HOUSE OF REPRESENTATIVES—*Thursday, February 22, 1990*

The House met at 11 a.m. and was called to order by the Speaker pro tempore [Mr. GEPHARDT].

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
February 22, 1990.

I hereby designate the Honorable RICHARD A. GEPHARDT to act as Speaker pro tempore today.

THOMAS S. FOLEY,
Speaker of the House of Representatives.

PRAYER

The Reverend Anthony Miciunas, St. Peter Church, Kenosha, WI, offered the following prayer:

Almighty God, You have given rise to an array of nations, instilling in peoples hearts an unquenchable thirst for freedom, peace, and justice.

Look graciously upon the plight of Lithuania, now carrying the heavy cross of an unjust and illegal occupation, perpetrated by force and deceit.

Although a small nation, Lithuania's gifted and hard-working people have proven themselves capable of successfully controlling their own destiny in the family of nations.

Give the Lithuanian people strength to bear their heavy trials, especially since their hopes for independence have been rekindled recently by a promising turn of events.

Almighty God, bless all those who are giving of their time and resources, to regain Lithuania's independence. Give eternal rest to those who have died for the cause of freedom. May their sacrifices and death not be in vain. Amen.

THE JOURNAL

The SPEAKER pro tempore. 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 pro tempore. The Chair now recognizes the gentleman from Kentucky [Mr. HUBBARD] to lead the Members in the Pledge of Allegiance.

Mr. HUBBARD 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.

CONGRESSMAN ANNUNZIO WELCOMES FATHER ANTHONY MICIUNAS

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

Mr. ANNUNZIO. Mr. Speaker, it is a genuine pleasure for me to welcome to our Nation's Capitol Father Anthony Miciunas, pastor of St. Peter Church in Kenosha, WI, who offered the opening prayer.

Father Miciunas was born in Oglesby, IL, on October 8, 1915, and has devoted his life in service to his church. He attended elementary school at St. George's and Immaculate Conception grade schools in Chicago, and attended high school at Marian Hills High School in Clarendon Hills, IL. From 1935 through 1941, he completed his seminary studies at Marian Hill Seminary, and was ordained to the priesthood on May 26, 1940.

Dedicated to affairs in the Lithuanian community, Father Miciunas served as business manager for the Lithuanian daily newspaper, Draugas, in Chicago from 1944 through 1952. He has faithfully served as the superior of the Marian Fathers Monastery from 1944 through 1952, from 1957 through 1967, and from 1969 through 1972. He was a consultant at the Marian Fathers World Headquarters in Rome from 1963 through 1969.

Father Miciunas also served as pastor of St. Casimir's Church, in Worcester, MA, from 1972 through 1987. He was pastor of St. Peter Catholic Church in Kenosha from 1952 through 1957, 1960 through 1963 and since October 1, 1987.

I want to express my genuine thanks to Father Miciunas for being with us today, and to wish him continuing success in his dedicated work to the church and to the Lithuanian community.

THE USED OIL RECYCLING ACT

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

Mr. BALLENGER. Madam Speaker, during the Washington Day program sponsored by the Truck Renting and Leasing Association, I met with several board members and my constituent and friend, Mr. Tony Pope, president of Catawba Transportation in Claremont, NC.

We had the opportunity to trade ideas and discuss many issues under consideration by the Congress. One issue of mutual concern is legislation being considered by the House Committee on Energy and Commerce, the Used Oil Recycling Act of 1989. The bill encourages proper handling and recycling of used oil and prohibits the Administrator of the Environmental Protection Agency [EPA] from listing used oil as a hazardous waste.

Like Mr. Pope of Claremont, many of my constituents back in North Carolina are interested in a safe, clean, environmentally sound solution to managing used oil.

Generators of used oil vary from large companies to the individual who changes the oil in his or her own automobile. The truck renting and leasing segment generates well over 6 million gallons of used oil on an annual basis.

The Used Oil Recycling Act manifests the intention of the Congress, and I support its passage.

THE HARD WALK TO FREEDOM IN SOUTH AFRICA HAS BEEN SHORTENED BY ONLY A FEW STEPS

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

Mr. KENNEDY. Madam Speaker, no one can deny that the recent steps taken by President de Klerk mark a significant change in Nationalist Party policy in South Africa. The unconditional release of Nelson Mandela and the unconditional call for negotiations with the ANC and other political organizations are steps that South Africa-watchers could hardly have envisioned just a few weeks ago.

However, I simply cannot agree with our administration when it tells us that the South African Government "has gone a long way toward normalizing the political process in South Africa."

When close to 85 percent of the population, because of the color of their skin, cannot vote, cannot peaceably assemble without fear of tear gassing, cannot speak freely, when thousands of political prisoners remain imprisoned or in exile, when the police and military are still allowed to roam townships like predatory animals, maiming and imprisoning innocents

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virtually unchecked, and when black citizens are denied the basic human rights to live and to work where they choose, one can only conclude that the hard walk to freedom in South Africa has been shortened by only a few small steps.

President de Klerk is, in Mr. Mandela's words, "a man of integrity." But no one seriously denies that it is the prospect of economic collapse, not simply goodwill, that brings Mr. de Klerk to the bargaining table with the unvanquished victims of his Government's policies.

But our administration forgets this simple truth when it invites Mr. de Klerk to tea at the Oval Office and grumbles about the very sanctions that contribute to the changes we witness today.

The President would do well to read the lips of apartheid's opponents, both in South Africa and here at home: "Keep the heat on until the day of democracy is at hand."

□ 1110

CONGRESS MADE SANCTIONS HAPPEN

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

Mr. WISE. Madam Speaker, yesterday this body celebrated with Czechoslovakian President Havel the emergence from oppression to democracy for his nation.

So in another part of the world the Congress should recognize another victory and its part in it. I refer to South Africa and the release of Nelson Mandela after decades of imprisonment. For it was on this floor, several years ago, that the issue of debating sanctions for South Africa came up. "No sanctions" was the argument by the White House "because it will cut off communication with South Africa's leaders. Don't impose sanctions," we were told, "because the white government in South Africa will only become intransigent." Finally, "sanctions will only hurt those you are trying to help," we were told.

However, the Congress held firm, backed by black leaders in South Africa who reminded Members, "Yes, sanctions hurt, but apartheid kills."

Today, Mandela is free, the first fledgling attempts at negotiations have begun. This happened, in part, because the United States took a firm stand against apartheid and oppression, despite a Presidential veto of that legislation.

A good lesson for this administration. Congress made sanctions happen, and sanctions helped free Mandela. There are times to stand strong.

INTENSIFYING SOUTH AFRICAN SANCTIONS

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

Mr. STOKES. Madam Speaker, I rise today to express the joy experienced by my congressional district over the release of Nelson Mandela. After 27 years, Nelson Mandela has finally walked out of prison. Yet, it is a tragedy that although released from prison, Nelson Mandela is still not free.

The Government of South Africa has recently acknowledged that the policies of apartheid were illegal and unjust from the very beginning, and that the apparatus of apartheid must be dismantled and destroyed forever. However, this revelation on the part of the Government does not spring from any profound change of heart, but rather from the pressure brought to bear on the Government and the business owners in South Africa by international economic sanctions.

The United States played a significant role in bringing pressure to bear on the racist regime in South Africa by virtue of the comprehensive Anti-Apartheid Act of 1986, imposing a number of economic sanctions against South Africa. The Comprehensive Anti-Apartheid Act was the result of congressional initiative, and was passed into law over President Reagan's veto.

This is not the time to relax the sanctions, while the laws prohibiting blacks from voting or owning property are still in force. The sanctions must be intensified until the entire apparatus of apartheid is destroyed forever. Then, and only then, can relaxation of the economic sanctions be considered.

In closing, Madam Speaker, I would like to quote the words of Nelson Mandela upon his release from prison, and at his trial in 1964:

> I have fought against white domination, and I have fought against black domination. I have cherished the ideal of a democratic and free society in which all persons live together in harmony and with equal opportunity. It is an ideal which I hope to live for and to achieve. But, if need be, it is an ideal for which I am prepared to die.

We have stood with you, Mr. Mandela, through your years of imprisonment, and we stand with you today, on the threshold of a new South Africa, where all men and women will be treated with equality and justice.

RELEASE OF NELSON MANDELA

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

Mr. PALLONE. Madam Speaker, the past few months have witnessed a remarkable trend toward democracy and human rights in areas of the world where these values have been lacking, or nonexistent. Only yesterday, this Chamber was honored by the visit of Vaclav Havel, once a jailed dissident and now a national leader. His appearance here gives us hope that regimes that rule without the consent of the governed will be rejected, and that those who speak out for human rights will ultimately be rewarded.

Before too much time goes by, I hope we can have the privilege of welcoming Mr. Nelson Mandela to speak before Congress. But, unlike Mr. Havel, Mr. Mandela is not really a free man. He is still not treated like a full citizen in his own country. He still does not have the right to seek elected office. Indeed, he doesn't even have the right to vote. Yes, it was a wonderful sight to see Mr. Mandela making his first public appearance in over a quarter of a century on global television. But his release should not be seen as an end in its self, but rather the beginning of a long road to democracy and freedom for all South Africans.

Madam Speaker, the lesson that Mr. Mandela's release teaches us about American policy is that our economic sanctions worked. I believe that we have a moral responsibility to use our country's strong economic leverage to put pressure on regimes that ignore and abuse the rights of their own people. The changes that are beginning to take root in South Africa show that economic sanctions are not only morally correct, but also politically effective.

CONTINUE ECONOMIC SANCTIONS

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

Mr. FAZIO. Madam Speaker, all of us are pleased by the recent release of Nelson Mandela. But as much as the President hopes, and would like us to believe, this does not signal the end of apartheid in South Africa or the normalization of relations with the de Klerk government.

I was one of many members who struggled with the decision of imposing economic sanctions—I ultimately supported the sanctions, but I did so with great uncertainty that they would have any profound effect on the South African Government. Congress overrode the President's veto on imposing sanctions and now, as a result, we have a leader, like de Klerk, who takes a great political risk and frees Nelson Mandela.

The struggle in South Africa is by no means over. The President cannot just celebrate Mandela's release and pat de Klerk on the back—this is a first step at best toward ending apartheid. Until the President can embrace Mandela's democratic agenda, the United States will not have done all that it can to continue the pressure on the South African Government to end apartheid. The freeing of Nelson Mandela is a first step on a long path for the South African Government—until Mandela has the freedom to travel where he wants, live where he chooses and has the right to vote, he is not truly free. United States economic sanctions should remain in place until all South Africans are truly free. The Democratic Congress should lead once again.

