated funds appropriated in the Act for Defense Medical Facilities Office planning and design may be obligated until the Defense Medical Facilities Office initiates design of the aerospace medicine facility as required by the conference report accompanying Public Law 100-447".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 20 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum inserted by said amendment, insert "$78,982,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 22 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum inserted by said amendment, insert "$1,453,982,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 27 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum inserted by said amendment, insert "$741,808,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 36 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum inserted by said amendment, insert:

SEC. 127. (a) SALE OF LANDS.—Notwithstanding any other provision of law, and subject to subsections (b) through (h), the Secretary of the Navy (hereinafter the "Secretary") may sell the following real property together with improvements thereon:

(1) Approximately 108 acres in Pearl City, Oahu, Hawaii, known as the Manana Storage Area; and

(2) Approximately 14 acres in Pearl City, Oahu, Hawaii, known as Pearl City Junction.

(b) CONDITIONS OF SALE.—

(1) MANANA STORAGE AREA.—The State of Hawaii shall have the right to acquire and the Secretary shall have the authority to sell to the State of Hawaii this property by meeting the terms and conditions set forth in subsection (c);

(2) PEARL CITY JUNCTION.—The State of Hawaii shall have the first right to acquire and the Secretary shall have the authority to sell to the State of Hawaii this property by meeting the terms and conditions set forth in subsection (d). Should the State and the Secretary fail to consummate an agreement, the Secretary shall have authority to sell this property through competitive procedures;

(3) Consideration for each sale shall not be less than the fair market value of the property, as determined by the Secretary; and

(4) Payment may be by cash or as specified in subsections (c) and (d), as determined by the Secretary.

(c) SALE OF MANANA STORAGE AREA.—

(1) As consideration for any transfer to the State of Hawaii of the Manana Storage Area, the Secretary shall receive:

(a) At a site or sites to be determined by the Secretary, design and construction to reasonable specifications to the Secretary's satisfaction: (1) an openable causeway from mainside Pearl Harbor Naval Base to Ford Island; and (2) replacement facilities for those Navy facilities presently on Manana Storage Area; and actually relocate on Oahu, to the satisfaction of the Secretary, the functions presently on Manana Storage Area; or

(b) Funds to allow the Secretary to perform the design, construction and relocation specified in subsection (c)(1)(a); or

(c) Any combination of the consideration enumerated in subsections (c)(1)(a) and (c)(1)(b) above that accomplishes the design, construction, and relocation, at the discretion of, and to the satisfaction of, the Secretary.

(2) If the State of Hawaii constructs the causeway or replacement facilities or any portion thereof, upon the acceptance by the Secretary, the State shall transfer complete title to those facilities to the Secretary free of any liens or encumbrances.

(d) SALE OF PEARL CITY JUNCTION.—As consideration for the sale of Pearl City Junction, the Navy shall receive either funds, or actual design and construction of facilities plus relocation, or a combination thereof, as determined by the Secretary, to accommodate consolidation and relocation of the functions on the sale property to other Navy and Marine Corps property. This may include:

(1) Relocation and consolidation of functions at Manana Storage Area and Pearl City Junction to common replacement facilities; and

(2) Relocation of Marine Corps functions that would be displaced by such consolidation to replacement facilities to be designed and constructed at Marine Corps Air Station, Kaneohe Bay.

(e) USE OF FUNDS.—(1) The Secretary may use the funds derived from any sale of land under this section to accomplish any of the purposes described in subsections (c) and (d) including any related expenses;

(2) Funds received from the sales of lands under this section may be placed in an interest bearing account by the Secretary until expended and the accrued interest therefrom may be used in the same manner as the sale proceeds; and (3) Any funds which are unexpended after all the actions described in subsections (c) and (d) have been accomplished, shall be available for design and construction of additional support facilities for Naval Supply Center, Pearl Harbor.

(f) LEGAL DESCRIPTIONS OF LANDS.—The exact acreages and legal descriptions of the properties to be transferred to the State of Hawaii or sold under this section shall be in accordance with surveys that are satisfactory to the Secretary.

(g) NOTIFICATION.—The Secretary may not enter into any contract under this section to:

(1) Convey title to real property;

(2) Provide for design or construction of a causeway to Ford Island, replacement facilities or other support facilities; and

(3) Provide for relocation of functions from the properties to be sold until:

(a) The Secretary has transmitted to the appropriate Committees of Congress a report of the details of the proposed transaction; and

(b) A period of 21 days has expired from the date such report has been received by the Committees.

(h) ADDITIONAL TERMS.—The Secretary may require such additional terms and conditions in agreements entered into under this section as the Secretary considers appropriate to protect the interests of the United States.

Mr. SASSER. Mr. President, I thank all Senators. If there is no further statement from the distinguished ranking member, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that I may have permission to proceed as if in morning business for about 5 minutes to address a very important subject.

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

ANTICOMPETITIVE PRACTICES IN THE JAPANESE BANKING INDUSTRY

Mr. MURKOWSKI. Mr. President, the Senator from Alaska rises today to call to the attention of his colleagues a recent article which appeared in the October 16 edition of the Far Eastern Economic Review regarding alleged anticompetitive practices in the Japanese banking industry. As a former banker, this is an area in which I have some familiarity, and I am sure my colleagues will agree that this issue merits our attention.

The article states that six of Japan's largest banks, Dai-ichi, Kangyo, Sumitomo, Fuji, Mitsubishi, Sanwa, and Mitsui, as a matter of regular course hold meetings at the managing director level, meetings in which the Ministry of Finance—comparable to our Secretary of the Treasury—and others have taken part, to discuss very important issues affecting the banking industry, not just domestically in Japan but internationally, and, as a consequence, of the presence of Japan's banking system in the United States.

In these meetings the managing directors, Finance Ministers, and other officials are discussing topics such as the fixing of prices for deposit rates, pricing of major credit, as well as other items of common interest to the major banks. Even more alarming is that these meetings are intentionally being held in secret to avoid possible antitrust action by Japan's Fair Trade Commission.

Mr. President, what happens when a Japanese bank comes in to solicit a credit line from a major United States corporation? Obviously, these are competitive considerations, and we are aware more and more that the Japanese banks are underpricing the domestic banks in the availability of credit lines.

The significance of that is, further, that the Japanese have compensating deposits that go with the demands of the credit line. Obviously, the board of directors of the various United States corporations have an obligation to get their financing at the lowest rates available, and, as a consequence, we are seeing the emergence of Japanese banking into the American domestic marketplace in an even greater abundance. The implication is that, as they enter into the financial picture in the United States, why, obviously, they get stronger and stronger as they pick up more compensating deposits as a consequence of their ability to accommodate the credit needs of many major U.S. corporations.

The point is, Mr. President, could you imagine the outrage that would occur in this country if this type of activity were going on, if our Treasury officials were a party to it with our U.S. banks in generating not only credits, but deposits.

These are exactly the types of practices which our Government is seeking to address in the structural impediments talks with Japan. Whether it be in construction, whether it be in bid rigging, or other areas where we know price fixing is rampant in Japan, or in the emerging banking industry where government officials are meeting to go in and attempt to circumvent Japan's antitrust laws. As a consequence the United States must take strong action to encourage Japan to strengthen and enforce its antimonopoly laws.

This is not an issue of Japan bashing. It is simply an issue of fairness; obviously, they are too willing to come into our market as a competitive factor. We want the same terms, and the terms are different. Obviously, if they are not adhering to Japan's Fair Trade Commission laws and Japan's regulatory oversight, our institutions and our law, antitrust law, absolutely mandates that this type of price fixing is not allowed; and further, Mr. President, people can go to jail in this country for those kind of charges. So it is a serious matter.

Many of us in this body are aware of the growing strength of Japan's financial institutions. In 1988, Japanese banking assets were $4 billion. In the State of California over 25 percent of the deposits are now controlled by Japanese banks. Japan has the 10 largest banks in the world, in comparative figures to U.S. banks.

I do not necessarily agree with the entire spectrum of concerns which have been raised in this area. However, there is a growing awareness that more and more of these firms will be determining the fate of financing for many business activities that will be undertaken by U.S. companies here in the United States. We must ensure that matters such as this, and other matters that are critical, such as deposit rates, credit pricing, are not done behind closed doors; that the scrutiny of the Japanese oversight capability is evident, and that they adhere to the same practices of free and fair assessment and trade, as we must.

The U.S. Congress must continue to send a strong signal that we are very interested, and we expect results from the structural impediment talks, not just vague assurances that U.S. concerns are being reviewed. We have more than concerns in many cases; it is actually survival, Mr. President.

These anticompetitive practices are detrimental to the global trading and banking system, as we compete in it, and as Japan emerges as a major financial power, which is certainly happening, the management of top Japanese banks, as well as officials in the Japanese finance ministry which overseas the activities, must realize that it simply cannot be business as usual within the normal tradition of Japan. It must address the concerns of the United States, and the realization that it be fair and subject to oversite scrutiny.

If the discussions regarding anticompetitive practices such as collusion are to succeed, it will take the will of the Japanese Government to end their active support for this type of activity. It will require Japan to provide more resources to the Japan Fair Trade Commission. I commend this commission. They have already identified many areas of price fixing, particularly with regard to contracts on naval bases, U.S. naval bases in Japan, where there has been indeed a number of Japanese construction firms charged with price fixing, and the cooperation from the Japanese Fair Trade Commission is very gratifying. Unfortunately, we did not get this same cooperation from the Ministry of Construction. I want to encourage the continuance of the Japan Fair Trade Commission's efforts in this regard.

In addition, the Japanese Government must send a strong signal to the Japanese taxpayers and consumers, as well as Japan's trading partners, that they view this type of anticompetitive activity with the same seriousness as other industrialized countries.

I am today calling the Secretary of the Treasury, United States Attorney General, and the United States Trade Representative, to look into and investigate these alleged activities, both in the United States and in Japan.

In closing, I ask unanimous consent that the editorial from the Far Eastern Economic Review, as well as editorials from Yomiuri Shimbun and Asahi Shimbun, regarding anticompetitive practices in the Japanese construction industry be printed in the RECORD at this time.

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

[From the Far Eastern Economic Review, Oct. 26, 1989]

BANKING PRACTICES

Six of Japan's biggest banks (Dai-Ichi Kangyo, Sumitomo, Fuji, Mitsubishi, Sanwa and Mitsui) are holding regular "informal" meetings at managing director level, at which Finance Ministry officials take part, to discuss important issues affecting the industry. Topics include setting deposit rates and many other banking matters. The meetings are kept secret to avoid possible antitrust action by Japan's Fair Trade Commission. The consultation would also be of interest to US officials currently investigating restrictive business practices in Japan, as part of the structural impediments initiative involving the two countries.

[From the Daily Yomiuri, Oct. 9, 1989]

WHY BID-RIGGING IS BAD

The U.S. Government plans to sue 140 Japanese construction companies, seeking compensation for their alleged rigging of bids for construction work at a U.S. Navy base at Yokosuka, Kanagawa-ken.

The move seems to be "shock treatment" by the United States to eliminate the bid-rigging system which pervades the construction industry here.

The construction companies oppose the demands, saying that no damages were incurred.

This is the first time anyone involved in a public project in Japan has sought compensation from contractors for inflating prices through rigged bidding procedures.

Even in Japan, bid-rigging has been criticized as a waste of tax money. It will be interesting to see how the case develops.

The companies cited by the U.S. Government were also warned by the Fair Trade Commission late last year for violating the Antimonopoly Law in fixing bids for construction work at the new Kansai Airport. Some of them were fined.

During the recent Japan-U.S. Structural Impediment Initiative [SII] talks, however, the U.S. Government criticized the lightness of the penalties, saying that the companies would have faced criminal charges in the United States.

The U.S. Senate has passed a resolution to bar the 140 companies from U.S. military construction, showing how quickly criticism of bid-rigging in Japan's construction industry has escalated.

U.S. Government sources insist that claims for compensation have no relation to the SII talks or with a report on Japan's construction market to be released in November.

It may be inferred that the United States is trying to destroy the bid-rigging to allow U.S. corporations easier entry to the Japanese construction market.

U.S. Trade Representative Carla Hills will probably raise the subject during her visit to Japan this week.

Japanese construction companies should no longer be allowed to continue manipulating bids. However, most construction companies believe bid-rigging is a "necessary evil" in their industry.

Although there are about 500,000 construction firms in Japan, most of them are small or medium-sized. Without bid-rigging, construction company officials said, they will have no idea of their volume of orders, and their businesses will suffer.

They also said that the absence of prearranged bids will result in excessive price competition and widespread bankruptcies. Since in their business the "product" is made after the order is received, unlike in manufacturing, it is difficult to improve productivity, they say.

The companies' "customers," such as ministries and other government organizations, set a maximum price on a project before allowing designated contractors to submit tenders. They do not seem to realize that free, fair competition would cut their payouts drastically.

Bid-rigging hits the taxpayer in the pocketbook. The practice is not viewed indulgently by other nations.

The U.S. move will help destroy the practice. It is unfortunate that, in this country, pressure from other nations seems indispensable before the wishes of the public can be achieved.

[From the Tokyo Asahi Evening News, Oct. 6, 1989]

A RIGGED SYSTEM

The United States has demanded an enormous amount of damages from Japanese construction firms involved in fixing bids on construction contracts ordered by the U.S. Navy base at Yokosuka. The demand has come as a great shock to the Japanese construction industry which has continued to do business in a climate where fixing bids is considered commonplace.

The corporations involved refuse to comply with the American demand as they contend, among others, that they have not inflicted enough damage on the Americans. Washington is poised to institute legal proceedings. Some of the Japanese businesses which operate in the United States may be sued under U.S. law. Should such action be taken, the amount of damages sought would be tripled.

Aside from whether the damages are numerically legitimate, the American appeal that the corporations should pay compensation for the squandered tax money as a result of inflated construction costs may find sympathy with Japanese taxpayers, who are fed up with the commonplace fixing of bids on public-works projects. Japanese taxpayers are urged to keep an eye on how this case is resolved.

It is reported that what the Americans really have in mind is to gain an edge in winning access to the Japanese construction market for U.S. companies.

Washington's position is that what makes the participation difficult is the fixing of bids, an inevitable part of Japanese public-works projects. This issue was also raised in the recent structural impediments initiative talks between the United States and Japan.

The complaint this time from Washington might perhaps be taken as part of its censure against the traditional practice of fixing bids in Japan.

Against this background lies Washington's stern posture. Strict controls are exercised on the fixing of bids not only in the United States but in other Western nations as well. There, huge fines are used to prevent recurrences of fixed bids.

The climate is significantly different from that of Japan, where the fixing of bids is considered an open secret and very few cases are prosecuted. Among those that are, companies get off with very light penalties. In Japan, it seems that government agencies, when offering contracts on public-works projects, not only look the other way but also create conditions that make it easy to fix bids. This is discernible from the adoption of a system in which companies seeking contracts are nominated in advance of their bids.

This practice reflects a traditional Japanese trait that last-minute competition is something detestable, with greater importance attached to laying groundwork. Not a few arguments are set forth in support of the fixing, such as that the lack of bid fixing would give rise to fierce competition, thus leading to shoddy construction work; that companies could not count on receiving orders if free competition prevailed, thereby endangering the management of the corporations involved; and that the fixing is a means of self-defense for those undertaking the projects, who have less power than the ordering agencies.

Whatever reason there may be, the fixing is absolutely uncondonable, not just because it is illegitimate but because there is a danger that the contract prices are higher than in free competition, thus resulting in a sheer waste of invaluable tax money.

Even if it is assumed here that the contract prices would not roll up, a prolonged situation where there remained no competition would weaken the corporate vitality, slowing down the pace at which companies would try to improve their management.

As it now stands, the Japanese construction industry, where bid fixing is now an everyday practice, is considerably less productive than its counterparts in the United States and West Germany as well as the Japanese manufacturing industry. It is inevitable in some aspects that the productivity of the construction industry lags behind that of the manufacturing industry, but the fact stands that the difference in Japan is greater than in the United States and other Western nations.

Nonetheless, there has not emerged in Japan a notion that the losses caused by the fixing of bids ought to be indemnified partly because government agencies ordering the contracts make it a practice to determine and advise what the maximum bids should be.

In other words, once it is determined that orders will not be granted unless bids come in under a certain ceiling it is much more difficult to prove damages are legitimate. This is precisely why there have been virtually no cases involving charges of fixing under the Criminal Code in situations where fair prices are impaired.

Undeniable, this climate serves to dampen the sense of consciousness about a waste of tax money with the practice of fixing bids. It also enables construction firms to keep profits high. The question is, will these arguments hold up under U.S. anti-trust laws?

In another aspect, the U.S. Administration is carrying out a fact-finding survey on the actual Japanese fixing practice with a view to facilitating corporate America's involvement in the Japanese construction market. Regrettable though it is that we have to rely on pressures from abroad, we cannot find sanctuary in a "kingdom of fixings" for any length of time.

Mr. MURKOWSKI. I thank the chair and suggest the absence of a quorum.

The PRESIDING OFFICER. Will the Senator suspend before that quorum call? The clerk will report the pending business.

SUPPORT FOR EAST EUROPEAN DEMOCRACY ACT

The legislative clerk read as follows:

A bill (S. 1582) to amend the Foreign Assistance Act of 1961, to provide for certain forms of assistance to Poland to ensure the success of freedom and democracy in Poland.

The Senate resumed the consideration of the bill.

Mr. SIMON. Mr. President, I rise today to speak about the absolute need to get moving on our legislation to provide critical aid to Poland and Hungary. We have let what is essentially a bipartisan effort on Poland and Hungary get bogged down in a partisan fight over capital gains, and this is not right.

There is an old expression in American foreign policy to the effect that politics ought to end at the water's edge. Rarely has that old saw been more appropriate. We may have some disagreements between the Dole amendment and the Simon amendment, but we are all agreed that it is urgent to get legislation enacted quickly to help our newest friends—the Poles and Hungarians who have brought new hope to millions throughout all of Eastern Europe.

Unfortunately, Senator PACKWOOD has added a capital gains tax cut to the pending Poland and Hungary aid bill, which has nothing to do with helping Poles and Hungarians consolidate their new-found freedoms. Capital gains is unrelated, and the amendment ought to be withdrawn. Let's get on with the matter at hand.

Finally, Mr. President, I noticed that the RECORD left off a number of names of cosponsors of the Simon modification that was submitted to S. 1582, the Poland-Hungary aid bill that is the underlying bill we are considering. The following Senators are cosponsors of the Simon modification: Senator BOSCHWITZ, Senator MIKULSKI, Senator HUMPHREY, Senator KENNEDY, Senator BIDEN, Senator MITCHELL, Senator PELL, Senator CRANSTON, Senator GRAHAM, Senator HARKIN, Senator LIEBERMAN, Senator LEVIN, Senator ROBB, Senator LAUTENBERG, Senator RIEGLE, Senator METZENBAUM, Senator KERRY, Senator DECONCINI, Senator SARBANES, and Senator DODD.

Mr. ADAMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

PRESIDENT BUSH VETOES DISTRICT OF COLUMBIA APPROPRIATIONS BILL

Mr. ADAMS. Mr. President, I take this time to state that we have just received word that President Bush has vetoed the drug emergency funds contained in the District of Columbia appropriations bill for fiscal year 1990. He has done so because of language contained in the bill which restricts the use of Federal funds in the bill for abortion, except in cases where the mother's life is in danger or in instances of rape and incest.

Mr. President, 2 days ago I took the floor, along with the chairman of the Appropriations Committee, the chairman of the Judiciary Committee, and the majority leader, to implore the President to look at the complete bill before deciding whether to veto or sign the bill, a bill which includes nearly $32 million to fight the war on drugs in the Nation's Capital.

Our Capital City is plagued with a record number of murders, and this violence is inevitably spreading to the suburbs. We have had over 360 murders since the beginning of this year in the Capital City. Most of these are drug related. We heard from the President of the United States and from his drug czar, Mr. Bennett, that the Capital was going to be made a model of the war against drugs. We took him seriously in the U.S. Senate and in the House of Representatives.

We not only came up with a strategy, which I will describe in a moment, but also funded it, and now he has vetoed those funds. The President has said no to more police, no to more judges, no to drug treatment programs for pregnant women, and no to expanded after-school programs so that children can have a safer place to spend their idle hours. The reason the President gives for this veto is that this bill gives to the District's residents—and I hope a number of the Senators are listening to this—the same right as all other citizens of the United States have, and that is to determine how to spend their own local tax dollars; through their elected representatives, on the choice and abortion issue, a right that they have had all but 1 year in the history of the District. Only last year was this restricted. So we on the Appropriations Committee and later the full House and the full Senate returned to the rule of allowing the District to have the same right that any local government, be it Houston, New York, Seattle, wherever, to spend their money as their local representatives have selected.

Mr. President, the language that the President of the United States has been objecting to in the D.C. law has been there for 10 of the last 11 years and was signed by President Reagan as a separate appropriations bill on three different occasions.

For the President of the United States to veto this bill for any reason is a tragedy, but to veto this bill and still try to conduct a strategy through rhetoric on drugs that says we are fighting the drug and murder problem just simply means that the President's words are not matched by his actions. It is a tragedy. When we talk about saving lives, regardless of which side of the choice issue we are on, we are talking in this case about lives being lost in the streets of Washington, DC.

I hope that we will be able to override this veto, and there are three reasons that are different than any others that will come before the Senate and the House.

The first is the principle of local government. Each government should be able to decide the way it wants to spend its money on such a difficult issue through its own elected representatives.

The second reason is that this is a drug bill. This is a bill to fight the war on drugs and to stop the murders that are occurring on the streets of this city.

And the third is that this is the Nation's Capital which he and Mr. Bennett said would become a shining light in the war against drugs.

For those three reasons we should set aside personal beliefs and views on choice and abortion, override the veto on this bill, and go about the Nation's business.

I thank the Senate for this time.

PRESIDENT BUSH'S VETO OF THE DISTRICT OF COLUMBIA APPROPRIATION BILL

Mr. CRANSTON. Mr. President, for the second time in the past few days, President Bush has vetoed a critically important appropriation bill because it would allow for funding for abortions for poor women.

Last Saturday, he vetoed the Labor-HHS appropriation bill—a bill of vital necessity to the Nation's welfare—because it authorized Medicaid funding for abortions for women who had been raped or for young girls who were incest victims.

Today, he has vetoed the District of Columbia's appropriation bill because it allows the locally elected government of the Nation's Capital to spend their local funds for abortions for indigent women. This appropriations bill contained essential funding for the war on drugs and maintenance of es-

sential law enforcement and human services in the District of Columbia.

Mr. President, I am appalled and outraged at the lack of compassion and concern for the welfare of impoverished women exhibited by these vetoes.

This kind of policy will simply force poor women into later, more dangerous and more costly abortions. Without financial assistance to obtain a safe and legal abortion, desperate poor women will be forced to resort to alternatives that risk their lives and health.

Years ago, D.C. General Hospital had a special ward for women who had become infected because of botched, illegal abortions. The end result of the President's policy will be a return to that era, when poor women are forced into the hands of back-alley butchers or self-induced coathanger abortions.

Before the Senate Appropriations Committee voted to restore the authority of the D.C. government to determine its own policy regarding abortion funding for impoverished women, it heard testimony about the growing number of cases of desperate women who have been turned away from public facilities because of last year's ban. The executive director of Planned Parenthood of Metropolitan Washington, DC, described one case of an HIV-positive pregnant woman seeking an abortion who had been turned away from DC General Hospital. With no funds, she was unable to get an abortion until she was 19 weeks pregnant. At that point, the abortion cost more than $800 and was far more complicated and dangerous to her health. The DC Planned Parenthood Program—a private, voluntary agency—helped this woman by paying for her abortion at a private hospital. But to do so they had to divert funds from their Family Planning Program which provides contraceptive services to low-income families. Reducing family planning services provided by agencies like Planned Parenthood will simply increase the number of unintended pregnancies and the need for abortion.

President Bush promised to bring us a kinder, gentler nation. For whom, we should ask?

Certainly not for an AIDS victim who is forced by this policy to carry a pregnancy to term, forced to give birth to an AIDS-infected infant condemned to an agonizing and brief existence.

Certainly not for the 11- or 12-year-old incest victim forced to give birth because of this policy.

Certainly not for a rape victim, forced to carry a rape-induced pregnancy to term because of this policy.

Certainly not for the desperate woman who is mutilated when she is forced to have an illegal abortion or a self-induced abortion.

Mr. President, if President Bush wants to give us a kinder, gentler nation, he could start with a more humane approach to helping poor women who are the victims of rape or incest, or need access to a safe, legal abortion.

These vetoes are cruel. They are inhumane. They should not be the policy of this Nation. I will continue to fight against them until they are defeated.

SUPPORT FOR EAST EUROPEAN DEMOCRACY ACT

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The Senator from Delaware.

THE U.S. ECONOMY NEEDS CAPITAL GAINS AND SAVINGS TAX RELIEF NOW

Mr. ROTH. Mr. President, I alert my colleagues to a front page New York Times article this morning entitled "Japan Leading U.S. in Raising Capital for Corporations." The article outlines how Japanese corporations "are finding it easier to raise relatively cheap capital to modernize, increase productivity and expand."

The article continues with the observation that this "could benefit them as they prepare for increasingly tough competition in the global marketplace." The article also notes that the Japanese save more than Americans and that the Japanese stock market is providing a relatively inexpensive source of capital for Japanese corporations.

Mr. President, I also call to your attention an article in the week's Economist, entitled "Peter Dunker's 1990," where it makes the same point that financially the capital cost for the Japanese is around 5 percent or so in contrast American companies now pay up to 20 percent for money. The article goes on to explain why that is handicapping American business which means that it is handicapping American jobs in relation to the Japanese.

I also point out that Japan had a zero capital gains rate during its period of rapid economic development. It just began a capital gains tax which would amount to between 1 percent and 2 percent for long-term investors in new ventures and for entrepreneurs. Obviously this is a much better policy for the Japanese economy than that of the United States.

Furthermore, Japan has long given generous tax incentives for private saving. The broad income tax exemption for interest on personal saving has boosted private saving according to most experts. This liberal Japanese treatment of personal saving is in fact similar in many respects to my IRA-plus legislation.

The reasons for the advantages enjoyed by Japanese businesses are complex, and public policy is only one factor. But if there is one thing we do know, it is that the U.S. Tax Code discriminates against saving and investment. The double taxation of saving under the U.S. Tax Code puts U.S. firms and workers at a competitive disadvantage. While many in Government like to talk about our need to increase private saving and investment, fewer seem to realize the extent to which our own policies contribute to our problems.

Under our Tax Code, the amount saved is taxed, and the interest or return on that saving is taxed yet again. In contrast, consumption is only taxed once since it creates no return. To a considerable degree Americans consume more and save less because that is the policy, albeit unintended, on the part of our Government. The Packwood-Roth bill would help correct this mistaken policy.

Similarly, saving in the form of private investment is taxed at least twice. A person purchasing $500 of stock has paid tax on that $500. If the earnings outlook for the corporation improves, the value of the stock will rise. Both the corporation and the individual investor will eventually pay income tax on these higher future earnings of the corporation.

But these higher future earnings are what will boost the price of the stock now, leading to a capital gain. The capital gain represents the economic value of the future higher income stream which will be taxed twice under the income tax. A capital gains tax simply adds another layer of tax. The capital gains tax is not in fact a tax on income, but merely one on capital which transfers its title from the saver to the Government.

Mr. President, I urge my colleagues to support the Packwood-Roth bill to improve incentives for saving and investment. U.S. firms and workers should not continue to be hamstrung by U.S. tax policy. Let us free saving and investment to improve American productivity and competitiveness.

I ask unanimous consent that a copy of the New York Times article be printed in the RECORD.

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

JAPAN LEADING UNITED STATES IN RAISING CAPITAL FOR CORPORATIONS

(By James Sterngold)

TOKYO, October 26.—At a time when volatile swings and uncertainty on Wall Street have made it increasingly tough for American companies to raise money, the comparatively stable and strong Japanese stock market has been churning out record levels of fresh capital for Japanese corporations.

But in the United States, the amount of money raised from the sale of stock, the fuel for corporate expansion, has been shrinking from a peak three years ago. In the first eight months of this year, Japanese corporations raised more than $110 billion, compared with $20 billion by American companies, by far the largest gap ever between the countries, according to figures

from the Tokyo Stock Exchange and the Securities Data Company in New York.

A PROFOUND MESSAGE

The boom in raising capital in Japan carries a profound message for competition between American and Japanese banks and corporations: Japanese companies are finding it easier to raise relatively cheap capital to modernize, increase productivity and expand. That could benefit them as they prepare for increasingly tough competition in the global marketplace.

"The really awesome thing is what this will mean in three or four years, when the Japanese begin to realize the benefits of their investments and their productivity shoots up," said Eric Rasmussen, an economist at Jardine Fleming Securities in Tokyo.

In some ways, companies prefer selling stock to borrowing, because they do not have to repay the money, as they do with a loan. Of course, stock prices can be volatile. But because equity capital is permanent, managers can generally plan for the long term in a more stable environment.

BIG ISSUES COMMONPLACE

Every month there are more huge offerings of stock here. For example, Sanwa Bank's announcement last week that it would issue stock to raise nearly $2.5 billion seemed such a commonplace that Japanese newspapers barely took notice. The deal would have made headlines in the United States, where such issues have been few and far between.

The stock market crash in October 1987 marked a watershed in this capital-raising trend. In 1986 American companies raised a record $67.9 billion from the sale of stock and similar securities—money known as equity capital. That was more than double the level in Japan that year. In 1987 the two nations were nearly equal, with slightly more than $60 billion raised in each market.

That is when the uncertainties from the market turmoil took their toll. Equity-raising in the United States withered, while it rose sharply in Japan, where the market weathered the market crash with far less volatility and a swifter recovery. A stronger economy and greater stability in shareholdings in Japan, along with the firm hand of Government regulators, helped the Japanese market hold its ground and then resume its upward course.

MORE THAN A CASINO

What the contrast in the amount of newly raised capital underscores is that a strong stock market provides more than a casino for speculators.

Of course, many people criticize the Japanese market for shortcommings like high fixed commissions on trades and paltry dividend payments. In addition, extensive networks of cross-holdings, in which groups of corporations own large blocks of shares in each other, tend to reduce the voice of smaller shareholders.

But the market is performing the classical economic function of providing a means for investors to channel their savings into productive enterprises. Japanese save far more than Americans. And Japanese companies are feverishly translating that money into more productive operations.

"It's clear that this is helping Japanese companies in no small way," said Richard Koo, senior economist at the Nomura Research Institute.

MASSIVE AMOUNTS FOR BANKS

Particularly for commercial banks, where capital can play an even more critical role in competitive strength, the difference between the markets has been lopsided.

Since the crash of 1987, American banks have raised $5.7 billion in equity, according to Securities Data; in the same period, just eight major Japanese banks have raised more than $22 billion, a study by Salomon Brothers found.

"The buoyancy and discipline of the Tokyo capital markets have enabled the banks to raise massive amounts of capital—sums beyond the wildest dreams of Western bank chiefs," Salomon Brothers wrote in the report.

Prices on the Tokyo Stock Exchange have risen spectacularly over the last decade, prompting criticism in Japan and on Wall Street that it is built on a foundation of soap bubbles that could burst at any moment. While Japanese stock prices trade on average at more than 40 times the companies' earnings per share, American shares trade for only slightly more than 10 times earnings.

As a result, it takes significantly fewer shares in Japan to raise the same amount of capital. And by issuing fewer shares, there is less dilution of the holdings of existing shareholders and of the company's earnings per share. In other words, the lofty level of the Japanese stock market makes it far cheaper to raise equity capital.

INTEREST RATES LOW, TOO

And when Japanese companies want to borrow money, they also have an advantage over American companies: Japan's relatively low inflation rate—less than 3.5 percent—and low interest rates make borrowing relatively inexpensive as well.

With its strong gains, the Japanese market has defied doomsayers for more than five years, particularly during moments of enormous stress, as at the time of the crash on Oct. 19, 1987, and two weeks ago, when Wall Street suffered its second-biggest drop ever.

The Tokyo stock market hardly skipped a beat when the New York Stock Exchange fell nearly 7 percent on Oct. 13; it dropped less than 2 percent and then bounced right back, causing no delay in Sanwa Bank's long-planned new-share issue.

Whatever the reason for that stability—and few agree on just what is behind it—the benefits to Japanese corporations are clear.

Nowhere is the difference between the two countries more pronounced than in commercial banking, where there is a worldwide struggle to build capital to meet strict new regulatory standards and to compete in the emerging international marketplace.

A study by Merrill Lynch Japan Inc. found that since the stock market crash two years ago, Japanese banks have nearly doubled their equity capital. About three-fourths of the increase is directly related to the strength of the Japanese stock market.

ENORMOUS FLEXIBILITY

"If you can raise these funds in such massive amounts this easily, it gives you enormous flexibility in terms of expanding your business," said James Russell, Merrill Lynch's banking analyst here. "This trend has all sorts of implications for even the average American company, in terms of where it's going to be getting its banking services in the future."

For instance, after its just-announced offering, Sanwa Bank's shareholder's equity will stand at about $11.2 billion, more than double the $4.5 billion at the end of March 1987.

To be sure, Japanese banks face significant hurdles in the international expansion. Their major problem is that they have grown up in a highly protected domestic market. As a result, they lag behind their foreign rivals in developing high-margin new products and more sophisticated services. But their ability to invest heavily is allowing them to close this gap quickly.

The Japanese banks have benefited in two ways from the strong stock market. The first, of course, is that they have issued new shares and billions of dollars worth of bonds that later are converted to stock. The second is that their own portfolios of stocks have sharply risen in value.

THE RULES ARE DIFFERENT

While American banks are restricted from owning shares in other companies, unless the holdings are in businesses that relate directly to their financial operations, Japanese banks can own up to 5 percent of other corporations.

Historically, the Japanese banks have used their shareholdings to reinforce ties to clients and other members of integrated financial and industrial groupings, known as keiretsu. Over time the value of those holdings has exploded.

That gain has generally not been recognized, because the banks reflect only what they paid for the stock on their balance sheets. But if they sell a fraction of those shares, they realize the gains to bolster their earnings and capital base.

And that well of capital runs deep. For instance, in a recent public filing in the United States in which it had to disclose the value of its stock portfolio, Mitsubishi Bank said that as of last March 31 it had the equivalent of $28.5 billion in unrealized stock gains, as translated at current exchange rates.

IMPACT OF STOCK PROFITS

Salomon Brothers estimated that Japan's major banks earned $7.9 billion, or just under half of their pretax profits, in the fiscal year 1988 from selling small amounts of their stock holdings.

And Mr. Russell found that 75 percent of the $24.4 billion increase in the shareholders' equity of Japan's seven largest banks from the end of March 1987 to the end of March 1989 had been accounted for by the issuance of new shares and the sale of some stock from their portfolios.

By contrast, profits from regular operations, which have been the historical source for new capital for Western banks, provided just 25 percent of the increase over that period for the Japanese banks.

"What will be interesting to watch is what happens when they put all that money to use," said Mr. Rasmussen of Jardine, Fleming.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. PRYOR. Mr. President, I ask unanimous consent that the time which runs under the quorum calls this afternoon be equally charged to each side of the aisle.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. MITCHELL. Mr. President, I ask unanimous consent that the time during the quorum call be charged against the time for debate under the previous order, with that time to be charged equally against both sides.

The PRESIDING OFFICER. The request has been previously agreed to under an unanimous consent propounded by the Senator from Arkansas.

Mr. MITCHELL. Demonstrating his usual foresight and good judgment, Mr. President.

I thank the Chair and I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. KASTEN. Mr. President, I rise today as the author of one of three components of the Packwood-Roth-Kasten amendment. Included in this amendment is the text of my bill, S. 1774, which would repeal section 89 of the Internal Revenue Code. Since January of this year, I have been engaged in an effort to repeal section 89. Frankly, it has been a long and often lonely quest. I greatly appreciate the assistance I have received over the months from Senators PETE DOMENICI, DENNIS DECONCINI, TRENT LOTT, RUDY BOSCHWITZ, and STEVE SYMMS in working to repeal this complex and unworkable law.

We have persisted in our fight because we are absolutely convinced that allowing section 89 to take effect would be a tragedy for America. It would especially be a tragedy for the backbone of our Nation's economy—small businesses all across our country.

Today we have an opportunity to write the final chapter in the Senate's debate on section 89. We have before us today an amendment that provides for the complete, outright repeal of section 89. I would like to focus the attention of my colleagues on two things: First, the policy reasons for repealing section 89; and second, the need for immediate action on repeal.

And I cannot, Mr. President, emphasize this enough. We have been fighting this battle now since January. People have come to the floor from time to time, come to the Small Business Committee, the Finance Committee, and everyone says we are going to change it; we are going to repeal it; we are going to fix it.

Right now we are in the exact same position we were last January because neither the House or the Senate has been able to get together, and now we are being once more prevented from voting on the repeal of section 89.

First, I would like to discuss the policy implications of section 89. We all realize section 89 regulations are unwise, unworkable, and just plain unfair. What Senators must ask themselves is this: Do we really need new nondiscrimination regulations? We had nondiscrimination regulations under the old law and I know many Senators may not know that, but it is true. Nondiscrimination law is already in existence.

The amendment before us today is simple and the amendment before us today is straightforward. It would repeal section 89 and put those prior law nondiscrimination rules back in place. It is just that simple.

Section 89 is, and I believe always has been, a solution in search of a problem. It is precisely because no real problem existed under the old law that so many of my colleagues are prepared to endorse repeal.

Section 89 was originally intended to eliminate discrimination in the provisions of employee health benefit plans. No one supports discrimination against rank-and-file workers, but under section 89 the small businessmen and women of America were assumed guilty from the beginning. In order to prove they were not guilty, in order to prove they were innocent, they had to climb a mountain of paperwork and navigate through a maze of complex and costly regulations. Many employers in Wisconsin and across the country simply decided to cancel their health insurance benefits completely.

At a time when we ought to, in this country, be encouraging more people in more businesses to expand and improve their health insurance, section 89 was having precisely the opposite effect of reducing health coverage for rank-and-file workers. Because people, particularly small businesses, were being forced to drop their plans because they could not afford the accounting, the legal and the consulting fees, in order to prove what they already knew: that they were not guilty. They were innocent. But it was going to cost them too much money to fill out the forms and go through the tests.

No Senator wants discrimination. Every Senator in this body wants workable nondiscrimination rules. But section 89 simlply cannot be made to work.

Nondiscrimination should not be our only health care policy goal. We need to strive for other goals as well. The small businesses of America must be allowed to continue to expand their health care coverage. We need to liberate small businesses from heavy-handed regulations and leave them free to do what they are supposed to do: work hard, provide jobs, help communities grow, and offer employee benefits. We need to avoid taxing the benefits of innocent and unwitting employees.

Mr. President, section 89 would prevent these other worthy goals from being reached. My amendment would not.

What is the impact of section 89, the net impact on America? A study by the Institute for Research on the Economics of Taxation sent some alarming signals. The study indicates that the costs to businesses of complying with section 89 will be more than $4 billion next year. The Treasury is saying they might get $100 million or $120 million in.

Let us assume that is right and let us assume Treasury does not have to hire new employees in order to read the forms being filled out across America; let us assume people decide to pay the tax, the $120 million, instead of dropping their plans, which I do not think is true. But let us give them the $120 million. The point is it costs America $4 billion to produce what I think is a questionable $100 million or $120 million at Treasury; $4 billion for the IRS to have $120 million.

These increased costs, the $4 biilion, would cause a net reduction of $800 million in Federal revenues alone because of the drag on the economy. The study points out throughout the economy almost 90,000 jobs could be lost as a result of section 89, the costs being imposed on our economy.

Mr. President, these figures are very, very troubling. To top it off, nearly 20 percent of the respondents to a survey that accompanied this study said they planned to reduce or eliminate health benefits in response to section 89.

I know that is happening in Wisconsin. That is 20 percent. Twenty percent are saying they are going to reduce or cut back on their health benefits because of the legal and accounting and consulting fees.

It is the same kind of decline we saw shortly after the passage of ERISA. Statistics given to me by the Employees Benefit Research Institute, which is the most respected source in the Nation for employee benefit statistics, show the following: Pension coverage rate for private sector employees, that is the percentage of private sector em-

ployees covered by pension plans, declined from 1979 to 1983.

In 1979, 56 percent of the work force had pension plans. By 1983, that figure dropped to 52 percent. And section 89 would have us impose the same kind of system on health benefit plans that we imposed on pension plans. This is crazy. We are going the opposite direction of where the policy goals of this country and this Congress ought to be going.

Mr. President, I submit we ought to be putting more incentives into the system to promote health care coverage and start taking disincentives like section 89 out. We would all like to see health care coverage expanded, but I am convinced we are much better off using the carrot than the heavy stick like section 89. Section 89 hurts our economy, it hurts our budget, it hurts health care coverage in America, and it must be repealed.

Across America, particularly small business but all across America, some people think the House vote repealed it. People want section 89 repealed.

This summer I held 4 days of hearings in eight cities throughout Wisconsin on this issue. I know a number of my colleagues have held hearings and town meetings, meetings with business men and women across their States also. I went out and heard from hundreds of small business men and women. They were unanimous in their support for the complete outright repeal of section 89.

I might point out to my colleagues, these are lawyers and accountants and consultants on health care plans as well as small business people. Even the people who were in the position of making money by advising their clients on how to comply with section 89, the lawyers, the accountants, and the others, even they came and testified that section 89 is too complex to work and should be repealed.

All across this Nation small companies are struggling with the section 89 requirements. They are not sure. Is it going to take place in December? Is it going to be canceled? Is it going to be reformed? What is going to happen?

Small businesses are outraged and it is the sense of outrage that we should heed now in voting for repeal.

Let me spell out exactly what this amendment would do. It repeals section 89 outright; it would ensure an orderly transition to pre-1986 nondiscrimination rules. This approach was approved by 390 Members of the House of Representatives. This approach was approved unanimously for inclusion in the Finance Committee's reconciliation package before we voted to strip down that bill.

Now, once more, here we stand. I think it is ironic, the Senator from Arkansas and I have been involved in this debate three or four different times, trying to figure out how possibly can this make sense. Once more we are in the process of being blocked from having a vote up or down on repeal of section 89.

The House vote, 390 Members; overwhelming. I predict when a vote occurs, up and down on repeal of section 89, it will be overwhelmingly repealed by this Senate as well.

The House vote, I think, is clear. This is where we are. Yet we are prevented, through one more process of either trying to get a supermajority or blocking cloture, or whatever, we are preventing a vote on the repeal of section 89 to occur.

That brings me to my second point. We have to repeal section 89 immediately. Over the past several weeks I have heard Senator after Senator come to the floor or to the Small Business Committee or other places and speak about the urgent need to repeal section 89. These Senators have been absolutely correct. Five weeks from today every single employer in America must be in full compliance with section 89; December 1. The Secretary of the Treasury has moved that date back twice. Right now the law says section 89 goes into force on December 1.

I do not think any Member of this body wants it to happen. We know it is going to be changed one way or the other. Yet if we do not act immediately, that will be the case. It goes in 5 weeks from today. The Senate still has not voted repeal, in favor of outright repeal. There is repeal language in the House version of the reconciliation bill, but we know because of the problems we have in reconciliation, the Senate wanting a clean version, a clean bill, it has to work its way through the conference.

I am on that conference. I have to say to my colleagues, I am not optimistic about anything coming together there. This is the place to repeal section 89.

A clean bill means the effort to repeal section 89 must start anew. And that is why we are here today.

We have to start this effort today. I hope we will vote in favor of this amendment on Monday or Tuesday, whenever this vote occurs. The small businesses of America cannot afford to wait any longer. Every Senator should be aware that a vote against this amendment is, once more, a vote against the repeal of section 89.

It will require a supermajority, but these votes count. The majority position is being blocked right now on something that is very, very serious for the United States of America. This might be the last opportunity to take action on this vital issue.

I am not sure there is going to be an effort made to have a clean debt ceiling. I am not sure we are going to have another financed Ways and Means vehicle on which we can put section 89 repeal. This amendment is more than just capital gains, in other words. The amendment is a repeal of section 89, and the small businesses of this Nation desperately need a repeal. The small businesses throughout America are strongly behind this amendment.

I would like to list just a few of the small business groups who strongly support the repeal language in this bill: The Chamber of Commerce supports the language; the National Federation of Independent Business supports the language; the Small Business Legislative Council supports the language; the Small Business United Groups supports the language.

Allow me to read one letter, and I will print the rest in the RECORD.

DEAR SENATOR KASTEN: I received your language for restoring tax treatment of employer-offered health insurance to pre-1986 status, and I believe it is the most appropriate and fairest approach to repealing section 89.

I urge all of your colleagues to support it. Furthermore, section 89 goes into effect, according to the Treasury Department, on December 1, in spite of the fact that both Houses of Congress have overwhelmingly voted to repeal it.

Time is running out. Opportunities for action are dwindling. Therefore, we support all efforts to resolve the question of section 89 before December 1, 1989.

This is our opportunity. This is our chance. A vote to repeal section 89 is also key vote to a number of other groups. For example, the following list of groups also support section 89 provisions of the amendment. I am not going to read this whole list, Mr. President. I simply ask unanimous consent that the list of groups supporting section 89 repeal be printed in the RECORD, along with the position of two other groups, Citizens for a Sound Economy, and the U.S. Chamber of Commerce, and also a letter from the National Federation of Independent Business.

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

LIST OF GROUPS SUPPORTING SECTION 89

National Association of Manufacturers;
National Restaurant Association;
Printing Industries of America;
National Grocers Association;
National Retail Merchant's Association; and
Association of Builders and Contractors.

NATIONAL FEDERATION OF INDEPENDENT BUSINESS,
Washington, DC, October 26, 1989.

Hon. ROBERT W. KASTEN, Jr.,
U.S. Senate, 110 Hart Senate Office Building, Washington, DC.

DEAR SENATOR KASTEN: I have reviewed your language for restoring the tax treatment of employer-offered health insurance to its pre-1986 status, and I believe it is the most appropriate and fairest approach to repealing Section 89. I urge all of your colleagues to support it.

Furthermore, Section 89 goes into effect, according to the Treasury Department, on

December 1 in spite of the fact that both Houses of Congress have overwhelmingly voted to repeal it. Time is running out and opportunities for action are dwindling, therefore we support all efforts to resolve the question of Section 89 before December 1, 1989.

Sincerely,

JOHN J. MOTLEY III,
Director, Federal Governmental Relations.

CITIZENS FOR A SOUND ECONOMY,
Washington, DC, October 26, 1989.

CSE POSITION ON THE PACKWOOD-ROTH-KASTEN AMENDMENT REGARDING CAPITAL GAINS AND SECTION 89

DEAR SENATOR: The Senate may soon vote on cloture regarding the Packwood-Roth-Kasten amendment to S. 1582, the Poland aid bill. As you know, this amendment contains a capital gains reduction, an IRA proposal and repeal of Section 89.

On behalf of our 250,000 members and supporters across the country, I urge you to vote for cloture. If there is cloture vote, CSE will designate it as a key vote to be reported to our members.

The United States has an historic opportunity to encourage an Eastern bloc country to move away from communism and toward a more market oriented economy. So, in one sense, it is fitting that a vote on capital gains take place on the Poland aid bill. At this critical juncture, let us remember the lesson that has made our own economy a model to be exported worldwide—a vibrant private sector makes our economy strong. A capital gains reduction will stimulate the private sector and encourage economic growth.

Thank you for your consideration.

Sincerely,

BRIAN C. LOPINA,
Director of Government Relations.

U.S. CHAMBER OF COMMERCE,
Washington, DC, October 26, 1989.

Members of the United States Senate:

Senator Packwood has offered an amendment to the pending measure authorizing U.S. aid to Poland and Hungary. The Packwood amendment would reinstate a capital gains differential, repeal Section 89 and expand individual retirement accounts. A cloture vote with respect of the amendment is expected this evening or early tomorrow. Because of the importance of these three measures to the future of American business, we urge you to vote to invoke cloture.

Sincerely,

ALBERT D. BOURLAND.

Mr. KASTEN. Mr. President, it is clear that millions of small businesses all across America strongly support the repeal of section 89.

I urge my colleagues first to vote for cloture. Now we have ourselves in a position where a supermajority is going to be required, but we can get it. First to vote for cloture, then to support this amendment, and let us get on with it.

We have gone on too long, Mr. President, where the will of a clear majority of this body is being thwarted by a small group who somehow want to save or hold onto some piece of section 89. We are over that hump; the majority has spoken in the House of Representatives. Now we have to get over that hump and let the majority speak in the U.S. Senate.

Unfortunately, we have to get the votes for a supermajority because of the parliamentary position which the leadership has once more put us in. I think we can get 60 votes to repeal section 89. They got 390 in the House of Representatives. We can get these votes, and we can repeal section 89. We can beat the supermajority. We can get what we need.

I simply urge all my colleagues to recognize this may be the last chance between now and December 1 to repeal section 89 and how important it is. I urge my colleagues to vote first for cloture and second for repeal of section 89.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

THE PACKWOOD-ROTH AMENDMENT

Mr. DOLE. Mr. President, I would like to discuss the so-called Packwood-Roth amendment, which is a second-degree amendment to the substitute I offered on Polish aid a few days ago. Let me say, first of all, that this vehicle would not be my first choice, but it is clear that we are going to have very few measures the rest of the year and do not have that many choices. I think we should have an opportunity to debate capital gains on the merits along with repeal of section 89, which I think everybody supports, and the so-called Roth plan on IRA's, which some support, some do not, but I think the IRA's generally have some support on both sides of the aisle.

Certainly this Senator recognizes the importance of the Polish aid package and in no way wants to diminish its significance, but capital gains and IRA's are of equal importance to us domestically. I am hopeful that all of these issues can be resolved promptly in a conference with the House.

The majority leader has charged that this amendment jeopardizes urgently needed aid to Poland. However, the legislation before us does not transfer a single dollar to Poland. The appropriations legislation, which actually spends this money, has not been affected by our amendment. It can and should go forward without delay.

In addition, many of the programs contained in this aid package do not require reauthorization. They are included in this bill to reaffirm our commitment to Poland, not to affect their terms. These programs are already on the books, and the funds are flowing.

Finally, let me indicate that in the wish to expedite this legislation, I have been asked, "Well, what is your strategy?" I said, "My strategy, the Republican strategy, I hope it is a bipartisan strategy, is let us have a vote."

Let us have a vote on this amendment. They may be amendments to the amendment if it is agreed to. But we are ready to vote now, today, or at the pleasure of the distinguished majority leader. I would indicate that any delay is not being caused on this side. We are prepared to vote. We believe the President should have a vote. The President campaigned on this issue. As I have said many times, it is not a surprise. Nobody is taken by surprise. It seems to me that one way to resolve it is to vote it up or down.

As I have indicated, the amendment has three major components, the Packwood-Roth capital gains and IRA provisions, the repeal of section 89, and, of course, the Polish aid package. There are also two minor revenue measures that offset the 1990 revenue shortfall which results from the repeal of section 89.

There is always a lot of discussion about who is going to benefit from capital gains but never much discussion of the merits: Is this a good idea? Should it be done? Who does benefit?

Mr. President, our high cost of capital is hurting American business and its effort to compete in world markets. That is a fact. Every day we read that foreign competitors have increased their share in yet another industry. Many of these inroads are directly traceable to the relative costs of capital in the United States and abroad.

For example, Japanese banks have captured a 25-percent share of the commercial loan market in the State of California because they can afford to lend on razor-thin margins. The reason is their low capital costs. Stocks of Japanese banks sell for more than 50 times earnings per share. American bank stocks sell for 6 to 10 times earnings per share.

One factor in this disparity is the difference in capital gains taxes. Japan taxes the proceeds of stock sales at a 5-percent rate. The U.S. taxes capital gains at rates of 28 or even 33 percent. So it is 28 or 33 percent compared to 5 percent in Japan.

Mr. President, our high capital gains tax rates inhibits capital formation, while providing incentives for excessive consumption. We tax invested capital twice. Corporations, like other taxpayers, are taxed on current earnings. Shareholders are taxed again when they withdraw this capital in the form of capital gains, even though a significant portion of this gain may be illusory, reflecting mere inflation.

The results of this policy are readily apparent throughout our economy. We have become a nation of consumers. Old capital is locked into less pro-

ductive investments because of the capital gains tax penalty imposed upon reinvestment, and new private capital is directed away from equity investments because of the tax barriers.

Mr. President, this legislation will help to alleviate these tax payments on savings and investment. It provides an incentive for long-term holdings by reducing the capital gains tax rate according to the length of time an investment is held. Moreover, it removes the inflation tax on capital by offering investors the alternative of excluding inflationary gains, that is, of indexing their cost bases for inflation in computing their tax liability.

Mr. President, President Bush and a clear majority of the Members of both Houses, in the opinion of this Senator, recognize a simple truth, that we can promote economic growth in America by lessening the tax penalty on uses of capital that contribute to that growth. I believe this legislation is critical to our future productivity and competitiveness, and I do not think it should be delayed.

What about IRA's? We have had the so-called Bentsen plan. The highly respected Senator, chairman of the Finance Committee, advanced a plan on IRA's. Then we have the plan of the highly respected Senator from Delaware [Mr. ROTH], who has been associated with individual retirement accounts, IRA's, for as long as I can recall. We all know that America's national savings rate is no longer sufficient to finance its obligations. We are increasingly dependent on foreign capital, and this dependence in part is due to the short-term proconsumption bias of our tax structure. Savings and long-term investment are subject to multiple and excessive taxation on real, noninflationary returns.

Lowering capital gains tax rates will provide necessary relief from the high cost of new investment capital. However, it is also important to provide positive incentives for savings. The Packwood-Roth IRA does this in a manner which would be the most beneficial to lower- and middle-income Americans.

The chairman of the Senate Finance Committee has proposed to extend the deductibility of IRA contributions to those families earning more than $50,000 per year. That is the top 12 percent of all income earners. In Kansas, this provision would benefit only the richest 5 percent of the population.

Not only does this provision benefit only the wealthiest Americans, but it targets the segment of the population which already has money in the bank, money which can be shifted into an IRA. In other words, this proposal is not likely to succeed in generating the new savings this country needs.

By contrast, the Roth-Packwood IRA does not expand the deductibility of IRA contributions to wealthy families. Rather, it permits the withdrawal of IRA funds without tax at retirement or to pay for education, a first home, or catastrophic illness.

The primary beneficiaries of this IRA will be the lower- and middle-income elderly who are currently subject to the highest marginal tax rates of all taxpayers due to the taxation of Social Security benefits, the Social Security earnings limit, and, so far at least, the catastrophic surtax. These moderate-income elderly who saved for retirement are seeing those savings confiscated in taxes at the time they are needed most.

The Packwood-Roth IRA ensures that retirement savings will be available at retirement to meet the needs they were intended to serve.

In addition, in allowing withdrawals for housing, education, and catastrophic illness, this proposal accomplishes goals which I have sponsored and supported for many years. First, it would remove a barrier for long-term savings by young families who are afraid to commit savings to an IRA which may be needed to purchase a home or to educate their children in the future.

Second, it will provide a pool of capital for uses which are important to our future economic growth: Improved opportunities for higher education and a stimulus to the construction of safe and affordable housing.

In combination with a reduction in the capital gains tax rate, this IRA will help to reverse the short-term, proconsumption focus which has plagued this country and threatens its economic future.

Mr. President, objections have been raised to this proposal in a recent CBO study, citing potential long-term revenue losses. Clearly, if you ignore any increase in net savings generated by the IRA-plus, this plan and every other IRA plan, including that proposed by the distinguished chairman of the Finance Committee, will lose revenue over time.

All economists, even those at CBO, agree that a tax deduction for IRA contributions, as proposed by Senator BENTSEN, is the exact equivalent of a tax exemption for eventual IRA withdrawals as included in the IRA-plus, provided that tax rates remain constant. However, our IRA-plus proposal provides the American taxpayer with the important assurance that his retirement savings will not be taxed at higher tax rate in the future. Thus, taxpayers who do not trust the Congress to maintain our current low tax rates will no longer be deterred from long-term savings.

CBO's analysis includes examples showing that taxpayers will be better off by converting their current IRA's into IRA-plus accounts. For example, the study points out that, in addition to insurance against future tax increases, the IRA-plus also increases the amount that a taxpayer can set aside for his retirement by making those contributions with after-tax dollars. In other words, future tax liability reduces the retirement savings component of existing IRA's, but not of the IRA-plus. The removal of this liability correspondingly increases the tax incentive of the IRA-plus, but it can hardly be regarded as a criticism.

Mr. President, it seems to me that in combination with the capital gains tax relief the IRA-plus will help to promote long-term savings and investment in America.

As I have said at the start, I would certainly urge adoption of this amendment. I would certainly hope we could have some agreement to vote on this amendment. We have been quarreling among ourselves over primarily capital gains for the last 30 days; for a week or so on whether or not it should be in budget reconciliation.

It was finally agreed, I think properly so, that everything ought to come off the Senate budget reconciliation—nearly everything come off. We have removed about 10 pounds of add-ons in a 13-pound measure. I think that was a distinct improvement.

But I do not understand the reluctance to prevent us from having a vote on this particular issue. The House has acted. It is not something brought up late in the session. The House has acted. There has been weeks and weeks, and months and months of discussion.

As I have indicated this is part of the President's campaign of last year. It is no surprise to the American people. He carried 40 States. I think there was an indication that the President would take us in the right direction and this was part of his agenda.

So it would seem to me we have some obligation—it is the President's first year, his first term—to let Congress at least dispose of the President's proposals. This is a very important and a very key proposal on President Bush's agenda.

So I do not know precisely what the plans of the majority leader are. But I would hope that we can have some vote. I know some of my colleagues on the other side will not vote with us on procedural matters but sooner or later procedural matters may be a vote on capital gains. You cannot have it both ways. You cannot say "Oh, I am for capital gains but I am not going to vote for any procedural matter." How do we ever get to capital gains if we have to have 60 votes?

So it seems to me one way to test it is somebody could move to table the amendment. It only takes 51 votes to table the amendment. That would be a clear indication of who supports capital gains: Those who voted to table obviously would be opposed to capital

gains, and those who voted not to table would be supporters of the capital gains tax rate reduction.

Perhaps we can have something like that occur in the next few days. It has been suggested by some that perhaps we put a number of things together. Members on that side have some priorities. Members on this side have some priorities. Maybe there might be some way to put together some megapackage. It might include capital gains. It would have to include capital gains. It might include child care. It might include catastrophic insurance. It might include section 89. It might include IRA's. There are a number of things that might be in this megapackage that we might wish to consider separate and apart from what now may be happening in reconciliation.

So it is the hope—I think I speak for the President, I know I speak for the President on this issue—that we would, as the House did, give him a vote, give President Bush a vote. As far as I know, he did quite well in the election. I believe he is entitled to have a vote on this particular issue.

So I hope there is some way we can arrive at some resolution that would protect the interests of those who oppose capital gains, and at the same time give those who support the concept or support the idea an opportunity in the very near future to have a vote which would be a solid recognition of where you stand on this issue, where you stand on repeal of section 89, and where you stand on IRA's.

We believe a vote in the affirmative on the pending amendment would be an indication that you support IRA's, and that you support repeal of section 89, as well as the capital gains tax reduction.

As I have indicated earlier, I do not suggest that either one of these amendments as drafted by those of us on this side are perfect. If the issue is ability to modify or change the proposal, we are certainly prepared to consider changes or modify cases. We know that some have difficulty with the Roth IRA plan. Some have a different idea. We are certainly willing to discuss those, and work out some arrangement for amendments.

The same with capital gains—some might have different ideas on how we finally approach capital gains. We are not suggesting that our amendment will end the debate because there are going to be differences, and honest differences of opinion. I do not question some who just flat out oppose the capital gains tax rate reduction for reasons they feel to be sound. I may not agree but I do not disagree with their right to hold that opinion.

Finally, I would say, as I said at the outset, unless I have missed something there is nothing in this Polish aid bill that is being delayed. I noticed the Washington Post editorial, and they proposed more often than not as a spokesman for the Democratic Party—the spokespaper, I guess, for the Democratic Party—talking about how we are delaying Polish aid. It has only been on the floor about a day and a half as I can recall. But they went on to say in the fine print, well, maybe a day or week or so will not make any difference.

But I would like the Washington Post to—it is a very fine paper—take a look at the committee substitute, Polish aid committee substitute, and take a look at the substitute I offered for myself and Senator DOMENICI, and try to distinguish—and perhaps distinguish the differences between the merits of each proposal. I believe they are going to find there is $400 million less money. Our substitute achieves better results than the more expensive, almost $1 billion, package in the committee substitute.

I indicate, as I did a day or two ago, it is not a question of helping the Polish Government. It is not a question of helping Solidarity. It is a question of how can we do it so they can move toward a market economy? Do we want to continue to, in effect, to subsidize socialist enterprises that have already failed? Communism is failing in Poland. We need to have the new government look in another direction—in fact, march in another direction toward a market economy.

Just to have a contest in this body or in the Congress of who can spend the most money—we will lose that every time to the Democrats. We will admit they are the champs of spending. They will always spend more, probably than the Republicans would, and maybe on rare occasions they are right.

But on this occasion, we are talking about the difference between $540 and $958 million, and we believe we can provide the same relief with our program, and the bottom line is, hopefully, when we figure out a way to dispose of capital gains, figure out a way to dispose of the Packwood-Roth amendment, hopefully by adoping it, but if there is some other way to dispose of it, then we can go back and maybe in a bipartisan way, work out the differences between the so-called committee substitute and the substitute offered by myself and Senator DOMENICI with reference to aid to Poland.

Other governments are moving in that direction. France is moving to help the new Polish Government. West Germany is moving to help the new Polish Government. They should. We certainly have a responsibility, and we have encouraged freedom around the world. It is happening in Poland, and we want to do our part.

As I have also indicated, I do not know how many times we will be voting to help Poland, but I have to believe it is going to be a number of times in the next few years. Let us make certain that we start off in the right direction so we do not discover a year, or 6 months, or 2 years from now that, well, that bill we passed was all right. We spent $1 billion, but it really was not focused in the right way, and now we have to take another look at it.

It seems to me that it is in the interest of our taxpayers, and certainly those who live in Poland, that when we start our program, we know precisely the direction it should go. Maybe we should spend a little time trying to work out some of the differences that will launch a successful program.

In closing, I again urge my colleagues on both sides to adopt our strategy on capital gains, and our strategy is let us vote. Let us vote. We have discussed it for weeks. There have been all kinds of innovative ideas on how to delay and how to make us have 60 votes, how to avoid a vote. I do not quarrel with that, but that is not a strategy.

Let us vote it up or down. If we lose, I am prepared to say that would be the end of it for the year. I know the majority leader cannot deal with this issue every day between now and the time we adjourn. So we are prepared to accommodate the wishes of the majority, the majority leader, and at the same time hope that he might accommodate, in this case primarily, the wishes of the President, and also the wishes of the Republican leader and others on both sides of the aisle, in permitting us to have a vote on capital gains tax rate reduction on an IRA plan and a repeal of section 89.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. Mr. President, I thank the distinguished Republican leader for his comments and wish now to address some of the issues he raised, and other issues which were not included in his remarks, but are relevant to the subject matter now under discussion.

First, I was surprised yesterday to learn that the Secretary of the Treasury is taking an action that is without precedent—and he acknowledged that his action is without precedent—in engaging in accelerated borrowing to extend the debt limit from the currently anticipated expiration date of next Tuesday, October 31, until on or about November 8. This will cost American taxpayers about $20 million, according to the Secretary of the Treasury. And it is an obvious and transparently political decision to avoid or to provide an advantage to those proponents of capital gains in the debate now underway. That is re-

grettable. The politicization of the management of the U.S. debt is a serious matter, and it calls into very serious question the management by the Secretary and the excessive deference to political considerations in that important task.

It had been, and remains, my hope that we can pass a clean debt limit extension by next Tuesday, midnight, to save the American taxpayers $20 million. We need not go through this exercise, and I think it is regrettable. It is a very expensive political tactic, particularly when the cost is being borne by American taxpayers. That may not be possible.

I hope in further discussions with the distinguished Republican leader that we can reach some agreement on how best to proceed on the various issues confronting us—the debt limit, the reconciliation bill, disposition of the capital gains issue, progress on the Poland-Hungary aid—that will permit us to do that, and to save the American taxpayers $20 million that, in my judgment, will be unnecessarily expended for what are plainly and purely political purposes.

Mr. President, during this debate we have heard many statistics bandied about. We have heard about capital gains taxes in other countries, and we have heard about the cost of capital for American business. On any major public policy issue, many so-called facts can be and are stated. Proponents of capital gains tax cut often make the argument that U.S. tax policy severely disadvantages business investment compared to policies in other nations. Typically, comparison is made of the alleged lower cost of capital in other nations and their lower capital gains tax rates.

We have been told time and time again that a cut in capital gains tax offers a magic way to reduce our cost of capital and make America competitive. First, Mr. President, every American, surely every Senator, ought to recall that it was Ronald Reagan and George Bush who proposed to eliminate the capital gains tax differential. Let me repeat that, because that appears to have been lost in the discussion here. It was the administration of President Reagan and Vice President George Bush which proposed to eliminate the capital gains differential.

It was 49 out of 53 Republican Senators who, just over 3 years ago, voted on this very Senate floor to eliminate the capital gains differential. It was the then Republican chairman of the Senate Finance Committee who stood on this very Senate floor 3 years ago to denounce capital gains tax differential as a gimmick to help the rich, as something that should be removed from our Tax Code.

So the history of this is that a Republican administration in which George Bush was Vice President, a Republican-controlled Senate, urged this Congress to abolish the capital gains tax rate, the differential, the very thing that the very same people are now saying is a magic way to restore competitiveness to the American economy.

What has occurred in the past 3 years to make what was so obvious then so obscure now to our colleagues? President Bush has placed more emphasis on this issue than any other in his administration, and if he feels so strongly about this issue, where was he 3 years ago when the administration in which he was Vice President was proposing to abolish the very thing which he now says is needed to rescue the American economy?

Have Mr. Bush's views on this issue made a complete, total, and dramatic reversal in that period of time?

Does the President not have some obligation to explain to Americans how it is that the issue now, that to him, is the most important thing in his administration, the most important item on the agenda, is something which he participated in abolishing just 3 years ago?

It does not make any sense to me. I do not think it makes any sense to the American people, and I hope President Bush will explain it to us.

How is it, Mr. President, that just 3 years ago you participated in abolishing the capital gains tax differential and 49 out of 53 Republican Senators voted to abolish the capital gains differential and now we are told it is the most important thing in this administration?

Mr. President, there have been many studies on the cost of capital, most suggesting our trading partners have an advantage. But while economists may differ on the cost of capital in America compared to the rest of the world, they do agree that our current tax system narrows the advantage other nations may have.

Businesses in the United States have a lower tax burden than do corporations in Japan and West Germany. They are subject to lower tax rates and have more beneficial cost recovery allowances. This difference alone gives us a cost of capital advantage. But the advantages bestowed by our tax system are more than offset by other factors, the most important of which is our fiscal policy which through the budget deficit encourages a low level of savings and higher real interest rates than those of our major trading partners.

Mr. President, the single most important thing that we can do to reduce the cost of capital in this country and make the United States more competitive is to reduce the Federal budget deficit, and that is why it is so difficult to understand that on legislation that is intended to reduce the Federal budget deficit President Bush would insist that we include his capital gains tax proposal which will increase the deficit by $67 billion over the next decade, according to the Joint Tax Committee, a panel of nonpartisan experts relied upon by Members of Congress from both parties and in both Houses.

Again I ask, Does it make any sense to propose as part of a deficit reduction bill a provision which will increase the deficit by $67 billion? I believe not.

If the President and his advisers put half as much time, a fraction as much time, into an effort to reduce the budget deficit as they are now putting into this effort to reduce capital gains taxes, then they would be doing something to make American business more competitive internationally.

Another misleading comparison that is often made is to look only at selected tax policies in other nations. For example, we are told that Japanese and German companies have a competitive advantage because those nations have a lower capital gains tax rate than the United States. The problem with this argument is that both Japan and Germany have a range of tax laws and other policies, some of which are more favorable, others of which are less favorable. It is highly misleading to make selective comparisons.

Most of our major trading partners have a higher level of overall taxation than the United States and almost all have higher marginal tax rates. While many of these nations do have lower capital gains tax rates on some categories of capital assets, the overall burden of taxation on all capital assets is not necessarily lower. The maximum tax rate in the United States is 28 percent. By contrast, the maximum rate in Japan is 5 percent; in Germany, 53 percent; in France, 57 percent; in Taiwan, 50 percent; in Korea, 64 percent; in the United Kingdom, 40 percent.

Total tax revenue as a percentage of gross domestic product is about 29 percent in the United States, a little higher in Japan; in Canada it is 15 percent higher; in Germany about 30 percent higher; in the United Kingdom 35 percent higher; in France 53 percent higher.

It is particularly interesting to look at the trend in tax burdens of the last several years. From 1976 to 1986, Japanese tax burdens increased 32 percent, French up 14 percent, British up 12 percent, in the United States up 2 percent.

U.S. tax policy is often criticized for encouraging consumption over investment; yet taxes on consumption account for a far higher percentage of total tax revenues in this country than in Japan, about 30 percent higher, and at the same time business taxes are far

higher in Japan, about 20 percent of total revenue as compared to about 7 percent in the United States.

Since Japan is inevitably thrown up as a comparison of the nation whose tax policies we should emulate, a closer look at their tax system is in order. We have heard it mentioned repeatedly on this floor that Japan does not tax capital gains. That is simply untrue.

The Congressional Research Service recently examined the capital gains tax policies of Japan. It found that with respect to capital assets held less than 5 years, the capital gains tax burden is higher in Japan than in the United States. The maximum tax rate in Japan is 50 percent on these capital assets compared to 28 percent in the United States. For assets held longer than 5 years, the actual tax burden in Japan is probably higher, at least for higher income families. In the case of real estate held less than 10 years, the tax burden in Japan is unquestionably far higher. The capital gains tax rates on this property ranges from 40 to 55 percent. Only in the case of real estate held longer than 10 years and on most stock transactions is the capital gains tax rate lower than in the United States. And then with respect to stock, the maximum tax rate is 20 percent.

While some of our trading partners have lower marginal capital gains tax rates on some assets, it is less clear that the actual effective tax rate on capital in the United States differs very much. For example, a study by Don Fullerton, a former Treasury Department Assistant Secretary in the Reagan administration, found that the effective tax rate on capital gains in the United States is less than 6 percent. This arises because of the ability to defer gains, to receive step-up basis at death, and because of the substantial corporate equity holdings by tax-exempt institutions. While Japan does not tax capital gains at death, it does require that the basis be carried over so that the tax is only deferred; not forgiven as in the United States.

These are the facts but unfortunately facts tend to get lost in a debate such as this. Every American is vitally concerned about our ability to compete in international trade.

Mr. President, I would like to conclude now with some brief remarks on two points that have been raised earlier today.

The White House, the distinguished Republican leader, and numerous Republican Senators have said that since there is a clear majority of both Houses in favor of the capital gains tax cut, why do we not just have a vote on the merits? That is the precise wording—"vote on the merits" of the bill that has been presented. The White House spokesman has made several statements suggesting that I am using the Senate rules in a manner as to prevent that result from occurring.

Mr. President, on September 13 of this year, 66 Senators voted to place certain restrictions on the FSX fighter plane transaction between the United States and Japan. Thirty-four Senators voted in the contrary. The view of the 34 Senators prevailed. Even though 66 Senators voted to place such restrictions on it, under the rules by which the Senate operates, the position taken by only 34 Senators prevailed.

It was the President's position that prevailed, even though 66 Senators voted to the contrary. There was no Senator, no White House spokesman on that day asking that there be a vote "on the merits," or who spoke of "the majority in both Houses."

The President's position prevailed, even though it clearly was a minority position. Our view did not prevail, even though it was clearly the overwhelming majority position.

On August 3 of this year, 54 Senators voted to place the savings and loan bailout bill on budget. Forty-six Senators voted in the contrary. The view of the 46 Senators prevailed, even though they were in a minority, even though a clear majority of the Senate held a contrary position. The minority view which prevailed was the view of President Bush.

So the President's position prevailed, even though only a minority of the Senate supported it; our view did not prevail, even though a clear and substantial majority of the Senate did favor it.

Those were two of the most recent of 34 occasions, 34 times, since January of 1987, in which the minority view in the Senate has prevailed, and the majority view has not prevailed. In every one of those instances, it was the Republican position that was in the minority. In every one of those instances, the Democratic position was held by a majority of the Senate, and in every one of those instances, the majority position did not prevail. The minority position did prevail.

Not once, not once on any of those 34 occasions did any Republican Senator or any spokesman for the White House or the President stand up and ask "Let's have a vote on the merits" or "Let's let the majority of both Houses prevail."

They did not ask that because, of course, if there had been votes on the merits, if the view of the majority had prevailed on those 34 occasions, the President's position would have been defeated or the administration's position—of course some of this occurred prior to the current incumbent President—would have been defeated but was not defeated because of the rules by which we operate.

Mr. President, just this week, just this week, a clear and substantial majority of both the Senate and the House voted to permit Medicaid funding of abortions for unfortunate women who have been the victim of rape or incest and who become pregnant and do not have enough money to pay for an abortion. The question was, if an American woman is the victim of a rape or incest and she becomes pregnant, and she does not have enough money to pay for an abortion, should the Medicaid Program, the Federal, State health insurance program for the poor, should Medicaid pay for an abortion in those circumstances?

A substantial majority of the House of Representatives said "yes." A substantial majority of the Senate said "yes." President Bush said "no," and President Bush's position prevailed because in that circumstance it was not enough to have a majority.

Therefore, Mr. President, it is simply incredible on the very same week that the President's position has prevailed, even though it is a minority position, that the White House and Republican Senators ask that there be a vote "on the merits" on the one issue that they have selected. Their position is that the Senate rules ought to apply to the Democrats but the same Senate rules ought not to apply to the Republicans.

So I asked the President if he wants a majority vote, is he prepared to accept a majority vote on the issue of Medicaid funding of abortions? If he wants a majority vote, is he prepared to accept a majority vote on the question of the on-budget funding of the savings and loan crisis? If he wants a majority vote, is he prepared to accept a majority vote on the issue of the FSX fighter transaction with Japan?

He cannot have it both ways. He cannot say that when the rules operate in his favor, as they have done 35 times now, with the abortion issue, since January of 1987, he wants to take advantage of those rules, but when the very same rules apply to his disadvantage he wants to be exempted from those rules.

The American people do not understand, nor should they, the rules of the Senate, but the American people understand fairness and playing by the rules of the game. Fairness means that the same rules apply to every Senator and every issue. Fairness means that you do not select which rules you will follow, that you do not select which issues the rules will apply to. Fairness means that the rules are applied evenly, equally to all Senators, equally on all issues.

That is what we are doing. Playing by the rules of the game means that you do not take advantage of rules when they help you and then try to get out from under those rules when they operate to your disadvantage.

It means that if you accept the benefit of the rules on 35 occasions, you accept the disadvantages of those rules on the one occasion when they provide you with a disadvantage.

That is what is at issue here, Mr. President, fairness, playing by the rules, having the same rules apply to every Senator and every issue.

So long as I am majority leader of the U.S. Senate the rules are going to be applied equally, evenly, fairly to all. No Senator need even ask to be exempt from the rules, and that goes to Democratic Senators as well as Republican Senators. No Democratic Senator need even bother to come to me and ask me to change the rules, to bend the rules, to exempt him or her from the rules, to exempt one issue from the rules. If the rules are fair we follow them. If they are unfair, then those who think them unfair should change them. There are processes by which we can change the rules. If people think that this rule ought to be changed, that in every instance it ought to be a simple majority that makes these determinations, then that is what we should discuss and debate and consider and vote on.

Mr. President, finally I want to say that it is my hope that we will in the near future be able to proceed to prompt action on the Poland-Hungary aid bill. That is a matter which I know the Presiding Officer has a deep and abiding concern about and interest in. It is important to the people of this country. It is important to the people of Poland. And I hope that the language it has encountered will soon be removed, obstacles will be removed, the delay will be ended, and we will be able to get on with that legislation.

In the meantime Mr. President, it is my hope that we could proceed next week to the long-term debt limit. I would like to discuss that briefly with the distinguished Republican Senator privately. So, Mr. President, I conclude my remarks, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, I am advised that the visiting Soviet delegation, which Senator DOLE and I have been hosting, is waiting for us for statements.

The PRESIDING OFFICER. The Senator from Washington [Mr. GORTON] is recognized.

CAPITAL GAINS

Mr. GORTON. Mr. President, I have listened to this debate with great interest. As is the case with both the majority and minority leader, I was a Member of the Senate in 1986 at the time of the passage of the tax reform bill. I voted in favor of it. That does not mean that in light of hindsight and the experience of the last 3 years there are not a number of elements in that tax reform package which do not deserve a second look and for that matter amendment.

I was not a Member of this body in 1988 when the Congress of the United States passed another tax, a surtax, on certain senior citizens for the payment of catastrophic health care which has been the subject of considerable debate in the Senate since that time.

I find it curious that the majority leader should so consistently during the course of this session have taken the position that once such a tax policy is passed it should seemingly not be subject to reexamination. We have debated catastrophic health care and its surtax at considerable length.

The majority leader and the chairman of the Finance Committee did their level best to see to it that no vote took place on the merits of that subject and were successful for some 8 or 9 months.

Finally, demands of Members on both sides were sufficient so that we did in fact debate that catastrophic health care bill on its merits. A responsible proposal by the Senator from Arizona [Mr. MCCAIN] which did not repeal the entire program but did repeal the surtax, was passed ultimately—wonder of wonders—by a 99-to-nothing vote, including the votes of even those Senators who were most adamantly opposed to so much as debating that proposition.

An element of the 1986 tax reform which has been an issue similarly discussed is so-called section 89, a section which I suspect a majority of the Members of the Senate at the time who were not members of the Finance Committee did not even know was included in that long and ponderous bill. It had a good goal: the ending of discrimination in health care plans on the part of the employers. It was such an overkill, however, that it was estimated that it would require 9 million man-hours of work in order to implement it, that it would cost the business enterprises of this country several billions of dollars in order to produce for the Treasury perhaps $50 million or $100 million.

It also has been the subject of great frustration to the Senator from Wisconsin [Mr. KASTEN] and others who sought its modification or repeal. The Senate has never been able or been allowed to vote on a flat-out repeal of section 89, although it is clear by other votes that a vast majority of the Members of the Senate wish exactly that purpose. And it is because of that frustration, Mr. President, that the repeal of section 89 is now included as a part of the amendment under discussion to a bill on aid to Poland and Hungary.

The capital gains issue falls into exactly the same category. I listened with interest and appreciation to arguments made by the distinguished majority leader, many of which I have agreed with in the past. I also point out that since that 1989 bill, the current President of the United States has run and been elected to the Presidency of the United States on a platform that there should be modifications in the tax provisions dealing with capital gains and some kind of special treatment for them.

While it is legitimate, it seems to me, Mr. President, to disagree with that position, it is hardly something to castigate the President that he has firmly and consistently attempted to keep a campaign promise. And it is hardly out of line for Members of this body to suggest as strongly as they possibly can that this body be allowed to debate the issue, be allowed to vote on it, and that a majority point of view on the subject be allowed to prevail.

It is simply because the majority point of view, both on capital gains and on section 89, has so long been frustrated, Mr. President, that it now comes up as an amendment to this bill to authorize certain aid to Poland and to Hungary.

I am certain that the Senator from Oregon [Mr. PACKWOOD] and the minority leader would be delighted to withdraw this amendment immediately upon assurance at a specific time and under specific circumstances that we would be allowed to deal with these two issues, either together or individually, on the merits, straight up or down, with no other subject being considered. We have not been given that opportunity, Mr. President. And it is for precisely that reason that any delay in the passage of this bill related to Poland and to Hungary simply must be laid at the feet of those who frustrate or seek to frustrate the will of the majority of the Members of this body on two issues so important as capital gains and section 89.

Bluntly, aid to Poland and Hungary will take place when and as they take place by reason of their inclusion in appropriations bills. The bill we have before us today has little in fact to do with what will happen with respect to Poland and Hungary, but it has a great deal to do with whether or not the body should be permitted to debate one issue vitally important to the small business community of this country and another issue which was at the heart of the Presidential election campaign in 1988.

I very strongly suggest, Mr. President, that as soon as reasonably possible the majority leader permit a majority of the Members of this body to debate those issues on their merits. If

in fact his arguments against the desirability of capital gains and repeal of section 89 find merit in the view of the majority of the Members of this body, they will be defeated. He, after all, is the leader of the majority party in this body. All he has to do is to keep his own majority together and he will win. It seems to me quite obvious that, simply because the majority party will produce many votes in favor of changes in both of these subjects, that is the primary reason that we are not being allowed to debate them at all.

Mr. President, I yield the floor.

Mr. SARBANES. Mr. President, will the Senator from Washington yield for a question on the previous statement of which I caught part?

Mr. GORTON. The Senator is happy to do so.

Mr. SARBANES. I listened to the Senator. Is it the Senator's position that the Senate should repeal the rule with respect to debate so that we could be joined on the substance of a matter if a simple majority wishes to do so?

Mr. GORTON. No; it is the position of the Senator from Washington that it ill behooves those who exercise the right of unlimited debate to prevent a vote on the two issues in which the Senator from Washington is interested to turn around and then criticize the proponents of the amendment for the delay in passing a bill related to Polish and Hungarian aid.

Mr. SARBANES. Of course the Senator, I believe, in a number of instances, has, as I recall, used the rules to serve his purposes; has he not?

Mr. GORTON. He certainly has and will again.

Mr. SARBANES. Pardon?

Mr. GORTON. He certainly has, and will again.

Mr. SARBANES. Well, it is not quite clear to me why he wishes to deny that right to others.

Mr. GORTON. The Senator from Washington is simply pointing out that in issues of this importance, it might be well to see to it that Members of the Senate are permitted to vote on them by majority vote.

The Senator from Washington scarcely recognizes——

Mr. SARBANES. I might agree with the Senator, but if we are going to do that, it seems to me the way to do it is to change the rules.

(Mr. SIMON assumed the chair.)

Mr. GORTON. The Senator from Washington not only recognizes but supports the right of the minority to engage in extended debate.

The Senator from Washington, on the other hand, finds it somewhat disingenuous on the part of those who seek extended debate, who utilize those rules in order to prevent a vote on the merits, to then turn around and criticize the majority, those who propose vitally important tax changes for the United States, to accuse them, in turn, of delaying the passage of a bill dealing with aid to Poland and to Hungary.

Mr. SARBANES. Of course, we can delay any bill simply by seeking to attach to it a measure which is so controversial within the body that Members are prepared to exercise their full rights under the rule.

My colleague can choose to try to add capital gains to every measure that comes along, and then claim it ought to be allowed to go to a vote because he wants a vote on the underlying bill. But the Senator is the one who has provoked the difficulty by seeking to add it to a totally unrelated measure.

It is not even a tax measure. It has nothing to do with the Finance Committee and does not even touch taxes.

The Senator is trying to add capital gains onto a different measure that is quite critical. My colleague can do it to any measure that comes along under the rules of the Senate.

And then he turns and says, Well, we simply ought to allow it to move forward on the basis of a simple majority.