CONSTITUTIONAL AMENDMENT TO PROTECT FLAG

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

Mr. HUBBARD. Madam Speaker, shortly after midnight on October 28 last year, the day the 1989 Flag Protection Act went into effect, four individuals who enjoy burning the American flag removed a flag from a flagpole at a Seattle, WA, Post Office. Then, of course, they were thrilled to burn the American flag.

Yesterday, in the first Federal court ruling on the Flag Protection Act of 1989, U.S. District Judge Barbara Rothstein of Seattle ruled the law we passed last year is unconstitutional.

David Cole of New York, the lawyer representing the flag burners, said yesterday: "I think it's wonderful * * * people must be as free to burn the flag as they are to wave it."

I can assure these Seattle flag burners that if they would go and live in Tehran, Iran, I know Kentucky constituents of mine who will buy them one-way airline tickets to Tehran.

Those of us who were insisting last year that we need a constitutional amendment to ban malicious flag burning by those who live here but hate the United States will now double our efforts for a constitutional amendment.

Question: Is burning down a post office, a Federal building, even the U.S. Capitol, an expression of free speech protected under the first amendment of our U.S. Constitution?

The Federal judge in Seattle ruled yesterday: "Burning the flag as an expression of political dissent does not jeopardize the freedom we hold dear." The great majority of my constituents would disagree with the Federal judge. We need a constitutional amendment to ban malicious flag burning.

The SPEAKER pro tempore (Mrs. UNSOELD). The Chair desires to caution those in the gallery not to express their approval or disapproval with remarks made on the floor.

INTRODUCING LEGISLATION IN SUPPORT OF GIFTED CENTERS IN GUAM AND AMERICAN SAMOA

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

Mr. FALEOMAVAEGA. Madam Speaker, today I am introducing an amendment to section 1, title XV, of the Higher Education Act of 1986, to establish a gifted and talented program targeted to the unique needs of gifted and talented elementary and secondary school students of the territories of American Samoa and Guam.

During the 99th Congress, the House of Representatives passed the Gifted and Talented Children's and Youth Education Act of 1986, which proposed a Federal "capacity building" effort to identify and educate gifted and talented children and youth. The measure was not acted upon by the Senate.

In the 100th Congress, grants for special demonstration programs targeted to the unique needs of native American Indian and native Hawaiian gifted and talented elementary school students were authorized in the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988, Public Law 100-297.

The bill I am introducing today would grant opportunities to gifted and talented elementary and secondary students in the territories of American Samoa and Guam. With special programs in education that also address the cultural and historical backgrounds of these students, it will be a means to the realization and development of their potential. As gifted individuals, they embody a valuable untapped resource. Without these programs, a wealth of talent may go undiscovered. This measure will provide a special focus on the truly unique needs of the gifted and talented students of our Pacific territories.

Madam Speaker, I submit the text of the bill to be printed in the RECORD.

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. Title XV of the Higher Education Amendments of 1986 (20 U.S.C. 4401 et seq.) is amended by—

(1) redesignating part C as part D;

(2) redesignating section 1531 as section 1541; and

(3) inserting the following new part C after part B:

"PART C—GIFTED AND TALENTED PROGRAM FOR NATIVE SAMOANS AND PEOPLE OF GUAM

"SEC. 1531. SHORT TITLE.

"This part may be cited as the 'Pacific Island Gifted and Talented Program Act of 1989'.

"SEC. 1532. FINDINGS.

"The Congress finds and declares that—

"(1) there is a need to legislate special programs for displaced indigenous groups such as the Native Americans and the Native Hawaiians;

"(2) the Federal Government retains the legal responsibility to support the education of Native Samoans and the People of Guam;

"(3) the Congress has the power to legislate special laws for the benefit of Native Samoans and the People of Guam;

"(4) Native Samoan students and students of Guam score below national norms on standardized education achievement tests and are disproportionately represented in many negative social and physical statistics; and

"(5) special efforts in education recognizing the unique cultural and historical circumstances of Native Samoans and the People of Guam are required.

"SEC. 1533. STATEMENT OF PURPOSE.

"The purposes of this part are to—

"(1) recognize the similar roles Native Americans, Native Hawaiians, Native Samoans, and the People of Guam have played in the history and development of the United States;

"(2) authorize and develop a supplemental educational program to benefit Native Samoans and the People of Guam;

"(3) develop creative programs targeted toward Samoan families and families of Guam in the United States; and

"(4) develop cultural experiences which will provide cultural growth.

"SEC. 1534. PROGRAM AUTHORIZED.

"(a) IN GENERAL.—The Secretary shall provide grants to, or enter into contracts with, the American Samoa Government and the Government of Guam to—

"(1) establish on each of those islands a Gifted and Talented Program; and

"(2) design projects that—

"(A) address the special needs of Native Samoan elementary and secondary school students and students of Guam who are gifted and talented students, including, but not limited to, nutritional education problems, and problems regarding the knowledge of available community resources;

"(B) provide such support services to familes as are necessary to enable students to benefit from the project,

"(C) develop creative programs targeted toward Native Samoan families and families of Guam in the United States,

"(D) provide cultural experiences which will facilitate cultural growth, and

"(E) provide grants or contracts for scholarship or fellowship assistance for undergraduate and graduate Native Samoan and students of Guam enrolled in accredited institutions of higher education in the United States;

"(b) SCHOLARSHIPS AND FELLOWSHIPS.—Scholarships and fellowships received pursuant to subsection (a)(2)(E) shall be awarded on the basis of the student's academic record and financial need. Such scholarships and fellowships shall be subject to the recipient's satisfactory academic performance during the period financial assistance is received.

"SEC. 1535. USE OF FUNDS.

"Funds provided under this part may be used to—

"(1) identify the special needs of gifted and talented students, particularly at the elementary school level, with special consideration given to—

"(A) the emotional and psychosocial needs of such students, and

"(B) the provision of such support services to families as are necessary to enable such students to benefit from the projects;

"(2) make grants, or enter into contracts, for scholarship or fellowship assistance for undergraduate and graduate Native Samoan students and students of Guam enrolled in, or accepted for admission to, accredited institutions of higher education in the United States;

"(3) appropriate research and evaluation of the activities authorized by this part; and

"(4) Implement faculty development programs for the improvement and matriculation of Native Samoan students and students of Guam.

"SEC. 1536. ADMINISTRATIVE COSTS.

"Not more than 7 percent of the amount of funds appropriated to carry out the provisions of this part in any fiscal year may be used for administrative costs.

"SEC. 1537. DEFINITIONS.

"For purposes of this part—

"(1) The term 'Native Samoan' means an individual who is a citizen or national of the United States, and is a descendant of the indigenous people, who, prior to 1900, occupied and exercised sovereignty in the area which now comprises the Territory of American Samoa, as evidenced by—

"(A) written genealogical records;

"(B) public birth records; or

"(C) other public records on file with the archivist or High Court of American Samoa.

"(2) The term 'people of Guam' means individuals who are citizens or nationals of the United States and are descendants of the indigenous people who, prior to 1900, permanently resided in Guam, or other areas in Asia or the Pacific, as evidenced by—

"(A) written genealogical records;

"(B) public birth records; or

"(C) other public records on file with the archivist or Superior Court of Guam.

"SEC. 1538. AUTHORIZATION OR APPROPRIATIONS.

"There are authorized to be appropriated to carry out this part $2,000,000 for each of the fiscal years 1990, 1991, 1992, and 1993. Such sums shall remain available until expended.".

□ 1220

PROPOSAL FOR A WHITE HOUSE CONFERENCE ON SOLID WASTE REDUCTION

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

Mr. MAZZOLI. Madam Speaker, I hope I do not offend my colleagues here in the House when I say this, but unless America's garbage and waste problem is brought directly into the White House and placed right upon the President's desk, America will never have a coherent and coordinated policy to deal with solid waste disposal and the reduction of the solid waste stream.

Let me explain what I mean by this statement. Solid waste is a national problem, and it is a local problem in Louisville and Jefferson County. I have spent a lot of time talking with Mayor Jerry Abramson and Deputy Mayor Joan Riehm and to Rudolph Davidson, who is the head of our Solid Waste Management Department.

All of this concern around the country has given spawn to a spate of meetings and seminars on what to do with solid waste, but that only adds to the incoherence and lack of coordination.

I have introduced legislation today to ask the President to call a White House conference on solid waste reduction and solid waste disposal in order that we might have a safer and cleaner America in the future. I hope that my colleagues will join me in this necessary effort.

SECOND THOUGHTS ABOUT BLANKET SUPPORT FOR THE PHILIPPINES

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

Mr. RICHARDSON. Madam Speaker, I have always been a supporter of people power, I have been an admirer of President Aquino, I have hoped like many that democracy will succeed in the Philippines, but now I am having second thoughts about the Philippine Government. I was offended at the snubbing of the Secretary of Defense.

Why was that? Because instead of the United States providing $500 million, we provided $450 million.

The Philippines gets 95 percent more assistance than any other country in the world from United States foreign policy interests. It is important that we keep this relationship in perspective. It is an important relationship, but pettiness and childishness should not be the staple.

Madam Speaker, I am having second thoughts about blank-check voting for everything the Philippines wants, because I think if we are going to remain in the Philippines with our bases—and I think we should, and I hope we will—it should be in a situation where we are wanted. If the Filipinos do not want us, we should go elsewhere—to Singapore, to Guam, or maybe, under changing security objectives, have a different realignment in the Pacific. But we do not need this important relationship to be childish or to be governed by petty politics, and I regret President Aquino's action.

DAKOTA CIGARETTES TERMED "AN OUTRAGE"

(Mr. DORGAN of North Dakota asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. DORGAN of North Dakota. Madam Speaker, the disclosure yesterday of a confidential memo by a cigarette company is an outrage. The company is apparently proposing to market a cigarette called "Dakota" targeted at so-called blue-collar white women.

What a grotesque misuse of the name "Dakota." Dakota represents clean air, open spaces, and healthy living. Apparently, some cigarette companies want to use that name, "Dakota," to sell cigarettes to blue-collar white women who, as I understand it from their literature, "Like to go to tractor pulls."

I do not care if people choose to smoke, that is their business, but I say to cigarette companies, "Don't desecrate the word Dakota with the tar of tobacco aimed at our American women, a segment of our population that is experiencing a dramatic increase in the rate of cancer."

I say to them, "If you are looking for a new name for cigarettes, you should call them 'Danger,' 'Danger Plus,' 'Danger Lights,' or 'Danger Menthol.' You can find plenty of names, but don't desecrate the name Dakota."

Madam Speaker, I would say to these companies, "Don't disserve the meaning of the word Dakota to those of us who live there."