I am prepared seriously, and I mean this for the Senator to consider, if he is advocating a change in the underlying rules of the Senate, to allow the majority——

Mr. GORTON. I find it incredible that the Senator from Maryland—who is here defending the rights of a minority in this case to cause this debate to go on forever—is so critical of other Members of the Senate using their rights under the rules to propose nongermane amendments.

Mr. SARBANES. No. I say, if the Senator is going to, in effect, introduce a totally extraneous matter to a subject that is on the floor, it seems to me any delay that then results falls upon those who introduce the extraneous element. That is what the Senator has done in this instance.

Mr. GORTON. I think that is a very confortable position.

Mr. SARBANES. That is what you have done in this instance and potentially will do in every other—you want to hold any and every measure hostage to pass capital gains. It has become such a fixation on the part of some in this body that they will bring everything to a screeching halt in order to try to get this major and unjust tax break for those at the very top of the income scale.

There are some who feel very strongly about that, obviously. It is a matter of great controversy. And every time my colleague tries to introduce it into some other measure he, in effect, is contributing to significant delay, not only on the tax measure, but others as well. That is obvious.

Mr. GORTON. To the best knowledge of this Senator this is the first measure to which this proposal has been added as an amendment. That seems to me to be a rather modest goal; that we be allowed to debate a question which was at the heart of the Presidential campaign last year, which was passed by the House of Representatives, and which an obvious majority of the Members of the Senate would vote on affirmatively if they were given a chance to do so.

I certainly respect the right of the Senator from Maryland to disagree with that proposition. And, for that matter, to contribute to extended debate on the issue. But, as I say, it does seems to me to go somewhat beyond the pale, then, to criticize the proponents of so important a matter for slowing progress on a bill which, whatever its importance, is certainly not as important as the amendment.

Mr. SARBANES. I do not agree with that. I think this legislation is of the highest priority. We have spent vast amounts from our Treasury in the postwar period to contain communism, in the hope and expectation that at some point we might be able to move those countries that fell behind the Iron Curtain out from behind it.

There is now an opportunity to do exactly just that, which has been one of the focal points of our entire postwar policy. We have a potential now to see a transforming event in Eastern Europe.

It seems to me that those changes and this legislation ought to be at the very top of our priority list. We have had a foreign policy for 40 years designed to achieve this state of affairs. Now this evolution, this development has taken place in the Eastern European countries, at least in Poland and Hungary, and we are not prepared to move on it.

I think it is a matter of grave import to the national security posture of the United States.

Mr. GORTON. Well, it seems to me the Senator from Maryland is hung on the horns of a dilemma. Either this bill is as absolutely vital as he asserts it to be, something for which we have been looking for 40 years, in which case, if it is that important it is obviously important enough to permit a vote on this amendment in order that we can get to the basic issue on its merits.

Mr. SARBANES. No. No.

Mr. GORTON. Or it may be less important than that, and he may have missed the part of my earlier remarks in which I pointed out, as has the minority leader, in fact this bill will not provide any aid for Poland or Hungary at all.

Aid for Poland and Hungary will be provided or not provided through appropriations bills which are now working their way through the legislative process in an entirely different fash-

ion. So aid to Poland and Hungary is not being slowed down by this debate a bit.

Mr. SARBANES. These bills provide the framework through which that aid will be provided, and authorize a number of programs which were developed very carefully by the very able Senator from Illinois who, as it turns out, is now presiding, in order to enable those countries to move forward and for the U.S. effort to help them.

There are a number of authorizations in this legislation that are important for the United States effort in Poland and Hungary.

My colleagues have such a fixation on this capital gains that they want to try to get it on any vehicle that comes along. They can try, but they are going to run into Members who feel very strongly on that issue, saying it has to be done according to the rules of the Senate. That is exactly where we are, and that is where we will continue to be.

I do not see for a moment the justification for giving a major tax break to the wealthiest people in the country. What we are trying to do, in fact, is to address the budget deficit and to get on to a more responsible fiscal policy.

My colleague is now proposing to make it more irresponsible.

Mr. GORTON. Well, the Senator from Maryland may also have missed the proposition, included in this amendment, the repeal of section 89, which creates a tremendous burden on the literally millions of small business people who do not fit into even his most alarming category, another proposition in which the majority of this body has been frustrated in creating any plain debate.

Either it is the position of the Senator from Maryland that this Polish aid bill is more important than those millions of small American businessmen and more important than allowing a full debate and vote on the serious subject of capital gains—which, of course, he can characterize as he will, and people on the other side characterize as a great incentive for economic development—or, alternatively, if in fact Polish aid is more important than these issues, then he should be willing to allow a vote on these issues so we can get to Polish aid.

Mr. SARBANES. I do not see how the Senator can call the capital gains proposal a great incentive for economic development. The fact of the matter is, it is simply a windfall at a time when we are in a difficult situation trying to reduce the budget deficit. It is a windfall for the people at the top end of the income scale who do not need a windfall.

What we need to do in terms of economic development is get our fiscal policy in order, not get it into further disorder, which is exactly what this proposal will do. The Senator and his colleagues who want it are seeking to attach it to anything that comes along to prevent orderly consideration of other matters in order to try to get their capital gains affixed onto something. They are going to encounter very strong opposition.

There is no economic sense in this proposal. The President made a promise to his wealthy supporters that he would go for a capital gains tax cut. The President is trying to get it, and others, I guess, feel compelled to support him in that effort, even though the consequence of it is to compound and worsen the economic problems which we confront in our fiscal situation.

Mr. GORTON. The Senator from Maryland states a magnificent case for his point of view. It is obvious, however, that that case is not persuasive even for Members on his own side of the aisle. His party has a majority of 10 in this U.S. Senate. If, in fact, the case is as one-sided as he asserts it to be, he should have no difficulty in permitting the vote on the issue and winning that vote on the merits.

The real proposition is, of course, as he understands it, that many people in his own party, as well as those on this side of the aisle, quite profoundly disagree with him on the economic impacts of the capital gains cut, and it is simply because he is unable to find a majority for his point of view that he so vociferously objects even to allowing the Senate of the United States to vote on it.

Mr. SARBANES. Is it the Senator's view the extended debate affects only the minority political party?

Mr. GORTON. The debate rule protects any minority which wishes to avail itself of it.

Mr. SARBANES. Is not even a minority of one entitled to invoke the rule?

Mr. GORTON. A minority of one can invoke the rule only for a relevant short period of time because cloture would be invoked on a minority of one.

Mr. SARBANES. If the others decide to do it. But it is a rule that is available to each and every Member of the Senate.

Mr. GORTON. Yes.

Mr. SARBANES. The Senator earlier was talking about the majority party and the minority party as though somehow the rule was only applied to the minority political party. That is not my understanding of the rule and, I assume, not the Senator's.

Mr. GORTON. But it is the Senator from Maryland who came to this floor to protest against not only the proposition that there should be a vote on this issue, but also, for some reason or another, the proposition that those who feel strongly about this issue should be allowed to bring it up on a bill basically on another subject.

Whatever the rules of this Senate are for the protection of minorities, as far as debate is concerned, they are equally strong in the protection of the right of any individual Member of this body to introduce and to cause a debate on a nongermane amendment. That is exactly the situation in which we find ourselves now. If the Senator from Maryland wishes to exercise his own right, undoubted right of a person who is in a minority on this particular issue, he should certainly not object on grounds of the supposed importance of this bill to its being used as a vehicle to cause a debate on capital gains or on the repeal of section 89.

Mr. SARBANES. I could not agree with the Senator more that under the rules he has the right to bring up a nongermane amendment, and, if he is so wedded to getting this tax break for the very wealthy, he can offer his amendment to any bill that comes along. But the responsibility, then, for the delay that may ensue in considering that underlying bill because of the controversy over his amendment rests on his shoulders. That is all I am saying. You can put it forward, and others will invoke their right to debate, but the fact, then, that that debate may slow down the whole process is a consequence of your having offered that amendment. That is exactly what has happened here.

Mr. GORTON. The responsibility rests on those who are filibustering, I say to the distinguished Senator from Maryland.

Mr. SARBANES. It rests on those who invoke it by offering the amendment. The Senator has offered the amendment knowing that it is a highly controversial matter, and this is the result of it. As a consequence, he has held up everything else that follows along with it.

Mr. GORTON. We are perfectly willing to live with the result, I say to the distinguished Senator.

Mr. SARBANES. Mr. President, I simply observe that this situation has been provoked by the Senator or his colleagues who are so desperate to try to get this capital gains tax cut in order to reward the wealthy, to hold up any and all business that comes along. I do not question the Senator's right under the rule. Once he had done that however, he has precipitated the situation which follows.

Mr. GORTON. I am not sure either of us, Mr. President, is adding to the light of this debate so far. I simply suggest to the Senator from Maryland that if his case is as good as he thinks it is, he ought to be willing to abide by the result.

Mr. SARBANES. I am prepared to seek a change in the rules if the Senator wants to do that, but he indicated he was not prepared to do that. We can then move to majoirty rule in all

of the operations of the Senate. There are some arguments against doing that, I might say, Mr. President, but it is a matter that can be considered.

Mr. GORTON. Mr. President, I think I have the floor. I yield the floor.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. BENTSEN. Mr. President, this is an interesting debate about capital gains and what we ought to do about it. I have been a supporter of cuts in capital gains taxes, but that was when the income tax rate was 90 percent and 70 percent and then 50 percent. I fought hard to try to bring the tax rates down, but I do not support a capital gains rate differential today because we have reduced the tax rate on ordinary income to 28 percent.

I met the other day with a group of wealthy folks back home and they said, "Senator, tell us why you are opposing capital gains cuts now." I said, "Frankly, I do not believe that people who are paying at a 28-percent top rate, which is the lowest top rate paid on personal income tax of any major nation in the world, will alter their investment strategy in response to a reduction in the capital gains tax rate." The proponents of a capital gains rate differential contend that a rate cut would result in more investment capital. I do not believe it.

They also contend that a reduction in the capital gains tax rate will stimulate the venture capital markets. Do you know why people put money in venture capital? They do it because they want to hit that home run. They want to be the first to invest in the next Apple computer. Most new ventures in this country, less than 1 out of 10, survive. But most people enter into these investments with the belief that they are going to hit the big one. Others invest because they want to help finance a business started by a friend or close relative. I do not believe that tax considerations will deter these individuals. If they hit the big one, all of sudden, they can increase their return 40 times over. So they may have to pay tax on the gain, but if they hit it big do you think they are going to be concerned about paying 6, 7, or 8 percent less tax on that profit? No, they will pay the tax and put the gain in the bank.

Let's look at the facts. Where does most venture capital come from? It does not come from individuals. Approximately 95 percent of it comes from pension funds and other tax-exempt organizations that do not pay any taxes—none at all.

We must also look at how this proposal would affect the budget deficit. And you can't just look at the short run. What happens to the deficit in the outyears?

I listened to Richard Darman say that one of the problems in this country is that there is too much "now-nowism," too much instant gratification. Well, this proposal is a classic example of "now-nowism" or instant gratification. It would cut the tax rate and send the bill to our grandchildren. That's fiscally irresponsible and I oppose it.

The House proposal is another classic example of fiscal irresponsibility. This proposal would reduce the rate to 19.6 percent for 27 months, and then yank it back up to 28 percent. At least this proposal is structured somewhat more sensibly.

But this proposal, at the end of 10 years, will have a total cost to the Treasury of $37 billion according to the Joint Tax Committee. That means that much less money to cut back on the deficit. Then they add on the back-end IRA which is even more expensive.

I had proposed the Bentsen IRA. My proposal would allow people, who are currently not eligible for the IRA, to have a deduction of $1,000 on a $2,000 IRA contribution. That would achieve some of the very major goals of most American families. It would help that young couple buy that first home, help them pay for college education that is getting tougher and tougher to get, and help them provide for their personal retirement.

But this one comes along differently. This is what they call a back-end IRA. They call it IRA-plus. Well, I think what that plus really stands for is "Pay Later Uncle Sam." Put it off into the future.

We had the Secretary of the Treasury testifying before the Finance Committee. Asked the difference between the Bentsen IRA and the back-end IRA, he said the difference is which generation pays it. In the Bentsen IRA, it is paid for now. In the back-end IRA, you let your grandchildren pay it. You pass it on to the next generation.

I really admire the creativity of the folks that put this amendment together. The capital gains tax cut, as proposed by my distinguished colleague, the ranking member on the Finance Committee, and the back-end IRA proposed by the distinguished Senator from Delaware, Senator ROTH, is structured to get by the 5-year window on controlling the budget deficit. It is very creative for 5 years. But then the bottom falls out. Then you begin to get huge losses and they go on and on and on.

I saw the estimate of CBO, the Congressional Budget Office, a bipartisan, nonpartisan estimate. Their projection was that the back-end IRA, if you assume people take their money out in 20 years, then over the 20 years the losses to the Treasury would be approximately $100 billion—$100 billion.

Now, if you take what they are talking about on their capital gains with a $37 billion loss in 10 years and add the $100 billion loss from the back-end-loaded IRA, that is $137 billion that the budget deficit will increase. But, it will not just be $137 billion, because over that 20 years you will have the additional losses from the capital gains tax break. When you add it all up, the cost of this amendment could well be more than what we have had in the debacle with the savings and loan industry. The administration is now saying that the cost of the S&L blowup over 30 years could amount to $180 billion.

So in talking to these friends of mine, some of them quite well off, I said I am voting against your short-term best interest and I guess my own. But, I will tell you something else; I am voting for your best long-term interest because it is in the country's best long-term interest that we get this deficit down, that we get savings up in our country, that we have capital accumulation. How can we compete today when we have a 10.5-percent prime interest rate? The West Germans have an 8.5-percent prime; the Japanese have a 4.8-percent prime.

We need to increase investment in this country in order to improve our competitiveness. You have to finance that investment. And if you have to pay over twice as much as your competitor does for the investment capital and then crank that into the cost of your product, you're at a competitive disadvantage. I do not care how smart your management is, how hard labor works in that plant; you are at a tremendous competitive disadvantage. That is why it is important to increase savings and lower interest rates. The biggest thing you can do to improve savings and lower interest rates is get the deficit down. And a properly structured IRA will also help increase national savings.

The charge has been made that really what the IRA did in the past was shift savings from one savings account to another in order to take advantage of the tax deduction of the IRA. Do you know what the big source of revenues from their proposal, the back-end IRA, is? They raise revenue by switching savings from IRA's already in existence to these new accounts. Those who make the transfer would pay taxes over 4 years but only on that amount that they invested and previously received a deduction on—however, many years ago it was. Under this proposal they would pay no tax on interest earnings or equity earnings.

Now, if you do that for IRA's, why not do it for all pension accounts in this country? Why stop with IRA's?

You would have an explosion in the deficit in the future. You really would have passed on the tax obligations to future generations.

It reminds me of that fellow who was pitching to Willie Mays. He wound up and pitched, and Willie Mays hit it right out of the park, a home run. The press went over to the pitcher and asked, "What went wrong?" He said, "Well, I'll tell you this, it was one heck of a pitch for the first 60 feet."

That is the way it is with this kind of capital gains cut. Let us look down the road. Let us not settle for gratification now. Let us invest in the future of our country and of our children. Let us have a clean debt limit. Let us have a clean reconciliation bill. Let us get our job done.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, I have previously discussed with the distinguished Republican leader my hope that we could on Tuesday pass the debt limit extension without amendment and that I will undertake, if it appears desirable, an effort to dissuade any Democrat from offering an amendment to it in the hopes that we could act in that manner.

The House has already passed the bill and we have it here so our action would permit the debt limit to be extended on Tuesday in a manner that I think would also facilitate the disposition of other issues with respect to reconciliation.

I recognize there are many considerations which the distinguished Republican leader must take into account in this. But I inquire of him now whether he feels that would be possible or whether he feels it is desirable and something that we should both make an effort to move toward?

Mr. DOLE. If the majority leader will yield, first, I think we have at least one amendment. I believe Senator COATS has a long and abiding interest in rescission. I believe he has made it clear to this Senator that he intends to offer it on this long-term debt ceiling. I do not believe there would be any dissuading him from that effort.

I think we have indicated that another question would be whether we would offer capital gains, the Packwood reported amendment, with IRA's and repeal a section 89. As I indicated to the majority leader, we will have a policy luncheon on Tuesday, and I would be happy to explore that.

I think much would depend on, A, will we get a vote on the Packwood amendment on Polish aid; or, B, is there some other way to have some expression on another vehicle that might go somewhere beyond the Senate door that might pass the House?

But I would be happy to explore those possibilities. Obviously, if there is no reason not to do it, we ought to do it.

Mr. MITCHELL. I thank my friend and colleague. I would like very much to have us do that. I hope we will be able to do it. I will pursue it among my colleagues with the understanding that the distinguished Republican leader will raise it with his colleagues and I recognize, as I said, that there are other factors which he must take into account.

But I think it would be very helpful to all concerned if we could get unanimous consent on Tuesday to do that and act promptly to extend the debt limit. So that is my hope and intention. We will agree to discuss it further at that time.

I thank my colleague.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations: Calendar Order No. 450, Stephen J. Markman, to be U.S. attorney for the Eastern District of Michigan; and Sidney L. Jones, to be an Assistant Secretary of the Treasury, reported today by the Committee on Finance.

I further ask unanimous consent that the nominees be confirmed, en bloc, that any statements appear in the RECORD as if read, that the motions to reconsider be laid upon the table, en bloc, that the President be immediately notified of the Senate's action, and that the Senate return to legislative session.

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

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF JUSTICE

Stephen J. Markman, of Michigan, to be U.S. Attorney for the Eastern District of Michigan.

DEPARTMENT OF THE TREASURY

Sidney L. Jones, of Utah, to be an Assistant Secretary of the Treasury, vice Michael R. Darby, resigned.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that there now be a period for morning business with Senators permitted to speak therein.

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

MESSAGES FROM THE HOUSE

ENROLLED BILL SIGNED

At 10:38 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

S. 1792. An act to amend the Disaster Assistance Act of 1989 to avoid penalizing producers who planted a replacement crop on disaster-affected acreage, and for other purposes.

The enrolled bill was subsequently signed by the President pro tempore [Mr. BYRD].

At 11:14 a.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2991) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1990, and for other purposes; it recedes from its disagreement to the amendments of the Senate numbered 1, 5, 10, 15, 16, 17, 20, 21, 22, 23, 24, 26, 29, 33, 34, 35, 36, 39, 45, 46, 48, 49, 50, 51, 55, 58, 59, 60, 62, 63, 64, 66, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 81, 88, 89, 90, 92, 93, 94, 97, 99, 100, 101, 102, 103, 104, 105, 107, 108, 113, 118, 120, 123, 126, 135, 138, 139, 141, 143, 145, 146, 147, 149, 151, 153, 155, 157, 166, 167, 169, 172, 173, 175, 178, and 179 to the bill, and agrees thereto; it recedes from its disagreement to the amendments of the Senate numbered 2, 7, 8, 9, 12, 13, 14, 19, 27, 28, 30, 31, 38, 40, 41, 43, 44, 47, 53, 54, 56, 57, 61, 64, 67, 79, 80, 82, 86, 87, 95, 96, 106, 110, 115, 117, 119, 122, 124, 128, 129, 131, 132, 136, 137, 140, 144, 148, 150, 152, 154, 156, 158, 164, 165, 168, 170, 171, 174, 176, 177, 181, 182, 186, 187, 189, and 191 to the bill, and agrees thereto, each with an amendment, in which it requests the concurrence of the Senate; and that the House insists upon its disagreement to the amendment of the Senate No. 83 to the bill.

The message also announced that the House has agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3012) making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1990, and

for other purposes; it recedes from its disagreement to the amendments of the Senate numbered 5 and 8 to the bill, and agrees thereto; and that it recedes from its disagreement to the amendments of the Senate numbered 3, 6, 10, 13, 20, 22, 27, and 36 to the bill, and agrees thereto, each with an amendment, in which it requests the concurrence of the Senate.

The message further announced that the House disagrees to the amendments of the Senate to the bill (H.R. 2939) making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1990, and for other purposes; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. OBEY, Mr. YATES, Mr. MCHUGH, Mr. LEHMAN of Florida, Mr. WILSON, Mr. GRAY, Mr. MRAZEK, Mr. COLEMAN of Texas, Mr. WHITTEN, Mr. EDWARDS of Oklahoma, Mr. LEWIS of California, Mr. PORTER, Mr. GALLO, and Mr. CONTE as managers of the conference on the part of the House.

The message also announced that the Speaker makes the following supplemental appointment in the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3299) entitled "an act to provide for reconciliation pursuant to section 5 of the concurrent resolution on the budget for the fiscal year 1990," by inserting the following after the appointment of the first panel from the Committee on Interior and Insular Affairs:

Provided, That Mr. Sharp is appointed in place of Mr. Williams for consideration of subtitles B and C of title VI of the House bill.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 45. An act to establish a statutory framework for the Attorney General to afford temporary protected status to nationals of countries subject to extraordinary and temporary conditions, including armed conflicts, to provide for certain studies and for congressional review of such studies, to provide temporary transition protection for nationals of certain countries, and for other purposes; and

H.R. 2494. An act to reauthorize the Export-Import Bank tied aid credit fund and pilot interest subsidy program, to provide for the participation of the United States in a replenishment of the Inter-American Development Bank and in the Enhanced Structural Adjustment Facility of the International Monetary Fund, to improve the safety and soundness of the United States banking system and encourage the reduction of the debt burdens of highly indebted countries, to encourage the multilateral development banks to engage in environmentally sustainable lending practices and give greater priority to poverty alleviation, and for other purposes.

The message further announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 170. A concurrent resolution authorizing the printing of the book entitled "Black Americans in Congress."

ENROLLED JOINT RESOLUTION SIGNED

The message also announced that the Speaker has signed the following enrolled joint resolution:

H.J. Res. 241. Joint resolution designating October 25, 1989, as "National Arab-American Day."

The enrolled joint resolution was subsequently signed by the President pro tempore [Mr. BYRD].

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent, and referred as indicated:

H.R. 45. An act to establish a statutory framework for the Attorney General to afford temporary protected status to nationals of countries subject to extraordinary and temporary conditions, including armed conflicts, to provide for certain studies and for congressional review of such studies, to provide temporary transition protection for nationals of certain countries, and for other purposes; to the Committee on the Judiciary.

The following bill, previously received from the House of Representatives for concurrence, was read the first and second times by unanimous consent, and referred as indicated:

H.R. 3007. An act to amend the Contract Services for Drug Dependent Federal Offenders Act of 1978 to provide additional authorizations for appropriations; to the Committee on the Judiciary.

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 170. A concurrent resolution authorizing the printing of the book entitled "Black Americans in Congress"; to the Committee on Rules and Administration.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BYRD, from the Committee on Appropriations:

Special report entitled "Revised Allocation to Subcommittees of Budget Totals from the Concurrent Resolution for Fiscal Year 1990" (Rept. No. 101-175).

By Mr. KENNEDY, from the Committee on Labor and Human Resources, with an amendment in the nature of a substitute:

S. 1430: A bill to enhance national and community service, and for other purposes (Rept. No. 101-176).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. BENTSEN, from the Committee on Finance:

Sidney L. Jones, of Utah, to be an Assistant Secretary of the Treasury.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. INOUYE (for himself and Mr. CRANSTON):

S. 1805. A bill to authorize the Secretary of the Interior to reinstate oil and gas lease LA 033164; to the Committee on Energy and Natural Resources.

By Mr. HEINZ:

S. 1806. A bill to ensure that certain retirement benefit checks are delivered early if the usual delivery date falls on a Saturday, Sunday, or holiday; to the Committee on Governmental Affairs.

By Mr. SPECTER:

S. 1807. A bill to expand the circumstances under which the death penalty is authorized under the Continuing Criminal Enterprise statute: to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. INOUYE (for himself and Mr. CRANSTON):

S. 1805. A bill to authorize the Secretary of the Interior to reinstate oil and gas lease LA 033164; to the Committee on Energy and Natural Resources.

RELATING TO THE REINSTATEMENT OF CERTAIN OIL AND GAS LEASES

● Mr. INOUYE. Mr. President, this private relief bill that I am introducing today deals with an oil and gas lease in central California that was originally issued under section 14 of the Mineral Leasing Act of 1920. This particular lease, LA 033164, is owned by Mr. Paul Lieb and Mr. John Prescott.

This bill would allow the Bureau of Land Management to reinstate this lease, which was terminated in 1986, due to a misunderstanding over the payment of the lease rent. In enacting the 1982 amendments to the Mineral Leasing Act of 1920, leases issued under section 14 were not included in the reinstatement clause, because there were so few of these leases. Accordingly, although leases issued under section 17 may be reinstated, section 14 leases were not included in this statute.

The relief proposed by this legislation then, is consistent with the intent of the reinstatement provisions of the statute.

It does not call for any specific funding, nor does it risk any potential of opening "floodgates" as there are so few section 14 leases.

Mr. President, I urge my colleagues to join me in support of this private relief bill, and I ask unanimous consent to print the text of the bill in the RECORD.

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

S. 1805

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That:

SECTION 1. The Secretary of the Interior is hereby directed to treat United States oil and gas lease LA 033164 as if it had been issued under Section 17(c) of the Mineral Leasing Act, 30 U.S.C. § 226(c), for purposes of reinstatement only.

SEC. 2. Within thirty days after the enactment of this Act, the Secretary of the Interior shall give written notice to the last lessee of record for lease LA 033164 that said lessee may petition for reinstatement in accordance with the procedures and conditions in subsections 31 (d) and (e) of the Mineral Leasing Act (30 U.S.C. § 188(d) and (e)). The last lessee of record shall have sixty days from the date of the Secretary's notice to file such petition. If the Secretary determines that lease LA 033164 qualifies for reinstatement pursuant to subsection 31(d) (30 U.S.C. § 188(d)), in all respects except for compliance with the deadline imposed by that provision, the Secretary shall reinstate the lease pursuant to the conditions of subsection 31(e) of the Mineral Leasing Act (30 U.S.C. § 188(e)).●

By Mr. HEINZ:

S. 1806. A bill to ensure that certain retirement benefit checks are delivered early if the usual delivery date falls on a Saturday, Sunday, or holiday; to the Committee on Governmental Affairs.

RETIREMENT CHECK DELIVERY ASSURANCE ACT OF 1989

● Mr. HEINZ. Mr. President, I rise today to introduce legislation that will correct an oversight Congress made over 10 yeas ago and has since gone uncorrected. In 1977 we authorized the early delivery of Social Security and veterans' benefits checks if the scheduled delivery date fell on a weekend or holiday. This same consideration, however, has yet to be extended to recipients of civil service, railroad and military retirement checks and black lung benefits checks.

The 1977 provisions alleviated legitimate concern that Social Security beneficiaries had to wait several days before they could cash or deposit their benefit checks in instances where the delivery date fell on a Saturday, Sunday, or legal public holiday.

The legislation I am introducing today will put equity into the distribution of Federal pension benefits. Quite simply, this legislation will ensure timely delivery of Federal benefit checks for the 2.2 million civil service retirees and survivors, 890,000 railroad retirees, 1.6 million military retirees, and 392,000 black lung benefits recipients. In the event the scheduled delivery date of these benefits falls on a weekend or holiday, they will be available on the preceding business day.

The Postal Service currently receives benefit checks for disbursement on a specified date, usually the first or third of the month. In the event the date of disbursement falls on a Saturday, Sunday, or legal public holiday, the Postal Service delivers the checks on the next available business day. As a result, retirees and those receiving black lung benefits must wait several days before they receive their checks.

Many individuals in my home State of Pennsylvania and across the Nation depend upon these pension checks and benefits as their sole source of income. For them, the delay that results could mean the difference between meeting their day-to-day financial obligations and potential hardship.

Last year, the inequities of this situation were brought home to one of my contituents, Mrs. Ruth Kline of Mars, PA, who receives railroad retirement benefits. At the end of December, she read in the newspaper that Social Security checks were scheduled for issuance on Sunday, January 3, but instead were available on Thursday, December 31. Railroad retirement checks had an issuance date of January 1, New Years Day, public holiday.

On Thursday, December 31, Mrs. Kline went to the post office to pick up her retirement check. She waited in line and when her turn came, she requested her check. Distinguishing between the two different piles of checks behind him, the postal clerk informed her that although all the retirement checks were sitting there, ready for delivery, only Social Security and veterans' benefits recipients could receive their checks. Other retirement and benefit checks had to be held for delivery on the issuance day.

The post office was close on January 1, and thus did not deliver Mrs. Kline's check. She received her retirement check on the afternoon of Saturday January 2, but because the banks closed early on Saturdays, she could not cash her check until Monday, January 4—3 full days after the date of issuance.

Nearly 4.5 million individuals now receiving civil service, railroad and military retirement checks and black lung benefit checks do so with the unnecessary impediment removed for Social Security and veterans' benefits recipients more than 10 years ago. This seemingly simple improvement in the delivery of Federal benefits can go a long way in avoiding hardship and ensuring fairness.●

By Mr. SPECTER:

S. 1807. A bill to expand the circumstances under which the death penalty is authorized under the Continuing Criminal Enterprise statute; to the Committee on the Judiciary.

EXPANDING THE CIRCUMSTANCES UNDER WHICH THE DEATH PENALTY IS AUTHORIZED

● Mr. SPECTER. Mr. President, I feel that this is the appropriate time to introduce a bill on a topic that has been a principal concern of mine since I was the Philadelphia District Attorney. Yesterday, the Senate passed legislation providing for the death penalty for terrorists, and the Senate will soon take up broader legislation on the death penalty.

This bill authorizes the death penalty for major narcotics traffickers. It adopts the statutory language of 21 U.S.C. 848 in defining a major trafficker as the principal administrator, organizer, or leader of an enterprise who distributes 300 times the quantities described in subsection 841(b)(1)(B) of title 21 and otherwise meets the requirements of the subsection. Anyone who had at least prior one conviction under the continuing criminal enterprise statute and who trafficked in the requisite amount as a principal administrator, organizer, or leader, would be subject to the death penalty. Examples of threshold amounts would be 300 kilograms of a mixture containing heroin or 1,500 kilograms of a mixture containing cocaine. This death penalty would be an important weapon in the fight against the purveyors of poison on our streets.

The 1988 drug bill addressed the need for the death penalty where death results from narcotics-related activity. What has not been addressed is the devastation, societal erosion and virtual institutionalization of violence that have arisen as a direct consequence of organized narcotics distribution in our communites.

On September 19, 1989, during committee hearings on the death penalty, I engaged Assistant Attorney General Edward Dennis in a discussion of the constitutionality of the death penalty for major drug traffickers. At that time, I expressed my sense that public policy dictates and the public supports, the death penalty for major traffickers. I have developed this sense as a result of my many years as a prosecutor and Senator. As I stated to Mr. Dennis at the hearing, I believe that death is a natural and foreseeable consequence of massive sales of narcotics. I asked Mr. Dennis as the representative of the Justice Department, to study the issue and deliver an opinion.

In a subsequent hearing on October 2, 1989, Mr. Dennis expressed the view of the Justice Department on the issues that I had raised with him on September 19. He stated that:

[I]t is the considered view of the Department of Justice that imposition of the death penalty on the leaders of large-scale drug production and distribution operations would be consistent with the proportionality requirement of the Eighth Amendment.

My bill will provide the safeguards required under *Furman* v. *Georgia,*

408 U.S. 238 (1972), and its progeny. I have stated before that while I believe a death penalty is necessary, procedural safeguards must be in place so that it is applied fairly. In Furman versus Georgia, the Court did not conclude that capital punishment is unconstitutional, but only that the procedures of the Georgia statute were constitutionally invalid because it provided unguided discretion to the factfinder.

My bill provides for the death penalty even in situations where death has not been shown to be a direct result of the illegal activities. The Court held in *Coker* v. *Georgia*, 433 U.S. 584 (1984), that the State may not impose a death sentence upon a rapist when the crime does not result in death. The Court thereby announced the standard that punishments are barred by the eighth amendment when they are excessive in relation to the crime committed. A punishment had to meet both prongs of a two-pronged test. A punishment would be considered excessive if it: First, "makes no measurable contribution to acceptable goals of punishment . . .; or is grossly out of proportion to the severity of the crime." However, the Court also stated that public and legislative attitudes, history, and precedent must all go into the analysis of what constitutes excessive punishment.

My amendment would withstand the objective analysis required by Coker. There is much to show that the American people believe that the drug epidemic is the most severe problem confronting our Nation. Few communities have been left untouched by the organized drug gangs as they peddle their deadly wares. With the direct harm that the drugs cause have come the natural byproducts of violence, disease, and social dislocation. Not since World War II has there been such a consensus among the American people about who and what the enemy is. A consensus has developed that the moral depravity and injury to the public caused by large-scale trafficking is at least on a par with that caused by individual murders. The death penalty authorized by my bill would satisfy the goals of retribution and deterrence. Under article I, section 8, clause 18 of the Constitution, Congress has the unique right and responsibility to enact measures that ensure the Nation's security. Because of this right and responsibility, Congress has more leeway than the States to implement the death penalty as a furtherance of this goal.

A recent trilogy of cases provides additional support for the rationale behind my amendment. In *Tison* v. *Arizona*, 107 S. Ct. 1676 (1987), *Cabana* v. *Bullock*, 474 U.S. 376 (1986), and *Enmund* v. *Florida*, 458 U.S. 782 (1982), the Supreme Court held that applying the death penalty to accomplices convicted of felony murder was not violative of the eighth amendment's prohibition against cruel and unusual punishment. The new standard allows defendants to be sentenced under a death penalty statute if it is found that they killed, intended to kill, attempted to kill, or acted with reckless indifference to human life while acting as a major participant in a felony. My bill defines what a "major participant" is. To state that major narcotics traffickers act with "reckless indifference to human life" is to state the obvious. The law recognizes that in many instances, the actions of people indicating a reckless or depraved indifference to human life are as blameworthy and indicate the same level of malice as the actions of people who intend to kill. The law recognizes that a person who fires a gun into a room that he knows is occupied by several people, who plays Russian roulette with another person, or who drives a car at high speed along a major street is engaging in conduct that involves a very high degree of unjustifiable homicidal danger. It is time that we make the statement that major drug dealers, who, unlike the examples above, have targeted every person in this country, will now have to face the ultimate for their conduct.

Drugs are by definition, addictive. The more people a drug dealer is able to hook, then the better business will be. A major drug dealer increases the harm to society exponentially with each new regular customer. The harm comes about through overdose, the spreading of disease, families destroyed, and the increase in violence from addicts and the traffickers protecting their markets. The consequences are direct and foreseeable.

It is generally accepted that, with certain procedural safeguards, the death penalty for espionage and treason is not cruel and unusual punishment. This is true even where death has not resulted. The use of the death penalty for major narcotics traffickers is at least as compelling.

Accordingly, I urge my colleagues to consider this important issue. It is my present intention to offer this bill as an amendment to the death penalty bill or other drug control legislation.●

ADDITIONAL COSPONSORS

S. 82

At the request of Mr. THURMOND, the names of the Senator from Pennsylvania [Mr. SPECTER], the Senator from Alaska [Mr. STEVENS], and the Senator from Utah [Mr. GARN] were added as cosponsors of S. 82, a bill to recognize the organization known as the 82nd Airborne Division Association, Inc.

S. 562

At the request of Mr. RIEGLE, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of S. 562, a bill to amend the Social Security Act to provide for improvements in services to applicants and beneficiaries under the Old-Age, Survivors, and Disability Insurance Program and the Supplemental Security Income Program.

S. 747

At the request of Mr. DECONCINI, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of S. 747, a bill to amend chapter 44 of title 18, United States Code, regarding assault weapons.

S. 1109

At the request of Mr. PELL, the names of the Senator from Connecticut [Mr. DODD], the Senator from Vermont [Mr. JEFFORDS], the Senator from Hawaii [Mr. MATSUNAGA], and the Senator from Ohio [Mr. METZENBAUM] were added as cosponsors of S. 1109, a bill to amend the Carl D. Perkins Vocational Education Act to extend the authorities contained in such act through the fiscal year 1995.

S. 1214

At the request of Mr. DECONCINI, the name of the Senator from Florida [Mr. GRAHAM] was added as a cosponsor of S. 1214, a bill to provide that ZIP Code boundaries may be redrawn so that they do not cross the boundaries of any unit of general local government.

S. 1216

At the request of Mr. SIMON, the name of the Senator from Washington [Mr. ADAMS] was added as a cosponsor of S. 1216, a bill to amend the National Labor Relations Act to give employers and performers in the live performing arts, rights given by section 8(e) of such act to employers and employees in similarly situated industries, to give to such employers and performers the same rights given by sections 8(f) of such act to employers and employees in the construction industry, and for other purposes.

S. 1405

At the request of Mrs. KASSEBAUM, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of S. 1405, a bill to ensure the eligibility of displaced homemakers and single parents for Federal assistance for first-time home buyers.

S. 1560

At the request of Mr. BURNS, the name of the Senator from Wyoming [Mr. SIMPSON] was added as a cosponsor of S. 1560, a bill to suspend the enforcement of certain regulations relating to underground storage tanks, and for other purposes.

S. 1653

At the request of Mr. BAUCUS, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of S. 1653, a bill to preserve the solvency of the railroad retirement system.

SENATE JOINT RESOLUTION 140

At the request of Mr. GLENN, the names of the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Utah [Mr. HATCH], the Senator from Oregon [Mr. PACKWOOD], the Senator from Utah [Mr. GARN], the Senator from Iowa [Mr. GRASSLEY], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Arizona [Mr. DECONCINI], the Senator from Wisconsin [Mr. KOHL], the Senator from Michigan [Mr. LEVIN], the Senator from Arkansas [Mr. BUMPERS], the Senator from Massachusetts [Mr. KERRY], and the Senator from Georgia [Mr. NUNN] were added as cosponsors of Senate Joint Resolution 140, a joint resolution designating November 19-25, 1989, as 'National Family Caregivers Week."

SENATE JOINT RESOLUTION 198

At the request of Mr. SIMON, the names of the Senator from Maryland [Ms. MIKULSKI], the Senator from Wisconsin [Mr. KOHL], and the Senator from Vermont [Mr. JEFFORDS] were added as cosponsors of Senate Joint Resolution 198, a joint resolution designating November 1989 as "An End to Hunger Education Month."

SENATE JOINT RESOLUTION 207

At the request of Mr. JOHNSTON, the name of the Senator from California [Mr. CRANSTON] was added as a cosponsor of Senate Joint Resolution 207, a joint resolution approving the location of the Memorial to the Women who served in Vietnam.

SENATE JOINT RESOLUTION 214

At the request of Mr. THURMOND, the name of the Senator from Kentucky [Mr. MCCONNELL] was added as a cosponsor of Senate Joint Resolution 214, a joint resolution to express the sense of the Congress regarding the removal of offensive sexual material from television broadcasting.

SENATE JOINT RESOLUTION 216

At the request of Mr. DURENBERGER, the name of the Senator from Pennsylvania [Mr. HEINZ] was added as a cosponsor of Senate Joint Resolution 216, a joint resolution designating November 12 through 18, 1989, as "Community Foundation Week."

SENATE RESOLUTION 180

At the request of Mr. SANFORD, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of Senate Resolution 180, a resolution to encourage schools and civic enterprises to observe the 200th anniversary of the Bill of Rights on September 25, 1989.

AMENDMENTS SUBMITTED

CLEAN AIR ACT AMENDMENTS

BOSCHWITZ AMENDMENT NO. 1072

(Ordered to lie on the table.)

Mr. BOSCHWITZ submitted an amendment intended to be proposed by him to the bill (S. 1630) to amend the Clean Air Act to provide for attaintment and maintenance of health protective national ambient air quality standards, and for other purposes; as follows:

At the appropriate place in the bill insert the following new section—

SEC. . FEDERAL VEHICLES.

(a) Beginning January 1, 1991, gasoline powered vehicles owned or leased by the United States and operated in an area designated under the Clean Air Act as a nonattainment area for carbon monoxide shall be supplied with fuel which is composed of at least 3 percent oxygen.

(b)(1) Vehicles under subsection (a) shall be operated exclusively on such fuels except when operated—

(A) so as to make it impracticable to obtain such fuel; or

(B) in an area during any month in which such area is a nonattainment area for ozone under the Clean Air Act.

(2) The provision of subparagraph (B) of paragraph (1) shall not be applicable if the Administrator determines that the use of such fuel in such month would improve air quality.

Mr. BOSCHWITZ. Mr. President, today I would like to submit an amendment to the clean air legislation that would further the use of alternative fuels. Under this measure, all Federal vehicles in areas of the country not in compliance with Clean Air carbon monoxide standards would be required to use fuel composed of at least 3-percent oxygen.

Alternative fuels have become an important option for alleviating the pollution problems in our major cities. By mandating the use of alternative fuels with at least a 3 percent oxygen level for our Federal fleets, we can take steps to decrease carbon monoxide emissions and help reduce the threat of global warming. Three States, Colorado, Arizona, and Nevada, have already moved in this direction by mandating the use of oxygenated fuels for all autos in carbon monoxide non-attainment areas.

The new demand for alternative fuels would not only help solve pollution problems but would also create new markets for agricultural products. Because fuels such as ethanol are produced from products like corn and wheat, a new market would be opened for farmers, and all of rural America would benefit.

In recent weeks, there have been an increasing number of stories about threats to our energy security. As the supply of oil reserves declines around the world, the largest Arab producers are gaining a larger share of the oil market. A move toward alternative fuels would have the added benefit of reducing our dependency on these nations for our energy supply.

The Federal Government's fleets are comprised of several hundred thousand cars and trucks. This would include close to 170,000 postal vehicles, 150,000 Department of Defense vehicles, and approximately 115,000 vehicles under the control of the General Services Administration. By mandating use of oxygenated fuels in these Federal autos, we will set an example for the rest of the country to follow.

NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. JOHNSTON. Mr. President, I would like to announce for the Senate and the public that a hearing has been scheduled before the full Committee on Energy and Natural Resources.

The hearing is a continuation of earlier hearings held on October 5, 1989, and scheduled to take place on October 31, 1989. The purpose of this hearing to continue to receive testimony on the Department of Energy's efforts to improve the operations and management of its atomic energy defense activities and its efforts to restore public credibility in the Department's ability to operate its facilities in a safe and environmentally sound manner. The hearing will also focus on S. 972, S. 1304 and S. 1802.

The hearing will take place on Monday, November 13, 1989, at 2 p.m. in room SD-366 of the Senate Dirksen Office Building in Washington, DC.

For further information, please contact Mary Louise Wagner or Teri Curtin at (202) 224-7569.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FOREIGN RELATIONS

Mr. ADAMS. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Friday, October 27, at 10 a.m. to hold a nomination hearing.

NOMINEES

Mr. Smith Hempstone, Jr., of Maryland, to be Ambassador to the Republic of Kenya.

Mr. Francis Terry McNamara, of California, to be Ambassador to the Republic of Cape Verde.

Mr. Keith Leveret Wauchope, of Virginia, to be Ambassador to the Gabonese Republic and to serve concurrently as Ambassador to the Democratic Republic of Sao Tome and Principe.

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

SUBCOMMITTEE ON INTERNATIONAL TRADE

Mr. ADAMS. Mr. President, I ask unanimous consent that the Subcommittee on International Trade of the Committee on Finance be authorized to meet during the session of the Senate on October 27, 1989, at 1 p.m. to hold a hearing on H.R. 3275, the Steel Trade Liberalization Program Implementation Act.

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

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. ADAMS. Mr. President, I ask unanimous consent that the Select Committee on Indian Affairs be authorized to meet on October 27, 1989, beginning at 10 a.m., in 485 Russell Senate Office Building, on Indian education.

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. ADAMS. 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 October 27, 1989, at 10 a.m. to hold a hearing on the nominations of Dr. James B. Wyngaarden, of North Carolina, and Dr. J. Thomas Ratchford, of Virginia, to be Associate Directors of the Office of Science and Technology Policy [OSTP].

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

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. ADAMS. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Friday, October 27, 1989, at 9:30 a.m., for a hearing on Presidential nominee Debra Bowland to be Administrator of the Wage and Hour Division, Department of Labor.

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

ADDITIONAL STATEMENTS

THE HARTFORD COURANT: AMERICA'S OLDEST CONTINUOUSLY PUBLISHED NEWSPAPER

● Mr. LIEBERMAN. Mr. President, I rise today to bring to the attention of my colleagues an anniversary which is significant, not only to American journalism, but to our American history as well. On October 29, 1764, the Connecticut Courant published its first weekly newspaper. Two hundred and twenty-five years later, the Courant continues to roll off the presses. Now known as the Hartford Courant, the paper is the oldest continuously published newspaper in the United States.

On Monday, October 29, 1764, the front page of the Courant carried a preamble printed by Thomas Green which stated:

> Of all the arts which have been introduced amongst mankind, for the civilizing human-nature, and rendering life agreeable and happy, none appear of greater advantage than that of printing. . . . Was it not for the press, we should be left almost entirely ignorant of all those noble sentiments which the antients were endowed with. The benefit of a weekly paper, must in particular have its advantages as it is the channel which conveys the history of the present times to every part of the world.

The truth of Mr. Green's words were never more clear than 8 years later when the Thirteen Original Colonies became the United States. That world-shaking news was chronicled in the Courant with remarkable clarity and insight, and reminds us that the Courant actually predated our history as a nation by 12 years.

In 1781 the Courant had the very impressive circulation of 8,000 subscribers for each issue. At that time, few London papers could compare with the success of this colonial publication. Printed on paper from its own mill, the Courant was one of the most attractively presented and comprehensive publication in America.

Today, more than two centuries later, it still is. The founders of the Connecticut Courant would be stunned at the success it enjoys today. In a recent letter to its readers, editor, publisher, and chief executive officer, Michael J. Davies, notes the incredible growth of the Courant with a current daily circulation of 225,000 and a Sunday circulation of 310,000.

Much has changed in the 225 years since the Courant began publishing the news. Our Nation has grown and the field of communication has expanded to include electronic media. But the foundation for public communication is built in the newspaper. Edward R. Morrow once said:

> It is well to remember that freedom through the press is the thing that comes first. Most of us probably feel we couldn't be free without newspapers, and that is the real reason we want the newspapers to be free.

For more than two centuries, the people of Connecticut have learned about the changing world around them from the pages of the Courant. I offer the newspaper and its employees my congratulations on this anniversary. I am confident the Courant will continue to inform, educate, enlighten, and entertain for a long time to come.●

CUBAN DRUG TRAFFICKING

● Mr. MACK. Mr. President, this past summer Fidel Castro tried and executed a number of high ranking Cuban officials for their supposed involvement in drug trafficking. It is becoming clear, it if ever was in doubt, that these trials were Stalin-style show trials, designed to eliminate popular military commanders rather than to fight drug trafficking.

Testimony before Federal officials in March by Reinaldo Ruiz, a convicted Colombian drug trafficker now jailed in Miami, confirms what United States drug officials had suspected all along. Castro and his government were and still are actively engaged in assisting drug traffickers through their territory.

The testimony of Mr. Ruiz concerning dates of shipments, individuals involved, and amounts of payoffs corresponds almost exactly to that of the Cuban officials involved in the trials this summer. Ruiz also confirmed the pervasiveness of the corruption in Castro's government stating that it would be impossible to "go anywhere near the Cuban coastline without full authorization." Adm. Aldo Santamaria, the individual charged with protecting Cuba's shores, was indicted by a United States court in 1982 for drug trafficking. He was last seen as a member in good standing of the honor tribunal which condemned Mr. Ruiz's counterparts this summer.

I commend to the attention of Senators the essay which I insert into the RECORD at this point, detailing Mr. Ruiz's testimony on Cuban involvement in drug trafficking.

The essay follows:

[From the Wall Street Journal, Sept. 25, 1989]

MAN IN THE MIDDLE OF DRUG TRAFFICKING

(By David Asman)

MIAMI.—Reinaldo Ruiz sits in a tiny room set up for interviews in the Miami Correctional center. The visitor's hall in this maximum-security prison is air-conditioned. But the adjoining interview room, in which Mr. Ruiz, his lawyer and I barely fit, is not. Still, Mr. Ruiz insists on keeping the door to the hot, airless room shut tight. Like most convicted drug smugglers who have given state's evidence, Mr. Ruiz is afraid of reprisals.

Considering his long association with members of Colombia's most ruthless drug cartel, his fears seem justified. However, the man Mr. Ruiz fears most is not Colombian. He's a man to whom Mr. Ruiz—a Cuban-American with a large bearing and a graying beard—bears a remarkable resemblance: Fidel Castro.

In March, Mr. Ruiz traded testimony concerning his involvement with top-level Cuban officials-cum-drug-traffickers for a significant reduction in his sentence (to 17 years from life imprisonment). While his testimony is considered highly reliable by federal investigators, the word of a convicted felon is always suspect. But Mr. Ruiz's accounts were recently corroborated by an unlikely source.

Testimony presented during this summer's dramatic drug trafficking and corruption trials in Cuba—in which some of Mr. Castro's top military and intelligence officials were tried and imprisoned or executed—matches almost perfectly with statements made by Mr. Ruiz on dates of shipments, amounts of payoffs, individuals involved, etc.

Some have suggested that the Cuban trials provide hope that Mr. Castro is ready to help in the international effort to fight drug trafficking. However, the closely related Ruiz case shows the danger of cooperating with someone whose primary goal of totalitarian control outweighs all others, including drug interdiction or even loyalty to comrades. It also makes a strong case for the State Department to stick with its own strategy concerning Cuba, rather than be pressured into acting on behalf of those who have shown faulty judgment about Mr. Castro's commitment to fighting the drug war.

If you look at a map of the Caribbean, you will see that there's one unavoidable obstacle in the air space between Miami, Fla., and Colombia: Cuba. At least since the 1970s. U.S. Customs planes have been forced by Cuban MIGs to halt their pursuit of drug-laden planes from Colombia as the latter fly over Cuba on the way to the U.S. But the evidence presented by Mr. Ruiz showed a much more extensive Cuban involvement.

Cuba did not merely guarantee safety on overflights. Mr. Ruiz provided U.S. prosecutors and drug-enforcement officials with extensive evidence of ground, sea and air cooperation involving Cuban officials at the highest levels. Drugs were flown from Colombia into Varadero, Cuba, where they were repackaged and sent by ship to the U.S. mainland, all the while protected by the Cuban coast guard, air force and intelligence officers. Mr. Ruiz and his son (a pilot who flew several of the missions) were meanwhile accorded VIP treatment on the island—driving unescorted in Mercedes-Benzes, going to the Tropicana nightclub and, in the case of 51-year-old Reinaldo, being allowed to marry a 21-year-old Cuban and take her to the U.S.

Could Mr. Ruiz's highly visible operation have been missed by all but a relatively small group of Cubans—namely those prosecuted by Mr. Castro? "You try to go anywhere near the Cuban coastline without full authorization," says Mr. Ruiz, "and you'll see how many levels of authority are interwined." In fact, the man responsible for protecting Cuba's coastline, Adm. Aldo Santamaria, was indicted in 1982 by a U.S. court for trafficking. He was last seen as a member in good standing of the honor tribunal that condemned some of Mr. Ruiz's Cuban accomplices.

Reinaldo Ruiz originally became associated with Cuban officials because of a chance meeting in Panama with his cousin, Miguel Ruiz Poo. Mr. Ruiz Poo was head of operations in Panama for MC, the branch of Cuban intelligence designed to circumvent the U.S. embargo of Cuba through licit and illicit operations. The record is hazy as to who made the first move, but Reinaldo—who then had a Colombian girlfriend associated with drug lord Pablo Escobar—convinced his cousin that their various connections would converge nicely in a cocaine smuggling operation.

Mr. Ruiz Poo reported his smuggling plans to the head of MC, a highly decorated colonel named Antonio "Tony" de la Guardia. The operation was approved, and the first of several smuggling operations took place in early 1987.

Whether or not Col. de la Guardia informed his superiors of the Ruiz operation, Mr. Castro must have realized that the extent of detailed information obtained by U.S. authorities through the Ruiz case required some response. A host of federal prosecutors, drug enforcement agents and even drug smugglers agree that the Cuban trials were merely an attempt to isolate Cuba's involvement in drug trafficking to the one area about which the U.S. has irrefutable evidence. Of course, this is not to say that evidence collected before the Ruiz case was paltry.

For years, U.S. intelligence agencies, the Customs Service, the Drug Enforcement Agency, and even local law-enforcement officials have gathered volumes of less spectacular evidence about Cuban involvement in drug trafficking. Robert Merkel, a former U.S. Attorney in Tampa who was instrumental in bringing indictments against Panamanian dictator Manuel Noriega and Colombian drug lord Carlos Lehder, comments: "We've had information on Cuba's involvement dating back to Lehder's operations in the 1970s, in which Cubans were paid off for overflights. . . . And every attempt to get Castro interested in our interdiction efforts failed.

Jerome Sanford was head of the Narcotics Conspiracy Unit out of Miami's U.S. Attorney's office from 1975 to 1980. One of his biggest cases was against Miami's marijuana-smuggling kingpin, Jose Alvero-Cruz. "As of 1978, I was certain Cuba was deeply involved in the Cruz case," Mr. Sanford says.

Although ultimately convicted only on tax violations, Mr. Alvero-Cruz's relations with Cuban officials came out during the trial. After he allegedly bribed Cuban officials, boats laden with tons of marijuana from Jamaica were escorted safely along the Cuban coastline by the Cuban coast guard (the same tactics that led to the 1982 indictment of Adm. Santamaria). In spite of being an alumnus of the anti-Castro Bay of Pigs invasion, Mr. Alvero-Cruz had free access to the island fortress and on one occasion used a passport validated in Cuba in 1976 to deposit money in one of his Madrid bank accounts. As the cases of Mr. Ruiz and fugitive Robert Vesco also demonstrate, the Cubans have a long history of treating well-known drug smugglers like diplomats.

Despite these and many other accounts, Mr. Castro has until quite recently steadfastly denied any Cuban involvement in drug trafficking. As recently as February of last year, Mr. Castro bristled when asked by NBC's Maria Shriver about Cuba's role. "Look, I believe that answering that question would be debasing myself," shouted Mr. Castro. "It is miserable and absolute slander! . . . No other country has fought against drugs more systematically than Cuba."

Few U.S. representatives were willing to take Mr. Castro at his word. But some nonetheless advocated working more closely with him in drug-interdiction efforts. Senate Foreign Relations Chairman Claiborne Pell (D., R.I.), after returning from a fact-finding trip to Cuba last November, suggested that the Cuban coast guard work with the U.S. Coast Guard on drug interdiction (even as the Cuban coast guard was providing protection for traffickers). On his return from a December 1988 visit with Mr. Castro in Cuba, Rep. Charles Rangel (D., N.Y.) chastised critics of cooperation with Cuba on narcotics matters, saying; "It's not Communists who are killing our kids. It's drugs."

State Department personnel came under increasing fire from these critics because of their natural reluctance to share sensitive information with the Cuban government. But as Mr. Ruiz began providing officials with the most concrete evidence yet of direct Cuban involvement, the time seemed right to test Mr. Castro's sincerity once and for all. So, according to an administration official closely involved in the international drug-interdiction effort, some information provided by Mr. Ruiz was shared with Cuban officials.

Separately, Mr. Ruiz, with the knowledge of U.S. drug enforcement officials, sent one of his operatives to Cuba on three separate occasions to get information on other Cuban drug operations as well as arrange plans for the defection of Miguel Ruiz Poo and Col. de la Guardia. The colonel would have been a wonderful "catch" for U.S. intelligence. The information he and Mr. Ruiz Poo could have provided on the drug trade and Cuba in general would have been valuable. Unfortunately, we may never know exactly how valuable.

The fate of Mr. Ruiz's Cuban contacts already had been sealed. Mr. Ruiz Poo was sentenced to 30 years in prison on July 7 and Col. de la Guardia was executed on July 13.

At a time when Fidel Castro is more removed than ever from the civilized world—even to the point of openly denouncing Mikhail Gorbachev's perestroika—cooperation of any kind simply makes no sense. Indeed, it may well be that the attempt to cooperate with him in the Ruiz case led directly to a coverup in which Mr. Castro has tried to clear himself at the expense of his underlings. In addition, an opportunity may have been missed to get two of those officials out of Cuba before they could be silenced by Mr. Castro.

Furthermore, if the Cuban leader continues assisting drug dealers—and the Drug Enforcement Agency has evidence of Cuban-assisted drug overflights since the drug trails—providing him with intelligence on drug operations could be dangerous. As former U.S. Attorney Robert Merkel says: "If the Cubans know the parameters of your knowledge, the will better know how to desive schemes to go around your knowledge."

And back at Miami Correctional Center it becomes increasingly clear why Reinaldo Ruiz fears Fidel Castro more than he fears the Colombians. "They say I'm safe here in prison. But you can't play with Fidel—like some U.S. senators are trying to do—without getting burnt."●

CHARLES D. LOCKETT, KNOXVILLE, TN

● Mr. SASSER. Mr. President, I rise today to pay tribute to a man who has dedicated so much of his time and energy to serving the people of Knoxville, TN. Mr. Charles D. Lockett is celebrating two golden anniversaries this year, and I would like to take this opportunity to commend Mr. Lockett for his civic-minded spirit that has endured half a century.

It was 50 years ago Mr. Lockett set up his law practice in the rear of a building on Gay Street soon after returning from WWII, and it was 50 years ago he married his wife, the former Helen Cole. With this auspicious beginning, Mr. Lockett went on to build a successful law practice and become an active member of Knoxville's civic and political community. Mr. Lockett served on the University of Tennessee Board of Trustees for 13

years and managed three successful gubernatorial campaigns. He is also a past chairman of the Knox area chapter of the American Red Cross and a life board member.

Over the years, Mr. Lockett has received a number of distinguished awards for his service to the community. A 30-year veteran of the Regular Army and Reserve, he was awarded the Military Order of World Wars. In 1971, the Knoxville Chamber of Commerce named Mr. Lockett as the recipient of the Outstanding Community Service Award, and he has also been recognized by United Way and the Association of Governing Boards of Colleges and Universities. These honors were fitting tribute to a man who represents a shining example of personal commitment and civic involvement.

Mr. President, I would like to offer my sincere gratitude to Mr. Lockett for all that he has done in Knoxville. The city is a better place because of his endeavors.●

SECRETARY KEMP'S REFORM PACKAGE

● Mr. BOSCHWITZ. Mr. President, we have heard it said that our government, to operate efficiently and effectively, should be run more like a business.

Never has the failure to run a Government Agency according to sensible business practices and principles been more evident that in the past operations of the Department of Housing and Urban Development.

Well, I am pleased to say that HUD Secretary Jack Kemp—in announcing a comprehensive set of management, financial and ethical reforms at HUD—intends to return sound business practices to Government policy.

Among the many changes, the Secretary stated his intention to create within the Department a chief financial officer who, like a corporate CFO, will be charged with overseeing HUD's fiscal operations with an eye towards restoring and maintaining the Department's financial health.

Second, like any public corporation in America, HUD will, for the first time in its history, now produce financial statements on the activities of the Federal Housing Administration, and allow independent auditors to review the financial management of its operations and programs.

Third, again like any corporation, HUD will impose stricter standards and reviews of the many outside agents who work on its behalf, including a greater emphasis on program monitoring and evaluation functions.

These basic business practices will help guarantee that HUD's "goods and services"—clean, decent, safe, and affordable housing for low and moderate income Americans—will be delivered. And, equally important, our stockholders—the American people—will be receiving a greater return on their investment in good Government.

I am pleased to say that the Department of Housing and Urban Development is, finally, back in business.●

BULGARIA'S HUMAN RIGHTS SITUATION

● Mr. DECONCINI. Mr. President, a matter of deep concern has arisen in Sofia, Bulgaria, which I feel must immediately be brought to the attention of my colleagues in the Senate.

As chairman of the Commission on Security and Cooperation in Europe [CSCE], more commonly known as the Helsinki Commission, I am very much involved in the various CSCE multilateral meetings and negotiations which have been taking place this year. One such meeting recently convened in Sofia to discuss issues pertaining to the environment. This is the first CSCE meeting to be held on the subject. Given the critical need for the 35 signatory states in the Helsinki process to direct their attention to the environmental crisis affecting all of us, this meeting is a much-needed one.

Regrettably, however, the Bulgarian authorities have chosen to overshadow the urgent necessity to address environmental problems within the context of the Helsinki process by violating the heart of this process, the fundamental freedoms and human rights of the individual.

One of the key requirements for any country hosting a CSCE meeting is that there be no interference by the host government in the ability of private individuals and groups to gain access to the meeting. Further, these individuals and groups must be allowed to freely express their concerns and viewpoints publicly as well as to members of the attending delegations.

Because of the traditionally representative nature of the current Bulgarian Government, many delegations, including the United States, expressed initial reservations about agreeing to permit Bulgaria to host a CSCE meeting—the first CSCE follow-up activity to be held in a Warsaw Pact country following the conclusion of the Vienna CSCE review meeting earlier this year. Similar concerns were expressed in connection with the human dimension meeting scheduled to take place in Moscow in 1991. After repeated assurances by Bulgarian officials that the rules of openness and access would be faithfully adhered to, consensus was given by all signatory states to allow Bulgaria to host this meeting.

The initial reports which I received from my staff in Sofia last week were encouraging. The meeting was not only accessible to private individuals and groups but an environmental group known as ECO glasnost was being permitted to hold public meetings of its own and even to collect signatures on a petition expressing concern about some of the environmental policies of the Bulgarian Government. Although this type of public expression is a matter of common activity in the West, it represented the first glimmer of glasnost in Bulgaria in many decades.

Freedom of expression, Mr. President, goes to the very heart of the Helsinki process and it appeared as though the Bulgarian authorities were at long last beginning to recognize this right. Regrettably, this does not seem to be the case. I have been informed by telephone from Sofia that internal security forces have forcibly disbanded members of the ECO glasnost group in a park where they were peacefuly assembling. Further, many members of the group were beaten and have been detained.

The role of environmental activists in shaping national policy in the United States and other countries has been invaluable. To deny Bulgarian citizens their right to speak out not only violates the human rights provisions of the Helsinki agreements, it indicates a total lack of sincerity on the part of the Bulgarian authorities about the need to honestly address the very serious environmental pollution affecting Bulgaria and its neighbors. If we as a community of nations are ever going to solve the global crisis of the environment we must work together on all levels of our societies.

I urge the Bulgarian authorities to immediately release those who have been detained and to cease their harrassment of Bulgarian citizens who are attempting to exercise their basic right to freedom of expression. We will not make progress in solving the crisis of the environment until the courage of individuals to voice their concerns is matched by their respective governments' resolve to respect and listen to those who are suffering most from the environmental negligence all governments are guilty of.

The latest incident in Bulgarian human rights abuses compounds the already reprehensible actions taken by Bulgarian authorities against their Turkish minority. I visited the Bulgarian/Turkish border this past August and saw first hand the cruel treatment of ethnic Turks by the Bulgarian authorities. These actions are a tragic reminder of how far behind Bulgaria is from most of the countries in the Helsinki process in implementing all of its CSCE commitments. The promises of Helsinki are finally beginning to be a reality in some CSCE states whose record of compliance had previously been very poor. Bulgaria apparently has chosen not to join the encouraging forward movement of the Helsinki process which we are currently witnessing elsewhere in Eastern Europe.

The Bulgarian people have much to contribute to this process, I sincerely hope they will be allowed to do so. If the Sofia meeting fails because Bulgarian citizens have been silenced, Bulgaria will be marked historically as being responsible for thwarting a promising beginning in the Helsinki process toward correcting decades of environmental abuse amongst CSCE signatories.●

HIS EMINENCE ARCHBISHOP IAKOVOS, PRIMATE OF THE GREEK ORTHODOX CHURCH OF NORTH AND SOUTH AMERICA

● Mr. HATFIELD. Mr. President, I rise today to honor His Eminence Archbishop Iakovos, Primate of the Greek Orthodox Church of North and South America. April 1, 1989, marked the 30th anniversary of the enthronement of His Eminence and, to honor the occasion, the United Hellenic American Congress of North and South America will hold their annual dinner in his honor.

Archbishop Iakovos is an ardent ecumenist and was the first Greek Orthodox Archbishop in 350 years to visit the Pope when he was received by Pope John XXIII at the Vatican in 1959. His Eminence had dedicated his life to initiating changes for those people whose human and civil rights have been jeopardized. He marched with Dr. Martin Luther King at Selma and worked for passage of the Civil Rights Act. I would like to congratulate Archbishop Iakovos on his successes and wish him many more in the years to come.●

THE MADDENING OF AMERICA

● Mr. SIMON. Mr. President, I am inserting into the RECORD a lengthy speech given by a Chicago leader by the name of Joe Kellman.

I do not agree with every item in the speech, but the general thrust of what he has to say, I agree with completely.

What I particularly appreciate about the speech is the sense of urgency that he has about what is happening in education in this country. It is a sense of urgency that, frankly, we lack in the Senate and in the House and the administration lacks. The President talks about being an "Education President," yet he provides no significant leadership other than public relations summit conferences.

In Congress we are doing somewhat better, but we have not tackled this problem with the sense of urgency that it demands.

The second thing that I like about his speech is that he is willing to break new ground, to think fresh ideas.

I first learned about this particular school enterprise that he is involved in from a leading Chicago area businessman, "Skip" O'Neill. He heads the Paschen Construction Co., probably the largest construction company in the Chicago area. He flew down to my home in southern Illinois one time to talk to me about it, a rare display of interest in an educational project on the part of a business leader. That trip said something about "Skip" O'Neill. It said something about this school project. And it said something about the leadership of Joe Kellman.

There are gems in his speech that make it well worth taking the time to read.

For example, he says:

> If there were a profit motive, is there any doubt that IBM, General Motors, and other major companies would be solving the education problem in the Lawndales and Harlems of America?

He quotes Ross Perot as saying:

> A child's only chance in life is to get a good education. Would you rather spend a little bit of money and give him a good education, or would you rather keep him on welfare for the rest of your life out of your tax bite?

He quotes David Kearns, the chief executive officer of Xerox, and Dennis Doyle, as saying in the book "Winning the Brain Race"—

> The public schools' failure to teach children right in the first place costs society an enormous amount of money each year. The Committee for Economic Development estimates that each year's class of dropouts costs the nation $240 billion in lost earnings and foregone taxes over their lifetime. Billions more will be spent on crime control, welfare, health care, and other social services.

What he does not go into but what is there, unspoken, is that we are an increasingly segregated society on the basis of economics. And because the educational problems of the poor are no longer on our doorsteps, they become easier and easier for middle income and higher income America to ignore. As he points out so clearly, we ignore them, ultimately, at our own peril.

In Kellman's paper, he quotes the chairman of the Prudential Insurance Co. as saying that last year, 44 percent of those who applied for work at their Newark office could not read at the ninth grade level. You have to assume that large numbers did not even go to the trouble to apply.

Recently, I had breakfast with the CEO of a major American corporation, and he told me that they have a fairly lengthy employment application form, and less than 2 percent of those who fill out the form can fill it out completely and accurately.

In his call for decisive action, Joe Kellman has one marvelous line: "If we keep tinkering, we will tinker away America's future."

He quotes Alan Shedlin, who is involved in the New York City educational system, as saying, "The American elementary school was designed for a society that no longer exists." I fear there is much truth to that statement.

Joe Kellman also calls on the suburbs to take a much greater interest in the problems of education in the city. That clearly is essential. That is not happening now. While he cites Illinois, he could be citing any other urban-suburban situation. We're going to have to be concerned about the poor in our midst, as we are not now.

I urge my colleagues and the staff who read the CONGRESSIONAL RECORD to take note of the Joe Kellman speech gleaning good ideas from it and capturing his sense of urgency.

I ask to insert his comments in the RECORD at this point.

The speech follows:

THE MADDENING OF AMERICA

(Speech by Joe Kellman)

Thank you for giving me this opportunity to speak to you today. My subject today is a serious one. It is entitled "The Maddening of America." We are creating a permanent underclass, unable to compete, and driven to violence and self-destruction. We have the know-how to reverse this trend, and a complete restructuring of our public school system is an all important key. Yet, we are not using that know-how. Instead, we are closing schools—and building prisons. Let me give you a little background as to why I believe so deeply that—unless we find the political will to stop this trend—America's future is in grave jeopardy.

There is a public school in my neighborhood. On its north wall, on two huge concrete slabs in letters almost a foot high, there are quotes. One says: "The foundation of every state is the education of its youth." That's from the Greek philosopher Diogenes, who lived over two thousand years ago. I wonder what Diogenes would say about the education of America's youth today? We're surely not building much of a foundation for their future, this state—or our nation.

On the other slab is this quote from Horace Mann, the father of American public education: "The common school is the greatest discovery ever made by man."

Diogenes is just as right today as he was then. And Horace Mann's observation is still valid.

Our public schools are still a great discovery. Perhaps the only hope for millions of children. The only hope for minorities living in inner-city ghettos in our major urban areas, and also poor white rural and suburban American children. And, as I suggested earlier, the only hope for our country. The schools simply have not kept pace with society. Twenty years ago we spoke of the culturally deprived and the economically disadvantaged. Today we speak of at risk children and a permanent underclass. Give it any name you want. The bottom line is that, in our major cities, they are the same predominantly black and Hispanic children and adults. Except there's more of them, and millions more to come. The only college or university far too many of them will see will be the kind with bars on them.

In a recent, hard-hitting Wall Street Journal Magazine pullout, sponsored by the Whitman Corporation, a strong supporter of the Corporate/Community Schools of America, it was reported that "today half as

many black men are in prison as are in college." It's a national disgrace.

I've been concerned about this for nearly 30 years. One of the best things I ever did was to establish the Better Boys Foundation. It started out as a boxing club in 1961. I thought competitive sports would solve the gang problem in the inner-city. How wrong I was! I discovered the obvious—sports were a lure, not a cure. So, in 1966, BBF dropped its boxing program and began preventive programming for younger boys and girls—before they joined the gang.

We've put hundreds of neighborhood high school graduates through college, providing them with financial aid and—just as important, intensive counseling—because many of our graduates represent the first person in their entire family to go beyond elementary or high school. Better Boys has been for 23 years the sole recipient of the proceeds from the world's largest sports/celebrity event in the country, the NFLPA Mackey Awards Banquet. We have made a difference in thousands of lives since the organization was established. And I am very proud of that.

But, even with a program other than sports, it became clear to me that—no matter how good at what they do—community social agencies were like tiny hospitals in inner-city war zones with thousands of casualities. Necessary, but totally inadequate to deal with tens of thousands of new casualties every year.

In November 1968 in the wake of the devastating riots of the late 60's, as a businessman and the founder of Better Boys, I was invited to speak by the University of Illinois and the University of Pittsburgh. I entitled that talk—"Black Blood, Red Ink: Whose Business Is It?"

In that speech over 20 years ago, I mentioned the *heart-breaking double talk* from our nation's leaders, who played the same shell game too many of our leaders are playing today.

In that speech I spoke of "better brand unworkable" approaches to solving the problems of the ghetto. That's when you buy a product that doesn't work, then switch to a "new, improved" version that doesn't work either. I urged business to get involved before we were overwhelmed by the problem. It was then that I first proposed the corporate school idea.

It's tough for me to believe that over 20 years have passed, and in spite of all the high sounding talk and school reform ballyhoo, our schools are no better. You see, it was just 21 years ago that the President of the American Management Association, replying to my request for AMA participation, said:

"Business, with its historic ability to get things done, can achieve anything if it makes up its mind to. This could be the year American business committed itself to take on the massive problems that beset our cities."

Unfortunately it wasn't that year. It wasn't that decade. And I pray that it won't take a century, because there is not that much time left for our country.

He added, "What we do need, and can realistically urge as I believe you do, is the involvement of business leaders in our cities in the daily administration of our school system."

It was over 20 years ago that someone printed a series called "Dynamics of Change". Contained in it was the following:

"It does now seem apparent that a system of universal and lifelong education will have to be devised, and there is some question whether the traditional school is the place to do it. It may be that among other of its new responsibilities, business will also have to put its enormous talents and resources to work educating minds, with the same enthusiasm with which it has produced goods."

For over 20 years, I've been vocally and actively concerned about the need for direct business involvement in managing the turnaround of our nation's inner-city schools, where the problem is toughest—in the ghettos of our nation, where educational failure and the street culture go hand in hand. This is where vulnerable young children become the fodder for tomorrow's prisons, unemployment lines, and welfare rolls, not to mention the drug culture. For the last 20 years of our country's history, we have been closing schools and building prisons. Truly, "The Maddening of America."

It puzzles me that, for all that is known about what it takes to create one good school, little of that knowledge is ever extended to create an entire system of good schools. In business, we are always working to get our least performing divisions to measure up to the standards set by the best of them.

I'm puzzled by the fact that, in education, excuses are made for the exceptional performance of their best divisions, called schools. It's just the opposite in business. In business, if you build a better mousetrap, the world beats a path to your door. In education, you become an outcast! Success somehow threatens the bureaucracy. So things remain the same. This enigma has been with us for decades . . . it's a big part of The Maddening of America.

Changing the system is a formidable task which we must neither over- nor under-estimate. It is achievable. If there were a profit motive, is there any doubt that IBM, General Motors, and other major companies would be solving the education problem in the Lawndales and Harlems of America?

I think of my own experience when I think of the school problems of today. I was born and raised in North Lawndale. Pa had his own business. By the time I was 14 he needed me to work full-time, so he took me out of school. I never got beyond a 9th grade formal education. But Pa taught me! He was my teacher, my mentor! Many of today's children will never enjoy that very special relationship. Thus, the burden falls upon our schools to prepare today's children to become the mentors of tomorrow's children.

My father was a pretty good teacher. I am still a student . . . a student of life. I am intrigued by the enormous potential of the human mind and the human spirit. I know deep down inside that if we are clever enough to send men into orbit, and bring them safely back to earth, we certainly have the powers of reason and logic that will enable us to put America's schools on higher ground. When we abandon reason and logic, we also abandon hope.

Texas billionaire and corporate leader, Ross Perot, is talking logic when he says, "A child's only chance in life is to get a good education. Would you rather spend a little bit of money and give him a good education, or would you rather keep him on welfare for the rest of your life out of your tax bite?"

To quote from "Winning the Brain Race," by Xerox Corporation CEO, David Kearns, and Co-author Dennis Doyle: "The public schools failure to teach children right in the first place costs society an enormous amount of money each year. The Committee for Economic Development estimates that each year's class of dropouts costs the nation $240 billion in lost earnings and foregone taxes over their lifetime. Billions more will be spent on crime control, welfare, health care, and other social services."

$240 billion is a lot of money. If The Committee for Economic Development is only one-half right, and we could save our taxpayers only $120 billion, the taxes that we would invest now would be substantially returned in the future as a result of this more productive citizen. The story simply is pay now and get a huge return on your investment. And if not for you, then for your children and their children.

We can solve this problem. What is stopping us is American madness.

Pick a major city. Take Philadelphia, for example. In some of Philadelphia's inner-city schools, the dropout rate is as high as 60%. Nationwide, 3,800 teenagers drop out of school each day. Of every three urban high-school students, at least one will be on welfare as an adult. This pattern is being repeated tens of thousands of times each year across the country. It's insane! We can put a stop to this!

Here is more reason and logic. According to Dr. Harold Hodgkinson of the Institute for Educational Leadership: "Today, we are a nation of $14.6 million Hispanics and 26.5 million Blacks. But by 2020, we will be a nation of 44 million Blacks and 47 million Hispanics—even more if Hispanic immigration rates increase. One of every three of us will be non-white by the year 2000."

"In 1950 seventeen workers paid the benefits of each retiree. By 1992, only three workers will provide the funds for each retiree, and one of the three workers will be a minority."

We need to protect their interest, if for no reason other than self-interest.

Let me talk for a bit about the crime problem in America, since it is so closely related to the education problem. Schools that work are the best defense against the crime and fear of crime that is plaguing our cities, our country, and your pockets. In Chicago the jails are so full that between April 1st and December 8th of 1988 nearly 20,000 inmates were released, on their own recognizance at the rate of 118 per day! When Judge Milton Shadur imposed a $1,000 a day fine on corrections officials because overcrowding has forced Cook County inmates to sleep on the jail floor, the Department of Corrections promptly budgeted $365,000 to cover the fines for one year! Madness!

At one point more than 500 inmates had to sleep on the floor at Cook County jail. The Chief of Police said: "Let them sleep in shifts." The Cook County Sheriff said the situation is "out of control".

Right now, I understand that Illinois ranks 44th in state school spending, and there are close to 200 of our school districts in financial trouble. In the meanwhile, a new $100 million county jail is in the works to help accommodate the exploding criminal population. It seems we are more concerned about criminal justice than we are about social justice. Madness!

In a March 2nd Chicago Tribune article, it was reported that "Downstate Mattoon was forced to close 1 of its 9 schools after voters approved a property tax increase. Without the increase, three schools would have to close in the 4,000 student district."

The people in the little town of Mattoon, Illinois needed only a few million dollars to keep all of their schools open. Yet, the state's new budget calls for hundreds of mil-

lions of dollars for new prisons. More and more money to house a criminal class that promises only to grow, unless we redeem the forgotten children of Lawndale, and the "Lawndales" throughout America.

According to a July 9th Chicago Tribune article—"Legislature Sets Off New Prison Race"—"In the last ten years Illinois has spent nearly $335 million dollars constructing a dozen adult prisons, including 9 new penitentiaries and 3 prisons converted out of closed mental health centers while the inmate population doubled."

Here's another example of the same problem in other states: According to a Fortune Magazine article, when a manager at Procter & Gamble asked an Ohio legislator to support preschool programs, he was told—we can't invest in preschool. We have three more prisons to build. In 1988, Michigan spent $2 million on preschool programs—and over the next five years budgeted nearly $1 billion for 15,000 new prison cells. More madness!

The prison problem is becoming ominous in another way that, to me, has very sinister implications for our future society. What I am talking about is this: for the first time in history, that I know of, people in smaller communities are now begging for prisons in those communities. According to that July 9th Chicago Tribune article, the 5,000 people of the southeastern Illinois community of Flora want to know: "Is we is, or is we isn't gonna get ourselves a prison?" To encourage prison officials to locate a new prison in Flora, they even made a promotional video featuring a group called the Barbed Wire Choir.

Well, with the prison population exploding the way it is . . . with state legislatures compelled to vote hundreds of millions for new prisons . . . with private, for-profit groups going into the prison business the way they have in Texas and California . . . with smaller communities now competing for prisons as a source of jobs and economic stability . . . well, when you add it all up, you have to wonder if, in the future, America will not become the military industrial complex that President Eisenhower warned about, but instead a prison industrial complex. As if this isn't sinister enough, the eagerness for new prisons as a means of insuring economic stability in smaller communities effectively places a bounty on the head of every high school dropout and every illiterate, especially if they happen to be Black or Hispanic. After all, they are the ones who are filling our jails today. Could it be that, in the future, a new prison lobby will insist that schools turn out even dumber kids? Sadly, this may not be as farfetched a possibility as some might think.

I have talked about the prison problems in Illinois, Michigan and Ohio, but things are just as bad elsewhere—California and Texas, for example. And in Dade County, Florida, the jails were so overcrowded they were forced to keep some of the overflow in guarded tents! Truly the maddening of America. Is it possible that new prisons are a substitute for new housing? It is time we stopped this trend. Let's create an America that will close prisons . . . and build schools!

We must change the equality of the public schools in the inner-city—not just because it's right—but because it's vital to all of our futures, in one way or another. The business community has finally begun to understand their stake in this issue. For them, it's not just a matter of taxes or crime. It also goes to the quality of the work force they can draw on in the future. And as they make their decisions about where to locate operations, a central issue will be the quality of the public schools and the workers those schools produce.

I truly believe the Corporate/Community Schools of America can help force the changes that are needed. It took me 15 years to find Vernon R. Loucks, Jr., chairman of Baxter International, who first accepted the call to action represented in the C/CSA. Loucks has since been joined by the chairmen of many other great American companies, most of them headquartered in the Chicagoland area. Together they have invested almost $3 million to support our first three years, and pledged to secure an additional $3 to $5 million for the next 3 years.

To help solidify our funding base, on June 25th a group of 13 of our key CEOs hosted a breakfast for a gathering of almost 50 heads of major companies. The four co-chairmen for this spectacular event were Ed Brennan, the Chairman of Sears Roebuck & Co.; Vernon R. Loucks, Jr., Chairman of Baxter International; William D. Smithburg, Chairman of Quaker Oats Company; and Stephen Wolf, Chairman of United Airlines. The purpose of that breakfast was to begin securing the $3 to $5 million needed for C/CSA's next 3 years.

To help us achieve our first $3 million to get this project underway, Miss Oprah Winfrey personally contributed $25,000 to C/CSA, and she has committed to provide a similar gift in each of the next 3 years. Oprah also brought Revlon into the fold with their contribution of $100,000. Obviously, strong financial support is needed to keep our flagship school viable and to position C/CSA for national expansion, which is very much a part of our gameplan.

We are also very gratified with the types of people who are on our National Advisory Board. Dr. Hanna Gray, president of the University of Chicago; Bart Giamatti, newly appointed Commissioner of Professional Baseball and former president of Yale University; and chairman Walter Massey, of the University of Chicago and Argonne National Laboratories, are all members at this time. This board will be expanded as C/CSA models are developed in other cities.

Because of heavy commitments, Commissioner Bart Giamatti was unable to join us for our ribbon-cutting last summer. But here are a few words from his letter, which I read to the audience on that sweltering day in August:

"The unique promise of the C/CSA rests in its singular partnership of people in our urban communities, our educators, and involved corporations. For the sake of the least among us, this partnership must succeed and grow. I look forward to continuing and expanding my participation with the C/CSA team and to the national outreach so necessary to achieving our ultimate goal."

National expansion is very much in our future plans, because what we are addressing is a national problem. After hearing our story, Senator Alan Cranston of California contacted David Rockefeller, Jr., who expressed interest in our program. We visited with him in New York on February 13th, and came away very pleased. It is my hope that "Loucks" will be spelled "Rockefeller" in New York, or "Busch" in St. Louis, or "Iacocca" in Detroit.

It's as Ross Perot advises, "There's no way to do this at the national level. You've got to do it 50 times over."

That is exactly what C/CSA hopes to do: link the Buschs and the Rockefellers, and the Loucks and the Iacoccas and their counterparts in every state of this nation in an aggressive strategy to force the changes our schools so desperately need.

We hope to build an entire fleet of C/CSA pilots, with C/CSA pilot schools operating in every major city in this country! And then to use those pilot schools as a vehicle to forge a new coalition for changing the entire system. In Chicago that means 595 schools. And that is the meaning of our C/CSA motto: "The force for critical change."

But you say, isn't business already involved? What about Adopt-A-School? And what about the Boston and Cleveland Compacts? What about Eugene Lang from New York, who is sending an entire 6th grade class to college. To Lang's credit, he is supplying important counseling supports to his students, and the program, called "I Have a Dream" is expanding nationally.

Let me tell you how truly ridiculous this thing gets. I read an article which told how Lang's program has spread to 25 cities, and that now 8,000 students are involved. But get this. Later in the article it tells how there are about 1 million dropouts! But the more important point is this: why would Mr. Lang and those who have joined him not spend their time and their money addressing the source of the problem? Because if there's a million dropouts this year—and you don't attack the source—you can bet your boots there will be another million next year, and the year after that!

What about the latest plan I heard about—free pizzas and congratulations to school children who read a book? There are dozens of programs like these, and many—like Adopt-A-School, have been around for decades. My study of Adopt-A-School plans, by the way, finds the same uneducated children coming out of better looking schools.

All of these programs have commendable goals. But time is running out, folks. And these programs leave the millions of underachievers untouched! Their lives can be touched only by changing the system, not merly tinkering at its margins.