H.R. 4003, SEPARATION PAY FOR MILITARY PERSONNEL

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

Mr. SLATTERY. Madam Speaker, according to the Department of Defense, 91,000 American troops will be released from the armed services by the end of fiscal year 1991. Currently, military officers who are honorably discharged receive up to $30,000 in separation pay. Enlisted troops receive no compensation when they are released from the military services.

I have introduced H.R. 4003 to end this inequity and to ensure that American troops who have honorably served their country will receive adequate compensation as they adjust to civilian life.

H.R. 4003 will provide some financial security to dedicated servicemembers who have served their country with distinction, but have been denied reenlistment or have been involuntarily discharged in an effort to meet budgetary constraints.

This year, as we scrutinize future trends in defense spending and reductions in our conventional force structure, I urge my colleagues to make separation pay a top priority and I encourage the Defense Department to work with Congress to enact H.R. 4003 into law.

SOUTH AFRICA

(Mr. PAYNE of New Jersey asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. PAYNE of New Jersey. Madam Speaker, as Americans we rejoice in solidarity with the black majority in South Africa. The release of Nelson Mandela marks a time when freedom may triumph over oppression, when the walls of racial segregation in South Africa, like the walls of communism in Eastern Europe, may be razed to their very foundation.

In response, President Bush has recently invited Mr. Mandela and Mr. F.W. de Klerk to Washington to discuss the future of South African-United States relations. He has taken much credit for the United States part in prompting change. But it should be remembered that it was Congress which overrode President Reagan's veto of the 1986 antiapartheid bill, and Mr. Bush who supported the veto. The American people cried out for action, and it was Congress that went to work to address their appeal, not the executive branch.

I applaud the first steps made by Mr. de Klerk to prompt reconciliation in his country, but much remains to be done. The state of emergency has been maintained. Most of the political prisoners are still in jail; even though Nelson Mandela and 7 other political prisoners have been released, 1,800 still remain in jail. Troops are posted within black villages and townships, and all the laws which fundamentally support the apartheid regime are steadfastly defended by the government.

I question the wisdom of an invitation to Mr. F.W. de Klerk at the present time, but I would love to see Mr. Mandela address the joint Houses here.

The United States, as the leader of the free world, must continue to exert pressure on the South African Government to bring about substantive changes which have been so long overdue. As a member of the Committee on Foreign Affairs, the Members can be assured that I will continue to work toward this goal.

ELATION OVER MANDELA'S RELEASE TEMPERED BY CAUTION

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

Mr. OWENS of New York. Madam Speaker, all over the world, particularly in South Africa, people are celebrating the recent release of antiapartheid leader Nelson Mandela after 27 years in South African prisons. I share their elation, but I also share Mandela's caution, and that of his organization, the African National Congress.

There are some world leaders who would like to use Mandela's release as an excuse to resume trade, business, and aid with South Africa. British Prime Minister Margaret Thatcher has already lifted sanctions, and to my dismay, the Bush administration has indicated that it would like to lift sanctions and has invited South African State President F.W. de Klerk to the United States for an official visit.

The release of Mandela and other long-held political prisoners who belonged to the African National Congress and other antiapartheid activist organizations is indeed a giant step forward, but it is only a step. As Jesse Jackson has observed, Mandela was released from a small prison to a larger one—the whole of South Africa. As a nominally free man, Mandela still cannot vote, hold office, own land, live anywhere in his country he wishes, or do anything that would be considered a violation of the national state of emergency, which is still in force. The United States imposition of economic sanctions on South Africa was the decisive factor in the apartheid regime's releasing of Mandela and a handful of other political prisoners—money talks, and the sanctions were taking their toll on South Africa's economy.

The Anti-Apartheid Act of 1986 set the terms under which United States sanctions may be lifted, including the unbanning of all organizations, full political involvement for the African majority, repeal of the Group Areas Act and the Population Registration Act, an end to the state of emergency, and good faith negotiations between the South African Government and representative groups. We should demand that all of these concessions be met before the Bush administration lifts the sanctions.

□ 1130

EXTRAORDINARY EVENTS OF 1990

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

Mr. HOYER. Madam Speaker, I rise to join my colleagues who have observed 1990's first extraordinary event. During 1989 there were many such extraordinary events, and yesterday in this Chamber Vaclav Havel, the poet-philosopher-playwright-President of Czechoslovakia spoke eloquently about human rights and the extension of those rights which he said had in many ways germinated in the Bill of Human Rights, as he referred to the Bill of Rights of the United States Constitution, from the United States itself.

Madam Speaker, just over a week ago, a tall, dignified 71-year-old man walked out of the gates of prison for the first time since the time of John F. Kennedy. Nelson Mandela's release was a moment of tremendous drama and excitement as all of those in America, who spent many years fighting for his rights and the rights of his fellow men and women in South Africa, saw the first of our hopes fulfilled.

Madam Speaker, much remains to be done before South Africa is a pluralistic democratic state, an objective all of us should want to see and do want to see. Nelson Mandela, like Vaclav Havel, is a symbol for the hopes of the world. Let us continue the pressure until all in South Africa are free.

FLYAWAY ROBBERY

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Madam Speaker, we have heard about highway robbery. Today in the Armed Services Committee we heard about flyaway robbery. The Government Accounting Office testified today we will have to spend $48 billion on the B-2 aircraft before we will know if it works. Of course that is only if current estimates hold.

If $48 billion being spent before knowing whether the B-2 works is not flyaway robbery, I've never seen it. I hope taxpayers rebel. I think they'd rather have that $48 billion locked up in the Social Security trust fund where it belongs rather than gambled on glitzy new toys we do not need that may not work.

FARMERS FACING HIGHER COSTS OF PRODUCTION AND LOWER PRICES

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

Mr. JONTZ. Madam Speaker, no part of our Nation's budget has absorbed more cuts than farm programs in the past 3 years. Yet, Secretary of Agriculture Clayton Yeutter came before the House Agriculture Committee earlier this week to defend even further cuts—$1.5 billion in commodity programs for the coming year alone—with the admonition that our Nation just cannot afford existing expenditures.

What the Secretary should understand, but doesn't seem very sensitive to, is that farmers are facing higher costs of production and lower prices.

The big corporate operations may survive, but what about the average family farmer who is increasingly caught in this price squeeze?

Madam Speaker, we have billions more in the budget again this year for the B-2, star wars, and the M-X. Why

is it that our Nation can afford these expensive weapons, but cannot afford even the modest cost of farm programs which help our producers deliver food and fiber to the American consumer at the lowest cost anywhere in the world?

VACATION OF SPECIAL ORDER AND INSTITUTION OF NEW SPECIAL ORDER

Mr. DORGAN of North Dakota. Madam Speaker, I ask unanimous consent to vacate my 60-minute special order for today and insert instead a 5-minute special order.

The SPEAKER pro tempore (Mrs. UNSOELD). Is there objection to the request of the gentleman from North Dakota?

There was no objection.

CURRENT LEVEL OF SPENDING AND REVENUES FOR FISCAL YEAR 1990

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

Mr. PANETTA. Madam Speaker, on behalf of the Committee on the Budget and as chairman of the Committee on the Budget, pursuant to the procedures of the Committee on the Budget and section 311 of the Congressional Budget Act of 1974, as amended, I am submitting for printing in the CONGRESSIONAL RECORD the official letter to the Speaker advising him of the current level of spending, credit, and revenues for fiscal year 1990. This is the first report of the second session of the 101st Congress.

The term "current level" refers to the estimated amount of budget authority, outlays, credit authority, and revenues that are available—or will be used—for the full fiscal year in question based only on enacted law.

Current level reports are intended to provide Members information to compare enacted spending and revenues with the aggregate ceilings on budget authority, outlays, and revenues established in a budget resolution, and also to compare enacted legislation with the allocations of new discretionary budget authority, entitlement authority, and credit authority made to a committee pursuant to subsection 302(a) of the Budget Act. This report compares the spending, credit, and revenue levels in current level with those assumed in the budget resolution for fiscal year 1990—House Concurrent Resolution 106—adopted on May 18, 1989.

Current level reports provide information that is necessary for enforcing section 311 of the Budget Act. Section 311(a) prohibits the consideration of a spending or revenue measure if the adoption of that measure would cause the ceiling on total new budget authority or total outlays set in the budget resolution for a fiscal year to be exceeded or would cause revenues to be less than the appropriate level of revenues set forth in the budget resolution.

Section 311(b) provides an exception to the 311(a) point of order for measures that would breach the ceilings on total spending set forth in the budget resolution but would not cause a committee to exceed its appropriate allocation of discretionary spending made pursuant to section 302(a) of the Budget Act. Such an exception was first provided by the budget resolution for fiscal year 1985—House Concurrent Resolution 280, 98th Congress. The exception was made permanent by the amendments to the Budget Act included in the Balanced Budget and Emergency Deficit Control Act of 1985 (P.L. 99-177, Gramm-Rudman-Hollings). This exception is intended to protect a committee that has stayed within its allocation of discretionary budget authority and new entitlement authority from points of order if the total spending ceilings have been breached for reasons outside of its control. For fiscal year 1990, the 302(a) allocations to House committees made pursuant to the conference report on House Concurrent Resolution 106 were printed in House Report 101-50, May 18, 1989.

Section 311(c) of the Budget Act provides that, for purposes of enforcing section 311, the levels of new budget authority, entitlement authority, outlays, and revenues shall be determined on the basis of estimates made by the Committee on the Budget. Current level reports represent partial fulfillment of this enforcement responsibility of the Budget Committee by providing both estimates of enacted aggregate spending and revenues, and, for purposes of determining the applicability of the section 311(b) exception, estimates of the relationship between the budgetary effect of enacted legislation within a committee's jurisdiction, and the allocation of spending authority made to that committee.

The estimates in this report are based on economic and technical assumptions in place at the time of the adoption of the budget resolution, House Concurrent Resolution 106, on May 18, 1989. This is intended to protect committees which acted on the basis of the assumptions of the budget resolution from changes in economic and technical factors over which they have no control. Unless the Congress adopts a subsequent budget resolution for a fiscal year that alters the assumptions concerning legislative actions, committees should be able to expect that measures that conform with the budget resolution will not be subject to points of order for violation of the Budget Act. To do otherwise and base enforcement on constantly changing economic and technical estimates would seriously disrupt the legislative process, penalize committees that are unable to complete work on legislation within a short period after adoption of a budget resolution, and undermine respect for budget enforcement procedures.