I read in a June 27th Wall Street Journal article that corporations are now beginning to re-think their participation in such programs as Adopt-A-School and the Boston Compact. The article quoted Michael Bailin, the President of a Philadelphia-based consulting group which studied 9 well publicized business aid programs like the ones I've been talking about. According to Bailin, "We went looking for the good news and couldn't find any." The article further reports on how national business leaders are taking a tougher stand on issues of structural reform. I say, "hallelujah", it's about time!

Here is more from that Wall Street Journal article on what corporate America is beginning to say about these problems: "The public schools don't work worth a damn, contends Joseph F. Alibrandi, Chief Executive of Whittaker Corp. in Los Angeles. Band-aids won't work any more. We need a total restructuring."

"I see a lot of (business) programs going on in a lot of schools. And I don't see anyone saying the schools are doing great, says Thomas Donahoe, President of the (Pacific Telesis Group's) company foundation. Unless there are fundamental reforms going on, we're convinced there will be little long term good."

On this point we recently met with Robert C. Winters, the Chairman of the Prudential Insurance Company, to discuss his interest in C/CSA. His staffers sent to us a speech

Mr. Winters delivered at Princeton University. In that speech Winters says: "It is time to stop blaming the children . . . last year 44% of all those who applied for work at our Newark office . . . were unable to read at the 9th grade level. They are 17 years old and virtually unemployable for life . . . the time has come for systematic . . . educational reform. In fact, what we really need is not just reform, but a revolution."

It is amazing to me that, with so much at stake, we continue to expend our energies on piecemeal approaches and patchwork proposals that are like band-aids on a cancer. Our school systems need radical surgery, and that's not a job for well-intentioned do-gooders. It's a job for people who have both the skills and the authority to grab hold of the patient and do the difficult, painful work that must be done to save the patient.

All of these well intentioned plans have been tried for many years, and the educational situation is either no better or worse. Now doesn't that tell you something? So why do we continue with these no solution efforts? Why, why, why? If we keep tinkering, we will tinker away America's future.

You know, along these same lines there's all this talk about athletes serving as role models these days. My question is—when are America's great athletes going to recognize that model roles in today's society includes joining forces with those of us who are demanding realistic educational change for our inner-city children. Their voices need to be heard by corporate leaders, union leaders, and legislative leaders much more than the children.

Additionally, when will celebrity America come back and raise $50 million . . . not for the starving people of Africa, but for the starving minds in America? Of greater importance, when will celebrity America let its voice be heard on this issue in state legislatures and in the halls of Congress? The truth is their voice, added to the voice of others of us who are crying out for realistic reform, is far more important than the millions of dollars they might give in support of this cause.

C/CSA is beginning to make some headway in promoting this point of view with people like the great Walter Payton, Miss Oprah Winfrey, Gale Sayers, and other sports and celebrity stars. That's part of what makes C/CSA different and why, personal ego involvement aside, I believe this effort has such tremendous promise of achieving its objectives as "the force for critical change."

What is the Corporate/Community Schools of America, and why are we different from other business aid programs like Adopt-A-School? C/CSA is a group of influential business, education, and community leaders—and national celebrities—coalesced in the cause of fundamental change in urban education, or as Vern Loucks says it in our video tape: "C/CSA can be the force for critical change in the educational pattern of this country."

The model school serves as the vehicle for bringing this coalition together and for keeping it together. The school itself is a unique social invention—a tuition-free, private school organized in the public interest.

Today, thanks largely to the encouragement and support of that remarkable man Vernon Loucks, we have taken a giant step forward with the opening of our first model school, which at peak enrollment will serve 300 two-year olds through 13-year olds inner-city neighborhood children.

Our goal is to prove the doubters and the naysayers wrong—to prove that we can create inner-city schools that produce dramatic results, spending no more per pupil than the average in the Chicago Public School System.

Shortly after our school opened, it was editorialized in the Chicago Tribune as "A school for hope." And that's what we are. Our goal is to show those who believe we must give up on a generation of kids . . . and in doing so, give up on our future . . . that they're dead wrong.

We began by consulting America's foremost experts—famed teacher Marva Collins; Dr. Jim Comer of the Yale Child Institute; Dr. Armstead Robinson of The University of Virginia Carter C. Woodson Institute; Professor William Julius Wilson of the University of Chicago, and many others.

We also spoke to leading pediatricians, nutritionists, and child development specialists. We drew on the ideas of teachers, parents, and community leaders. We went to the people who know and asked what it would take to create a dynamic, cost-effective school whose methods could be replicated in larger school systems. They gave us their best thinking.

Then we went to the corporate community to ask for the resources it would take to implement their ideas. We didn't want their money alone. We asked for a commitment of their brainpower as well. And we have that commitment. That's what the combination of business bucks and business brainpower did for C/CSA, and a hint at what a coalesced business community might do for an entire system of schools.

Our corporate friends recruited the probono assistance of such top guns as Hill & Knowlton and Burson-Marstellar to handle public relations; Sidley & Austin for legal counsel; and Price Waterhouse for auditing. They also secured for us the services of an international corporate strategic planning group, Bain & Company, to assist us. Our Bain team assessed national school reform efforts, other model school programs, business-education partnerships, and the "best demonstrated practices" in classroom instruction and school management across the nation. Their work formed an invaluable blueprint for our model school and a framework for C/CSA as "the force for critical change."

Now it was time to turn good ideas into reality, and that required locating a home for our flagship school, and a first-class CEO, or principal as you call it, to run it.

We found our home in the heart of Lawndale—an abandoned school building that belonged to the Chicago Archdiocese. Cardinal Bernardin and representatives of the church made the building available to us at very generous terms. For $800,000, we rehabilitated the building to fit the needs of our children, their parents, and our school staff.

We empaneled a national committee of educators to find a superb principal—a CEO for our enterprise. We found one in Dr. Elaine Mosley, who was chosen from among 5 finalists out of the more than 200 individuals who applied for the job. We accomplished all of this with just two paid staffers.

In short, we brought to bear the lessons we learned in business—lessons that are too often ignored by the educators who run our public school systems.

We paid close attention to the bottom line, both the cost and the quality of education. We studied the best demonstrated practices for improving that bottom line. And we sought and, more important, we used input from the field's best and brightest minds.

On August 18th, 1988, the project was officially launched. The front steps of the school, where our ribbon-cutting was held, overflowed with a crowd of well-wishers that spilled out into the streets and down the block.

There were residents of the Lawndale community, standing shoulder-to-shoulder with the leaders of Sears Roebuck, United Airlines, Johnson Publications, McDonald's, Premark, Quaker Oats, and other business and celebrity supporters, such as Chicago's own Walter Payton, Oprah Winfrey, and Gale Sayers.

There were educators, politicians, and neighborhood groups, all standing together—a living symbol of the unique coalition C/CSA is building. And, I must add, I saw rays of hope beaming from the faces of community people, many of whom had no doubt given up on hope long ago.

Our flagship school began last year with 150 two- through eight-year-olds. The school is in the inner-city where the dual problems of poverty families and educational failure are well documented. Our children were randomly selected by computer—under the watchful eye of an independent researcher at the University of Illinois—to achieve a student body comparable to that of neighborhood public schools. Tuition is free; and at full capacity, as I mentioned earlier, we'll operate at or below the average per pupil cost of Chicago's public schools. What we are demonstrating, in a nutshell, is that the proper formula for creating successful inner-city schools does not require magic—just plain common sense, effective management, a commitment to getting the job done, and a clear vision of what we want our schools to be.

Over the next 3 years our student population will reach 300, from pre-K through 8th grade. We are beginning with 2-year-olds. Why 2-year-olds? Because there is ample evidence that early intervention with "at-risk" student populations pay huge dividends for these children in the future. According to the Research and Policy Committee on Economic Development: "Every dollar spent on early prevention and intervention can save $4.75 in the costs of remedial education, welfare, and crime further down the road."

Other reports document that a single year of quality early childhood education for high risk children can reduce their dropout rate by as much as one-third.

That's why we're beginning with 2-year-olds! And that's why every state in this nation must begin to invest heavily in quality early childhood education programs. It's common sense! Not doing it is madness!

Our school is open year round, closed only for 3 weeks in August. It is run by the principal and our faculty were carefully recruited. Their salaries are slightly higher than their counterparts in the public schools, and they are compensated based upon very clear performance standards.

Our board, which is made up of 4 educators, 4 community people, and 7 representatives from sponsoring companies, sets policy and monitors the performance of the school. The bottom line is student achievement, as measured by the same tests used by the public schools. Student achievement is the basic yardstick by which our principal and faculty will be judged. Again, common sense and logic.

An entire school system could be run this way. Of course, our C/CSA board is voluntary. To run an entire system, we say there would be a need for full-time paid people, but with the same commitment, and the same kinds of skill found in our board. I'll talk more about this later, but there's one other very, very important aspect of our school that you should know about.

In addition to teaching the 4R's—reading, writing, arithmetic—and reasoning, C/CSA believes that today's schools, especially in the inner-city, must function as the HUB in a network of services to families. So far, we have enlisted over 30 agencies, including hospitals, community social agencies; the Chicago City Colleges; counselling and drug treatment programs; the public libraries; and others to help parents to become more self-reliant and capable of fending for themselves and their children.

Through this HUB of a network, we're taking parental involvement beyond blaming the parents, to sharing the responsibility for their children with them and equipping them to overcome real problems in their lives. Their children are our children. When we help the family, we help the child . . . and we help solve the riddle of the urban underclass. These parents need help in dealing with the drug culture, the gang culture, and the ghetto culture itself. And our HUB is doing just that.

Our HUB of a network concept is based on the notion that the elementary school structure in place today originated more than a century ago, but is expected to tackle modern problems such as aids, teen pregnancy, suicide, child abuse and drug abuse. "Simply stated, the American elementary school was designed for a society that no longer exists," according to Alan Shedlin of New York's Elementary School Center.

Our project staff have developed a working paper on the HUB concept to share broadly with educators, social service providers, and policy makers throughout the nation. We've only been in existence for less than a year, and already we believe C/CSA has found a realistic approach to helping schools deal with the street culture and increased parental involvement from among struggling, inner-city poor families.

With corporate America in the vanguard, we've planted an intellectual garden where the skeptics maintained that no flowers could grow. But my purpose today isn't to boast of our success. Our purpose was to set a standard for what our inner-city schools should be—and to find a path to lead us out of the tragedy and danger of mass ignorance and failing school systems.

In its most important aspects, C/CSA is not just a school. It is a vehicle for change. Our action timetable called for 3 or 4 years of careful, strategic partnership-building before taking our model school's predictably successful findings to the general public, and then to the Legislature. But Chicago's 19-day school strike in 1987 forced us to become involved in the broader reform effort much sooner than we had expected.

At that time I was not prepared for what I learned in the countless hours I spent in meetings with leading legislators, businessmen, educators, union leaders, community people, and others involved in the school reform effort. I always thought that the major impediment to school reform was the unions. I personally met with top union leaders throughout the state, and I asked some pretty tough questions.

Following these discussions it became clear to me, that with skilled negotiations, the unions might find themselves ready to join in support of realistic reforms that would give teachers the salaries they deserve, better working conditions, and increased prestige as a profession.

You know, in my business I have had to deal with unions for 40 years. In all those years I have had only one brief strike. In talking with union leaders such as Jackie Vaughn, President of the Chicago Teachers Union; Bob Healy, President of the Chicago AFL-CIO; representatives of the Engineers Union; and even Al Shanker, President of the powerful American Federation of Teachers, who flew into Chicago to meet Vernon Loucks and a group of us at Baxter's offices, and who said—"The C/CSA project was potentially one of the most important innovations in American education today"—I clearly came to understand that the unions are only a small part of the problem. The biggest part of that problem is that we let unskilled people negotiate with them. You can't blame the unions for having a field day.

While I was somewhat encouraged by what I learned about the unions, I truly was not prepared for some of the other actors on the school reform stage. Logic and reason, by the way, were only bit players in that drama.

I watched in amazement as various special interest groups—most of them well meaning—came forward with their own versions of school reform. They pushed for—and the Illinois General Assembly passed—Senate bill 1840, calling for community control and the break-up of the Chicago Public School System into 595 "pieces". I argued against the bill. I think it's important for you to understand why.

First, in a C/CSA commissioned study of New York's decentralization, it was found that the purpose of their 20-year old system of community control was political, and that administrative decentralization does not improve education, especially in those communities having the greatest need. Their district boards are, for the most part, controlled by the United Federation of Teachers; patronage replaces professional administration; and less than 10% turn out for school board elections, with the UFT slate usually winning. Why would it be any different in Chicago?

"I was all for decentralization until I saw how it was being abused," said Dr. Kenneth B. Clark, a famed black psychologist, who was a member of the New York State Board of Regents from 1965 to 1985. "I thought parents would play a significant role in the schools. They have not. They have been blocked by the politicians and the school unions. I don't see any benefits from decentralization."

Shortly before his untimely death, New York City Schools Chancellor, Dr. Richard Green, said low voter turnout in their recent school board elections was unacceptable. Regarding decentralized school management, he went on to say: "In my view, it just doesn't work well." (New York Times 5/04/89)

By the way, in the wake of a 20-year failure with their system, New York has recently appointed a commission to study it to see if it can be salvaged, or if it must be scrapped. On this point, we believe big city school systems need a new form of central management, including the turnaround skills that are found in corporate America and throughout the corporate world. I'll elaborate on this later. But, to get back to the decentralization issue, I fully understand that Chicago's brand of decentralization and community control differs from that of New York's. New York is broken up into 32 districts. Chicago's plan breaks the system up into 595 units, with elected local school councils having considerable powers over the management of each school. But there are enough similarities so that the politics, of the elections and the potential for abuse are the same as in New York—or the abuses could be worse.

Second, we also studied the results of decentralization in Detroit. According to our study, here are some of the reasons why the people of that city voted 75% against the decentralization they voted for eleven years prior in 1970.

(1) It did nothing to raise student achievement.

(2) It provided a new forum for political bickering.

(3) It was so cumbersome that it defied accountability.

(4) It added another layer of bureaucracy.

(5) It was not cost effective.

Third, in view of the Detroit and New York experience, I wouldn't go near decentralization and community control with a ten foot pole! Doesn't it make you folks wonder why Chicago did?

Fourth, I think it's grossly irresponsible to turn our worst schools over to our struggling communities and expect that, by some magic, inner-city schools will improve. We need much higher levels of parental involvement. We need principals who are strong and respected. We need skilled, dedicated, highly respected, and well-compensated new teachers in our teaching force. And a better, safer environment at every school. In order to meet these needs systemwide, we need skilled and paid new leadership working full time at the top, and committed citizens working in volunteer capacities at each school.

Let me talk for a moment about teachers. The success of any enterprise depends on the quality of the people in it. Yet, I understand that America's teaching force, for the most part, is coming from the bottom 25% of college graduating classes. In an effort to attract and retain top teaching talent, one city—Rochester, New York—has done some extraordinary things, including paying teachers $70,000 or more.

But, according to a recent Wall Street Journal article, in Rochester, "the school system has openly conceded that it has failed most of the disadvantaged minority students now flooding its classrooms. It admits that it has been pushing them through the machinery and out into the street without giving them the tools they need to make a living. It has now taken a vow to find ways to educate every student."

The article continues: "This all seems very earnest, logical and high-minded, but in practice the fundamental reform aimed for may be extremely difficult to achieve. For one thing, the money needed to go on paying those high teacher salaries depends in part on more state financing, and the state has budget problems that might force retrenchment here. For another, the mindset encouraged by the old educational system is deeply rooted, hard to overcome."

"They got a 40% pay increase over three years out of the $27 million contract, but they are still ambivalent about what they collectively agreed to."

On this point, their school superintendent, Peter McWalters, took a pretty tough stand when he learned that, according to

the article, "our achievement patterns are absolutely predicted by race and class."

McWalters continues that the attitude of many teachers is: "Send us a better caliber of inmate, and we'll run a better prison. . . Teachers are angry about student attitudes, and they've absolutely right. But it's not going to get any better—that's the client, folks. An effective school can find ways to get around this."

You bet your life it can.

The article also states a sad fact about the teaching profession. "It's the only profession . . . where if you do well, nothing happens to you, and if you do poorly, nothing bad happens to you."

My point is simply this: Unless we find the ways to dramatically improve the recruitment, training, retention, and evaluation of our teachers, our schools will never improve. Corporate America, or shall I say the corporate world, deals with these issues all the time. It is called human resource management. Why not copy their successful techniques?

Again, from the same Wall Street Journal article, it was stated that the teacher problem is compounded by the fact that "over the next five years the U.S. will need more than a million new teachers. At current rates it will graduate in that time only about 625,000 people trained to teach—and a lot of those will likely decide to do something else, at least at first."

The article continues: "Sharp increases in teacher pay over the past six years haven't yet translated into any rush by students into the profession. In 1968, almost a quarter of all incoming college freshmen wanted to become teachers. From this all-time high, interest plunged to the nadir of 4.7% in 1982 before recovering last year to 8.8%. So we have a real challenge here."

With a somewhat different slant on the same subject, a July 20th New York Times article reported that "within five years, nearly half of America's teachers may retire or leave their classroom for other pursuits." The article continues, "The single most important action the nation can take to improve the schools is to strengthen teaching." This article was based on a report put out by the National Board for Professional Teaching Standards, which was created by the Carnegie Forum on Education and the Economy. What it tells us is that we have a golden window of opportunity to attract bright new talent into the teaching profession.

However, unless we have the management systems in place to recruit that talent, monitor and evaluate that talent, and to provide the type of monetary and other incentives that will keep that talent working for us in America's classrooms, that window of opportunity will slam shut. And America will find itself scraping the bottom of the barrel for the educators whose grave task is to prepare future generations to lead this country.

On this point, as stated so very well in a recent Chicago Sun-Times article, "for more progress, teacher training institutions must improve their education courses and teachers unions and school boards must change their system so that a teacher isn't someone who's just a step ahead of the kids, but someone who makes decisions and exercises authority."

We need good teachers. We need good principals. We need lots of other things if we're going to produce quality schools. As I said earlier, in order to make these things happen, we need skilled and paid leadership working full time at the top, and committed citizens working in volunteer capacities at each school. We need to build on the strengths of our poorer families so these families can begin to carry a greater share of the responsibility for the education, discipline, and well-being of their children. But the last thing we should do is to set inner-city parents up for failure by giving them control over schools that are bankrupt.

After the school reform legislation—Senate Bill 1840—passed, Illinois Senator Aldo DeAngelis, who cast the Senate's only "no" vote, said: "We have raised expectations in this bill that are not going to be fulfilled. If we have erred, we have created a catastrophe of great proportions."

State Representative Monique Davis, who also voted "no", went as far as to suggest, and I quote: "This bill is designed to create chaos."

Only three of 118 House and Senate members voted against Senate's Bill 1840. But even among those who voted for it, most said: "It's only a first step." "It's merely a power shift," said others.

I thought Senator Bill Marovitz was very clear on this point: "I am 100% for this package, but let nobody in this audience or within hearing distance be deceived. This is not school reform. Don't go home and believe this is school reform. Don't go home and believe that when we pass this bill, as we will, that the reading scores of John and Mary in the classroom are going to change. This is not school reform, and I don't think that the press should refer to this as school reform. This is management reform . . ." Sun-Times columnist Vernon Jarrett called it "management deform".

Marovitz continued: "We have a $2 billion system. Its management requires special skills and full-time leadership. I would hope that this Body will be back here in a couple of years and realize that perhaps that school board needs to be full-time, well-paid, with experts in this area who have managed the turnaround of corporations, failing businesses, and who can help us manage the turnaround of a deplorable failing system. . . ."

Senator Marovitz is saying exactly what C/CSA has argued. Other important political leaders are also beginning to take note. Here's what just one of them, Illinois State Comptroller Roland Burris, said to me in a recent letter:

"I was very impressed with the (C/CSA model) school, as I am with the entire concept of schools run by corporate management techniques. I am in favor of your plan, as an effective and efficient method in which to "turn around" the educational system in Chicago, and in other areas of need. I feel that there is definite merit in managing the school system like a business, with accountability for the results produced."

I recently had the pleasure of a private meeting with Chicago's new Mayor, Richard Daley. I shared some of my ideas with him, and came away very, very pleased with his reaction.

Just one more painful lesson from school reform, or as I refer to it, "reform school". And also, when we went to members of the Illinois Black Legislative Caucus, we found that, essentially, black legislators are in the same boat with white legislators. Their black middle and upper class constituencies have fled inner-city communities and inner-city education, right along with the white middle and upper classes. They vote their constituency, with little regard for the impact of their vote on the worsening plight of the educationally disenfranchised underclass.

I say this: my dear legislators, we are not asking you to live with them. We are asking you to let them live! The great H. G. Wells said: "Human history more and more becomes a race between education and catastrophe." If we could get into Well's Time Machine and travel to the year 2020, would we witness a new form of civil war raging in our major cities? Not black against white, mind you, but upperclass vs. underclass. I believe the stage is being set right now.

Here's a clue to this ominous possibility, as reported in a 12/04/88 New York Times article:

"Worsening matters is the fact that the city's establishment has little personal investment in the public schools. Nearly 80% of the system's 940,000 students come from minority groups, and few community leaders send their children to public schools."

"We can't handle this alone," says Jose E. Serrano, the Assemblyman who represents the largely Black and Hispanic Morrisania section of the Bronx where District 9 is located. "But how do you tell someone on the East Side of Manhattan or a stable neighborhood of Brooklyn this is their problem, too?"

In Chicago, let's change that to middle class communities such as Rogers Park or South Shore. How do we tell them that the poor areas like Lawndale and Cabrini Green and Austin are their problem too?

Here is something that school reformers pay very little attention to: What works in smaller districts . . . what works in more affluent communities . . . won't work in poorer communities in our major cities. Middle and upperclass communities—and perhaps smaller districts throughout the states will want, and may do very well with, community control, choice, or even vouchering, and thus their legislators must vote that way. But under any of these schemes, it's likely the plight of the disenfranchised will remain unchanged. Thus disproportionately high numbers of uneducated Blacks and Hispanics will be denied a real education. Much more important, we will continue to divide America's whites, blacks, and hispanics and we will continue drifting toward a society of haves and have-nots.

The hard-hitting Wall Street Journal article I mentioned earlier also carried important news about the latest "cure" for public education . . . something called choice. Here are just a few quotes—

"The bad schools? Close them down, say disciples of choice. Or at least dismiss their principals and reorganize them."

"But will the schools teach harder and better? Will students wind up knowing more algebra or history? Most choice plans haven't been around long enough to provide definitive answers. And some of the older ones are giving mixed signals."

"Many educators remain deeply skeptical, even suspicious, of choice. They contend it could drain resources from inner-city schools and worsen their plight. Black educators, especially, argue that in practice, some plans give black students access only to inferior schools."

"It may help a small number of students, but it won't do much good across the board," adds Willard Baker, former executive director of the Minnesota School Boards Association.

"Whatever its merits, choice has snowballed—partly it seems, out of frustration with the educational reform movement's accomplishments so far."

"But choice has stirred old passions here (Boston) giving rise to charges that the city's white power structure would use it to disenfranchise black students. The School Committee's nine white members voted for the plan. All four black members voted against it, arguing that schools in heavily black neighborhoods are decrepit and couldn't compete fairly for students. Thomas Atkins, a lawyer for the plaintiffs in the school desegregation case, says that the plan lacks adequate safeguards to privent resegregation. He vows to haul the system back into court unless changes are made."

I believe, folks, the real problem with choice or vouchering in public education is that the more sophisticated buyers will buy out the best schools. So, in my view, these are not solutions to the problem.

I spoke at a recent gathering of business people, many of whom seemed to favor choice. I responded to a question from a lady representing one of America's largest companies who favored closing schools that aren't working. My question to her was: "Where will the children go?" The plain fact is that these children are locked in slum environments because they and their families are not wanted among freshly scrubbed, well-dressed, middle class students. So where will they go? Can they come to your child's school? Please, let's not forget the reasons white and middle-class blacks fled our inner-cities in the first place! By the way, one of the harshest realities of the ghetto is the gang turf issue. At BBF, we have children who are afraid to cross certain streets for fear of their lives. What will choice mean for these children?

As to vouchers, I believe inner-city schools will need more of them, or a higher value voucher, if they are to meet the special needs of their predominantly at risk student populations. Here we have a dilemma. Will the middle-class, which is already resisting tax increases, be willing to support higher voucher payments for at risk kids? I don't think that is likely, and we simply can't get the job done without the necessary financial resources. So, in my view, vouchering might actually make things worse, not better, for the very group of students for whom good schools can mean the difference between a life of poverty or a life of productive citizenship.

In "Winning The Brain Race," David Kearns hits it on the nose when he says: "The middle class in all advanced nations is expert at getting what it wants, through subsidies, gifts, tax breaks, or grants. Middle-class people are the decision makers, the backbone of a complex society. And if they are denied access to good public schools, they will eventually insist that their choice of private schools be subsidized. Public schools still have time to reform, but the sand is running through the hourglass."

Kearns goes on to say: "The taxpaying public, the folks who pay the bills, will be willing to underwrite the costs of schools that work, schools they have confidence in. They will not underwrite schools that continue to fail."

My personal fear is that one day some demagogue may get on TV and protest that middle and upper class folks pay taxes to educate them. When education fails, they pay taxes to incarcerate them. Why pay double? Why pay these taxes at all? We have already seen signs of such legislative revolts in several states.

I recently read where "much of Lousisiana's middle class is in a tax revolt, feeling that tax increass will benefit the less fortunate while impacting negatively on the middle class quality of life." The principal subject of the article, however, was the election to the Louisiana Senate of Former Ku Klux Klansman David Duke, who has fueled these sentiments with his rhetoric. Duke is precisely the type of demagogue I'm talking about. They play on people's fears and insecurities. And, since we are living in a time when there is much to fear, the David Dukes of this world have a chance at gaining a broad following. It's all part of the Maddening of America, folks.

The July 23rd Chicago Sun-Times carried a front page story entitled "Winds of Tax Revolt Heating Up". The articles discusses how angry taxpayers on Chicago's north and northwest sides have swarmed to meetings to vent their outrage at recent property and income tax increases.

On August 8th, the Chicago Sun-Times carried a headline story: "Tempers, Tea Bags, Thousands Stall On Tax." The article told how 50,000 property owners showed up at various county offices to protest their tax bills. It told how James Tobin, the head of a group called National Taxpayers United of Illinois said that "he has oral pledges from about 500 (people) to withhold their taxes." In the spirit of the Revolutionary War era, some of the tax protesters in Chicago's Loop area distributed tea bags, a symbol of the Boston Tea Party. Can America, more than 200 years later, afford another "Boston Tea Party?"

If citizen tax revolts ever happen on a larger scale, the social consequences are too frightening to contemplate. You pay to educate them. When education fails, you pay to incarcerate them, or put them on welfare. Can America sue millions of citizens who refuse to pay double any longer? If that day ever arrives, it will surely be the end of our public school system, and it may be the end of the American dream.

Perhaps this is part of what the great American educator, Mortimer Adler, had in mind when he said: "* * * if we do not deal with our education problem within two more generations, by the year 2050, we can forget about the country. It will have gone down the drain."

What contributes to this grave possibility are some sad realities about school funding over the past 20 years. Again I quote the Wall Street Journal magazine article: "Your property taxes are eating you alive. Relax, you tell yourself. Isn't the bulk of the money going to improve our schools? And doesn't that mean our kind will be better fitted for more demanding modern jobs? Won't we be better able to compete with the Japanese and everyone else in the dog-eat-dog global economy? Of course. So it's all worth it."

The article continues: "But is it? A growing number of people think not. In fact, as a panacea for educational reform, money is actually getting a bad name. There are numerous indications that the sheer weight of cash thrown at the many problems of the U.S. educational system has had little effect in solving them: The hard fact is that our schools are in many ways worse off than they were when we were spending a lot less."

"So, adequate funding remains important. But even more important is the realization that cash alone can't do the trick, that educational reform can't be purchased like a sack of groceries. The U.S. has already tried that, and it has failed."

So, at least in my mind, this sets the stage for the possibility that good decent people will someday feel perfectly justified in refusing to pay double any longer.

And then there are those prisoners—80% of whom are barely literate—that we can't seem to build prisons fast enough for. We let them back into the streets * * * more hostile and skilled in their craft than they were before they went to jail. They'll soon be back in jail for committing another crime. But the madness doesn't stop there.

According to Owen Butler, former CEO of Procter & Gamble, who is also the chairman of the Committee on Economic Development, "There is hardly a major city in the United States that does not have a 50% school dropout rate. What kind of country are we going to have if 50% of the people in every major city are unemployable? Does anyone in this room think that throwing human resources away at this rate is not going to seriously impact and eventually destroy the very business you work for?"

He continues: "People are not going to live forever in the midst of wealth without demanding a share of it. If we don't give them a chance to earn a decent living, we will either have to give it to them or they will take it. Look at any two-class society in the world—Manila, Puerto Rico, Mexico City. Where do the wealthy live? Behind walls, with barbed wire, and guards with submachine guns protecting the perimeter. In other words, they live in a prison. That's not the life I want for my grandchildren."

The madness continues. On April 25th the Chicago Sun-Times carried a story entitled, "Teen Rampage, Rape of Jogger, Stirs New York Anger". In the story, 12 teenagers between the ages of 14 and 17 went what they call "wilding". That's a new term for random, remorseless violence against innocent people.

In this now infamous incident, these children—that's what they were—smashed a 28 year old woman in the head with a lead pipe and brick, ripped her clothes off, and about five of them took turns raping her. Then they left her to die in a muddy patch in Central Park.

Here's the clincher, and I quote: "Officials say not a single one of those youths showed any remorse." The Woman was one of nine joggers they had attacked that evening. That's "wilding". They did it for fun! Wasn't this violent act just what Mr. Owen Butler was warning us about, except that they are taking place today? This, my friends, is truly the Maddening of America.

One of America's most distinguished black journalists, Louis Martin, wrote about what he calls "The Poison of Prejudice" in a recent newspaper article. According to Martin:

"Today a young Black faces a hostile white public almost everywhere in the big city. I have had Black youngsters tell me that all the whites got off the elevator in some buildings when they get on. Stories of wilding and random violence have so frightened whites that they don't want to be in the same elevator with young Blacks especially."

He goes on to say: "Even educated young blacks may not be able to escape the growing prejudice."

When crime is black on black, the black victim hates the black criminal. When crime is black on white, the white victim hates black people. It's not color that separates us * * * it's ignorance! Time is running out!

Government leaders, federal, state, and city—how will you keep America as a democracy in the face of the hundreds and thou-

sands more of these incidents to happen in the days, months, and years to come?

You know, it seems that, in the matter of technological advances, our society is moving forward at a very rapid speed. Yet, in our attitudes toward our fellow man, we are moving backward. These vicious, often racially motivated acts are daily occurrences in our major cities, though often unreported by the major media. Even on our college campuses, there are shocking increases in clashes between white and black students—often erupting in violent words and acts. So we are going forward and backward at the same speed. Is America elastic enough to stand the strain, or will America be ripped apart? Time—and not much time I am afraid—will tell.

Listen to this, from the New York Times: "The brutal attack in Central Park by minority teenagers is only the most recent example of the cost of our inaction. The State of New York has responded with an anti-crime plan. Its cornerstone is building 9,000 new prison cells."

That, my friends, is madness. We have two options—we can concentrate our energies on building productive citizens; or we can spend a greater fortune on dollars and human suffering to control an ever-growing number of destructive citizens. Two options, but only one real choice!

Representative Thomas J. Downey (D-NY), chairman of the Ways and Means Subcommittee on Human Resources, said that the growing gap between rich and poor has ominous portent for our society. "You're not going to have enough locks on the doors or police in the streets to protect you from a generation of people who are not part of the mainstream of American economic life," he said.

Since we are directed by majority rule, and properly so, what do you do when majorities of the people are in the middle and upper class, and the problems in America's growing underclass are threatening not only our ability to compete, but our society itself? The majority in all state legislatures represents middle/upper/suburban and rural classes, and thus can't or won't act on behalf of the underclass.

In Illinois, for example, C/CSA commissioned a study on this very issue. Here's a couple of findings from that study:

At least 41 of Illinois' 59 senators represent suburban, rural, or other urban constituents, excluding Chicago.

Of the 118 representatives, 84 come from areas outside of the Chicago, with an undetermined number representing middle and upperclass districts in Chicago.

Chicago has over 54% of—all—low income children in the State of Illinois. This means that it probably costs more to provide them with a decent education because of the variety of needs they bring to the school setting. Now, here is more madness for you. In a recent Chicago Tribune poll it was found that 2 out of every 3 suburban residents believe that what's good for Chicago is good for the suburbs. But, in that very same poll of the very same people, they were 9 to 1 against increased taxes for Chicago's schools. And, believe me, if they are against it, then their representatives in the legislature are against it, too. It's called "politics".

Twenty years ago the Kerner Report warned of two Americas, separate and unequal. It is clear to me, at least, that America did not heed that first ominous warning.

Some of you may know about the 1983—only 6 years ago, "Nation At Risk" report and its second ominous warning for the future. What you may not know is that this report on our country's educational problems was the result of a full 2-year study by 18 of the brightest minds in America. They didn't call it "A City At Risk", or "A State At Risk". They didn't even call it "Children At Risk." They called it "A Nation At Risk!" And I quote: "If a foreign power imposed this mediocre education system on our country, we might consider it an act of war!"

A very recent study, America's Shame, America's Hope, reports that 30% of children in our poorest public schools have been adversely affected since the Nation At Risk report. I guess the "America's Shame" study can be considered a third ominous warning.

Will we see Civil War in our major cities in the 21st century? Will AA no longer stand only for Alcoholics Anonymous, but for American Apartheid? Those millions of at risk children, if they remain uneducated, too soon will grow up to become adults in America's dangerous and growing underclass. As adults, not only will they be uneducated and unskilled, they will be hostile. As Owen Butler suggests, in this, the greatest and richest of all countries, how could it be otherwise?

Now there's another study, a major one. It's 600 pages of facts and figures and analysis commissioned by the National Research Council. It is called "A Common Destiny". In this one, a blue-ribbon committee of 22 of our country's leading thinkers and researchers—the Committee on the Status of Black Americans—did their work. What they found is that things have gotten worse. What they found is that "barring unforseen events or changes in present conditions—that is, no changes in educational policies and opportunities * * *, our findings imply several negative developments for Blacks in the near future, developments that in turn do not bode well for American society." So there you have it. A Fourth ominous warning. Tell me, how many ominous warnings do we need before it is indeed too late? How many more studies do we need? It seems we commission studies, then commission new studies to study the studies!

It was heartening to read in President Bush's remarks to the members of the Business Roundtable his view on this particular issue. What he said is what I believe: "We've spent plenty of time studying the problem * * * The time for study is past. It's time to take action." We do have a common destiny. Time is running out!

Education is their only way out, and it is America's only way out. But, if we act decisively, there is hope. And I am convinced that the best hope for a turnaround of our big city school systems lies in replacing politically appointed governing structures with a much less political corporate-style management structure. I agree with former Chicago Board of Education President George Munoz, who describes the school board as "11 unpaid volunteers with no background in this area * * * who are somehow supposed to manage a $2 billion corporation." This from a former President of the Chicago Board of Education mind you.

It is a mystery * * * an almost impossible to understand mystery, as to why our major cities continue to adopt such ineffective measures to correct the educational disaster. It appears that they look for the most unworkable solutions when the obvious one is so obvious.

When, oh when are we going to stop trying to first turn around and then permanently manage our almost bankrupt major city school systems with part-time, unskilled and no or low paid volunteers? When, when, when? We are running out of time.

In a 1989 C/CSA survey of 30 urban school districts we found that 26 of them were elected, and 4 including Chicago were appointed. Their pay runs from nothing in 12 of those cities, with the other 18 ranging from $30.00 a meeting in Detroit, to $25,320 annually in Washington, D.C. The average for members of the 18 paid boards is less than $10,000. Obviously not a single one of them depends for a living on this low paying or no paying job.

How long will we continue to ignore the simple fact that you cannot improve the system to the point of making it highly successful, with volunteer school board members who work part-time and are either appointed or elected, and all having one thing in common—working part-time, unskilled, with meager pay, and not enough legislative authority to change a light bulb without asking permission from the unions.

How long will we continue to avoid the obvious? Let's put skilled people into positions of authority. Let them work full time. Pay them salaries commensurate with those paid in private industry. Most important of all, give them the legislative power to turn the system around. Create a structure to hold them accountable, and I guarantee you, there will be results!

As far as the politics of school boards is concerned, I agree with Xerox Corporations' David T. Kearns, who says in "Winning The Brain Race"—"* * * school boards don't know any more about education than the parents who put them there, which is why * * * relying exclusively on the political process will not improve the schools. What's more, it's wholly at variance with the other learned professions. Can you imagine running hospitals or law practices by majority vote of a fixed political jurisdiction?

He goes on to say: "Once there are performance standards, schools can be encouraged to do it their way in precisely the way corporations do. A corporate CEO expects his division chiefs and manager to innovate and improve on their own. Those that cannot are penalized, just the opposite of most schools today." That's exactly what I was saying over 20 years ago.

The Chicago Tribune recently conducted a 7-month study of the Chicago Public School System. It was one of the most hard-hitting pieces of journalism I've ever read. The newspaper series, which resulted from the study, has now been collected and published by the Tribune as a book, entitled, Chicago Schools, "Worst in America". Here is part of the editorial statement that closes that book:

"What will save Chicago's public schools, the worst in America? Not the Chicago Board of Education. It hasn't the guts or know-how to make changes. Not the superintendent of schools. His bloated bureaucracy soaks up school money and smothers efforts to change. Not the teachers. The Chicago Teachers' Union has a militant interest is only two things—getting more money for its members and preventing even the most incompetent of them from every being fired. Not Chicago's mayor. He doesn't count. Chicago mayors, past and present, have forfeited their role in school management and no longer have the political clout to make a difference. Not the state legislature. Its leaders aren't concerned about Chicago schools, except when they are useful for political deal-making. Not the report on school reform from the high-level Education Summit. Its 45 prestigious members wasted

so much time and goodwill trying to reach a consensus without treading on vested interests that they talked themselves into near-paralysis and an ineffective patchwork of proposals."

On May 21st a Chicago Sun-Times editorial carried the headline, "CEO Type—Not Educator—Needed to Run School." In that article by Sun-Times editorial chief Ray Coffey, it says: "Our $2 billion a year schools are a big business, a labor intensive business, a bloated and badly run business—in fact, if you look at the product, a failing business * * * our most blazingly evident needed is for a managerial someone to run the system—to take charge, shake it up, and shake it out."

I agree with Coffey, except that I believe it will take more than just one skilled manager or CEO to get the job done.

Here's a simple, 3-point plan that I believe will help Chicago and every big city school system take the public education bull by the horns and turn it around:

POINT 1

A greatly strengthened and enhanced education authority, racially balanced, and prescreened for appointment by the Mayor and/or the Governor, comprising top education, business, and civic leaders. The most important function of the Oversight Authority will be to monitor the performance of the Board of Education executive team and to hold them accountable for results.

POINT 2

A full-time, paid central board, which in the corporate world is called the Executive Management Team, pre-screened by the Authority, selected by the Mayor and/or Governor, and comprising a racially balanced group of experts in education, community relations, and business. The educators on the board will manage educational issues related to school improvement; the community relations component will work with parent and neighborhood groups to assist them in developing stronger, more meaningful working relationships with individual schools; and the business component will manage basic business functions within the system, e.g., human resources, real estate management, public relations, finance, legislative, legal, management information systems, union negotiations, etc. And this full-time paid central board will elect a chairman and/or CEO who will report to the Education Authority.

Perhaps the board might even be paid by corporations for a period of time. One leading CEO has told me that the sum of money involved to support a full-time, paid board would be money well spent by Chicagoland corporations.

He felt many would join in support of something they can believe in. Personally I believe that the board could easily be paid with the money saved in streamlining the bloated bureaucracies.

POINT 3

Most important, the education authority and the paid central board must be given the power by our legislatures to do the job unimpeded by present constraints.

You see, I believe the question confronting realistic school reform is not what or why—it's who, and when! I have given you the who with the authority and the full time paid board of experts. The when is right now! And I pray it's not already too late!

Let me say just a few words about the school funding issue, which is so critical to any meaningful reform. It is difficult to predict what the full price tag on big city school reform might be. It depends, I believe, on how many dollars can be diverted by streamlining the bloated school bureaucracies and taking other steps to move more of the dollars which are presently available down to the level of the individual school. It also depends on the extent to which more equitable school aid formulas can be achieved.

Let me add that, on the national level, the Committee for Economic Development plainly states that "any plan for major improvements in the development and education of disadvantaged children that does not recognize the need for additional resources is doomed to failure. The price of action may seem high, but the costs of inaction are far higher." Marion Wright Edelman of the Children's Defense Fund uses just five words to make the same point: "There ain't no cheap grace!" Or, as someone said it, "If you think education is expensive, try ignorance!"

In a recent Chicago Tribune report on the widening gap in school funding for the rich and poor districts throughout the state, the top financial official of the Illinois State Board of Education, Mike Belletire, said: "It is clear that the disparity in revenues is going to get greater—not lesser—over the next 3 or 4 years unless there is some radical change * * *"

So it appears that a major issue—and a very difficult one—has to do with a restructuring of state school finance mechanisms. It's a tough problem.

The article reports that: "McAuley, a tiny one room school district in * * * wealthy DuPage County, spends $10,900 for each of its 26 students."

On the other hand, according to the report, "Pembroke, serving a predominantly black rural township outside of Kankakee, spends $2,100 for each of its 714 students." Belletire's view on this and similar situations throughout the state is: "If you've got that much money that you are willing to put into education, then you should share some of that money with communities that don't have enough money to spend on education."