In addition to section 311, the Budget Act contains another point of order that requires Budget Committee estimates for enforcement. Section 302(f)(1) of the Budget Act prohibits the consideration of a measure providing new budget authority, new entitlement authority, or new credit authority if the adoption of that measure would cause a committee to exceed its allocation of new spending or credit authority made pursuant to subsection 302(b) of the Budget Act. The 302(b) allocation is a subdivision of the new spending, new entitlement, and new credit authority allocated to a committee pursuant to section 302(a), among either the subcommittees of that committee or among programs over which the committee has jurisdiction. This point of order was added to the Budget Act by the amendments included in the Balanced Budget and Emergency Deficit Control Act of 1985.

Section 302(g) provides that the enforcement of section 302 shall be based on estimates of spending and credit authority made by the Committee on the Budget. The Budget Committee fulfills this responsibility by providing, as necessary, a separate section 302 status report to the Speaker.

For information purposes only, current level reports will continue to include a comparison of the budget and credit authority divided among the Appropriations subcommittees by that committee's 302(b) division with the actual enacted spending and credit legislation within each subcommittee's jurisdiction.

As chairman of the Budget Committee, I intend to keep the House informed regularly on the status of the current level.

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE BUDGET,
Washington, DC, February 22, 1990.

Hon. THOMAS S. FOLEY,
Speaker, U.S. House of Representatives, Washington, DC.

DEAR MR. SPEAKER: On January 30, 1976, the Committee on the Budget outlined the procedure which it had adopted in connection with its responsibilities under Section 311 of the Congressional Budget Act of 1974, as amended, to provide estimates of the current level of revenues and spending.

I am herewith transmitting the status report under H. Con. Res. 106, the Concurrent Resolution on the Budget for Fiscal Year 1990.

In the House of Representatives, the procedural situation with regard to the spending ceilings (total new budget authority and total outlays) and the revenue floor is affected by Section 311 of the Congressional Budget Act of 1974, as amended by P.L. 99-177. Section 311(a) prohibits the consideration of a spending or revenue measure which would cause the ceiling on total new budget authority or total outlays set in the budget resolution for a fiscal year to be exceeded or would cause total revenues to be less than the appropriate level set in the budget resolution. Section 311(b) provides an exception to the 311(a) point of order for measures which would breach the ceilings on total spending in the budget resolution but would not cause a committee to exceed its "appropriate allocation" of new discretionary budget authority or new entitlement authority under Section 302(a) of the Budget Act.

The intent of Section 311(b) of the Budget Act is to protect a committee that has stayed within its spending authority allocations—new discretionary budget authority or new entitlement authority—from points of order if the total spending ceilings have been breached for reasons outside of its control. The 302(a) allocations to House committees made pursuant to the conference report on H. Con. Res. 106 were printed in the joint explanatory statement of the Committee of Conference in H. Rept. 101-50. (May 15, 1989).

The enclosed tables compare legislation to each committee's 302(a) allocation of discre-

tionary budget authority, new entitlement authority, new direct loan obligations and new primary loan guarantee commitments. The estimates of spending and revenues for purposes of the application of points of order under the Budget Act are based upon the economic and technical assumptions underlying the fiscal year 1990 budget resolution, H. Con. Res. 106.

Sincerely,

LEON E. PANETTA,
Chairman.

REPORT TO THE SPEAKER OF THE U.S. HOUSE OF REPRESENTATIVES FROM THE COMMITTEE ON THE BUDGET ON THE STATUS OF THE FISCAL YEAR 1990 CONGRESSIONAL BUDGET, ADOPTED IN HOUSE CONCURRENT RESOLUTION 106

REFLECTING COMPLETED ACTION AS OF FEB. 21, 1990

[In millions of dollars]

	Budget authority	Outlays	Revenues
Appropriate level	1,329,400	1,165,200	1,065,500
Current level	1,326,993	1,171,407	1,060,266
Amount under ceilings	2,407		
Amount over ceilings		6,207	
Amount under floor			5,234
Amount over floor			

BUDGET AUTHORITY

Any measure which provides budget or entitlement authority and which is not included in the current level estimate and that exceeds $2,407 million in budget authority for fiscal year 1990, if adopted and enacted, would cause the appropriate level of budget authority for that year as set forth in H. Con. Res. 106 to be exceeded.

OUTLAYS

Any measure which provides budget or entitlement authority that increases outlays and which is not included in the current level estimate for fiscal year 1990, if adopted and enacted, would cause the appropriate level of outlays for that year as set forth in H. Con. Res. 106 to be exceeded.

REVENUES

Any measure that would result in a revenue loss which is not included in the current level revenue estimate for fiscal year 1990, if adopted and enacted, would cause revenues to be less than the appropriate level for that year as set forth in H. Con. Res. 106.

FISCAL YEAR 1990 BUDGET AUTHORITY—COMPARISON OF CURRENT LEVEL AND BUDGET RESOLUTION ALLOCATION BY COMMITTEE PURSUANT TO SECTION 302

[In millions of dollars]

	Current level budget authority
House committee:	
Agriculture	+604
Appropriations [1]	+1,746
Armed Services	+177
Banking, Finance, and Urban Affairs	+3,491
District of Columbia	
Education and Labor	
Energy and Commerce	+331
Foreign Affairs	
Government Operations	
House Administration	+4
Interior and Insular Affairs	+205
Judiciary	
Merchant Marine and Fisheries	+200
Post Office and Civil Service	−330
Public Works and Transportation	
Science and Technology	
Small Business	
Veterans' Affairs	
Ways and Means	−7,695
Unassigned (Sequestration)	−4,288

[1] See next table for detail.

Note.—Committees are over (+) or under (−) their 302(a) allocation for "discretionary action."

FISCAL YEAR 1990 HOUSE APPROPRIATIONS COMMITTEE DISCRETIONARY ACTION—COMPARISON OF CURRENT LEVEL AND BUDGET RESOLUTION SUBDIVISIONS OF THE HOUSE APPROPRIATIONS COMMITTEE PURSUANT TO SEC. 302

[In millions of dollars]

	Current level budget authority	Direct loans	Primary loan guarantees
House appropriations subcommittee:			
Commerce, State, Justice	−45	−32	+806
Defense	−141		
District of Columbia	−2		
Energy and Water	−38		
Foreign Operations		−31	+1,959
Interior			
Labor, HHS, Education	−1,384		
Legislative Branch	−54		
Military Construction			
Rural Development and Agriculture		−71	
Transportation	+2,113	−3	
Treasury, Postal Service	+202		
VA/HUD/Independent Agencies	+1,095		
Total	+1,746	−137	−2,765

Note.—Subcommittees are over (+) or under (−) their 302(b) subdivisions for "discretionary action."

FISCAL YEAR 1990 ALLOCATION OF NEW ENTITLEMENT AUTHORITY [NEA] PURSUANT TO SECTION 302

[In millions of dollars]

Committee	Allocation	Reported [1]	Enacted [2]	Enacted over (+) under (−) allocation
Agriculture	−600	−1,740	−86	+514
Appropriations		−1,676	+1,676	+1,676
Armed Services		+1,953	+2,060	+2,060
Banking, Finance and Urban Affairs	+399	+1,000	+2,000	+1,601
Education and Labor	+15	−24	−25	−40
Energy and Commerce	+200	+256	+151	−49
Interior and Insular Affairs		+205	+205	+205
Post Office and Civil Service	−550	−700	−745	−195
Veterans' Affairs	+457	+453	+458	+1
Ways and Means	−2,700	−4,278	−4,800	−2,100

[1] These figures are used for 401(b)(2) of the Budget Act.
[2] These figures are used for 302(f) points of order.

Note.—The figures for the Armed Services and Appropriations Committees represent the full costs of the January 3.6 percent pay raise for Federal military and civilian personnel respectively. The pay raise was assumed in the budget resolution, but New Entitlement Authority [NEA] was not allocated to any committee because the budget resolution assumed that the pay raise would be achieved through administrative action.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, February 22, 1990.

Hon. LEON E. PANETTA,
Chairman, Committee on the Budget, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: Pursuant to section 308(b) and in aid of section 311 of the Congressional Budget Act, as amended, this letter and supporting detail provide an up-to-date tabulation of the current levels of new budget authority, estimated outlays, estimated revenues, and direct and guaranteed loan levels in comparison with the appropriate levels for those items contained in the 1990 Concurrent Resolution on the Budget (H. Con. Res. 106). This report, for fiscal year 1990, is tabulated as of close of business February 21, 1990 and includes final action of the 101st Congress, First Session. There has been no legislation enacted in the Second Session. A summary of this tabulation follows:

[In millions of dollars]

	Current level	Budget resolution H. Con. Res. 106	Current level +/− resolution
Budget authority	1,326,993	1,329,400	−2,407
Outlays	1,171,407	1,165,200	6,207
Revenues	1,060,266	1,065,500	−5,234
Direct loan obligations	19,088	19,300	−212
Guaranteed loan commitments	114,701	107,300	7,401

Sincerely,

ROBERT D. REISCHAUER,
Director.

PARLIAMENTARIAN STATUS REPORT, 101ST CONG., 2D SESS., HOUSE SUPPORTING DETAIL, FISCAL YEAR 1990 AS OF CLOSE OF BUSINESS FEB. 21, 1990

[In millions of dollars]

	Budget authority	Outlays	Revenues
I. Enacted in previous sessions:			
Revenues			1,059,700
Permanent appropriations and trust funds	937,469	772,111	
Other appropriations		214,199	
Offsetting receipts	−193,106	−193,106	
Total enacted in previous sessions	744,363	793,205	1,059,700
II. Enacted 1st Session:			
Adjust purchase price for certain dairy products (Public Law 101-7)		−25	
Implementation of the Bipartisan Accord on Central America (Public Law 101-14)	13	7	
Dire emergency and urgent supplemental appropriations (Public Law 101-45)	−21	802	
Apex project, Nevada Land and Water Transfer Act (Public Law 101-67)	−2	−2	
Financial Institutions Reform, Recovery and Enforcement Act (Public Law 101-73)	2,200	1,400	594
Allow planting of alternative crops on permitted acreage (Public Law 101-81)	−10	−10	
Disaster Assistance Act of 1989 (Public Law 101-82)	502	504	
Sec. 107: Disaster relief and emergency assistance (Public Law 101-100)		443	
Energy and water development appropriations (Public Law 101-101)	18,625	11,254	
Performance Management and Recognition Systems Reauthorization Act (Public Law 101-103)		−125	
Extension of certain veterans programs (Public Law 101-110)	(1)	(1)	
Interior appropriations (Public Law 101-121)	11,018	7,352	
Sec. 108: Emergency supplemental to meet the needs of natural disasters (Public Law 101-130)	2,850	1,067	
Disaster Assistance Act (Public Law 101-134)	9	9	
Treasury-Postal Service appropriations (Public Law 101-136)	18,395	16,268	500
Offsetting receipts	−5,212	−5,212	
Defense Production Act extension (Public Law 101-137)	−3	−190	
Statutory debt limit increase (Public Law 101-140)			−157
Veterans, HUD appropriations (Public Law 101-144)	66,788	38,679	
Child Nutrition and WIC Reauthorization Act (Public Law 101-147)	(1)	(1)	
Military construction appropriations (Public Law 101-148)	8,490	3,095	
Rural development-Agriculture appropriations (Public Law 101-161)	39,487	27,043	
Commerce-Justice-State appropriations (Public Law 101-162)	16,939	13,080	
Offsetting receipts	−169	−169	
Legislative appropriations (Public Law 101-163)	1,947	1,747	
Transportation appropriations (Public Law 101-164)	15,040	11,287	
Defense appropriations (Public Law 101-165)	286,025	176,533	