Like I said, folks, this is a tough one. But it's a problem that will have to be faced by wealthier districts. I believe the truth is that, especially for Chicago, what's good for Chicago is good for the collar counties. But I truly wonder if the counties will ever take this position unless they are mandated to do so by our state legislature.

If the middle and upper class folks in our major cities are to enjoy full confidence in local school reform efforts—and if it is necessary to go to them for a tax increase—the support of the unions and the corporate involvement, hopefully combined with athletic and celebrity America, which is part of the plan I laid out, should go a long way to inspiring the vote for an increase. It is much easier to predict what will happen if state taxpayers are found unwilling to pick up the tab because they lack confidence in the reform plan. In that tragic scenario, the community could well wind up with control of schools that are bankrupt . . . and the state will be ordering dozens of new prisons.

I promised you the news would not be cheerful, so let me wrap this up. I argued my views unsuccessfully in our state capitol throughout the many months which culminated in the passage of Senate Bill 1840.

As for the new school reform legislation, we are continuing to monitor the situation. The big news has been the new agreement between the 7-member interim board and the Chicago Teachers Union, which gave teachers an across the board 5.4% increase—the highest increase for teachers in the past six years. So it appears certain that the shcools will open up on time, and everybody seems happy with that.

Some people are so happy, in fact, that it worries me. According to a July 28th Chicago Sun-Times article, the leadership of the teachers union called the agreement "a real coup". As I said earlier, in my business, I've dealt with unions for over forty years. If in any of those years the unions I have had to deal with called one of our agreements "a real coup", I know that something would be wrong. So that's why this deal with the Chicago Teachers Union worries me. If it's a coup for the unions, there's a problem.

I am reminded of a Chicago Tribune editorial I read, over a year ago, entitled "How To Fix America's Worst Schools". What I remember is this quote: "The Chicago Teachers Union has a militant interest in only two things—getting more money for its members and preventing even the most incompetent of them from ever being fired."

If that editorial statement is correct, and if the Unions are calling this new agreement a real coup, doesn't it make you folks wonder? What did they give up?

They got more money, but what did they give in return? That's what negotiating is supposed to be all about * * * give a little, take a little. But here it looks as though the unions gave a little, and took a lot.

Did they give up tenure? Was the tenure issue ever on the bargining table? The Chicago Tribune's "Worst in America" series was full of examples of downright incompetence on the part of some teachers * * * incompetence protected by tenure and other union agreements having to do with evaluation and remediation issues.

The series reported that, out of the 28,675 teachers in the system, 1, out of 4 are substitutes, and 1 out of 5 are working, in spite of the fact that they have failed or declined to take required certification tests.

One story from the series talks about a teacher by the name of Grace Currin. She had been in the system 30 years. Four different principals tried to fire her for outright incompetence. Her career goal is, and I quote, "to retire at full pension." Yet, she is protected. To heck with the kids!

Another teacher, a suspected child abuser, was bounced around to fifteen different schools over a period of 18 years. 18 years! It was impossible to fire him. He left Chicago and went to teach in Dallas, where they quickly fired him. He came back to Chicago and—guess what—he got his teaching job back! Listen, even after the guy was arrested on charges of criminal sexual assault on two 15-year old boys, the system still couldn't fire him. A year after his arrest, he was still in the system! That's a disgrace.

As I suggested earlier, no business—no school system can be successful if it is forced to keep incompetence. I know there are a lot of peachy teachers out there. We all know that there are plenty of lemons, too. Can you believe that, over a period of 5 years, out of nearly 30,000 teachers, attempts were made to fire only 139 of them? But it's worse than that. According to the Tribune series 99 of those 139 teachers were still in the classroom a year ago, and I'll bet many of them still are. What madness!

So I ask, what did the unions give up? Again, to quote from that hard-hitting Tribune editorial, "what's necessary first of all are radical changes to wrestle the schools

away from the bureaucrats and the unions. The Chicago Teachers Union must be dumped. This is major surgery. It will hurt. The recovery period will be slow. But without it, the schools will not improve." Really, folks, this is the only type of coup we should be interested in. Otherwise, we get change, but no solutions. And the maddening of America will continue.

The next major task we will be monitoring is the October elections of the 595 local school councils called for in the legislation. It will be interesting to see whether the voter turnout will exceed that of New York, where the turnout as I said earlier is normally less than 10%. The new business group, Leadership For Quality Education, is doing all that it can to ensure a greater turnout. But we'll have to wait and see on this one.

A major article in the August 27th Chicago Tribune carried the headline: "Parents Uneasy As Time Nears for School Votes." According to the article: "With seven weeks before the elections, which will be the most dramatic test of Chicago's efforts to improve the city's schools, parents in some predominately black and Hispanic neighborhoods say they are confused about their crucial role and uncertain whether to run for council seats."

Throughout the period of debate leading up to the passage of the school reform legislation, special interest groups testified that the 30 hours of training for the more than 5,000 parents at the system's 595 schools was doable. But here's what the Tribune reported in that same article which pointed out, mind you, that the local school council elections are just seven weeks away: "The (training) efforts have lacked central coordination and have differing strategies, leaving some parents deluged with information that has confused them, while others say that they have not gotten information to understand their new roles . . . The disjointed efforts make it difficult, at best, to estimate how manly communities have received school reform information of any kind."

So there you have it. A piece of school reform legislation whose proponents all agree that its success is highly dependent on the turnout for local school council elections and the quality of people elected to these councils, and the training process isn't even coordinated. What a tragedy! And the greater tragedy is that this situation was so easily predictable.

As for our model school, we are continuing successfully to build solid working relationships with parents, community agencies and institutions, and the public school system. We are very pleased to have added to our board of directors a Chicago public school system District Superintendent. We are in this for the long haul. Locally, our goal is to serve as a resource to families and to join with the public schools and community agencies in the battle to find new cost-effective ways to better educate and to protect the future of all of our children.

In addition, it is my hope that—in the coming year—we still have found the counterpart to Vernon Loucks in another major city, who will take the ball and run with it—just as Mr. Loucks did. I am willing to visit interested corporate leaders in any of our cities, and at my own expense. Creating the school is relatively easy. In fact, most of the work was done, as I stated, by just two full-time, paid people and myself. But if we are to achieve our broader goal of systemic change, it will take an national coalition of prominent people who recognize the stakes and who give enough of a damn to begin to do something about. C/CSA is about building that coalition, with the model schools as the vehicle. We have a plan, and we're ready to travel.

You know, following his visit at our model school, the former Deputy Undersecretary of the U.S. Department of Education, Dr. Linus Wright, wrote this to a very prominent national figure: "I spoke with Mr. Joe Kellman, President of the group, and let him know that his goals are achievable, and I encouraged him to continue this important endeavor. I also encouraged the business community to continue their involvement and support. As you are will aware, I truly believe that corporate America can, with the proper initiative, work with schools to help them become successful.

Let me repeat Ross Perot's words again: "There's no way to do this at the national level. You've got to do it 50 times over."

We have started in Chicago, Illinois. And I certainly hope that, a year from now, I will be able to say we've also started in one or more other cities in this great country.

In closing, I want to tell you about what was to me a shocking phone call and another letter I received following an op ed piece I wrote describing my position on school reform. After Crain's, a Chicago business magazine, published the article, I received a phone call from a Mr. Morrow. He angrily demanded to know why I was having trouble defining who the hell was responsible for those children and their damn parents. I said to him—"Alright, Mr. Morrow, I agree with you. It is the parents' fault. What do you say about us getting together to draft a bill to kill all children whose parents won't get involved in their education?" Blaming the parents is no solution, yet I worry because I am afraid there are millions of Americans who feel the same way Mr. Morrow does.

After the phone call I received his letter. As it turned out, Mr. Morrow was an executive at a mid-sized Chicago company, not some kook. His letter started out by saying: "I consider you to be a very dangerous person." He also said: "The only solution is to destroy the system." And he underlined the word destroy". He concluded in his P.S.: "I also consider you to be a courageous person. This is war."

If Mr. Morrow thinks I am a very dangerous person; and if he thinks I am a very courageous person; and if he calls my effort at school reform war, should I hire a bodyguard? Is it dangerous to be involved in school reform? Isn't this the United States of America?●

IMPEACHMENT OF JUDGE ALCEE L. HASTINGS

● Mr. LIEBERMAN. Mr. President, I would like to explain why I voted to acquit Judge Alcee L. Hastings of each of the articles of impeachment brought against him by the House of Representatives. Before addressing these issues, however, I would like to thank the chairman and vice chairman of the Impeachment Trial Committee for their fine and distinguished work in organizing and supervising the work of the committee and its staff. In addition, I also want to thank the committee staff, especially counsel Elaine Stone and Mark Klugheit, administrator Anthony Harvey, and Senate Legal Counsel Michael Davidson and his staff, as well as my counsel, John Nakahata and Aaron Bayer, for the assistance they have provided me throughout these proceedings.

Having had the opportunity to serve on the Impeachment Trial Committee on the articles of impeachment against Judge Hastings, I have come to appreciate the wisdom of placing the constitutional responsibility for adjudicating impeachments in the Senate. I hope the Senate will not consider further delegating, because of time pressures, its important role of deciding whether to remove Federal judges and officers. The Senate's responsibility is unique. In my view, it requires a duly constituted elected body such as this one to act as the public's representatives in judging whether an elected or appointed official should remain in office.

In deciding how to vote, I considered three questions: First, whether double jeopardy bars trial of Judge Hastings on the articles of impeachment; second, what standard of proof should be applied in order to vote to convict; and third, whether the House has met its burden of proof. For me, the standard of proof was dispositive. After listening to the evidence, I concluded that, had I been sitting on the jury at Judge Hastings' criminal trial, I could not have found him guilty beyond a reasonable doubt. But I also doubted Judge Hastings' version of the facts at several significant junctures. I cannot say, however, that the evidence clearly convinced me that Judge Hastings was guilty of the offenses alleged in the articles.

Because I believe conviction requires clear and convincing evidence of guilt, I voted not guilty on each article of impeachment. While I thought the quality of advocacy by the House of Representatives was outstanding, the quality of evidence was simply not sufficient for me to vote to remove Judge Hastings from office.

I. DOUBLE JEOPARDY

This past February, Judge Hastings moved to dismiss articles I through XV on grounds that the double jeopardy clause of the fifth amendment bars trial before the Senate on these articles. The Senate denied that motion by a vote of 93 to 1. That decision was amply grounded in constitutional history and law, as the Senate has argued in its brief filed in the U.S. Court of Appeals for the District of Columbia Circuit.[1]

On the issue of double jeopardy, I find it dispositive that impeachment is a unique constitutional process separate from the functions exercised by

[1] Brief of Appellees, *The Hon. Alcee L. Hastings v. United States Senate*, App. No. 89-5188, at 22-33 (D.C. Cir. filed Sept. 11, 1989) [hereafter "Sen. Br."].

the executive and judicial branches. A criminal prosecution determines whether a defendant will be subject to criminal punishment for alleged misconduct, including deprivation of personal liberty or property, but cannot result in removal from Federal office. Conversely, in impeachment proceedings, we determine only whether the accused will be removed from office as a result of alleged misconduct and possibly be barred from holding future Federal office; we cannot impose fines or incarceration. (See J. Story, 2 "Commentaries on the Constitution," §§ 780–781 (1833).)

Justice Story, in his *"Commentaries on the Constitution,"* noted the distinction between impeachment and judicial processes and concluded:

There is wisdom, and second policy, and intrinsic justice in this separation of the offence, at least so far, as the jurisdiction and trial are concerned, into its proper elements, bringing the political part under the power of the political department of the government, and retaining the civil part for presentment and trial in the ordinary forum. Id. at § 784.

A consequence of this division of functions, however, is that a public official may be subject to trial twice, once in a court of law on criminal charges and once before the Senate upon an article of impeachment regarding his continuation in office. Thus, I do not find the double jeopardy clause bars trial by the Senate as a court of impeachment.

II. STANDARD OF PROOF

For me, a central question was and is what standard of proof should I apply? While "standard of proof" is a term of legal art, it is not merely a lifeless slogan or formula. The standard of proof is the way our Anglo-American system of jurisprudence has chosen to help juries and judges, and in this instance Senators, to do justice. Here, it disciplines each Senator by demanding a specific degree of certainty before voting for conviction, thereby assuring the respondent due process and freedom from undue speculation.[2]

Any discussion of standard proof presumes that each Senator will be weighing the evidence as a trier of fact would in our courts. This assumption itself is problematic since impeachment trials are only partially judicial in nature. As Alexander Hamilton wrote in the Federalist No. 65, impeachment trials "are of a nature which may with peculiar propriety be denominated political, as they relate to injuries done immediately to the society itself. The prosecution of them, for this reason, will seldom fail to agitate the passions of the whole community, and to divide it into parties, more or less friendly or inimical, to the accused." The Federalist No. 65, at 331 (G. Wills, ed. 1982). Moreover, because our judgment here is not subject to review by the courts, if a Senator decides to vote to convict for ideological or political reasons, or because of some other factor unrelated to the allegations made and the evidence presented, he or she has the power to do so regardless of whether the evidence against the respondent is slight or overwhelming. The Constitution itself contains the only effective safeguard against such a politically motivated removal: it requires a majority vote of the House of Representatives to impeach and a two-thirds vote of the Senate to convict. But because I believe strongly that our proper role here is to act as a quasi-judicial trier of fact and law, and because I am aware that our decision in important cases implicates important public values, I find it necessary to determine the proper standard of proof to apply.

The Constitution and the rules of the Senate are silent on the standard of proof each Senator must apply. The Senate has previously considered this question on two occasions without enunciating a uniform standard. When impeachment proceedings against President Nixon were contemplated, Senator Mansfield proposed a rule, which was never adopted, requiring clear and convincing evidence for conviction. During our consideration of the articles of impeachment against Judge Harry. E. Claiborne, Judge Claiborne moved that the Senate designate "beyond a reasonable doubt"—the standard in criminal cases—as the standard of proof. The Senate rejected his proposal by a 17 to 75 vote. (132 Cong. Rec. S15507 (1986).) At that time, however, the Presiding Officer ruled each Senator remained free to apply any standard of proof, including a "beyond a reasonable doubt" standard. Thus, the Senate itself has not determined the proper standard of proof.[3]

Without benefits of precedent, the standard of proof must be determined by its function and purpose. Because it specifies the degree of certainty required to convict, the standard of proof allocates the risk of error between the officeholder and the public, which the Senate represents.[4] That allocation is best determined by weighing the interests affected by an impeachment trial and allocating the risk of error accordingly.

In deciding upon a standard of proof to apply, we therefore have to ask ourselves what values and principles are at stake and what relative weight we give to them. Clearly, one value is the honesty and integrity of the government. Also implicated are the independence of the judiciary, and the possible harm to the individual officeholder. And we must take care that the public, for whom we act as agents in this process, will view our actions as legitimate and not arbitrary. I will now examine each of these interests in more detail.

A. THE INTEGRITY OF THE JUDICIARY

The impeachment process was included in the Constitution "to provide a means 'for defending the Community.'" Sen. Br. at 23, *quoting* M. Farrand, *The Records of the Federal Convention of 1787*, at 65 (rev. ed. 1966) (Madison). Impeachment is a "national inquest into the conduct of public men" and "the subjects of its jurisdiction are those offenses which proceed from the misconduct of public men, or in other words from the abuse or violation of some public trust." *The Federalist No. 65*, at 331 (Hamilton) (emphasis in original). And while the Constitution enumerates very few specific crimes warranting removal from office, bribery—which is at issue here—is one such offense.

The standard of proof we adopt must, therefore, protect and safeguard the public's interest in an honest government. Standing alone, honesty in government argues for a lower standard of proof, which is to say that any taint we see in a public official—if we are most interested in honesty in government—ought to lead us toward a conclusion that the official should be removed. A lower standard of proof reduces the risk that a corrupt officeholder will remain in office.

The other factors, however, suggest that a higher standard of proof would be appropriate.

[2] *See Addington v. Texas*, 441 U.S. 418, 423 (1979) ("The function of a standard of proof, as that concept is embodied in the Due Process Clause and in the realm of factfinding, is to 'instruct the factfinder concerning the degree of confidence our society thinks he should have in the correctness of factual conclusions for a particular type of adjudication.'").

[3] The history of impeachment proceedings in England prior to the nineteenth century also provides no guidance on what the standard of proof should be. Moreover, even if the House of Lords had articulated a standard of proof, such a standard would not necessarily be appropriate in the context of American impeachment trials. English and American impeachments carried very different consequences for the accused: "Unlike the practice in England, where impeachment was viewed as a criminal process resulting in the imposition of criminal, including capital, punishment, the Framers deliberately confined the consequences of impeachment "to a removal from and disqualification for office, thus limiting the punishment to such modes of redress as are peculiarly fit for a political tribunal to administer, and as will secure the public against political injuries." Sen. Br. at 24, *quoting*, 1 J. Story, *Commentaries on the Constitution*, § 812, at 591 (5th ed. 1905).

[4] Each of the four common law standards of proof represents a different allocation of the risk of error: by the standard of "proof beyond a reasonable doubt," society "imposes almost the entire risk of error upon itself" (*Addington v. Texas*, 441 U.S. at 423); the standard of clear and convincing evidence allocates to society most, but not all, of the risk of error; under the preponderance of the evidence standard, society and the officeholder would share the risk of error almost equally; and a probable cause standard would assign most of the risk of error to the accused officeholder.

B. INDEPENDENCE OF THE JUDICIARY

In a governmental structure as carefully balanced as our own, other governmental considerations are affected. We must be especially careful not to undermine judicial independence, which the Framers viewed as "essential" if the courts are to serve as "bulwarks of a limited constitution against legislative encroachments," and "to guard the constitution and the rights of individuals. * * *" The Federalist No. 78, at 397 (Hamilton).

The standard of proof will not, for reasons previously discussed, insulate a judge from a purely political attack by a majority of the House and two-thirds of the Senate. A higher standard of proof will, however, give an innocent judge some protection against evidence "trumped up" or otherwise marshalled in a politically motivated attempt to secure his or her removal. In this regard, I note that the House need not be the perpetrator of such a politically motivated attempt to remove a judge, as the evidence may be distorted or manipulated as early as the initial criminal investigation.

C. THE OFFICEHOLDER'S PRIVATE INTERESTS

In addition to the public interests to be safeguarded, the personal interests of the individual involved, while not conclusive, are also important. He or she has a right to due process. He or she has a right to be protected from public humiliation and, indeed, from the historic infamy to which he or she would be consigned by a conviction.

Although an accused Federal judge has some interest in retaining his or her life-tenured position, I do not believe that interest is of much weight here. Properly considered, life tenure appertains to the office, not to the person holding the office. The purpose of judicial life tenure is to ensure the "firmness and independence" of the judiciary. *See The Federalist No. 77,* at 393.

The accused judge's interest in his or her reputation is a much more substantial reason for applying a higher standard of proof. Our courts, for example, judge criminal cases by a standard of beyond a reasonable doubt in part because of the stigma imparted by a conviction. *In re Winship,* 397 U.S. 358, 363 (1970). Similarly, civil cases involving fraud or other quasi-criminal wrongdoing frequently are judged by the clear and convincing standard to protect the accused's reputation. (*Addington* v. *Texas,* 441 U.S. 418, 424 (1979).) [5]

D. THE LEGITIMACY OF THE IMPEACHMENT PROCESS

The legitimacy of the impeachment process to the public we serve is another important value at stake here, and that to me also argues for a higher standard of proof. As the representatives of the people of our States, whatever we do here must be credible and fair to them. The public must perceive that we are not acting arbitrarily or improperly.

The Constitution itself, by requiring a majority vote of the House to impeach and a two-thirds vote of the Senate to convict, has in part addressed this need to give the impeachment process legitimacy. Congress can only remove a person from office where it has a substantial consensus.

In considering the legitimacy of our actions to the public at large, however, we also must be cognizant of the standards we use to govern ourselves. Both the Committee on Standards of Official Conduct of the House of Representatives and the Senate Select Committee on Ethics require proof by clear and convincing evidence before finding a violation of ethics rules by a member of the House or Senate.[6]

It is not necessarily incongruous for us to apply a higher standard in disciplining Members of this body than in adjudicating impeachments. Unlike Federal judges, Members of the House and Senate face judgment by the electorate whenever they stand for election. Thus, if we fail to take disciplinary action because we apply a higher standard of proof, a Member's constituents can remove him or her and be free of corrupt or errant representation. Nevertheless, the appearance of arbitrariness that would result from applying a less exacting standard of proof for removing a judge from the bench than we demand for disciplining misconduct by our own colleagues strongly argues for use of the clear and convincing standard for adjudicating impeachments.

E. THE EFFECT OF A PRIOR ACQUITTAL ON THE STANDARD

Judge Hastings, in his brief, urges that his prior acquittal requires application of a high standard of proof. Brief for Respondent Judge Alcee L. Hastings, at 4-5 [hereafter "Hastings Post-Trial Br."]. I do not believe this is true, either as a matter of law or policy. It is especially important to recall that criminal trials and the "National Inquest" of impeachment are separate processes that protect separate public interests. As I discussed previously, impeachment only addresses whether the officeholder has violated the public trust and is therefore unfit to continue in office.

As a matter of law, the prior verdict of not guilty establishes only that a jury found there was a reasonable doubt that Judge Hastings conspired to receive a bribe. The jury's verdict is not, however, an affirmative finding that Judge Hastings did not commit the acts alleged. I believe therefore that any Senate judgment is logically consistent with the jury's verdict unless the Senate finds Judge Hastings guilty on the bribery conspiracy charges beyond-a-reasonable-doubt.

Deference by the Senate to the jury's verdict neither strengthens the jury system nor adequately protects the public interests safeguarded through impeachment. The jury verdict reminds us that Judge Hastings may be innocent, but it does not relieve us of our duty to examine the facts, weigh the evidence, and determine Judge Hastings' fitness to remain in office.

F. THE BALANCE OF INTERESTS

Upon weighing the competing interests and evaluating the relative severity of an erroneous outcome, I adopt for my own use the standard of clear and convincing evidence. The beyond a reasonable doubt standard fails sufficiently to recognize impeachment's purpose of defending the community against corrupt judges; it is too deferential to the judge. The probable-cause standard fails to respect the potential for conviction of judges on "trumped-up" charges, society's interest in retaining skilled and honest jurists, and the damage to the innocent jurist's reputation wrought by an erroneous conviction.

On balance, the factors discussed above—protecting judicial independence, the judge's reputation, and the legitimacy of the impeachment process—lead me to choose the clear-and-convincing-evidence standard over preponderance of the evidence. I am particularly troubled by the prospect of applying a lower standard of proof for the removal of a Federal judge than for disciplining a Member of the Senate. I do not believe the public would accept any reasons we proffered for doing so.

Several additional points bolster my decision to use the clear-and-convincing-evidence standard. First, by requiring a two-thirds majority to convict, the framers evinced an intent that removal of a Federal officer through the impeachment process be difficult. Significantly, it shows that the framers did not view the need to protect the integrity of the judiciary as an interest

[5] In both criminal and civil cases, a higher standard of proof is often also invoked where a judgment may adversely affect or burden a significant right. Thus, proof by clear and convincing evidence is needed to terminate parental rights (*Stantosky* v. *Kramer,* 455 U.S. 745 (1982)), to deport an alien (*Woodby* v. *INS,* 385 U.S. 276 (1966)), or to involuntarily commit a person in civil proceedings (*Addington* v. *Texas,* 441 U.S. 418 (1979)). These cases are distinguishable from impeachment because the judge in an impeachment proceeding has no personal right to hold office.

[6] Rule 16(e) of the Committee on Standards of Official Conduct of the House of Representatives ("At a disciplinary hearing the burden of proof rests on the staff with respect to each count to establish the facts alleged therein clearly and convincingly by the evidence that it introduced."); *Herman E. Talmadge Investigation: Report of the Senate Select Committee on Ethics,* S. Rep. No. 337, 96th Cong., 1st Sess. 84 (1979) (ruling, upon motion by respondent, that "the 'clear and convincing' standard is appropriate for weighing all the evidence which is introduced in the forthcoming hearings.").

so strong that it overwhelmed all other considerations.

In addition, the experience and judgment of the States in judicial disciplinary proceedings support application of the clear-and-convincing -vidence standard. Most of the States, including my own State of Connecticut, conclude that the gravity of the matter and the severity of the impact upon the judge warrant application of the clear-and-convincing-evidence standard. See Council on Probate Judicial Conduct re: Kinsella, 476 A.2d 1041, 1048 (Conn. 1984); In re Miera, 426 N.W.2d 850, 854 (Minn. 1988) ("the clear and convincing standard arises from an appreciation of the gravity of a disciplinary proceeding and the magnitude of the loss to which a disciplined judge is subjected.").[7]

Finally, our courts have found the clear-and-convincing-evidence standard appropriate in cases where factual findings implicate important constitutional values. In libel cases brought by public persons, for example, the courts require clear and convincing proof that a false statement was made knowingly or with reckless disregard for its truth. *Gertz* v. *Robert Welch, Inc.*, 418 U.S. 323, 342 (1974). That standard proof is used to balance the first amendment's interest in a vigorous debate on public issues with protection of private individuals' reputations. *Hutchinson* v. *Proxmire*, 443 U.S. 111, 133-134 (1979). Here, I believe the clear-and-convincing-evidence standard similarly would accommodate the framers' desire to maintain judicial independence while continuing to protect the public against corrupt officeholders.

On balance, therefore, conclude that we need to find the evidence against Judge Hastings to be clear and convincing in order to convict him.

[7] *Also In re Hanson*, 532 P.2d 303, 307-308 (Alaska 1975); *McComb v. Commission on Judicial Performance*, 19 Cal.3d Supp. 1, 11, 564 P.2d 1, 6 (1977); *In re Jones*, 728 P.2d 311 (Colo. 1986); *In re Crowell*, 379 So.2d 107, 109 (Fla. 1979); *In re Rome*, 218 Kan. 198, 542 P.2d 676, 684 (1975); *Nicholson v. Judicial Retirement & Removal Commission*, 573 S.W.2d 642, 644 (Ky. 1978); *In re Daniels*, 340 So.2d 301, 306-307 (La. 1976); *In re Diener & Broccolino*, 268 Md. 659, 670, 304 A.2d 587 (1973), *cert. denied*, 415 U.S. 989 (1974); *In the Matter of Troy*, 364 Mass. 15, 306 N.E.2d 203, 235 (1973); *In re Nowell*, 293 N.C. 235, 247, 237 S.E.2d 246 (1977); *In the Matter of Field*, 281 Or. 623, 629, 576 P.2d 348 (1978); *Matter of Braig*, 520 Pa. 409, 554 A.2d 493, 495 (1989); *In re Friday*, 263 S.C. 156, 159, 208 S.E.2d 535 (1974); *Matter of Heuermann*, 90 S.D. 312, 317, 240 N.W.2d 603 (1976); *Matter of Deming*, 108 Wash.2d 82, 736 P.2d 639 (1987); *In re Pauley*, 314 S.E.2d 391, 399 (W.Va. 1983); *Matter of Johnson*, 568 P.2d 855, 865-866 (Wyo. 1977); *contra In re Walton*, 676 P.2d 1078, 1085 (questioning *Hanson*); *In re Terry*, 262 Ind. 667, 670-71 n.2, 323 N.E.2d 192, *cert. denied*, 423 U.S. 867 (1975) (preponderance); *Matter of Loyd*, 384 N.W.2d 9 (Mich. 1986) (preponderance); *Matter of Duncan*, 541 S.W.2d 564, 569 (Mo. 1976) (preponderance); *Matter of Seifert*, 491 N.Y.S.2d 145 (N.Y. 1985) (preponderance); *In re Brown*, 512 S.W.2d 317, 319-20 (Tex. 1974); *Matter of Corruzi*, 95 N.J. 557, 472 A.2d 546 (N.J. 1984) (beyond a reasonable doubt).

III. THE ARTICLES OF IMPEACHMENT

Having selected the standard of proof, the next question is whether the House of Representatives presented clear and convincing evidence supporting any of the articles of impeachment. Although some of the evidence on the bribery conspiracy and false statement articles is troubling, I do not find the evidence to be clear and convincing.

With respect to all the articles, the evidence seems inconsistent with the line of Judge Hastings' life. Judge Hastings is a man born of modest means, who worked hard to get himself through college and law school. A community activist in every sense of the word, Judge Hastings was active in the National Bar Association, in his community in south Florida, and in politics and civic life. All the witnesses who testified to his judicial skills and his courtroom demeanor described him as an outstanding trial judge and a man of integrity. We must consider the articles of impeachment against this background.

I will consider first those articles which I find to be insubstantial or without merit, including article XVI (disclosure of wiretap information), articles X-XIII (telephone calls to Pride), and article XIV (telephone calls from the L'Enfant Plaza Hotel). I will then turn to the more difficult articles which allege a bribery conspiracy (article I) and related false statement allegations (articles II-VII, XV), and fabrication of evidence (article IX).

A. ARTICLE XVI (DISCLOSURE OF WIRETAP INFORMATION)

In article XVI, the House of Representatives accuses Judge Hastings of disclosing information learned in the course of supervising a confidential wiretap to Stephen Clark, mayor of Dade County, an individual whose name had surfaced in those wiretaps. According to the House, while both were attending a breakfast meeting at which Judge Hastings was the keynote speaker and Mayor Clark received an award, Judge Hastings told Mayor Clark to "Stay away from Kevin Gordon, he's hot, he's been using your name in the Hialeah area." 2A Hearings Before the Senate Impeachment Trial Committee, S. Hearing No. 194, 101st Cong., 1st sess., at 1123 (1989) [hereafter *"Hearings"*].

A significant problem for me with respect to article XVI was the lack of a sufficient motive for Judge Hastings to tell Mayor Clark to stay away from Kevin Gordon. There is no evidence that Judge Hastings and the mayor were close friends or political allies.

In addition, Mayor Clark's direct testimony that Judge Hastings told him to "stay away from Kevin Gordon" is undermined significantly by other evidence. While Mayor Clark testified that Judge Hastings revealed this information to him after Judge Hastings spoke that morning, the evidence showed that Judge Hastings left the auditorium by a rear entrance immediately following his speech in a manner in which he could not have spoken to Mayor Clark. Furthermore, the telephone call the House claims Mayor Clark made after Judge Hastings' alleged leak occurred at 8:58 a.m., before Judge Hastings' speech. Report of the Impeachment Trial Committee on the Articles Against Judge Alcee L. Hastings, S. Rept. No. 146, 101st Cong., 1st Sess. 137 (1989) [hereafter "Report"].

Given the lack of a motive and the contradictory nature of the central evidence, I cannot conclude that the allegations in article XVI have been proven by clear and convincing evidence.

B. ARTICLES X THROUGH XIII (CALLS TO HEMPHILL PRIDE)

Articles X through XIII allege that Judge Hastings falsely testified during his trial that certain telephone records reflected calls from him to Hemphill Pride in South Carolina. The House contends that Judge Hastings made these false statements in a deliberate attempt to bolster his claim that his conversation of October 5, 1981 with William Borders was a conversation about providing assistance to Hemphill Pride. Post-Trial Memorandum of the House of Representatives, at 111 (filed Sept. 25, 1989) [hereafter "House Post-Trial Br."]. The House further contends that Judge Hastings lied about these telephone calls to support his claims that the "letters for Hemp," which he introduced at his trial, were not fabricated, as the House contends. Id.

Regardless of whether Judge Hastings knowingly lied about the nature of these calls, they do not strike me as being impeachable offenses. I find these calls to be of little significance. In any event, I do not believe the evidence establishes that Judge Hastings knew at the time that his testimony was false. It is equally plausible that the judge erred in his testimony. Thus, had we voted on these articles, I would have voted to acquit.

C. ARTICLE XIV (CALLS ON OCTOBER 9, 1981)

Article XIV alleges that Judge Hastings falsely testified at his trial that on October 9, 1981, prior to his return to Fort Lauderdale, FL, Judge Hastings called his mother and Patricia Williams from the L'Enfant Plaza Hotel in Washington, DC. Judge Hastings acknowledges that he may have been mistaken about the timing of his calls to his mother and Ms. Williams. 2B Hearing at 2353.

Even if Judge Hastings' testimony about these calls was factually untrue, I do not find his misstatements to be material. Although Judge Hastings testified both at his 1983 trial and before the committee that he returned

home in part because he had spoken with his mother, who was hysterical, he also testified that he returned home at Hemphill Pride's suggestion in order to face any allegations on his home court. 2B Hearing at 2266. Pride, in his testimony, confirmed that he urged Judge Hastings to return to Florida before speaking with the FBI. 2A Hearing at 695. See also Report at 116-117.

Because I find Pride's testimony to be compelling, I do not believe Judge Hastings' case, either in 1983 or now, is strengthened by the alleged misstatements concerning the timing of his calls to his mother and Ms. Williams. Accordingly, I would have voted to acquit Judge Hastings on article XIV.

D. ARTICLES I-VIII, XV (BRIBERY CONSPIRACY)

Articles I-VIII and XV focus on the essential elements of the House's allegations that Judge Hastings participated in a conspiracy to receive a bribe. As outlined in these articles, the House alleges that from sometime in the first half of 1981, Judge Hastings and William Borders agreed that Borders would attempt to solicit a bribe from two defendants before Judge Hastings, Thomas, and Frank Romano. Articles I-II. On September 12, 1981, Borders met with an FBI agent, H. Paul Rico, who was posing as Frank Romano. At that meeting, Borders agreed that Judge Hastings would dine at the Fountainebleau Hotel on September 16, and that Rico would thereafter pay a $25,000 "down payment." The House contends Borders and Rico agreed that 10 days after Borders received the down payment, Judge Hastings would issue an order returning a substantial amount of property. Then, following payment of the balance of the $150,000 "bribe" and the filing of a motion by the Romanos to mitigate sentence, Judge Hastings was to reduce the Romanos' sentences to eliminate any time in jail. House Post-Trial Br. at 17; see articles III-IV.

Following that September 12 meeting, the House alleges that Borders returned to Washington, DC, according to a prearranged plan with Judge Hastings, in order to report to Judge Hastings on Border's meeting with Rico. See article VI. The House contends that Judge Hastings then dined at the Fountainebleau Hotel on September 16, 1981 in order to fulfill Border's promise to Rico that Judge Hastings would do so as a "show of proof." See article V. After Borders received the $25,000 "down payment," the House argues, Judge Hastings on October 5, 1981, ordered his law clerk to complete the order returning approximately $845,000 in previously forfeited property to the Romanos and, that same day, confirmed in a coded conversation with Borders the receipt of the down payment and the arrangements for Borders to obtain the balance from Rico. See articles VII-VIII.

The House further contends that on October 9, 1981, after Borders was arrested, Judge Hastings fled Washington, DC, by way of Baltimore-Washington International Airport in an effort to elude the FBI. See article XV. The House argues that Judge Hastings fled in order to have time to concoct a viable alibi, and that his flight therefore is strong evidence of guilt. House Post-Trial Br. at 87-88.

It is extremely difficult to evaluate the House's allegations. While there is much direct evidence of illicit activity by William Borders, there is little evidence to tie Judge Hastings to Borders' actions. I find much of the evidence of contacts or attempted contacts between Judge Hastings and Borders, especially those drawn from telephone records, to be inconclusive at best. The House's case must therefore stand or fall on the strength or weakness of its evidence on the few key events of September and October 1981 that directly involve actions by Judge Hastings.[8] I now turn to those significant events of September and October 1981.

1. THE DINNER AT THE SHERATON

In considering these allegations in light of the evidence, I immediately dispose of the House's allegation that Judge Hastings expected Borders to arrive at the Washington Sheraton on September 12, 1981, as a prearranged part of their alleged bribery scheme. See article VI. The committee heard from each of the people, other than Borders, who joined Judge Hastings for dinner that evening, and the testimony was contradictory as to whether they expected Borders to appear. Report, at 64-66. The most that can be established from the evidence is Borders had the opportunity to tell Judge Hastings that he needed to appear at the Fountainebleau Hotel on September 16. Judge Hastings admitted as much when he testified that Borders, in separate conversations on September 13 and 14, told Judge Hastings that he would be at the main dining room of the Fountainebleau Hotel in Miami Beach, FL, at 8 p.m. on September 16, 1981. Report, at 66.

2. THE DINNER AT THE FOUNTAINEBLEAU HOTEL

This brings me to the first significant point in the House's account of Judge Hastings' alleged conspiracy with William Boarders that actively involved Judge Hastings, the September 16, 1981 dinner at the Fountainebleau Hotel. Judge Hastings testified that he went to the Fountainebleau that evening expecting to meet Borders and to socialize with him, and not as part of a conspiracy. 2B Hearing at 2247. I found the evidence presented by the House to rebut this testimony, and Judge Hastings' apparent inability fully to reconcile that testimony with his actions that evening to be troubling. I cannot, however, conclude that the evidence presented by the House amounted to clear and convincing evidence that Judge Hastings dined at the Fountainbleau Hotel in furtherance of a conspiracy with William Borders.

The House contends that Judge Hastings' actions on September 16, 1981, belie his testimony that he expected to meet Borders at the Fountainebleau that evening. As the House points out, Judge Hastings took a date to dinner with him, he did not tell her that he was expecting to see Borders, he only made reservations for two for dinner, and he did not object when two place settings were removed. Moreover, he did not inquire after Borders at the hotel desk or attempt to have him paged. Report, at 67-68.

Judge Hastings' explanation of these facts was unconvincing. Before the committee, Judge Hastings stated that he made two reservations for dinner because he only expected to pay for two dinners, which frankly makes little sense. 2B Hearings, at 2248. His further explanation that he did not know whether Borders would eat because Borders had not eaten on some other occasions (2B Hearings, at 2464), and that he was doubtful Borders would appear because Borders had failed to show at a dinner in Washington, DC in July 1981 (Hastings Post-Trial Br., appendix C at 95) are less than persuasive. The explanation offered by his counsel at final argument and in appendix C to his brief—that he did not tell his date about possibly meeting Borders or object to the removal of the place settings, or make a more concerted effort to find Borders because Judge Hastings did not want to be embarrassed in front of Ms. Thompson—while plausible, lacks any support in Judge Hastings' own testimony.

Judge Hastings testified, on the other hand, that he told the maitre d' and hostess he was waiting for Borders, although Essie Thompson, his date, did not overhear such a conversation. The House does not dispute Ms. Thompson's testimony that, after the Judge Hastings got up and walked around the restaurant and into an adjacent lounge, he told her that he had been looking for some friends from Washington, DC. 2A Hearings at 521.

I cannot find the evidence concerning Judge Hastings' dinner at the Fountainebleau Hotel to be clear and

[8] Prior to September 1981, the only actions taken by Judge Hastings which the House alleges to be in furtherance of the conspiracy are the continuance of the Romano case on May 11, 1981, and the imposition on the Romanos of a substantial jail term at the July 8, 1981, sentencing. Because the continuance was requested by Neal Sonnett, counsel for the Romanos, and the jail term was requested by the prosecutor and was recommended in the presentence report, those actions are not evidence that Judge Hastings was Borders' co-conspirator.

convincing proof of his participation in the alleged conspiracy with Borders. While this showing might be clear and convincing if accompanied by other strong evidence of a bribery conspiracy, as presented here it does not reach that threshold.

3. THE OCTOBER 5 HASTINGS/BORDERS TELEPHONE CALL

The next significant step in the House's chronology of the alleged conspiracy was Judge Hastings' order to his law clerk on October 5, 1981, and his allegedly coded telephone conversation with William Borders. Standing alone, the order to the law clerk to complete the forfeiture order in United States versus Romano seems unremarkable, especially in light of the undisputed fact that Jeffrey Miller was due to leave Judge Hastings' employ within the month. The October 5 instruction by extent that it serves to bolster other, stronger evidence of a conspiracy.

The October 5 conversation between Judge Hastings and William Borders is stronger evidence if one accepts the House's view that this conversation was a coded discussion of the bribery conspiracy. Here again, while I find aspects of Judge Hastings' explanations of this conversation troubling, I do not believe the House has demonstrated by clear and convincing evidence that this conversation was part of the alleged conspiracy.

What is troubling is that the House's explanation of that conversation, which is reprinted in full on page 83 of the committee's report, dovetails with the general outline of events as they unfolded in the undercover bribery investigation. Considering only the language of the conversation, it is plausible that, as the House contends, when Judge Hastings told Borders, "I've drafted those ah, ah, letters, ah, for Hemp," he was referring to the forefeiture order in the Romano case that he had ordered his law clerk to finish preparing. It is also plausible that when Judge Hastings, asked Borders, "did you hear * * * from him after we talked?" he was inquiring about the status of Borders' dealings with Rico, and that Borders' response "I talked to him and he, he wrote some things down for me. * * * And then I was supposed to go back and get some more things" could refer to Borders' receipt of the down payment from Rico and his plan to collect the remainder of the bribe following issuance of the Romano forfeiture order. Pride's testimony that he did not recall discussing his financial condition with Borders when he and Borders met in a coffee shop in Washington, DC in early September 1981 (2A Hearings, at 732-733), and that he did not write anything down for Borders, lends support to this interpretation of the October 5 conversation.

Judge Hastings' own explanation of this conversation in some ways undermines his explanation that this simply was a conversation about letters of support for Hemphill Pride. It stretches the imagination to believe, as Judge Hastings testified, that Borders was prodding him in almost every conversation to write letters soliciting support and money for Hemphill Pride from March 1981, and especially after July 1981, until October 1981. Moreover, Judge Hastings is hurt by his own inability to tell the committee what "financial information" Borders was to gather from Pride, by his admission, that, at the time of that conversation he did not know Pride had judgments levied against him (2B Hearings at 2420, 2474-75), and by his failure to seek from Borders, during the conversation, the preliminary results of Borders' initial discussion with Pride (id. at 2428-29, 2490). Judge Hastings' answer that this was a common subject of conversation between Borders and himself (id. at 2490) is hard to square with these facts.

Thus, I am again left with doubts about Hastings, explanation to the committee. Several factors, however, prevent me from moving from this concern to a finding by clear and convincing evidence that the October 5 conversation was a coded conversation about the alleged bribery scheme. First, the House relied heavily upon the expert testimony of a linguist, Dr. Robert Shuy, to establish that the October 5 conversation was coded. I found Dr. Shuy's testimony to be unpersuasive and not generally scientifically recognized.

Second, the time of the October 5 conversation is not consistent with the conspiracy as alleged by the House. Borders received the $25,000 down payment from Rico on September 19. On September 20 or 21, Judge Hastings and Borders spoke by telephone. Report, at 77. If Judge Hastings and Borders were conspirators, they presumably would have discussed receipt of the down payment at that time. There would have been no need for Judge Hastings to reconfirm Borders' receipt of the down payment during the October 5 telephone conversation.

The House also fails to provide a coherent explanation for Borders' failure to attempt to contact Judge Hastings between September 20 or 21 and, at earliest, October 2, 1981. The House further leaves unaddressed Judge Hastings' failure to issue the Romano forfeiture order within 10 days of Borders' receipt of the down payment on September 19. September 29 came and went without the judge issuing the order and without any calls by Borders inquiring about why Judge Hastings was delaying the issuance of the order. These are, as Judge Hastings points out, significant gaps in the House's account of events.

Also lacking is a clear motive for Judge Hastings to conspire with Borders. As previously discussed, Judge Hastings was by all accounts a man of integrity. Even the FBI, at the time it investigated the bribery allegations, concluded that Judge Hastings lived within his means as a Federal judge. There was no testimony that Judge Hastings had a gambling or drug problem. According to the line of his life, Judge Hastings was not a man for whom money seemed extremely important.

Finally, it seems relevant that Judge Hastings' actions in the Romano case were consistent with the law at that time. The House concedes that the order issued in the Romano case on October 6, 1981, returning forfeited property was compelled both by the Fifth Circuit's decision in U.S. versus Martino, and by its later decision in U.S. versus Peacock. The fact that Judge Hastings may initially have been disinclined to follow Martino, does not make his decision to follow Martino in the wake of Peacock suspect.

In light of the inconsistency of this evidence, despite the fact that Judge Hastings' explanations trouble me, I cannot find clear and convincing evidence that the October 5, 1981, conversation between Judge Hastings and William Borders was a coded conversation concerning the alleged bribery conspiracy.

4. "FLIGHT"

The final step in the House's chronology of the alleged conspiracy is Judge Hastings' alleged flight from Washington, DC, to Fort Lauderdale, FL, on October 9, 1981. Without a doubt, it is suspicious.

Judge Hastings addresses this issue in two ways. He admits he panicked. This panic, Judge Hastings contends, did not result from a guilty conscience, but from his experiences with the FBI while a practicing attorney and from, to put it frankly and in a way Judge Hastings deliberately avoided, his experience and perspective as a black man. I find his explanations to be plausible.

Moreover, Hemphill Pride's testimony that he advised Judge Hastings to return to Florida to get a home court advantage in facing the allegations of bribery, provides a sufficient explanation of the judge's conduct. In light of this evidence, I cannot conclude that the judge's flight from Washington, DC, is a clear indication of his guilt.

5. CONCLUSION ON THE BRIBERY CONSPIRACY AND RELATED FALSE STATEMENT ARTICLES

Upon consideration of all the evidence on articles I-VIII, and XV, I cannot conclude the House has shown by clear and convincing evidence that Judge Hastings participated in a con-

spiracy with William Borders to solicit a bribe from Thomas and Frank Romano, as alleged in article I. I also cannot conclude, based on clear and convincing evidence, that Judge Hastings committed perjury during his 1983 criminal trial, as alleged in articles II-VIII and XV. Accordingly, I voted to acquit Judge Hastings on each of articles I-VIII, and I would have voted to acquit him of article XV.

E. ARTICLE IX (FABRICATION OF EVIDENCE)

Article IX alleges that Judge Hastings fabricated the draft "letters for Hemp" that he introduced at his criminal trial, and that he perjured himself when he testified in 1983 that those drafts were authentic. Again, while I was disturbed by some of Judge Hastings' testimony, I cannot find clear and convincing evidence of guilt.

Judge Hastings attempted to explain the chain of custody of these letters. On direct examination, Judge Hastings testified that he kept these letters in his desk drawer until he put them in the safe of one of his attorneys, Andrew Mavrides. Before producing the letters in November or December 1982, Judge Hastings testified that he retrieved them from Mavrides' safe and gave them to Jeanette Montee, who ultimately produced them to the Government. 2B Hearings, at 2309-10.

After he testified that he showed the letters to Borders' attorney John Shorter, Judge Hastings then explained that he had gotten the letters from Mavrides in order to show them to Shorter, and that he subsequently returned them to Mavrides. Id. at 2481-82. Judge Hastings did not have a distinct memory of returning the letters to Mavrides, and did not testify as to the details of how he obtained the letters to show them to Shorter, and returned them to Mavrides. Id. at 2482, 2487-88.

Judge Hastings' unspecific and somewhat changing recollection of the chain of custody of the letters was not completely credible. On the other hand, I found no basis in the evidence to be sufficiently certain that he did not draft the letters on or about October 5, 1981 to find him guilty of article IX by clear and convincing evidence. Forensic tests failed to confirm or deny the authenticity of these drafts. The failure of the House's proof on articles I-VIII and XV also undermines greatly the strength of the "chain of custody" evidence alone. In the absence of stronger evidence that these letters were not drafted on or about October 5, 1981, I voted to acquit on this article.

IV. CONCLUSION

For the reasons stated, I voted to acquit Judge Hastings of all the Articles of Impeachment which were put to a vote of the Senate, and I would have voted to acquit him of all other articles.

Do I worry that I have made a mistake and may have voted to leave a guilty man on the bench? The evidence is too uncertain to feel otherwise. But I would rather assume the risk of being incorrect than the risk that I will unfairly and unjustifiably remove this man from the judiciary, ruining his reputation, consigning him to historic infamy, and making him only the sixth Federal judge in more than 200 years of American history to be convicted by the Senate of an Article of Impeachment. I am more comfortable risking error because of the unrebutted testimony of Judge Hastings' outstanding performance on the bench.

I worry also that if I apply a lower standard of proof, such as preponderance of the evidence, I could set a precedent that would allow future judges to be removed for political or ideological reasons and jeopardize the independence of the judiciary and the legitimacy of the impeachment process.

Because I know that some will question the good faith of the Senate's vote to remove Judge Hastings, I wish to make clear that my disagreement with the Senate's action does not mean that I believe there has been a miscarriage of justice. The chairman and vice chairman conducted the committee's proceedings in an extraordinarily fair manner and all the members of the committee discharged their responsibilities fairly, impartially, and conscientiously. The Senate's closed deliberations were among the most thoughtful and impressive moments of this my first year in the Senate. I was struck by the quality of the debate and the fairness and seriousness of purpose exhibited by my colleagues. Put simply, this is a case upon which reasonable men and women can and did differ.●

IMPEACHMENT OF ALCEE L. HASTINGS

● Mr. BIDEN. The House of Representatives argued that former Judge Alcee Hastings should be impeached because, while serving as a judge on the U.S. District Court for the Southern District of Florida, he:

First, engaged in a bribery conspiracy;

Second, lied about the conspiracy at his jury trial to gain an acquittal;

Third, improperly disclosed confidential information that he learned in his official capacity as a Federal district court judge; and

Fourth, undermined the integrity of the judiciary and betrayed the trust of the American people.

The House of Representatives exhibited 17 articles of impeachment.

ARTICLE I

The House charged that in 1981 former Judge Hastings engaged in a corrupt conspiracy with attorney William A. Borders, Jr., to obtain $150,000 from two brothers, Tom and Frank Romano, in return for eliminating jail sentences that Judge Hastings had imposed after the Romanos were convicted of racketeering offenses.

ARTICLES II TO XV

The House charged that in securing his acquittal by a jury on the bribery conspiracy charge, in 1983, former Judge Hastings lied repeatedly under oath and submitted false evidence.

ARTICLE XVI

The House charged that former Judge Hastings, while acting as the supervising judge of a wiretap, revealed highly confidential information that he learned as a result of that wiretap.

ARTICLE XVII

The House charged that, by virtue of all the foregoing alleged acts of misconduct, former Judge Hastings undermined confidence in the integrity and impartiality of the judiciary and betrayed the trust of the people of the United States.

STANDARD OF PROOF

The Senate previously decided not to establish the stanard of proof that should be used in impeachment trials, and it did not make a determination for former Judge Hastings' impeachment trial. Each Senator must decide individually what standard of proof is appropriate.

The Constitution does not mandate a required standard of proof for impeachment trials. During the impeachment of former Judge Claiborne, the Senate rejected Judge Claiborne's motion to establish "beyond a reasonable doubt" as the appropriate standard of proof in impeachment trials. At the time, however, it was clear that individual Senators could decide that beyond a reasonable doubt was an appropriate standard of proof.

I decided that the appropriate standard of proof in this impeachment trial was the beyond a reasonable doubt standard, even through the Constitution does not require that Senators use this standard. Former Judge Hastings was acquitted by a unanimous jury verdict of the bribery conspiracy charge. The jury heard essentially the same evidence presented to the Senate. It observed the witness and weighed each side's presentation of the evidence when deciding to acquit Judge Hastings. That jury verdict should have been considered by the Senate. I believe that deference to the jury verdict required proof beyond a reasonable doubt.

EVIDENCE

I voted not guilty on articles I-IX and article XVI because the circumstantial facts were not marshaled to prove guilt beyond a reasonable doubt. Doubts about the key elements of the House's case remain. For example, if

former Judge Hastings was a participant in the bribery conspiracy, why did he issue the forefeiture order several days after Mr. Borders promised it would be issued.

During the debate, a few of my colleagues made conclusory arguments advocating former Judge Hastings' guilt in response to my inquiry about what, if any, new evidence had been discovered after the jury trial. I was concerned about a few of my colleagues' reliance on the findings of the Judicial Conference and the Judicial Council of the Eleventh circuit that former Judge Hastings was guilty of the misconduct alleged in the impeachment articles, when it appears that they did not have any new evidence that was not before the jury. More importantly, Senators should make their own decision in impeachment trials based on the all evidence before the Senate, not based solely on the determination of guilt or innocence by another group or government body.

ARTICLE XVII

I voted to acquit on article XVII because the appropriate reading of this article required a finding that Judge Hastings committed all four alleged acts of misconduct, in order to vote guilty. The facts were not marshaled to prove that former Judge Hastings committed all four acts of misconduct.●

THE IMPEACHMENT OF JUDGE ALCEE HASTINGS

● Mr. DURENBERGER. Mr. President, the U.S. Senate has been called upon to perform its most difficult constitutional duty: To vote on the Articles of Impeachment for U.S. District Court Judge Alcee L. Hastings.

Before I begin, I want to thank the minority leader and my colleagues for the opportunity to serve on the special committee. The special committee membership was very impressive, with six or eight of the Nation's most esteemed prosecutors, U.S. district attorneys, and small-town prosecutors. While I have a law degree and practiced a little courtroom law, these colleagues helped me a great deal to understand and add definition to this complicated case. None of us who served on the committee looked forward to the task. We all had some idea how difficult the case was and how difficult a 4-week trial would be in the middle of a very tough legislative session. And, Mr. President, Senators BINGAMAN and SPECTER deserve special praise for their leadership and commitment. They held the committee together and made the proceedings fair to all involved.

But, despite the impressive committee, in the end, for the first time in my life I had to be a juror; somebody who had to sit and listen to a lot of very, very difficult facts over a 4-week period of time, and some to a verdict. It was not easy, and for that reason, I am glad I am not one of the 88 Members of the Senate who did not serve on the special committee because of numerous troublesome factors involved with this case. One reason is the circumstantial nature of the evidence. Although there are hard facts, they are not the kind where you can say "I will take that one, it settles the case for me beyond a reasonable doubt."

Another reason is the incredible length of time from the events in 1981 and today at the end of 1989 when the Senate is to decide. This time lag means that certain evidence was unavailable to both sides. Evidence could not be produced no matter how hard you try to produce it. Thus, we have to agonize over gaps in the evidence.

As Senators mull over the case, some implication will be drawn from the failure of the alleged cosponsor, William Borders, to testify. And, Mr. President, I did draw some implication from the fact that William Borders is sitting in jail today because he is unwilling to testify in a case in which his testimony is critical. The failure of the FBI to allow the case to move from circumstantial to hard evidence is also troubling. The FBI could have made the decision to let the money run and see if it ended up in the hands of Judge Hastings, and that would have made the case much simpler.

Regarding Judge Hastings, if my collegues had sat through the hearings, they would have been impressed by this man and by both his local and national reputation. This forced me to ask why in the world would he do what he is alleged to have done. I do not know how many times all of us have asked ourselves this question. Then there is Hemphill Pride. He gave compelling testimony—for both sides—and is the only person who had no reason to lie. Thus, should I as juror put extra amount of weight on this one almost incredible man, who had been a very, very close friend to both Judge Hastings and Bill Borders?

But, Mr. President, the biggest problem is that there is no instruction on the burden of proof. There is no judge to sit at the end of all this and say here is what you have to find before you make your decision. So every Senator is on their own to not only sift the facts and their different explanations, but to determine what weight they give those facts and explanations. And the Senate doesn't even have the recommendation of the committee, as it has with legislation. That was not the special committee's role; the Founding Fathers left the burden of impeachment to the conscience of Senators.

In the hearing I made the decision not to reach a decision regarding Judge Hastings' guilt or innocence until the final oral arguments were made on the Senate floor. And it was a very difficult decision that I finally reached, very difficult. It was the most difficult of the two decisions I could have made: I decided to vote to impeach Judge Alcee L. Hastings on several but not all of the Articles of Impeachment.

Admittedly, at the outset, there was a point at which I felt that acquittal by a jury in this case was compelling evidence which I needed to consider. But, the responsibility that a Member of the U.S. Senate brings to an impeachment differs from the responsibility of an ordinary juror. As we perform our duty, we must not only execute our constitutional obligations, but we must keep a wary eye on public interest. The House of Representatives and Judge Hastings urge us to balance our trust and confidence in the judiciary against the rights of one judge.

As I have indicated, in making my decision, the greatest difficulty lay in determining the burden of proof. While a normal juror is comforted by the judge's instructions, here we have no judge and we have no instructions. We are left to our conscience. Alone, each of us must come to our own judgment on this subject. My judgment is that I must be convinced by the evidence brought during the Senate trial. In addition, I gave merit to the decisions rendered by my colleagues in both bodies and by the investigating committee of the Federal Judicial Council. The Council was comprised of persons with considerably more experience in these matters than I. Had I been able to reach an easier conclusion in this case, or had I gone away from the 4 weeks of trial with a clear conviction as to Judge Hastings' innocence or guilt, I would not have considered the past deliberations. However, that is not the case and therefore I am compelled to look to the conclusions of others, including the Judicial Council, for assistance.

In my 11 years in the Senate we have not had an impeachment as difficult as this. There are many disturbing facets to this case. They include:

First, the circumstantial nature of the evidence;

Second, the incredible length of time between the alleged wrongdoing and now, which resulted in lost of unavailable evidence and witnesses; third, William Border's unwillingness to testify; fourth, the failure of the FBI to allow the case to move from circumstantial to hard evidence by arresting Borders at the point he was paid off; fifth, the character and reputation of Judge Hastings which was uncontroverted by witnesses; sixth, the failure to identify a clear motive for Judge Hastings to be involved in the Borders conspiracy; seventh, the impressive

testimony of Hemphill Pride; eighth, Judge Hastings' plausible explanations for each of the circumstances on which the House argued he should be convicted; ninth, the failure to have a burden of proof instruction.

However, as I sorted through the facts and assessed the evidence, I was able to reach certain conclusions:

First, Judge Hastings' explanation of the events contain a flaw. A key part of Judge Hastings' defense was his desire to help Hemphill Pride. According to Judge Hastings, "the biggest topic that Borders and I were talking about at this time—in late April and early May—was helping Hemphill Pride * * * and that's when Pride was pressuring me." How can the aid being planned by Borders and Hastings possibly go on for 5 months in a relationship that's as close as theirs with the benefitting party—Pride—not being aware of or desiring such treatment? The judge used this assistance of Pride to explain not only the letters to Borders, but many of the telephone conversations and other contacts that he had with him. All of which took place during the course of the summer and fall. Yet, in his testimony, Hemphill Pride clearly states that he was pressing neither of his friends for letters to reinstate him to the South Carolina bar. Separately, I have determined that of all the people in this case, Pride has no reason to do anything but be as truthful as his conscience and instincts permit.

This disturbing evidence leads me to believe that when forced to chose between the House's explanation for the evidence and Judge Hastings', I must agree with my colleagues and will therefore vote "guilty' on impeachment articles I and XVIII.

Second, although much has been made of the so-called letters for Hemp, the conversation between Borders and Hastings is not critical to my decision. Their personal friendship and ability to communicate by a variety of means indicates to me that if in fact Rico and Borders cut a deal at the Miami Airport on Saturday morning, September 12, that to the degree that Judge Hastings was an essential part on delivering on that deal, his role would have been communicated to him by Borders prior to the 5:12 phone call on October 5. Therefore, I find it difficult to come to judgment on the purpose of that call or its meaning and will consequently vote "not guilty" to article VIII.

Third, regarding the letters themselves, Judge Hastings claims to have drafted them on the bench during the course of a trial on October 5. My colleagues in the House were unable to prove that they were anything other than what Judge Hastings purported them to be and for this reason I will vote "not guilty" to article IX.

Nonetheless, the letters to Hemphill do trouble me. Hastings suggested that his secretary was gone when he came off the bench with the letters so he stuck them in his desk drawer. I can't believe that in light of the other things he managed to get done—the phone calls and the orders to produce the Romano order—that he never got them typed and sent as he said he would in the "coded" conversation.

Fourth, with regard to the September 16 dinner at the Fountainbleau Hotel, common sense, experience, and even the argument made by Judge Hastings and his counsel, would lead one to believe that a friend as close as Hastings would have known that Borders would be in Las Vegas that evening, not at the Fountainebleau. Borders made no effort to keep his trip secret to others. For that reason, I have concluded that any testimony of Judge Hastings with regard to the Fountainebleau is contrived and will vote "guilty" on article V.

Fifth, regarding article VII and the issuance of the order, I am convinced that Judge Hastings ordered Jeffery Miller to get the order out as his part of the conspiracy. Counsel for Judge Hastings argues that bribery was contingent on the performance of two acts: First, the appearance of the judge at the Fountainebleau—which has already been addressed; and second, the issuance of the order returning the forfeited property. While the issuance of the order did not occur within the 10 days Borders predicted, it was issued after several repeated attempts by Borders to talk to Hastings.

The issuance of the order was also unusual. It was rare for Judge Hastings to demand his clerks to draft orders immediately, even when they were over due. In addition, this order was sent special delivery Thus, Borders' prediction, when combined with his repeated attempts to contact Hastings which appeared to grow increasingly urgent as the order becomes more overdue, and the judge's unusual actions to finally get the order out, led me to believe that its issuance was part of the conspiracy. Therefore, I will vote "guilty" on article VII.

Sixth, I am bothered by Hastings' reaction to the news that he received in the early afternoon of October 9 from Hemphill Pride. Pride told Hastings that Borders had been arrested and that the arrest was pertaining to "something that took place in your courtroom." Hastings did not ask Pride for any details; instead, his first reaction was to ask how the potential media attention would affect his mother. While this is an admirable thought, one cannot help but think that Hastings would have asked for some detail, that is unless he knew already why Borders was arrested. He had various sources he could have turned to—Borders, Borders' attorney John Shorter, or Ken Mundy—before leaving town. Yet he did not try to get any details. He simply fled to Florida. The record shows that he did not talk to any potential sources of information before he visited with his mother, Pat Williams, and the FBI.

Arguably, there is another way to look at this. Hastings said that it was immediately clear to him during his FBI interview that "I was not a witness, I was a target." That's why he refused to take a polygraph. If that were true, that it only came to him at this point, in the middle of the night, that he was a target not a witness, why was he concerned for his mother while he was still at L'Enfant Plaza and why was he also concerned that the FBI might be listening to his telephone conversations with either his mother or Patricia Williams? Furthermore, why would he use a payphone that was impossible to tap and take a $50 cab ride to BWI? Hastings claimed that the Florida reporters had gotten to his mother and scared her. He could only have learned that by calling his mother which he did not do until arriving at BWI. The House reported that journalists signed in at his mother's compound on October 9, but not until 8 p.m. Consequently, they were not there in the afternoon when Hastings claims they were.

There is one other peculiarity that I take note of regarding the events at L'Enfant Plaza. On October 9, when Pride discovered that Borders was arrested by the FBI and that his friend Alcee Hastings may have been involved, his advice to Hastings was to go home and face the music on his own court. From then on, all the evidence indicates that Pride was suspicious of both Borders and Hastings and their requests of him to play a part in their exoneration. Pride's testimony before us left no doubt in my mind that he continues to harbor these same suspicions.

For all the aforementioned reasons, I will vote "guilty" on article XV as well.

Finally, Mr. President, while I have developed a great admiration and affection for Judge Hastings as well as his counsel, every time I ponder the mountains of evidence, albeit their characterization as circumstantial, it becomes more difficult to reach a conclusion different from that reached by the Federal Judicial Council and its investigating committee. That was a true jury of his peers and I have no doubt that they used a standard that they would want used against themselves. It is the same conclusion arrived at by every member of the House investigating committee, chaired by JOHN CONYERS, and the House itself.

Regarding the other Articles of Impeachment, the articles regarding Hastings' phone calls to Hemphill

Pride in South Carolina, articles X to XIII, and article XIV, I accept Judge Hastings' declaration that these statements were good faith mistakes. Also given the fact that they are immaterial to the case, I will vote "not guilty" on these articles.

In addition, I feel the House has not carried its burden regarding article XVI, dealing with the disclosure of confidential wiretap information. While I accept the fact that if Judge Hastings did in fact make such a disclosure it would be an impeachable offense, I am not convinced that he did so. Therefore, I will vote "not guilty" on article XVI.

In conclusion, Mr. President, as I searched my soul and attempted to reach my decision, I have repeatedly asked whether a higher standard of ethics applies to elected officials or American citizens than applies to a lifetime appointment to the Federal judiciary? I continually ask myself whether this is an issue of ethics or morality? While I have not reached a satisfactory conclusion of these questions in my own mind, I have carefully weighed the evidence, and although it is extraordinarily complex and partially based on circumstantial evidence, I have reached the very unpleasant conclusion that Judge Alcee L. Hastings participated in a criminal conspiracy to solicit a bribe and that he is therefore unfit to continue to serve as a U.S. district judge and must be impeached.●

INCREASED SETTLEMENT AUTHORITY AND EXPANDED COVERAGE RELATING TO CLAIMS FOR DAMAGES RESULTING FROM LAW ENFORCEMENT ACTIVITIES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar item No. 293, S. 604, a bill to increase settlement authority and expand coverage relating to claims for damages resulting from law enforcement activities.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 604) to amend title 31 of the United States Code to increase settlement authority and expand coverage relating to claims for damages resulting from law enforcement activities.

The PRESIDING OFFICER. Is there objection to the request of the majority leader?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary, with an amendment.

On page 2, line 11, strike "any officer" through and including "Service" on line 14, and insert the following: "an investigative or law enforcement officer as defined in section 2680(h) of title 28 who is emloyed by the Department of Justice";

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

The committee amendment was agreed to.

The PRESIDING OFFICER. The bill is deemed read a third time.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar item No. 310, H.R. 972, the House companion measures; that all after the enacting clause be stricken and the text of S. 604, as amended, be inserted in lieu thereof; and that the bill be read for the third time, passed, and the motion to reconsider be laid upon the table.

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

So the bill (H.R. 972), as amended, was passed.

Mr. MITCHELL. Mr. President, I now ask that the Senate proceed to the passage of S. 604.

The PRESIDING OFFICER. Without objection, the bill is deemed passed.

So the bill (S. 604) was passed, as follows:

S. 604

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORITY TO SETTLE CLAIMS.

(a) Section 3724 of title 31, United States Code, is amended—

(1) in the section heading, by inserting "our other law enforcement component of the Department of Justice" after "Investigation";

(2) in subsection (a), by striking "$500" and inserting "$50,000";

(3) in subsection (a), by striking out "Director" and all that follows through "Investigation" and inserting "an investigative or law enforcement officer as defined in section 2680(h) of title 28 who is employed by the Department of Justice"; and

(4) in subsection (b), by amending the first sentence to read as follows: "The Attorney General shall make an annual report to the Congress on any settlements made under this section.".

(b) The item for section 3724 in the table of sections for chapter 37 of title 31, United States Code, is amended by inserting "or other law enforcement component of the Department of Justice" after "Investigation".

SEC. 2. EFFECTIVE DATE.

The amendments made by section 1 shall apply to—

(1) any claim arising on or after the date of the enactment of this Act;

(2) any claim pending on the date of enactment of this Act; and

(3) any claim arising before the date of enactment of this Act for which the time for presenting the claim to the Attorney General under the last sentence of section 3724(a) of title 31, United States Code, has not expired.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the bill was passed.

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

The motion to lay on the table was agreed to.

THE CALENDAR

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar Nos. 320, 321, 322, 323, 324, 325, 326, 327, 328, and 329 en bloc; that the committee amendments, where appropriate, be agreed to; that the resolutions be deemed read a third time and passed; that the preambles be agreed to; and motions to reconsider the passage of the resolutions be laid upon the table.

I further ask unanimous consent that any statements in reference to these calendar items appear at the appropriate place in the RECORD as if read.

The PRESIDING OFFICER. Without objection, it is so ordered. Without objection, the title amendments, where appropriate, will be agreed to.

NATIONAL DIABETES MONTH

The joint resolution (S.J. Res. 131) to designate November 1989 as "National Diabetes Month," was considered, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution, and the preamble, are as follows:

S.J. RES. 131

Whereas diabetes is a leading cause of death by disease in the United States;

Whereas diabetes affects over eleven million Americans, of whom almost six million are not aware of their illness;

Whereas diabetes costs the Nation $20,400,000,000 annually in health care costs, disability payments, and increased mortality due to diabetes;

Whereas up to 85 per centum of all cases of noninsulin dependent diabetes may be prevented through greater public understanding, awareness, and education;

Whereas diabetes is particularly prevalent among black Americans, Hispanic Americans, Native Americans, and women; and

Whereas diabetes is a leading cause of new blindness, kidney disease, heart disease, strokes, birth defects, and foot and leg amputations, all of which can be reduced by better public understanding and awareness of diabetes: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the month of November 1989 is designated as "National Diabetes Month." The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that month with appropriate ceremonies and activities.

NATIONAL ADOPTION WEEK

The joint resolution (S.J. Res. 187) to designate the periods commencing on November 19, 1989, and ending on

November 26, 1989, and commencing on November 18, 1990, and ending on November 25, 1990, as "National Adoption Week," was considered, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution, and the preamble, are as follows:

S.J. RES. 187

Whereas Thanksgiving week has been commemorated as "National Adoption Week" for the past 11 years;

Whereas we in Congress recognize the essential value of belonging to a secure, loving permanent family as every child's basic right;

Whereas approximately fifty thousand children who have special needs—school age, in sibling groups, members of minorities, or children with physical, mental, and emotional handicaps—are now in foster care or institutions financed at public expense and are legally free for adoption;

Whereas the adoption by capable parents of these institutionalized or foster care children into permanent, adoptive homes would insure the opportunity for the continued happiness and long-range well-being;

Whereas public and private barriers inhibiting the placement of these special needs children must be reviewed and removed where possible to assure these children's adoption;

Whereas the public and prospective parents must be informed of the availability of adoptive children;

Whereas a variety of media, agencies, adoptive parent and advocacy groups, civic and church groups, businesses, and industries will feature publicity and information to heighten community awareness of the crucial needs of waiting children; and

Whereas the recognition of Thanksgiving week as "National Adoption Week" is in the best interest of adoptable children and the public in general: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the periods commencing on November 19, 1989, and ending on November 26, 1989, and commencing on November 18, 1990, and ending on November 25, 1990, are each designated as "National Adoption Week", and the President of the United States is authorized and requested to issue proclamations calling upon the people of the United States to observe each such week with appropriate ceremonies and activities.

AN END TO HUNGER EDUCATION MONTH

The joint resolution (S.J. Res. 198) designating November 1989 as "An End to Hunger Education Month," was considered, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution, and the preamble, are as follows:

Whereas hunger affects the lives of 500,000,000 to 1,000,000,000 people in the world and takes the lives of 13,000,000 to 18,000,000 people annually, ¾ of whom are children under the age of 5;

Whereas while famines often gain widespread media attention and the subsequent response of the public, little attention is focused on the problem of chronic hunger;

Whereas there is a need to promote continuing activities that increase education and heighten public awareness about the extent of hunger, its causes, and consequences;

Whereas a society educated about the pervasiveness of hunger is equipped to respond to the needs of hungry people around the world; and

Whereas schools and communities should conduct educational programs that lead to the development of viable methods for alleviating hunger: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That November 1989 is designated as "An End to Hunger Education Month", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe the month with appropriate ceremonies and activites.

NATIONAL SPINA BIFIDA MONTH

The joint resolution (S.J. Res. 210) to designate the month of October 1989, as "National Spina Bifida Month," was considered, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution, and the preamble, are as follows:

Whereas spina bifida is a birth defect in the spinal column which occurs in one of every one thousand births in the United States;

Whereas spina bifida is the most common crippler of newborns, resulting when one or more bones in the back (vertebrae) fail to close completely during prenatal development;

Whereas while the cause of spina bifida is not known, it appears to be the result of multiple environmental and genetic factors;

Whereas although most of the March of Dimes and Easter Seal poster children have spina bifida, many people have not heard of the defect;

Whereas only a few cities in the United States have proper care centers and specialized professionals that can provide the most effective, aggressive treatment for children and adults with spina bifica; and

Whereas an increase in the national awareness of the problem of spina bifida may stimulate the interest and concern of the American people, which may lead, in turn, to increased research and eventually to the discovery of a cure for spina bifida: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the month of October 1989 is designated "National Spina Bifida Month", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that month with appropriate ceremonies and activities.

NATIONAL MILITARY FAMILIES RECOGNITION DAY

The joint resolution (S.J. Res. 215) acknowledging the sacrifices that military families have made on behalf of the Nation and designating November 20, 1989, as "National Military Families Recognition Day," was considered, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution, and the preamble, are as follows:

S.J. RES. 215

Whereas Congress recognizes and supports Department of Defense policies to recruit, train, equip, retain, and field a military force that is capable of preserving peace and protecting the vital interests of the United States and its allies;

Whereas military families shoulder the responsibility of providing emotional support for their service members;

Whereas in times of war and military action military families have demonstrated their patriotism through their steadfast support and commitment to the Nation;

Whereas the emotional and mental readiness of United States military personnel around the world is tied to the well-being and satisfaction of their families;

Whereas the quality of life that the Armed Forces provide to military families is a key factor in the retention of military personnel;

Whereas the people of the United States are truly indebted to military families for facing adversities, including extended separations from their service members, frequent household moves due to reassignments, and restrictions on their employment and educational opportunities;

Whereas 68 percent of officers and 48 percent of enlisted personnel in the Armed Forces are married;

Whereas families of active duty military personnel (including individuals other than spouses or children) account for more than two million seven hundred thousand of the more than four million eight hundred thousand in the active duty community, and spouses and children of members of the Reserves in paid status account for more than one million five hundred thousand of the more than two million seven hundred thousand in the Reserves community;

Whereas spouses, children, and other dependents living abroad with members of the Armed Forces total nearly five hundred thousand and these family members at times face feelings of cultural isolation and financial hardship; and

Whereas military families are devoted to the overall mission of the Department of Defense and have accepted the role of the United States as the military leader and protector of the free world: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That—

(1) Congress acknowledges and appreciates the commitment and devotion of present and former military families and the sacrifices that such families have made on behalf of the Nation; and

(2) November 20, 1989, is designated as "National Military Families Recognition Day", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate programs, ceremonies, and activities.

COMMUNITY FOUNDATION WEEK

The joint resolution (S.J. Res. 216) designating November 12 through 18, 1989, as "Community Foundation Week" was considered.

Mr. DURENBERGER. Mr. President, I rise today to thank my colleagues in the Senate for agreeing to Senate Joint Resolution 216, a joint resolution to designate November 12 through 18, 1989, as "Community Foundation Week"; 1989 is the 75th anniversary of the creation of the first community organization, so this year is the perfect opportunity for the United States to recognize these philanthropic organizations. Although these foundations have been serving American communities for 75 years, the spirit behind them dates back even further—to the beginning of philanthropy in America, when those who were able donated their resources to community needs.

Community foundations provide an opportunity for large and small donors alike to pool their resources into a central fund, which is distributed by a board of volunteers knowledgeable about the needs of its community. Programs that might be targeted by these foundations cover a range of community needs—education, minority issues, the environment, the handicapped, teenage pregnancy, immigrants, and countless other community challenges. Community foundations themselves are as diverse as the programs they sponsor, representing small and large communities, and even entire States. The Council on Foundations, the international nonprofit organization that represents these grantmakers, claims that these diverse foundations have six things in common:

First, a flexible, yet permanent collection of funds supported by a wide range of donors;

Second, the relative independence to determine the best use of those funds to meet community needs;

Third, a governing board of volunteers, knowledgeable of their community and recognized for their personal involvement in civic affairs;

Fourth, an organizational commitment to provide leadership on pervasive community problems;

Fifth, a commitment to assist donors to create funds and distribute proceeds in accordance with the donors' intent; and

Sixth, adherence to sense of "community" that overrides individual interests and objectives.

Currently, there are over 300 community foundations, located in 46 States, having total assets of well over $4 billion. Last year, American community foundations gave over $300 million to charitable organizations.

Community foundations have become the fastest growing sector of philanthropy, and much of the credit should go to the dedicated, talented volunteers behind them. I am particularly proud of one of these volunteers in my home State of Minnesota—Paul Verret, an outstanding civic leader and the president of the St. Paul Community Foundation. Over the last 12 years and under Mr. Verret's leadership, the St. Paul Community Foundation has grown to be one of the 10 largest community foundations in the United States. With the help of over 12,000 contributors, its net assets have ballooned from $5 million to over $145 million. With this pool of charitable donations, the St. Paul Foundation is able to direct $7 million every year to worthy community projects. In one such program, the foundation is cooperating with public schools to improve the academic achievement of low-income minority students, and to promote school curriculums that enhance cultural diversity.

Mr. President, this is just one of the many ways that community foundations are advancing the spirit of American private enterprise to meet the diverse needs of our communities. A week of commemoration will increase public awareness of these tax-exempt organizations, and therefore may encourage an even greater number of donations to community foundations. I hope that our colleagues in the House of Representatives will join us in commemorating 75 years of selfless service to American communities.

The joint resolution (S.J. Res. 216) was ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution, and the preamble, are as follows:

S.J. RES. 216

Whereas the citizens of the United States have a strong tradition of contributing generously to the well-being of their communities and the Nation;

Whereas community foundations are tax-exempt organizations formed to attract endowment funds and to distribute foundation earnings to further the well-being of their communities;

Whereas these earnings are distributed by volunteers boards of directors who are knowledgeable of their communities' needs in areas such as education, arts and culture, social services, economic development, health, the environment, and civic affairs;

Whereas community foundations augment the effectiveness of public and other private services by providing essential coordination to these efforts, and address community needs by providing leadership and resources on a permanent basis;

Whereas community foundations are in their seventy-fifth year of existence in the United States, and are the fastest growing form of philanthropy today;

Whereas there are now more than three hundred community foundations in the United States with total assets of over $4,750,000,000; and

Whereas the Nation's citizens who generously support philanthropic and charitable organizations should be highly commended and encouraged to increase and perpetuate private voluntary contributions to community foundations: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of November 12 through 18, 1989, is designated as "Community Foundation 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 programs, ceremonies, and activities.

NATIONAL BURN AWARENESS WEEK

The Senate proceeded to consider the joint resolution (S.J. Res. 217) to designate the period commencing February 4, 1990, and ending February 10, 1990, as "National Burn Awareness Week," which had been reported from the Committee on the Judiciary, with an amendment.

The amendment was agreed to.

The joint resolution was ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution, as amended, and the preamble, are as follows:

S.J. RES. 217

Whereas the burn problem in the United States is one of the worst of any industrialized nation in the world;

Whereas burn injuries are one of the leading causes of accidental death in the United States today;

Whereas every year over 2,000,000 people are the victims of some form of burn injury in the United States alone, and children account for between one-third and one-half of this total;

Whereas of these injuries, over 70,000 are hospitalized and account for 9,000,000 disability days and $100,000,000 in costs annually;

Whereas over 6,000 people die from burn injuries annually, and the rehabilitative and psychological impact of burns is devastating;

Whereas young children are in the highest risk group suffering from hot liquid burns and injuries caused by child fire play and fire setting;

Whereas older adults and the disabled are also at great risk and extremely susceptible to burn injuries;

Whereas burn survivors often face years of costly reconstructive surgery and extensive physical and psychological rehabilitation in overcoming disabilities and fears of rejection by family members, friends, coworkers, schoolmates, and the public in general;

Whereas it is estimated that approximately 75 percent of all burn injuries and deaths could be prevented by a comprehensive national educational and awareness campaign and by changes in the design and technology of homes and consumer products;

Whereas a general public awareness of the need for smoke detectors and home fire escape plans, in combination with an understanding of the risk associated with items in the home environment, can cause a reduction of injuries and loss of life; and

Whereas there is a need for an effective national program that deals with all aspects

of burn injuries and on the prevention thereof: Now, therefore be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the period commencing February 4, 1990, and ending February 10, 1990, and the period commencing February 3, 1991, and ending February 9, 1991, are designated as "Nation Burn Awareness Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States and all Federal, State, and local government officials to observe that week with appropriate programs and activities.

The title was amended so as to read "Joint resolution to designate the period commencing February 4, 1990, and ending February 10, 1990, and the period commencing February 3, 1991, and ending February 9, 1991, as 'National Burn Awareness Week'."

NATIONAL AUTISM WEEK AND SILVER ANNIVERSARY YEAR FOR THE AUTISM SOCIETY OF AMERICA

The joint resolution (S.J. Res. 220) to designate the week of December 3, 1989, through December 9, 1989, as National Autism Week and 1990 as National Silver Anniversary Year for the Autism Society of America, was considered, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution, and the preamble, are as follows:

S.J. RES. 220

Whereas autism is a serious communication and social disability affecting over 250,000 children and adults;

Whereas autism is a lifelong condition that requires services and support as well as understanding by the community at large;

Whereas the general public often misunderstands this complex neurological disability;

Whereas parent support groups have dedicated 24 years of service to the education and welfare of persons with this disorder;

Whereas the Autism Society of America remains committed to educating the general public to a better understanding of autism;

Whereas greater understanding, education, and vocational opportunities for persons with autism are necessary: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of December 3, 1989, through December 9, 1989, is designated as "National Autism Week", and the year 1990 is designated as the "National Silver Anniversary Year for the Autism Society of America". The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe these occasions with appropriate programs and activities to enhance the lives of persons with autism.

COMMEMORATING VOLUNTEERS OF THE UNITED STATES AND THE HUGH O'BRIAN YOUTH FOUNDATION

The concurrent resolution (S. Con. Res. 55) to commemorate the volunteers of the United States and the Hugh O'Brian Youth Foundation, was considered and agreed to.

The preamble was agreed to.

The concurrent resolution, and the preamble, are as follows:

S. CON. RES. 55

Whereas 30 years ago, Hugh O'Brian, a popular American television actor, in an effort to give back part of his own success by motivating aspiring future leaders to strive for excellence, founded the Hugh O'Brian Youth Foundation;

Whereas what originally began as a few promising students participating in an informal exchange of ideas with some of the business associates of Hugh O'Brian has become a network of 83 leadership seminars held annually throughout the United States, the Bahamas, Canada, and Mexico, and culminating with a week-long international seminar;

Whereas since its inception in 1958, the Hugh O'Brian Youth Foundation has provided over 90,000 high school sophomores with the opportunity to meet with the leading professionals of our Nation in business, industry, education, government, and the arts;

Whereas exposure to these professionals encourages the youth of our Nation to develop and use their talents and abilities to the fullest extent possible and to become the leaders of tomorrow;

Whereas it should be recognized that these leadership seminars exemplify the great volunteer spirit of our Nation because they are made possible through the generous sponsorship of the business community, private individuals, and members of the General Federation of Women's Clubs, Jaycees, Kiwanis, and Optimists;

Whereas the volunteerism demonstrated by the Hugh O'Brian Youth Foundation should be commended for bring leading professionals in contact with young people who wish to excel in their chosen field of endeavor and for the example set by the volunteers who plan, organize, pay for, and run the leadership seminars;

Whereas the volunteers of the United States, as exemplified by the Hugh O'Brian Youth Foundation, are responsible for providing much of the work necessary for improving the quality of life of the American people; and

Whereas the stated philosophy of the Hugh O'Brian Youth Foundation is that every person in created as the steward of his or her own destiny with great power for a specific purpose: to share with others, through service, a reverence for life in a spirit of love: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress commends all volunteers of the United States and the Hugh O'Brian Youth Foundation for their contributions to the betterment of our Nation.

NATIONAL TAP DANCE DAY

The joint resolution (H.J. Res. 131) to designate May 25, 1989, as "National Tap Dance Day," was considered, ordered to a third reading, read the third time, and passed.

The preamble was agreed to.

MEASURES INDEFINITELY POSTPONED

Mr. MITCHELL. Mr. President, I now ask unanimous consent that Calendar Nos. 318 and 319 be indefinitely postponed.