PARLIAMENTARIAN STATUS REPORT, 101ST CONG., 2D SESS., HOUSE SUPPORTING DETAIL, FISCAL YEAR 1990 AS OF CLOSE OF BUSINESS FEB. 21, 1990—Continued

[In millions of dollars]

	Budget authority	Outlays	Revenues
Labor-HHS appropriations (Public Law 101-166)	139,060	115,767	
Offsetting receipts	-36,563	-36,563	
Foreign Operations appropriations (Public Law 101-167)	14,082	3,977	
Offsetting receipts	-40	-40	
District of Columbia appropriations (Public Law 101-168)	533	533	
National Defense Authorization Act (Public Law 101-189)	-1	-27	
Social services block grant supplemental (Public Law 101-198)	100	100	
Palau Compact of Free Association Implementation Act (Public Law 101-219)	205	194	
Technical changes in agricultural programs (Public Law 101-220)	10	-8	
Medicare Catastrophic Coverage Repeal Act (Public Law 101-234)	-5,718	-1,579	-5,849
Department of HUD Reform Act (Public Law 101-235)		14	
Veterans' Benefits Amendments of 1989 (Public Law 101-237)		-129	
Omnibus Budget Reconciliation Act of 1989 (Public Law 101-239)	-11,290	-9,817	5,478
Total enacted 1st Session	583,287	377,258	566
Enacted 2d Session			
III. Continuing resolution authority			
IV. Conference agreements ratified by both Houses			
V. Entitlement authority and other mandatory adjustments required to conform with current law estimates in budget resolution:			
Salaries of judges	-2	5	
Payment to judicial officers' retirement fund	-4	-4	
Judicial survivors' annuities fund	-3	-3	
Fees and expenses of witnesses	-2		
Justice assistance	-4		
Fisherman's guaranty fund	1	1	
Administration of territories	-1		
Firefighting adjustments	-624	-192	
Federal unemployment benefits [FUBA]	5		
Advances to unemployment trust fund	(48)	(48)	
Special benefits	-24		
Black lung disability trust fund	52	32	
Vaccine improvement program trust fund	7	7	
Federal payment to railroad retirement	1	1	
Retirement pay and medical benefits	-4		
Supplemental security income	263	263	
Special benefits, disabled coal miners	21		
Grants to States for Medicaid	-907		
Payments to health care trust funds	(325)	(325)	
Family support payments to States	84	84	
Payments to States for AFDC work programs	15	15	
Payments to States for foster care	-83		
Health professions student loan insurance fund	-25	-7	
Guaranteed student loans	-175		
College housing and academic facilities loans	-3	-3	
Rehabilitation services	-79		
Payments to widows and heirs	(2)	(2)	
Reimbursement to the rural electrification fund	111	111	
Dairy Indemnity Program	(2)	(2)	
Conservation Reserve Program	720		
Special Milk Program	-2		
Food Stamp Programs	-800		
Child Nutrition Programs	-74		
Federal Crop insurance corporation fund	(2)		
Agriculture credit insurance fund	342		
Rural housing insurance fund	(2)		
Rural communication development fund	(2)		
Payments to the farm credit system financial assistance corporation	-2		
Coast Guard retired pay	-17		
Payment to civil service retirement	(84)	(84)	

PARLIAMENTARIAN STATUS REPORT, 101ST CONG., 2D SESS., HOUSE SUPPORTING DETAIL, FISCAL YEAR 1990 AS OF CLOSE OF BUSINESS FEB. 21, 1990—Continued

[In millions of dollars]

	Budget authority	Outlays	Revenues
Government payments for annuitants	-3	-2	
Readjustment benefits	-62		
Compensation	448	398	
Pensions	-62		
Burial benefits	-4		
Loan guaranty revolving fund	238	238	
Total entitlement authority	-657	945	
Total current level as of February 21, 1990	1,326,993	1,171,407	1,060,226
1990 budget resolution H. Con. Res. 106	1,329,400	1,165,200	1,065,500
Amount remaining:			
Over budget resolution		6,207	
Under budget resolution	2,407		5,234

[1] The extension of certain veterans programs (Public Law 101-110) decreases the current law estimate for the loan guaranty revolving fund shown in category V; the Child Nutrition and WIC Reauthorization Act (Public Law 101-147) increases the current law estimate for child nutrition programs and is included in the amounts shown in category II for Rural Development-Agriculture appropriations (Public Law 101-161).

[2] Less than $500,000.

Notes.—Numbers may not add due to rounding. Amounts shown in parenthesis are interfund transactions that do not add to totals.

OUR FARM BELT HAS BEEN HIT BY A NEUTRON BOMB

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

Mr. DORGAN of North Dakota. Madam Speaker, last week I was in many communities in North Dakota holding farm forums, visiting with farmers to talk about the new farm bill that is going to be written by this Congress. It was interesting to contrast what was learned in the Farm Belt from farmers to what President Bush said just in the last week. Madam Speaker, he said the country's economy is in excellent health. Well, it might be all right for 16 or 20 states in the country because there are some coastal states that are doing fine. Things are great in Hollywood, things are great on Wall Street, and some of the coastal areas are experiencing economic growth, but for the vast part of the middle of America, they are in a deep abiding, lengthy recession capped with 2 years of drought. Things are not fine for farmers.

Madam Speaker, farmers are going broke in record numbers all across the Farm Belt. It is almost as if a neutron bomb had been dropped on some small towns on the Great Plains. The buildings are still there, but the people are gone.

Take a look at the main streets, and do a circle on the main street of almost any small community in the Dakotas, and then ask yoursef, "Is this town living or dying?" The answer is. "The town isn't doing well at all. Low farm prices, and a cock-eyed farm policy by an administration that believes our economic future is found in lower prices, has almost bankrupted rural America."

Madam Speaker, the Agriculture Secretary says, "We want more of the same. This is working just fine."

In fact, Madam Speaker, I have heard Members of Congress say, "The 1985 farm bill is near perfect."

Are they blind? Lower farm prices are not the answer to rural America's economic future.

Some people say, "Well, if we had a little better farm prices, it might mean the price of bread would double."

Madam Speaker, that is crazy. Out of the price of a loaf of bread, farmers get less than the heel. They get less than the price of a wrapper on a box of rice crispies or corn flakes. The flakers are making money, the puffers are making money. The farmer gets the heel.

Now the question is, When are we going to put together a policy that gives farmers at least the cost of production? Anything below the cost of production means farmers are losing money and are going broke.

Madam Speaker, this country has a cheap food policy, and we have had an administration for nearly a decade that believes it ought to be even cheaper. The administration says, "Let's build all the bombers in the world. We want B-2's. We want to start our next Mars exploration next year." Just planning the Mars project is a wonderful $200 million tab next year. Five billion dollars for B-2 bombers. A billion dollars on top of already nearly $4 billion for star wars."

Madam Speaker, these people just are not thinking, and then they say to the productive side of the country, the people who are producing real new wealth, "Well, we can't afford a farm program. We need to cut that back further below the cost of production."

□ 1140

This country is awash in speculation and greed, promoted by administrations that apparently think it is wonderful. Junk bonds are collapsing. Investment firms are going broke in an era of excess and avarice and greed, and the people in this country who produce the real new wealth, most notably those in the farm belt, are not able to make a living because somehow the mentality around here, particularly in the administration, particularly in the Department of Agriculture, is that we must pursue a Nirvana called "International Free Trade" with lower prices for farmers.

It does not make any sense. There never has been free trade in agriculture. There never will be free trade in agriculture. There certainly is not now.

What we need, it seems to me, is to put together a farm plan that says that we can afford decent target

prices, decent support prices for the output of the family farm.

We need a national policy that says that we are going to promote the development and the maintenance of a network of family farms in this country's future. If we do not do that, this country is headed for deep trouble.

It does not make much sense for us to support somebody who milks 3,500 cows every morning. They do that, and we do support their milk, and it does not make sense to me. It does not make sense to support somebody who wants to farm three counties. I do not care about the fortunes of somebody who wants to farm three counties. But it does make sense to say to those family farmers who cannot make it over the depressions of international price movements that we are going to give you a bridge. We are going to give you some support, at least something above the cost of production, because we care whether you survive or perish.

This country's foodstuffs represent the best quality foodstuffs at the lowest percent of disposal income of any country in the world. That fortunate situation will not remain if 2,000 corporate farmers farm all of America. They will grip that supply like an iron fist, and the price of food will skyrocket. We will retain a cheap and high-quality supply of food if we start caring a little about the network of family farms who produce America's food for the rest of the country.

Polls show that most American people support an action by Congress that says it is important to have a network of farms in our future, a network of family farms.

We in Congress had better get to work and resist the efforts of the administration (a) to negotiate away our farm program in Geneva, and (b) to further drive down farm prices. Those efforts are roads to nowhere. We ought to divert a little money from B-2's and trips to Mars in space and star wars and give it to people who make a real difference in this country's economic future, the family farmers.

THE 72D ANNIVERSARY OF LITHUANIAN INDEPENDENCE DAY

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

GENERAL LEAVE

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

The SPEAKER pro tempore (Mrs. UNSOELD). Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. ANNUNZIO. Madam Speaker, it is a genuine honor for me to reserve this special order to commemorate the 72d anniversary of Lithuanian Independence Day.

Today we are all witnessing monumental changes sweeping across Eastern Europe, the Baltic States, and the Soviet Union. Each day brings some new report of further steps being taken toward freedom and self-determination. The people of Lithuania have been at the forefront of these efforts to institute reforms and establish democracies. Lithuania's fearless efforts have served as an inspiring example to other nations striving to establish independent states—free from the tyranny of the Soviet Union.

It is important that we in Congress continue to show our support and our encouragement for the courageous people of Lithuania in this struggle, and I want to take this opportunity to thank my colleagues in the House of Representatives, who are joining with me today not only in commemorating Lithuanian Independence Day, but also in showing our support for the Lithuanian people in their quest for freedom.