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

ORDERS FOR TUESDAY

RECESS AND MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 11:30 a.m. on Tuesday, October 31, and that following the time for the two leaders, there be a period for morning business until 12:30 p.m., with Senators permitted to speak therein for up to 5 minutes each.

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

RECESS TUESDAY FROM 12:30 P.M. TO 2:15 P.M.

Mr. MITCHELL. Mr. President, I further ask unanimous consent that the Senate stand in recess from 12:30 to 2:15 p.m. in order to accommodate the party conferences.

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

RECESS UNTIL 11:30 A.M., TUESDAY, OCTOBER 31, 1989

Mr. MITCHELL. Mr. President, if the distinguished Republican leader has no further business, and if no other Senator is seeking recognition, I now ask unanimous consent the Senate stand in recess, under the previous order, until 11:30 a.m. on Tuesday, October 31, 1989.

There being no objection, the Senate, at 4:09 p.m., recessed until Tuesday, October 31, 1989, at 11:30 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate October 27, 1989:

DEPARTMENT OF THE TREASURY

SIDNEY L. JONES, OF UTAH, TO BE AN ASSISTANT SECRETARY OF THE TREASURY.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

DEPARTMENT OF JUSTICE

STEPHEN J. MARKMAN, OF MICHIGAN, TO BE U.S. ATTORNEY FOR THE EASTERN DISTRICT OF MICHIGAN FOR THE TERM OF 4 YEARS.

EXTENSIONS OF REMARKS

SUPPORT FOR TEMPORARY STATUS FOR CHINESE AND CENTRAL AMERICANS

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Friday, October 27, 1989

Mr. MAZZOLI. Mr. Speaker, the House voted on H.R. 45, legislation which would suspend for 3 years the deportation from the United States of illegal immigrants who are nationals of the Peoples Republic of China, El Salvador, and Nicaragua.

I voted for the bill, which was passed by the House and sent to the Senate, though not without some reservations.

I continue to have deep concerns about designating citizens of certain nations for protected treatment while denying that same treatment to citizens—who possess similar characteristics—who come to the United States from other nations.

The cornerstone of a successful immigration and refugee policy is fairness and evenhandedness and objectivity. A nation-specific measure such as H.R. 45 violates that baseline.

However, I was able, with reservations, to support the bill because H.R. 45 limits the protected status given citizens of these three nations to 3 years. Earlier versions of H.R. 45 had an openended status. H.R. 45 establishes a permanent generic and non-nation-specific mechanism to deal with future situations. This mechanism closely follows the "safe haven" legislation I introduced in earlier Congresses along with my friend and colleague, Representative HAMILTON FISH.

The introduction to our statute books of a permanent mechanism to deal with the temporary dislocations and migrations of nationals of other lands—who enter the United States to seek protection from armed conflict, natural disaster, or other conditions which pose threats to personal safety—overcame my displeasure with the remainder of H.R. 45.

CAN GUATEMALA'S LEADERS SUMMON THE POLITICAL WILL TO SAVE THEIR COUNTRY?

HON. GEO. W. CROCKETT, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, October 27, 1989

Mr. CROCKETT. Mr. Speaker—

A government is responsible not only for what it orders or assists, but also for its tolerance of violent crime by certain groups against others . . . And the Guatemalan government is, at present, responsible for tolerating what it has been unable to stop.

These are not the words of a liberal Member of Congress, or of a Guatemalan human rights monitor. These are the words of the man who for the last several years has worked to improve the administration of justice in Guatemala.

These words do not come easily to Dr. Philip Heymann, James Barr Ames Professor of Law and Director of the Center for Criminal Justice at Harvard University, and former Assistant Attorney General in charge of the Criminal Division of the Department of Justice from 1978 to 1981. Dr. Heymann has defended Harvard's involvement in the Administration of Justice Program against numerous attacks.

But the recent wave of terror that has engulfed Guatemala—including 10 or more students that have disappeared, with 5 of them found dead and tortured—and the Government's continuing inability to act, have driven Dr. Heymann to go public with his concerns and his questions about continuing the program he has fought so hard to protect.

He writes:

It is true that the government did inherit a moribund judiciary . . . and a police force which had little training, . . . yet since the inception of the Cerezo regime in 1986, our nation and others in the West have provided millions and millions of dollars to improve the administration of justice. The government can now count on a significant number of trained prosecutors, judges and police investigators. A failure to act now is plainly a failure of political will, not a failure of capacity.

Dr. Heymann asks that the travel advisory currently in effect with respect to Guatemala be continued in effect until the Guatemalan Government takes reasonable steps to investigate and prosecute these terrorist murders.

I urge my colleagues to study his letter to me, and his article detailing the deteriorating situation in Guatemala, which follow:

HARVARD LAW SCHOOL,
Cambridge, MA, October 23, 1989.

Hon. GEO. W. CROCKETT, Jr.,
Chairman, Subcommittee on Western Hemisphere Affairs, House of Representatives, House Office Building Annex 1, Washington, DC.

DEAR MR. CHAIRMAN: As I'm sure you are aware, in the past two months the situation with regard to democracy and law in Guatemala has taken a dramatic turn for the worse. Ten or more students have been disappeared; five of them have been found dead and tortured. A number of labor leaders have been disappeared, particularly from the Coca-Cola union. A number of human rights workers connected with CERJ have been killed or disappeared. There is, of course, widespread fear among the members of any similar groups.

There has also been additional terror and violence which may or may not have the same motivation. A leader of the Christian Democratic Party was shot and killed. A leading banker met the same fate. And bombs have been thrown, often hand grenades, at everything from GAM headquarters to the Hotel Camino Real.

It seems to me that the Department of State has responded splendidly in three ways. The Charge d'Affaires in Guatemala, Philip Taylor, made a strong statement. I understand that he has been pressing the Guatemalans to take a set of steps that I discussed with him and others in Guatemala at the end of September. Perhaps most important, as the stick that goes with those verbal statements, the Department announced its Travel Advisory for Guatemala which is now in effect until October 31st. Besides being the muscle behind our words, it also makes sense in terms of the safety of Americans. So long as the Guatemalan leaders are unwilling to investigate vigorously and prosecute thoroughly whoever may be behind this political violence, and certainly including the violence that is targeted against those on the left of the Guatemalan political spectrum, the physical risk to American travellers will be very real.

I would like to urge you at this time to support the maintenance of a Travel Advisory until the government of Guatemala takes reasonable steps to investigate and prosecute the string of terrorist murders that are threatening to bring an end to democracy in that country, or to narrow democracy to a very limited political spectrum. What the Embassy has proposed to the Guatemalan government is simple and straightfoward. The failure to take vigorous steps at such a terrible time is, if not a sign of complicity, an indication of terrible indifference. It is also an invitation to further violence with accompanying risks to American travellers.

I would of course be happy to talk with you about these issues if that would be helpful. I am enclosing a fuller statement of my views of the present situation in Guatemala which is the basis of an article.

Sincerely,

PHILIP B. HEYMAN.

GUATEMALA'S TURNING POINT

(By Philip B. Heyman [1] and Morris Panner [2])

There are 15 months left in the term of Guatemala's first freely elected government in many years. Some have regarded it as a mere facade for repressive forces of the right; others have found in it the hope for a

[1] Philip B. Heymann is James Barr Ames Professor of Law and Director of the Center for Criminal Justice at Harvard Law School. He was Assistant Attorney General in charge of the Criminal Division of the Department of Justice from 1978–1981.

[2] Morris Panner graduated from Harvard Law School in 1988, and is a lawyer working in Guatemala for the Harvard Center for Criminal Justice on a project to improve the administration of criminal justice in Guatemala.

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

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

future of progress toward popular choice without fear or terror. Now this government faces a challenge that promises to answer what it really is and what Guatemala will be.

It must arrest and prosecute those responsible for a current wave of terrorism symbolized most dramatically by the recent kidnapping of 10 student leaders and the brutal murder of at least five of them. Within the past month, these students at the national university have been abducted, often in broad daylight, by groups of heavily armed men driving vehicles with polarized windows. None have been released. The Guatemalan people and the international community have a right to expect the government to solve these crimes. Anything less and there will be only the most limited form of democracy in that nation.

For the people of Guatemala, the murder and kidnapping of these students sends the clear message that political freedom is ebbing away. During the late 1970s and early 1980s, student and other groups were ravaged by murders, kidnappings and disappearances. In the name of a war against Marxist guerrillas, the military governments committed terrible excesses, making all but the most conventional political thought dangerous. Judicial investigations were not possible. Judges and other individuals who spoke out were murdered. Thousands fled into exile. Guatemala became a parish nation.

The present government has never endorsed political violence. It has condemned the most recent wave of terrorism and has denied its involvement. In fact, there is no evidence that the highest levels of the government are directing death squads, although there are widely held and well defended suspicions that the students and others may have been killed by elements of army intelligence, which was responsible for much of the violence of the past. Lower levels of the military and some police forces still elude the firm control of the top brass. Two recent coup attempts by rogue officers attest to this instability. Powerful individuals and private groups, the government points out, also carry out murders for their own political agenda and are also prime suspects now.

The difficulty of identifying the perpetrators of terror without a thorough investigation is not crucial to assessing the responsibility of the government of President Cerezo. A government is responsible not only for what it orders or assists, but also for its tolerance of violent crime by certain groups against others. Much state-supported terrorism takes this form. And the Guatemalan government is, at present, responsible for tolerating what it has been unwilling to stop. Its denials that it is indifferent to the murder of students, labor leaders, peasant leaders, or human rights workers by private groups or dissident security forces are grounded in tired old arguments. The problem, it says, is that it is simply unable to stop such terrorist groups. It asks, as it always has, the Guatemalan people and the international community for patience for the indefinite future while it develops that capacity.

But at some point in the development of a government this explanation no longer holds up. It is true that the government did inherit a moribund judiciary—atrophied in the climate of the summary justice dispensed by past military regimes—and a police force which had little training, and had been used by the military to carry out tortures and executions against suspected subversives.

Yet since the inception of the Cerezo regime in 1986, our nation and others in the West have provided millions and millions of dollars to improve the administration of justice. This has included substantial support for police training. The Guatemalan government can now count on a significant number of trained prosecutors, judges and police investigators. A failure to act now is plainly a failure of political will, not a failure of capacity.

Terrorist acts such as the kidnapping and murder of the students are exactly the type of crimes that nations are good at solving—if they want to. The kidnappings are "pattern" crimes. That is, it is likely they were committed by the same people using more or less the same techniques. They required a number of people and substantial logistics to keep them secret. The criminals who kidnapped and murdered the Guatemalan students did not take special care to avoid detection. Witnesses reported the crimes and were even able to report license plate numbers on cars.

Terrorism is not a problem unique to Guatemala. All over the world democratic governments have had to wrestle with the problem of how to confront violence while remaining true to the rule of law. Almost all successful anti-terrorist campaigns in other countries have included a number of steps that Guatemala has not taken. Officials at the highest levels of government must make credible announcements of their political resolve to fight the crimes. Colombia's President is a proud example. Law enforcement and intelligence branches of government must share information about terrorist groups. Rewards must be offered. The police and the prosecutors must work together closely, devoting specialized effort and massive commitments of time to these priority cases. Judges must work in teams to avoid creating a single target for reprisals or intimidation. To date, there has been no evidence of efforts on the part of Guatemalan leaders to take steps like these. In the absence of such steps one wonders about the political will of Guatemala's leaders.

It would be foolish to conclude from the recent wave of terror that Guatemala has returned to its frightening past. The level of political discussion and debate in recent years would never have been possible just five years ago. Too many people there value the progress that had been made for it to be quickly washed away by a wave of extremist terror.

But it would be equally foolish to fail to recognize that this is a decisive moment for Guatemala. In the absence of strong, lawful measures, the history of Guatemala could easily turn back toward a battle of governmental and private terrorists for the fearful quiescence of the population. If, however, the government acts vigorously and lawfully to solve these murders, Guatemala will have taken a long step toward true democracy, where debate and political choice is not inhibited by fear and terror.

Some argue that the fragile administration would pay too high a price to pursue the crimes, for acting vigorously could force the Cerezo government to confront serious challenges. Even a government that is "democratic" in name only should be preserved at any price, the argument goes. But a government, even a democratic one, cannot have a its only goal its own survival. Guatemalan leaders must summon the political will to take all the steps within their power to ensure continued political progress in a nation still a long way from a stable democracy. Without these steps forward, Guatemala's democracy will become a hollow shell with its historic sins of commission gradually twisting themselves into equally serious sins of omission, and with terror, torture and death as central to the new order as to the old.

The international community can no longer be satisfied with pleas by the government that it can't stop the crimes or with half-hearted steps such as conferences on human rights. The future of Guatemala is at severe risk. To bring to trial and convict the perpetrators of these most recent brutal acts against the students and others will be a decisive victory in the battle of democracy against tyranny. To ignore these crimes or accept the excuse of incapacity on the part of the government would be to allow Guatemala to begin a tragic descent into repression and darkness.

SURVEY CONDUCTED AT CHILDREN'S PEACE FAIR

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, October 27, 1989

Mr. STOKES. Mr. Speaker, I would like to share the results of an interesting survey that was taken at the Children's Peace Fair. The fair was cosponsored by Physicians for Social Responsibility and WJW-TV 8 held in Cleveland during the month of August. The Ohio Chapter of the National Association of Social Workers and the Children's Defense Fund are responsible for this survey of over 1,000 parents and children, who attended the fair.

The purpose of the survey was to provide an opportunity for parents and children to share their opinions on a better future for their families. Better than a fourth of the responses expressed a need for world peace as a prerequisite for a better future. This was followed closely by a vote for a safe environment. The need for a decent education came in third following in order, by housing, quality child care, adequate nutrition, racial and religious tolerance, health care, "more caring," nuclear disarmament, and better communication.

Mr. Speaker, I am pleased to share the results of this survey with my colleagues. The results reflect the hopes of all Americans for a more secure and fulfilling life. I urge my colleagues to consider the sentiments of parents and children on improving the quality of their lives in this country.

FLAG OVER CORREGIDOR

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 27, 1989

Mr. GINGRICH. Mr. Speaker, Franklin Grupe of Cedartown, GA, gave me a picture of the American flag raised over Corregidor in 1945 with the following note attached:

This is the flag that was raised by General MacArthur on his return to Corregidor in

1945. It cost many lives to put it there. I shall always remember this moment and cannot understand why there is not a constitutional amendment to protect it.

I think this is a very moving testimony giving reason for an amendment to protect the flag.

THOMSON CONSUMER ELECTRONICS INVESTING IN INDIANA'S ECONOMY

HON. JIM JONTZ

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 27, 1989

Mr. JONTZ. Mr. Speaker, I rise today to recognize Thomson Consumer Electronics, Inc. and its efforts to continue 40 years of commitment to Indiana's economy and the Fifth Congressional District, which I represent.

Thomson Consumer Electronics is the successor to the GE and RCA consumer electronics businesses. Thomson employs some 6,300 Hoosiers at its Indianapolis headquarters and manufacturing plant, a Bloomington television plant, and a plant in Marion IN, in my district.

In April, Thomson reaffirmed its commitment to the people and the economy of Indiana by announcing a $75-million expansion of the Marion plant. The Marion facility is being retooled in anticipation of the expanding market for larger screen color televisions. The Marion plant currently produces RCA color picture tubes in the 19–V, 20–V, and 25–V sizes. This new investment will allow Thomson to install production equipment for larger 31–V and 35–V tubes.

Thomson is thinking for the future. The large screen television market is one of the fastest growing segments of the consumer electronics market, and one in which the United States still holds an edge. More than 90 percent of large screen television receivers are built in American plants.

Consumer demand for receivers larger than 30 inches is expected to increase significantly in the coming years, rising from the current 200,000 per year to an anticipated 1 million sets by 1992.

Thomson's investment in the Marion facility is all the more remarkable in this age when many electronics manufacturers are moving operations out of the country. The consumer electronics industry is a high-volume, competitive business. While other companies are looking to gain a competitive advantage by looking to other countries for cheap wage rates, Thomson has made a commitment to retaining and increasing the number of high-quality, high-paying jobs in our State.

Not only is Thomson investing in its plants to meet current and future demand for the products it currently manufactures, it is also making significant investments in the research and development of one of the important technologies of the future: High definition television.

In cooperation with the David Sarnoff Research Center and NBC, more than $60 million has been invested in the development of advanced compatible television, a widescreen, enhanced definition television system which could lead the way for American development of HDTV.

I commend Thomson for its dedication to the economy of our State and our Nation and for its farsightedness in developing products for the future.

DETROIT CITY COUNCIL SUPPORTS EXTENDED VOLUNTARY DEPARTURE STATUS FOR SALVADORAN REFUGEES AND A NEGOTIATED SOLUTION CONFLICT IN EL SALVADOR

HON. GEO. W. CROCKETT, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, October 27, 1989

Mr. CROCKETT. Mr. Speaker, as chairman of the Subcommittee on Western Hemisphere Affairs, as the Representative of the 13th Congressional District in Michigan, I wanted to share with my colleagues the resolution adopted on October 4, 1989, by the Detroit City Council supporting a peaceful negotiated settlement to the conflict in El Salvador and recognizing the rights of Salvadorans who seek refuge in the United States to be recongized as refugees with all the rights accorded by that status.

The resolution was adopted by the city council on the occasion of the visit of 12 Salvadoran refugees that are taking part in the National Pilgrimage for Peace. The pilgrimage is attempting to educate people in the United States about the plight of Salvadoran refugees.

The full text of the resolution of the Detroit City Council follows:

RESOLUTION IN SUPPORT OF NATIONAL PILGRIMAGE FOR PEACE IN EL SALVADOR

Whereas, On October 25, 1989, twelve Salvadoran refugees will be in Detroit. They are part of the National Pilgrimage for Peace and are attempting to educate people in the United States about the the plight of Salvadoran refugees, and

Whereas, Hundreds of thousands of El Salvadorans have fled to this country seeking safe haven because of widespread human rights abuses in their home country. During the past year, international human rights institutions such as Amnesty International report a dramatic worsening in the human rights situation in El Salvador, and

Whereas, The United States has provided more than $3 billion in military and economic assistance in the El Salvadoran government since 1980. Without our assistance, that country would be forced to reach a peaceful settlement with all opposition parties there, and

Whereas, The Refugee Act of 1980 (8 U.S.C. Sec. 1101(a) (42) provides refugee status within the United States for any person "who is unable or unwilling to avail himself or herself of the protection of their country because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group or political opinion . . .," and

Whereas, The Immigration and Naturalization Service (INS) almost never grants applications for political asylum submitted by Salvadoran refugees. The United States is the only country in the Western Hemisphere that routinely deports Salvadorans to El Salvador, where they are subject to grave human rights abuses, and

Whereas, The Moakley-DeConcini Bill, which is currently pending before Congress, would temporarily stay the detention and deportation of Salvadoran refugees, and

Whereas, Because the vast majority of Salvadorans have come to our country after 1981, they do not qualify for legalization under the Immigration and Reform Act of 1986 and therefore are barred from working under that law, and

Whereas, The Universal Declaration of the Rights of Man sets out the right to work as a fundamental human right. The United Nations Conventions Relating to the Status of Refugees recognizes the rights of refugees to work and support themselves: Therefore, be it

Resolved, That the Detroit City Council endorses the Pilgrimage For Peace, and be it further

Resolved, That the Detroit City Council recognizes the rights of Salvadorans who seek refuge in the United States to be recognized as refugees with all the rights accorded by that status, including the right to remain and work in the United States while they are unable to return to their home country, and be it further

Resolved, That the Detroit City Council supports the passage of the Moakley-DeConcini Bill. We urge our Congress and Administration to pursue efforts aimed at encouraging the government of El Salvador to reach a peaceful negotiated solution to the conflict in that country, which is the ultimate solution to the problems of Salvadoran refugees, be it further

Resolved, That the City Clerk send a copy of this resolution to President Bush and the United States Congress.

LOUISVILLE: ONE OF AMERICA'S MOST LIVABLE PLACES

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Friday, October 27, 1989

Mr. MAZZOLI. Mr. Speaker, it is my great honor to represent my hometown of Louisville, KY, here in the House of Representatives. And, it is always a privilege for me to speak of the love and great pride we Louisvillians hold for our community.

It is especially so when our objective opinion is endorsed by the experts and neutral observers as it is in the soon-to-be-published third edition of "Places Rated Almanac," which ranks Louisville as the eighth "Most Livable Place" in the United States.

This is the second time Louisville has been recognized in the top 10 places of the United States by the Almanac, following her selection as 19th best in 1981. The study rates areas on the basis of climate, cost of living, arts, recreation, health care, education, jobs, transportation, and crime.

While these rankings may produce no end of argument and gentle boasting among natives of the 333 metropolitan areas surveyed, these do offer some interesting perspectives on the changing face of life in America's increasingly urban landscape.

In Louisville, I believe we have hit on the formula for success in providing for ourselves, our children, and generations to come, the kind of quality of life and opportunities which are most amenable to the human spirit.

The ingredients in this recipe are many, but at its core it is the character of her people which gives form and identity to a community. In Louisville, we are blessed with good people, concerned about others before themselves. We have honest people who work hard for the rewards of their labors. We have diversity of views and background, but unity of purpose. We have a good-natured attitude, a can-do spirit, a pluckiness to surmount whatever obstacles may be placed before us. This is always so evident in time of crisis, be it natural disaster or by the hands of man.

So, beyond all those categories used to judge the cities and towns of this Nation, beyond the simple arithmetic of arbitrary ratings points, a community cannot accurately be portrayed without taking into account its people. And, in that respect, I feel Louisville is unsurpassed.

We have strong elected leadership, involved and committed corporate citizens, and an active, creative, vocal "grass roots" that is concerned about our community and the world around us.

I am pleased by the recognition of my hometown in this latest survey, Mr. Speaker. Of course, in my book, Louisville is No. 1. And, I hope to do all in my power with the responsibilities entrusted to me to keep it that way always.

THE 436TH MEMBER OF CONGRESS

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, October 27, 1989

Mr. STOKES. Mr. Speaker, I rise today to share with my colleagues an article from the Cleveland Plain Dealer entitled "The 436th Member of Congress." This endearing title, given to Mr. Joe V. Machugh, exemplifies his familiarity with most of my colleagues and the Halls of Congress for almost 40 years. We can always find Joe waiting for us by the subway to the Capitol Building with a smile and some very positive and encouraging words. I know that many have benefited, as I have, from his advice and counsel.

Mr. Speaker, I hope my colleagues will take a moment to read the article. I am sure that it will bring a smile to many faces. For those who have not yet had the pleasure of meeting and talking to Joe, you may end up seeking our warm and colorful "colleague" out in the Halls of Congress.

[From the Plain Dealer, Oct. 1, 1989]

THE "436TH MEMBER OF CONGRESS"

(By Amy Gamerman)

WASHINGTON.—Dapper in a gold jacket and orange paisley tie, an elderly man stands in the bowels of the Capitol building with a neat stack of his own essays, scanning the subways that ferry lawmakers from the congressional office buildings.

"I'm going to give this one to Jay Rockefeller, I hope he comes by for lunch," he says, tapping a envelope marked "Jay" for the Democratic Senator from West Virginia. "And this one's for Alan Simpson."

He doesn't hold elected office, but Joe Machugh may be one of best known faces on Capitol Hill. When he was vice president, George Bush dubbed him "the 436th member of Congress." Sen. Howell Heflin, D-Ala., gave a speech in his honor on the Senate floor. And in a similar tribute, former California Rep. Bob Wilson declared him the House's "unofficial philosopher in residence."

For nearly 40 years, the energetic Machugh, who will turn 90 in December, has been a fixture here, handing out his inspirational essays with titles like "Smiling Back at You," "Resolving Powder Keg Controversies—Permanently," and "Corridors to Enduring Tranquility."

Although his jackets come from the Salvation Army, Machugh has an access to lawmakers that most paid lobbyists would kill for. "I don't know of a person who has known more members on both sides of the aisles of both the House and Senate than Joe has—and he knows them by their first name," said Rep. William Broomfield, R-Mich.

Most days, Machugh catches a bus from the Roosevelt Hotel for senior citizens to the Capitol, eats breakfast in a House cafeteria, then heads for the subways with his current stack of essays—which focus on issues like cooperation, humility and public service rather than on the capital gains tax or the war on drugs.

"I read them going back and forth on the subway," said Sen. John Glenn, D-O. "They're all good ideas."

After early attempts to buttonhole lawmakers in their offices proved fruitless, Machugh realized there was an easier way to make contact—in the basement corridors that connect the Capitol building with the House and Senate offices.

Machugh gives out 300 to 500 copies of each essay. He pays for most of the photocopying out of his savings, but relies on kindly House secretaries to make extras. Although he knows almost all the senators and representatives by their first names, he gives copies only to those he knows will take them.

"There's Larry Pressler," Machugh says, nodding as the South Dakota Republican senator boards a subway car. "He's one that doesn't want any."

But most seem to enjoy his essays. Machugh shows off thank-you notes from Hubert H. Humphrey, Lyndon B. Johnson, Jimmy Carter and George Bush. Rose Mary Woods, President Richard M. Nixon's secretary, put one in his reading file—Machugh has letters from both to prove it.

"I read them all," said Rep. Charles Bennett, D-Fla., senior member of Florida delegation. "They have two great virtues: One, they're loaded with great advice and positive thinking, and two, they're not long."

Over time, Machugh has managed to wear down resistance of most members of Congress.

"I didn't (read them) for awhile, but one day I don't know where I was caught, but I didn't have anything else to read," said Rep. Andy Jacobs, D-Ind. "I read it and I thought, wait a minute, there's some real gold here."

Born in Boston in 1899, ten doors down from the Kennedys, Machugh had a long and varied career before coming to Congress as a self-appointed goodwill ambassador and parkbench philospher.

He served in both world wars, and worked as a lawyer in the Justice Department's Antitrust Division, a congressional staffer and an oil company employee. He never married.

He once beat Joe Kennedy Sr. at tennis, and enjoyed a long correspondence with Bernard Baruch, the millionaire philanthropist and advisor to Presidents Franklin D. Roosevelt and Woodrow Wilson. "Spread the word, my boy, spread the word—write your ideas and disseminate them," Machugh recall Baruch saying.

Machugh always has been full of advice, from his suggested campaign slogan for Humphrey—"Over the Hump with Humphrey—to his advice for Johnson when he ran for president in 1960. "I told him to get out of Washington," Machugh said. "I think LBJ would have beaten John Kennedy if he had followed my advice."

Lawmakers seem to value him most for the humanity he injects into their proceedings. When Sen. Joseph R. Biden Jr., D-Del., failed in his 1988 presidential bid, Machugh had a special essay for him entitled "Misfortune's Challenge." He had kind words for Bennett when his son died, and he always opens the door for the Florida lawmaker—who walks with two canes.

When Machugh doesn't show up at his usual spots for awhile, people worry.

"Joe's an institution," said R.L. Dextradeur, a policemen who has kept watch at the Senate subways for the past 13 years. "When he's missing, everybody wonders where he's at. . . . They ask, 'Is he sick, have you seen him around at all?' "

But lately if you don't see Joe Machugh every day it may be intentional. Although he used to come in every day, he now tries to cut back.

"I'm trying not to do it," he explained. "Voltaire once said, 'the secret of being a bore is to tell everything.' The last article I wrote was all about it."

TRADE PROTECTIONISM: THE COST TO THE AMERICAN CONSUMER

HON. C. CHRISTOPHER COX

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 27, 1989

Mr. COX. Mr. Speaker, economists of all political stripes are increasingly in agreement that protectionism doesn't work. Free and fair trade with our allies has and will continue to make the American consumer, our national economy, and the world better off.

Dr. Larry P. Arnn, the distinguished president of the Claremont Institute, has recently reported that conservative estimates of the cost of protectionism to the average American family are $1,000 a year. This is a hidden, regressive tax, which inhibits economic growth, contributes to inflation and unemployment, and hurts those least fortunate among us the most.

Even more disturbing for our democratic system is that these unnecessary costs are the result of special interests being able to obtain protectionist policies at an outrageous cost to average Americans. It is time for the Congress to stand up to such favoritism and defend the general welfare.

Mr. Speaker, Dr. Arnn more fully outlined the challenge facing us in the July-August edition of "The Asia Column," published by The Claremont Institute's Asian Studies Center. I urge my colleagues to consider carefully his thoughtful essay.

AMERICAN PROTECTIONISM IN THE ADMINISTRATIVE ERA

(By Larry P. Arnn)

Practically no one these days will deny that protectionism is bad policy. Those who favor some form of it usually do so with apologies and excuses, claiming "special circumstances" and "temporary measures." Hardly anyone favors protectionism for its own shinning virtures and benevolent influence in the world.

The general public looks upon the issue with a great deal of common sense. People know that manufactured goods from Taiwan, and Japanese cars, and Korean televisions are reliable and good. People know that they are inexpensive or at least competitively priced. People know that they are in many cases superior in quality to their domestic competitors.

Yet a strange fact prevails, amidst all this ostentatious uannimity. Protctionism is growing in our country and in the world. For some reason, we are all saying one thing, and we are doing quite another. This is typical of American politics today. It happens in a dozen important areas of policy. It happens for a set of reasons that pervades every branch of government. Nowhere are those reasons more clear than they are here, in the area of international trade. To understand these reasons is indeed vital to the restoration of good government to our country, which ought to be the supreme task of any political party. The reasons for this new wave of protectionism are deeply political in their nature. They constitute a threat to the main principles upon which America is built. They harm our people at home and our standing in the world. They harm our relations with countries that are and should be our best and most dependable friends. Our behavior in the area of trade is becoming unworthy of a great power, and especially of a great democracy.

The trade issue affects profoundly our strategic position around the world, but nowhere so forcefully as East Asia. The region has come to boast some of the United States' largest trading partners, and American trade with these nations will almost certainly increase in the 1990s. And the free nations of the Pacific Rim are critical to the United States for another, more profound reason. Our nation depends for its security, in large part, upon our democratic allies. We depend upon the increase of democratic government in the world. It is necessary that the United States encourage those nations that aspire toward democratic government, and support those that have embarked on the path toward it. American trade policy must be understood within this context.

To a certain extent, trade relations have, regrettably always had a seamy side. But today such practices prevade our whole government, a government that is bigger, more dangerous to the freedom of its own people, and more responsible for the security of other peoples, than it has been in the past. Protectionism is bad wherever it exists. For a great power, afflicted already with special-interest legislation to a massive extent, it is poison. It is the avenue by which bureaucratic politics in America begin to dominate American diplomacy.

We must ask why the United States should engage in protectionist behavior. The first thing to realize is that it has practically no connection with the wider interests of the American people. On the contrary, it operates specifically in opposition to that interest. For example, one of the most heavily subsidized industries in America is automobiles. Even if it were admitted that good policy required this subsidy, the manner in which we implement it is ludicrous. The Institute for International Economics reports that Americans pay roughly $105,000 each time they save, through formal or informal protection measures, a job in the automobile industry. By a direct payment to the worker in question, as much as $60,000 could be saved. For only $22,000, a Korean could be given a Chrysler K car free of charge. Instead, we raise average wages across the whole automobile industry to a level 80 percent higher than the average wage in U.S. manufacturing industries generally. Mr. Lee Iacocca of Chrysler Corporation, ardent in the cause of protection of the industry, made $28 million in 1987. Much of this came in the form of profit sharing, and much of his company's profits were derived from protectionist measures.

The heart of the problem is to be found in the administrative nature of our national government, and particularly of our legislature. Increasingly the Congress of the United States operates as an ombudsman for particular interests in the nation that desire help from the immense federal administrative structure. The ebb and flow of diplomatic relations with all of our allies and major trading partners is now monitored constantly by congressional staffs. At decisive moments in these negotiations, interest groups approach legislators, basing their claim upon their ability to contribute to congressional campaigns. Legislators, ever ready to advance their own cause, approach executive officials basing their claim upon their ability to approve agency budgets and to disrupt agency functions.

The key to the working of this system is direct access by the Congress to the functionaries in the executive branch who carry out policy. The President himself is still possessed of considerable, if inadequate, power to resist the demands of the legislative branch. His private office may still, if the President's will is strong, resist congressional demands for documents and constant briefings on the details of policy execution. His principal agents, even at the Cabinet level, are weaker. Heads of independent agencies are weaker still. If they resist congressional advice, they may well find their offices disrupted, their records removed, and even their own personal salaries deleted from the agency budget.

In light of this fact, the new trade bill makes the U.S. Trade Representative a crucial position. In the new scheme, the Trade Representative is, himself, empowered and required to make findings of trade discrimination. This "Section 301" authority previously required the President's signature. Now it does not.

The Trade Representative is now required to identify foreign trade practices whose elimination will most likely increase American exports. He must identify specific barriers to foreign trade in foreign countries. Once he does so, machinery is set in motion under Section 301 of the Trade Act—now amended—of 1974. This machinery proceeds in a most relentless manner. Either the offending country must reform within a specified time period or sanctions will be imposed upon certain of its goods. The Trade Representative will, himself, determine and announce what the nature of those sanctions will be. Meanwhile, he is required to report regularly and directly to Congress on the position of all his negotiations with foreign powers.

The President may, of course, object to some finding or another of the Trade Representative. But he is outside the loop, and his interventions may well be ignored by a Trade Representative answering directly to the Congress on a routine basis and by statutory command. In January, newly appointed Trade Representative Carla Hills announced that she will open foreign markets "with a crowbar or a handshake." The new trade act gives her a mighty instrument with which to work. But it also limits her discretion—and still more the President's—in how it is used. All this became clear when the list of offending nations was delivered in late May, fulfilling the chief requirement of the Trade Act. Concessions and intensive negotiations had earned Taiwan and South Korea omission from the list. Japan, India, and Brazil, however, were named among the top offenders. Selection of these two Asian nations was particularly awkward given the fact that both governments were shortly to face elections. Timing like this made vehement reactions inevitable.

Conservative estimates hold that protectionism costs every family in America, every year that they live, $1,000. The clothes they buy, and the food they eat, are now more expensive than would be true in a system of free trade. Basic necessities, consumed in equal quantities by the rich and the poor, are now heavily taxed in a manner invisible and indirect. And the taxation is growing.

Ultimately, the protection debate is just one part of the debate about how we ourselves are to be governed. The institutions with which we are blessed were established to be impartial among individuals who are prone, as our Founders knew, to act out of interest and passion. The separation of powers in our government was built to discourage this tendency in the people and to prevent it from seizing control of policy.

As that feature of our institutions breaks down, we find a political danger developing of the first magnitude. Our allies can now see that a fever has developed among us. Our representatives confront them with demands for concessions that mean little in the large scheme of things. But in the maelstrom of Washington politics, the groups that demand these concessions dominate.

The most serious lesson is the one learned by our own people. They look at government as a place to make a deal. In the process, class and interest politics are inflamed, and the credit of our national institutions sinks low. Everywhere the politics of avarice is spread. Everywhere industry is hampered. Everywhere the moral is discredited that he who works the hardest reaps the most. How to correct this larger problem will remain our generation's most serious challenge.

IN HONOR OF REVEREND FATHER ANTHONY KANAVOS

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 27, 1989

Mr. VISCLOSKY. Mr. Speaker, on Saturday evening, November 4, 1989, the parishioners and friends of Saint George Greek Orthodox Church will gather in Schererville, IN to honor Reverend Father Anthony Kanavos, who is retiring after more than 40 years of distinguished service to his church and community.

Born on May 12, 1923 to Theodosios and Erasmia Kanavos, Father Kanavos spent his early years in Lowell, MA. In 1942, he entered the Holy Cross Theological School and began his religious studies. Shortly after his graduation from Holy Cross in 1947, he married Diane Zaramboukas. Today, they are blessed with three children and four grandchildren.

In October 1947, Father Kanavos was ordained first as a deacon and then as a priest of the Greek Orthodox Church. He came to Saint George Greek Orthodox Church of East Chicago, IN in 1948. Reverend Father Anthony Kanavos has remained at Saint George Church for the past 41 years dedicating himself to building a strong foundation for the church and its congregation. He has shared with his congregation in times of sadness as well as such joyous occasions of birth, baptism, and marriage.

In his retirement, Father Kanavos will devote many of his energies not only to his family, but also to his fondest wish and project—building a new Saint George Church. Due to his commitment, I am confident that he will achieve his goal.

Mr. Speaker, on behalf of his parish, friends, and neighbors in northwest Indiana, I wish to offer my warmest congratulations to Reverend Father Anthony Kanavos on the occasion of his retirement, as well as sincere thanks for a job well done.

LOCAL EFFORTS MOUNTED TO EASE THE PLIGHT OF THE HOMELESS

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Friday, October 27, 1989

Mr. MAZZOLI. Mr. Speaker, one of the most pressing issues facing our Nation today is the heartrending plight of the homeless.

Earlier this month, many thousands came to Washington—including several hundred from my hometown of Louisville, KY—to participate in the Housing Now! march in behalf of the homeless.

I am pleased by the efforts mounted in my community to deal with homeless individuals and families. These efforts have largely been successful.

I particularly call attention to the work done by Sue Speed, executive director for Louisville and Jefferson County's Coalition for the Homeless, by Candy Olmstead of the Housing Authority of Louisville, and by Alex Brodrick, president of the Volunteers of America in Louisville.

I was fortunate to have met with these folks and others from Louisville and Kentucky here for the march. We discussed pending housing bills, and I look forward to working with them in the weeks and months ahead to pass effective Federal housing legislation.

I believe that by coordinating Federal efforts and resources with State and local initiatives—such as those which have proved to helpful in Kentucky and other areas—we will be able to provide the homeless with the assistance they so desperately need and deserve.

NEW YORKERS STRUGGLE TO OVERCOME RACIAL POLITICS

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, October 27, 1989

Mr. STOKES. Mr. Speaker, I am sure that most of my colleagues have been following the mayoral race in New York City with great interest. I am also sure that the will agree that this race has been an embittered struggle between the Democratic candidate, David Dinkins, and the Republican nominee, Rudolph Giuliani. Robert C. Maynard, publisher of the Oakland Tribune, recently commented on the racial politics that have contaminated the mayoral race in New York City.

Mr. Speaker, Mr. Maynard's commentary entitled, "New Yorkers Struggle To Overcome Racial Politics," appeared in the Cleveland Plain Dealer on October 7, 1989. Mr. Maynard briefly chronicles the most recent incidence of racial tension between the two camps in New York and the effects of this tension on the city and the mayoral race.

Mr. Speaker, I urge all of my colleagues to read this enlightening commentary on one of the most riveting mayoral races in recent years.

[From the Plain Dealer, Oct. 7, 1989]

NEW YORKERS STRUGGLE TO OVERCOME RACIAL POLITICS

(By Robert C. Maynard)

In the waning days of overtly racial politics in the Deep South, a losing candidate for governor explained his loss. His opponent, he said, "just out-egged me." By that, he meant that his own appeal had been insufficiently virulent in segregationist rhetoric.

At that time, a generation ago, New Yorkers read such stories and clucked their tongues in derision. Those people in the South, New Yorkers told themselves—they just don't know how to live. An appeal to race over reason was not the New York style.

Edward I. Koch came on the scene in the middle of the last decade. The chemistry of New York politics took a nasty turn. New Yorkers elected Koch mayor in 1977. For the first time, a resident of Gracie Mansion became a symbol of racial politics. His abrasive approach to sensitive subjects heightened tensions between the African-American and Jewish-American communities.

After 12 years, the Democratic Party ousted Koch in the primary last month. They nominated David Dinkins. If the voters choose Dinkins on Nov. 7, he will be the first black mayor of New York. Ordinarily, the Democratic nomination is tantamount to election in a city where Democrats outnumber Republicans 5-to-1.

This is no ordinary election year for New York. The Republican nominee, Rudolph Giuliani, is a well-financed, popular former federal prosecutor. He busted Ivan Boesky and began the undoing of Michael Milken. That gives him cachet in a town that loves to give the raspberry to the rich.

Untested in electoral politics, Giuliani had important post-primary tasks. New Yorkers expected him to define his concept of New York, its future and the job of mayor. Instead, he brought in Roger Ailes and the team that gave you Willie Horton in the Bush presidential campaign.

In a matter of days, Giuliani had New York embroiled in a new round of racial politics. This time it was against the backdrop of a killing. A white gunman shot a black youth in the Bensonhurst section of Brooklyn.

Jackie Mason tells ethnic jokes of dubious taste and humor for a living. He became Giuliani's "ambassador" to the Jewish community. Mason immediately tossed a five-gallon can of kerosene on the smoldering embers of racial tension. He called Dinkins a name in Yiddish that has derogatory connotations. He gratuitously sought to link Dinkins to the most extreme of Jesse Jackson's positions on the Middle East. He said Jewish voters supported black candidates out of guilt.

Meanwhile, over at Guiliani campaign headquarters, Ailes and company busily placed ads in Jewish newspapers. In Yiddish, the ads challenged Jewish voters to "choose your own destiny." How? Look at the pictures. There were two. One showed Giuliani in earnest consultation with Bush. The other showed Dinkins receiving an election-night bear hug from Jackson.

The Jewish community was neither charmed nor amused. Rabbis and other leaders stepped forward to denounce the Giuliani campaign as intolerable. Mayor Koch, after whom Giuliani surely modeled his methods, joined the chorus of condemnation of Giuliani's tactics.

Giuliani committed one of the worst political miscalculations in recent municipal political history. He assumed he could build on Koch's residue of alienation. He tried to out-Koch Koch. More than 20 years after those tactics died in their birthplace in the Deep South, Giuliani did not resurrect them in the North.

Barring some extraordinary development in the next three weeks, David Dinkins will win on Nov. 7. In no small way, he will have Ed Koch and Rudolph Giuliani to thank.

Between them, they gave New York a strong dose of racial politics. That forced the voters to take a stand against intolerance. When Giuliani set out to out-Koch Koch, he forgot that the voters had just rejected Koch. By that act alone, he proved he is not smart enough to govern New York City.