Seventy-two years ago, at the end of World War I, on February 16, 1918, the Lithuanian people regained their independence, and began to rebuild their country from the devastation of war. Sadly, only a few years later, the country faced the oppression of Stalin's rule, and the occupation of the Nazis. Yet, the desire for freedom in an independent Lithuania never wavered.

During the last several months, extraordinary events have taken place in Lithuania. On August 23, 1989, on the 50th anniversary of the signing of the Molotov-Ribbentrop Pact, which illegally annexed the Baltic States to the Soviet Union, 220 delegates of the Lithuanian Restructuring Movement, known as "Sajudis," met to condemn this pact, and to call for the independence of the Lithuanian State. At this point in the RECORD, I would like to share with my colleagues this declaration, and a copy of this statement follows:

"SAJUDIS" PARLIAMENT STATEMENT ON INDEPENDENCE

A statement of the Parliament of the Lithuanian Restructuring Movement:

To the nations of the world, the government of states, and all people of good will.

This year marks the fiftieth anniversary of the signing of the Soviet-German treaty and secret protocols on the delineation of spheres of influence in Europe that caused the beginning of World War II. Although many countries do not recognize the occupation and annexation of Lithuania and the other Baltic states, the consequences of those agreements have not been eliminated and still determine the life of Lithuania and the other countries. The Soviet Union's occupation of Lithuania and the other countries by military and political force resulted in transformations that have erased Lithuania, a member of the League of Nations, from the political map of the world and brought the nation to the edge of catastrophe. Lithuania, however, has never reconciled itself to its illegal situation and has never abandoned its goal of reestablishing an independent state.

Having met on August 23 in Vilnius, the parliament of the Lithuanian Restructuring Movement declares the following:

(1) The secret agreements between the USSR and Germany, dated August 23, 1939, September 28, 1939, and January 10, 1941, and the documents authenticating them really did exist. This is confirmed by the course of political events and an analysis of historical sources.

(2) The ultimatum of the USSR government on June 14, 1940, to the government of the Lithuanian Republic and the stationing in the Lithuanian Republic of the unlimited military contingent were aggressive acts against a sovereign state, and they created the conditions for changing the Lithuanian government and for organizing elections to the so-called People's Diet of Lithuania, which adopted a declaration on Lithuania's entry into the USSR under conditions of political diktat and terror. The elections in 1940 to the People's Diet were illegal; its decisions about the introduction of Stalinist Soviet power in Lithuania and its request that Lithuania be admitted into the USSR have never had and do not have any legal status.

(3) The legal assessment of the treaties entrusted to a commission of the USSR Congress of People's Deputies has not yet been published, while the political [assessment] has been mentioned merely as a field for future activities. The governments of the USSR and [both] Germanies have so far neither condemned the agreement nor taken any concrete measures to eliminate its consequences and the [subsequent] aggression. The parliament of the Lithuanian Restructuring Movement believes that the nations and governments of the free world will not recognize the criminal effect of the Soviet-German Pact on Lithuanian sovereignty [and] invites the Lithuanian nation by unified peaceful means to reestablish an independent, democratic Republic of Lithuania not subordinate to the administrative system or jurisdiction of the USSR. Lithuania's relations with the USSR should be based on the basic provisions of the Peace Treaty of July 12, 1920.

(4) The present status of Lithuania in the world community and in the Soviet Union poses a serious international problem. The day is near when the government of the USSR will have to acknowledge the occupied status of Lithuania and the necessity of ending that status. At the present time, the presence of an army of occupation in Lithuania restricts the rights of the people to decide freely what sort of social and political future they desire. More than 1,400,000 people in Lithuania have signed statements expressing their opposition to the presence of this army.

In January, 300,000 Lithuanians peacefully gathered in Vilnius Cathedral Square, during General Secretary Gorbachev's visit, to demonstrate their overwhelming support for a free and independent Lithuania, and on February 24, an election will be held in Lithuania. This morning, however, I received disturbing news. The House of Representatives has sent four Mem-

bers of Congress to observe these elections: Congressman DURBIN of Illinois, Congressman JOHN MILLER of Washington, Congressman BILL SARPALIUS of Texas, and Congressman CHRISTOPHER COX of California. Currently these Congressmen are sitting in Berlin, because the Soviet Union has denied them visas to enter Lithuania.

It is my understanding that the President and the State Department, through diplomatic channels, have condemned this action by the Soviets, and the Congress of the United States is outraged and appalled that these Members of Congress are currently being denied access to the Lithuanian election process. I originally, cosponsored legislation to express the sense of Congress in insuring the freedom and fairness of this election, and a copy of this current resolution follows, along with a copy of the most recent press release from the Lithuanian-American Community, Inc., concerning the situation of these four Members of Congress:

U.S. CONGRESSMEN ARRIVE IN WEST BERLIN EN ROUTE TO LITHUANIA-U.S.S.R. SUPREME SOVIET DECISION CALLED "FINAL"

The Lithuanian-American Community, Inc. reports, that a Congressional delegation, led by Congressman Dick Durbin (D-IL), travelling on a fact-finding tour to Lithuania, has arrived in West Berlin as of 5:00 this morning. The congressmen were met in Frankfurt earlier today by officials of the U.S. Consulate there, and were told that the Soviet Foreign Ministry's denial of their visa requests to Lithuania was "final".

According to a source at the U.S. Frankfurt Consulate, a final demarche has been made by U.S. Ambassador Matlock in Moscow to the Soviet Foreign Ministry on behalf of the Congressional delegation. In response to Ambassador Matlock's request that an earlier Soviet decision to deny the congressmen their visas be reversed, the Soviet Foreign Ministry asserted that the initial denial delivered by the USSR Embassy in Washington, D.C. was "authoritative and reflected the views of the [USSR] Supreme Soviet." The Soviet officials in Moscow ended their message by claiming they had "nothing more to add to the decision", which they considered to be "final".

The other three Members of Congress travelling with Mr. Durbin are Christopher Cox (R-CA), William Sarpalius (D-TX) and John Miller (R-WA). The delegation has decided to continue to West Berlin, where they will remain through tonight.

The Congressional delegation departed Washington's Dulles Airport yesterday evening, hoping that the earlier Soviet decision would be reversed through the efforts of President Bush and Ambassador Matlock.

In an earlier telephone discussion with Dr. Vytautas Landsbergis, the leader of "Sajudis", the Lithuanian Reform Movement, which had invited the congressmen to Lithuania, the LAC, Inc. learned that Sajudis has issued an official complaint to the Supreme Soviet of the USSR, in which the decision to deny the visas to the congressmen is denounced as a "product of old thinking."

After this morning's terse statement from the Soviet Foreign Ministry, it appears that the delegation's journey may end in West Berlin. Sajudis, however, has pledged to continue initiatives to grant the congressmen passage into Lithuania.

Parliamentarians from Canada have been successful in reaching Soviet-occupied Lithuania, arriving yesterday evening.

H. CON. RES. 257

Whereas the United States recognized the independent Lithuanian Government on July 27, 1922;

Whereas the United States has never recognized Lithuania's incorporation into the Soviet Union on August 3, 1940;

Whereas throughout a fifty-year history, bipartisan efforts in Congress and consistent expressions in international forums have reflected the unchanging United States position of non-recognition of the Soviet incorporation of Lithuania;

Whereas the continued occupation of Lithuania by the Soviet Union stands in a contradiction of the ideals of freedom, democracy, and self-determination for which the peoples of Lithuania and the United States both stand;

Whereas the Helsinki Final Act of 1975 has spurred the growth of resistance to the continued nondemocractic rule of the Soviet Union in Lithuania;

Whereas a decade ago, in House Concurrent Resolution 200, the Congress restated its position in favor of the independence of Lithuania;

Whereas the United States delegation expressed its concerns about Lithuania at the Madrid conference reviewing implementation of the Helsinki accords in 1980;

Whereas on June 14, 1982, the President signed a proclamation of "Baltic Freedom Day" in response to Senate Joint Resolution 201, adopted by the Congress that year;

Whereas on July 28, 1982, one hundred Members of Congress signed a letter to then-Soviet leader Brezhnev demanding the restoration of Lithuania's independence;

Whereas on January 6, 1983, House Joint Resolution 60 directed the President to issue a proclamation designating February 16, 1983, as "Lithuanian Independence Day";

Whereas the Soviet constitution recognizes the right of secession for all Soviet Republics, including Lithuania;

Whereas on May 18, 1989, the Lithuanian Supreme Soviet adopted constitutional changes granting Lithuania the right to veto Soviet laws, and establishing Lithuanian citizenship and Lithuanian control over all its territory and resources;

Whereas the Lithuanian Supreme Soviet has declared Lithuania's annexation by the Soviet Union in 1940 illegal;

Whereas as a result of this illegal annexation and occupation, Lithuania today experiences acute political, economic, and environmental problems; and

Whereas on February 24, 1990, elections will be held in Lithuania: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That—

(1) It is the sense of the Congress that the right of self-determination be restored to the people of Lithuania through free and fair elections conducted under the auspices of an international commission comprised of observers from the democratic countries of the world.

(2) It is the sense of Congress that the withdrawal of all non-Lithuanian military forces and political, administrative, and police personnel from Lithuania, prior to the February 24, 1990, scheduled elections, will enhance the prospects that the elections will be free and fair.

(3) The Secretary of State is requested and authorized to send a copy of this concurrent resolution to the President of the Union of Soviet Socialist Republics, and to the Chargé d'Affaires of the Lithuanian Legation to the United States.

Madam Speaker, the current crisis notwithstanding, this is certainly a time of great hope for all Lithuanians and all freedom-loving people throughout the world, as restrictions are being relaxed in Soviet-occupied Lithuania. One of the most desired books in Lithuania is the history of Lithuania written in 1936 by Adolfas Sapoka. This book was reprinted in Chicago in 1988, and subsequently, was smuggled into Lithuania. Today, this book is no longer banned and has been reprinted in several local newspapers. In January, the first independent radio station operating without censors or government funds began radio broadcasts out of the press building in Vilnius.

However, the ultimate goal of all Lithuanians is the creation of a free and independent state totally removed from the yoke to tyranny of the Soviets. An article written by the President of Sajudis, which appeared in the February 19 edition of the Washington Times, entitled "Withdrawal is the Word in Lithuania," best sums up the sentiments of the Lithuanian people, and a copy of this article follows:

[From the Washington Times, Feb. 19, 1990]

WITHDRAWAL IS THE WORD IN LITHUANIA

(By Vytautas Landsbergis)

VILNIUS, LITHUANIA.—Determined to make this goal of independence known to visiting Soviet leader Mikhail Gorbachev, 300,000 Lithuanians—a number equivalent to those deported to Siberia by the Soviet Union after 1940 under a program of homogenization—gathered in Vilnius Cathedral Square last month for a peaceful candlelight vigil. They came there for one reason: to demonstrate their support for the re-establishment of an independent Lithuanian nation-state.

Sadly, the West tends to color the goals of the Lithuanian people in Moscow's terms. Lithuanians speak, for example, of freedom and independence. The West calls our democratic movement nationalist and separatist, as does Moscow.

But, the average Lithuanian asks, how can we secede from a union we never joined and never sought to join? Lithuania was an independent country that was occupied by a morally offensive and discredited diplomatic arrangement, the Nazi-Soviet pact of August 1939. This event hardly legitimizes Lithuania's present condition and doesn't justify Moscow's insistence that the Soviet Union should determine Lithuania's political future.

Is a new secession law that Mr. Gorbachev plans to offer the republics the answer to a Soviet "disunion"? We think not. We fear it will be another bad law in the typical Soviet tradition—a generic solution to a very specific problem: an unnatural and illegitimate union.

Lithuania's case for independence is significantly stronger than the cases of many other Soviet republics. A "divorce" law would not apply to the Baltic states because of their forceable incorporation into the Soviet Union in 1940. Many Western powers have never recognized that illegal incorporation.

Attesting to the sound historical argument for Baltic independence, French President Francois Mitterrand noted after visiting Mr. Gorbachev in Kiev late last year that "necessary distinctions" must be made among "the different republics of the Soviet Union," some of which had a national existence in the past, but a very distant past for a good number of them. It is much less distant—Josef Stalin's time—for the Baltic countries.

It is our view that we have a right to determine our national destiny, and we want to do so by non-violent political means. We want to directly negotiate with Moscow, a process that has already begun, albeit with Mr. Gorbachev as a reluctant partner—and that in itself is an encouraging sign.

In its vision of the new-and-improved Soviet Union, the nation's regime advocates a "federation" instead of a "union," appealing to American principles of federal sovereignty: federal law as the supreme law of the land.

Some compare Mr. Gorbachev's struggle to save the Soviet empire to Abraham Lincoln's fight against secessionism. The big difference is that Lithuania is not trying to preserve slavery, it is trying to escape it. It is not seeking to establish independence, it is working to restore it. It is not calling for secession but for the withdrawal of an illegitimate military and political force.

National feeling runs strong and deep in Lithuania these days. For centuries, our land has been dominated by grasping neighbors. Before the Soviets, it was the czars or Poland or Germany. But rapid developments around us—in Eastern Europe and in the Soviet Union—have considerably improved the propects for our independence.

Now we see our chance to regain independent statehood. It is imperative for our cultural, economic and political survival.

On Feb. 7, the Lithuanian parliament approved a resolution declaring Lithuania's 1940 annexation by the Soviet Union "unlawful and invalid." Elections scheduled for Feb. 24 for a Lithuanian parliament will bring in new blood, even more determined to negotiate with Moscow on independence.

The Sajudis, a coalition of opposition parties, is participating in these elections under the slogan "For a reborn Lithuania—independence; for an independent Lithuania—democracy; for a democratic Lithuania—a humane life. Democracy, independence and prosperity—inseparable."

For the first time since the Soviet annexation, candidates from newly legalized opposition parties—the Social Democrats, the Democratic Party, the Green Party, the Christian Democrats—will run for election under the Sajudis banner. While Moscow has just begun discusing the concept of a multiparty system in the Soviet Union, in Lithuania it is already a reality.

Last March, Sajudis swept Lithuanian elections to the Soviet Congress of Peoples Deputies, carrying 36 of a total of 42 districts. We expect to win the Feb. 24 elections as well, though this electoral campaign promises to be more competitive because of the Lithuanian Communist Party's sudden rise in popularity.

To recover a measure of its authority, which has sagged under pressure from Sajudis, the Lithuanian Communist Party underwent a face lift, defiantly declaring its independence from the mother party in Moscow and adopting a political platform barely paying homage to socialist doctrine.

The Sajudis political platform differs from the Communist Party's in that it advocates complete political independence and normal, diplomatic relations with Moscow on an equal footing, whereas the party leadership still speaks of Lithuanian sovereignty "within the U.S.S.R." Sajudis advocates a break with Moscow in the near future, whereas the party calls for a protracted transition period.

The Sajudis program embraces a free-market economy, a separation of legislative, executive and judicial powers in government, free trade unions and private farming. Among Sajudis' most salient political priorities are Lithuanian-Soviet bilateral negotiations over the conditions and time frame for the withdrawal of Soviet troops from Lithuania; the creation of a nuclear-free zone in the Baltic states; and the expeditious removal of nuclear weapons from Lithuanian territory. Under our program, neutrality would be the keystone of Lithuanian foreign policy.

Sajudis maintains that any action by Soviet military forces to obstruct and undermine the work of Lithuanian legislative and executive powers will be interpreted as another act of aggression, a continuation of what was begun in 1940. We hope that Western democracies will see it in their best interest to support this position.

Mr. Speaker, on this 72d anniversary of the independence of the Lithuanian state, I was glad to add my name as a cosponsor to House Joint resolution 149, legislation to designate February 16, 1990, as "Lithuanian Independence Day." This bill was approved by the full House of Representatives and the Senate, and signed by President George Bush into public law. Accordingly, the President has issued a proclamation to commemorate this anniversary, and a copy of the proclamation follows:

LITHUANIAN INDEPENDENCE DAY, 1990

The birth of a nation is a momentous event that inscribes a people's name forever in the annals of history, motivating and inspiring those who live under its banner and ideals. Seventy-two years ago, on February 16, 1918, the people of Lithuania realized their long-denied dream of independence. The free Republic of Lithuania prospered until the tragic events of 1940—when Soviet troops invaded and occupied the country as a result of the infamous Molotov-Ribbentrop Pact signed just 1 year before.

Lithuania's struggle for liberty, and that of its neighbors in Estonia and Latvia, served as an inspiration to many who saw the collapse of old empires as a harbinger of peace and freedom for Europe. Later, when these heartfelt aspirations were crushed by totalitarian aggression, freedom-loving men and women around the world were rightfully outraged.

The ongoing Baltic dilemma remains an unresolved legacy of the Stalin era. However, the democratic reawakening in Lithuania offers hope that popular aspirations for political, economic, and social justice will be realized.

The brave men and women of Lithuania began to pursue just and noble goals on the 16th of February, 1918. We reaffirm our support and admiration for the Lithuanian people as we recall the significance of that date today—the 72nd anniversary of Lithuanian independence.

In recognition of the aspirations of freedom-loving people in all nations, the Congress, by House Joint Resolution 149, has designated February 16, 1990, as "Lithuanian Independence Day" and has authorized and requested the President to issue a proclamation in observance of this day.

Now, therefore, I, George Bush, President of the United States of America, do hereby proclaim February 16, 1990, as Lithuanian Independence Day. I call upon the people of the United States to observe this day with appropriate ceremonies and activities in reaffirmation of their devotion to the principles of democracy and freedom throughout the world.

In withness whereof, I have hereunto set my hand this sixteenth day of February, in the year of our Lord nineteen hundred and ninety, and of the Independence of the United States of America the two hundred and fourteenth.

GEORGE BUSH.

Also, as a part of our commemoration of this 72d anniversary of Lithuanian Independence Day in the House of Representatives, the Lithuanian-American Council, Inc. of Chicago, IL, selected Father Anthony Miciunas to be the guest chaplain. The names of the officers of the Lithuanian-American Council follow:

Honorary President, Dr., Kazys Bobelis.

National President, Grozvydas J. Lazauskas.

First Vice President, Casimir Oksas.

Vice Presidents; Stanley Balzekas, Jr., Petras Buchas, Alexander J. Chaplik, Povilas P. Dargis, Vytautas P. Dargis, M.D., Saulius Kuprys, Esq., Viktoras Naudzius, Mykolas Pranevicius.

Secretary, Stasys Dubauskas.

Treasurer, Daina Danilevicius-Dumbrys.

Members: Irene D. Blinstrubas, Vanda Gasperas, Ramune Kelecius, Evelyn Ozelis, Birute Skorubskas, Morkus Simkus.

Council's Representatives in Washington, D.C., Jonas B. Genys, Ph.D.,—Director, Milda Vaivada, Alt.

Director of Information, Msgr. J. Prunskis, J.C.D.

Public Relations Director, Daiva Meile.

Trustees: Teodoras Blinstrubas, Algirdas Budreckis, Ph. D., Kostas Burba, Vytautas Yucius.

Honorary Members of the Board: Teodoras Blinstrubas, Steponas Bredes, Jr., Alena Devenis-Gricattis, Msgr. Joseph Prunskis, Antanas J. Rudis.

Mr. Speaker, on the occasion of this 72d anniversary of Lithuanian Indpendence Day, I am proud to join with Lithuanian-Americans in the 11th Congressional District of Illinois which I am honored to represent, and Americans of Lithuanian descent throughout our Nation, in their hopes and prayers that democratic reforms will continue until true and total freedom and independence in Lithuania has been restored.

Mr. Speaker, I yield to my distinguished colleague, the gentleman from Georgia [Mr. JONES], a great friend of the cause of Lithuania.

Mr. JONES of Georgia. Mr. Speaker, I thank the gentleman from Illinois for yielding to me and for taking out this special order.

I think it is ironic and coincidental that today, although it is not February 16, it is February 22, the birthday of George Washington, our great freedom fighter.

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I think, as we Americans reflect on the extraordinary events and unprecedented transitions sweeping Eastern Europe, it is imperative that independence for Lithuania and her Baltic neighbors be part of our national conscience.

We hear much about the remarkable revolutions in Poland, Hungary, Czechoslovakia, Rumania, and East Germany; they have broken free, and lovers of democracy everywhere should rejoice.

But that makes it doubly important to bring attention to Lithuanian Independence Day.

On February 16, 1918, Lithuania declared its independence, a proud strong nation of free people. But we cannot truly celebrate that anniversary until Lithuania is once again out from under the Soviet heel.

The cynical dealings of Hitler and Stalin enslaved the Baltic States in 1939, but there are positive signs that the courageous people of Lithuania may once again be free to choose their own destiny.

Economic autonomy and political pluralism may soon be a way of life, and with the full moral support of the American people and especially our American President, we may soon see real autonomy in a sovereign Lithuanian state.

There is good news today. In Vilnius, Lenin Avenue has been renamed Gediminas Avenue in honor of the founder the Lithuanian capital.

And July 21 Street, which commemorated the date Lithuania was forcibly annexed by the Soviets, has been renamed February 16 Street to honor the real Lithuanian Independence Day. Today we honor the modern Lithuanian heroes, who even as we speak, are demanding the most basic freedoms. I thank the distinguished gentleman for giving me the opportunity to speak on behalf of Atlanta's dynamic Lithuanian-American community. Perhaps next year we will be able to truly celebrate Lithuanian independence.

Mr. ANNUNZIO. Madam Speaker, I thank my distinguished colleague from Georgia for his very constructive and illuminating remarks, and like him, I pray that in the days ahead that the Lithuanian people, as we know from experience, are going to remain steadfast and are going to have freedom.

Mr. LAFALCE. Madam Speaker, at this time of historic transformation throughout Central and Eastern Europe, the commemoration the 72d anniversary of Lithuanian Independence Day is especially important. The Lithuanian people were among the first in Europe to take bold steps to reestablish their nation among the family of European democracies. Yet, as Soviet domination recedes in this part of the world and Europeans reassert their right to self determination, Lithuanians continue their struggle for independence as a sovereign nation state.

Lithuania was once a free nation. Seventy-two years ago, at the end of World War I, the Lithuanian people regained their independence, rebuilt their homeland ravaged by years of war and adopted the democratic institutions necessary to maintain their liberty. And, after 2 years of fighting the Bolsheviks to successfully retain their independence, Lithuanians enjoyed two decades, from 1920 to 1940, when they could freely practice their rich cultural and religious traditions. Unfortunately, their forcible incorporation into the Soviet Union in 1940 meant an end to this newly won freedom and began five decades of Soviet domination.

The burning desire for independence and democratic freedom, however, has survived, indeed thrived, despite a Soviet program of homogenization, which sent hundreds of thousands of Lithuanians to Siberia since 1940, and ongoing efforts to suppress the spirit and undermine the integrity of this small nation. Last month, 300,000 Lithuanians gathered in Vilnius Cathedral Square for a peaceful candlelight vigil in support of an independent Lithuanian nation state. This congregation was a moving testimony to the indomitable spirit of their nation and a powerful statement regarding the outright failure of decades of Soviet oppression.

For nearly half a century, the United States has refused to recognize the forcible Soviet occupation and annexation of the Baltic States. The peaceful independence movements in Lithuania and the other Baltic States have reaffirmed the moral and legal virtue of this position. The remarkable changes within the Soviet Union provide the United States with an unprecedented opportunity to support the independence movement in Lithuania. As this astounding grassroots movement continues to press the Soviet Union to respond to their demands, our Government should arduously support this freedom-loving people's effort to restore their national status as the Independent Democratic Republic of Lithuania.

Mr. BROOMFIELD. Madam Speaker, for the past several years, many of us in the Congress have joined Lithuanians and Lithuanian-Americans in observing the anniversary of Lithuanian independence. In one respect we do so again today by marking the 72d anniversary of an all too brief time in history when Lithuania was a free and independent member of the family of nations

Those years of freedom from 1918 to 1940 ended when Soviet troops marched into the Baltic nations of Lithuania, Latvia, and Estonia, and began a decades-long occupation of these nations. Over those years, the Soviet Government tried in many different ways to crush the identity and the culture of these people and to assimilate them into the Soviet Union.

However, despite these efforts at russification, the flame of freedom continued to burn deeply in the hearts of the Lithuanian people as they persevered to maintain their human rights and their identity as a separate people. The strength and the depth of their feelings can be clearly seen in these days of perestroika and the enormous changes that are sweeping across Eastern Europe and the Soviet Union itself.

Last year Lithuanian organizations were able to persuade their local Communist authorities to legalize national symbols that were outlawed after the Soviet takeover. In 1989, the Catholic Church was again allowed to conduct mass at the Vilnius Cathedral for the first time in 50 years, thousands of Lithuanians came to participate in religious services at this historic Lithuanian church.

The depth of this yearning to be a free and independent people again is also evident in the reaction of Lithuanians to President Gorbachev's recent trip to their country when he argued for Lithuania to continue in its present status. The question now seems to be not if Lithuania will declare its independence from the Soviet Union, but when and how the break will come about.

Thus, Madam Speaker, as we observe the brief independence of Lithuania that took place seven decades ago, let us also celebrate the independence that will be coming. We have stood by the Lithuanian people during their dark days when all they had was a dream, and we rejoice with them today as that dream has the potential to become a reality.

Through this observance of the anniversary of Lithuanian independence, let us also encourage the Soviet Government to continue in its policies of glasnost and perestroika and allow the changes in the Baltic nations and throughout Europe to take place peacefully. It should not be the role of governments to deter the legitimate aspirations of the people, but rather to help fulfill them.

Mrs. JOHNSON of Connecticut. Madam Speaker, I am honored to represent a part of Connecticut that is blessed with Lithuanians, Estonians, and Latvians who have enriched our community life over many decades. In past years I have taken to the floor of the House of Representatives, on this day of Lithuanian independence, and spoken about the dreams of freedom of a people who have endured 50 years of Soviet domination. Each year I have celebrated with my Lithuanian constituents the proud past of Lithuania, her culture, arts, tradition, and history. Today I want to pay tribute to the entire Baltic community in Connecticut which has kept the dreams of their countrymen alive for us and provided invaluable support and encouragement to their friends and relatives in their mother countries.

I believe that history will mark this year as a magnificent turning point for Lithuania, Latvia, and Estonia, much the same as 1918 and 1940 are indelibly etched in our minds. It is for this reason that I wish to commend the efforts of Americans of Baltic heritage, because their expertise, their backgrounds and their ties to the Baltics will serve as our guide as we forge

new economic, social and political relations with a free and independent Lithuania.

The Baltic community in Connecticut is already paving the way for these new relations through publicity events, education, exchange and leadership. Every year they hold "Black Ribbon Day" at the State capitol to commemorate the anniversary of the Soviet-Nazi Pact of 1939 which resulted in the occupation and annexation of the Baltic countries—an act which the United States has never recognized as legal. They have brought Baltic leaders to the United States, most notably Matri Hint, a leader of the Estonia Popular Front, for firsthand accounts of the changes spinning throughout the Baltic States.

Members of the Estonian, Latvian and LIthuanian Alliance of Connecticut [ELLA] are beginning to build the foundations for trade with the Baltic States. They are an invaluable source of information on the skills and needs of Baltic work forces. In particular, business leaders are working on developing direct air travel between Western Europe and the Baltic States. Today, Balts must backtrack to Moscow in order to fly to Europe. Direct air access to the international community is not only necessary for their economic development but for their nationhood. Another privilege Balts have been denied for half a century has been to send their athletes to the Olympics under their own national colors, and members of ELLA are working with the Olympic committees to realize this national dream.

It is astonishing that only 1 year ago, for the first time since Lithuania was illegally annexed by the Soviet Union, people took to the streets in Lithuania in open celebration of their Declaration of Independence of 1918. In one short year we have witnessed the resurgence of cultural and linguistic freedom, the formation of legal opposition parties, and severance of Lithuanian Communist Party from Moscow. Secession from the Soviet Union is more a matter of "how" than "if." When that historic moment happens, it will be because of the peaceful determination of a people proud of their heritage and driven by their deep devotion to freedom and independence.

Mr. HOYER. Madam Speaker, on February 16, 1918, LIthuania became an independent state. In March 1920, Lenin's Soviet Russia renounced all claims on Lithuanian territory. After the illegal Soviet occupation of Lithuania in 1940, however, Lithuanians could not celebrate the anniversary of their Declaration of Independence. Attempts to do so, such as the February 16 march by several thousand participants 2 years ago, were violently dispersed.

Stunning changes have take place since then. In early 1989, February 16 was proclaimed an official holiday; 200,000 people assembled to rededicate the Lithuanian Freedom Monument, built during the years of independence and taken down during the Soviet occupation. That same day, a statement was issued calling for the eventual reestablishment of a neutral, democratic, and independent Lithuania.

Lithuanian Independence Day this year comes just 8 days before the first multiparty parliamentary elections since the Soviet occupation, will likely create a non-Communist majority in the Lithuanian Parliament—and such a body could well be instrumental in determining Lithuania's future.

The United States has never recognzied the Soviet occupation of the Baltic States and continues to this day to consider them independent states.

Mr. DARDEN. Madam Speaker, today I join my colleagues in commemorating Lithuanian Independence Day. Like many others, I have watched events in Eastern Europe unfolding with a swiftness and intensity unimaginable only months ago. In Poland, East Germany, Czechoslovakia, and Romania, Soviet dominance has been broken and Communist rulers overthrown.

However, for millions in the satellite countries of Estonia, Latvia, and Lithuania, freedom remains elusive. It is especially appropriate, then, that our commemoration of Lithuanian Independence Day offer encouragement to these citizens and support for their struggle. Without Lithuanian independence, the revolutions sweeping Eastern Europe are incomplete. Soviet reforms which do not incorporate basic human rights for all people and recognize the right of self-determination are meaningless.

There have been many inspiring examples of courage in the last year. I commend those who have achieved independence and urge those who still seek freedom to persevere. As we celebrate Lithuanian Independence Day, let us reflect on the successful challenges to totalitarianism and renew our commitment to democracy for all citizens, Lithuanians in particular.

Mr. LEVIN of Michigan. Madam Speaker, I rise today with many of my colleagues to commemorate the 72d anniversary of Lithuanian Independence Day. As barriers to freedom that once seemed insurmountable fall with astonishing speed in Eastern Europe, it is worth remembering the persistence and unbending spirit of the Lithuanian people.

After boldly declaring their independence from the Soviet Union in 1918, the Lithuanians enjoyed two decades of self-rule. During much of this period, they were free to follow their cultural traditions and express their national identity. Betrayed by two oppressors in the 1939 Nazi-Soviet Pact, Lithuanians spent the next five decades under Soviet domination, forced to deny their heritage, their language and their traditions.

But despite the military might and repressive acts of the Soviets, the Lithuanians never lost touch with their roots and never lost their will. Many Americans of Lithuanian descent applied pressure from abroad, while nationalist leaders within Lithuania awaited the opportunity to act. Such spirit needed little kindling to flare into a massive nationalistic movement. When the Soviets last year finally withdrew the prohibition against legally celebrating Lithuanian Independence Day, hundreds of thousands of Lithuanians took to the streets.

Just yesterday, another symbol of history in the making addressed a joint session of Congress. To thunderous applause, Czechoslovak President Vaclav Havel recounted his own unlikely transformation from playwright to statesman. Arrested for the last time by the Communist government on October 27 of last year, 2 months later Havel was unanimously elected President by his country's Parliament. Now that same country seems headed for democracy. Havel remarked how astonishing it was that it took so little to release the long-suppressed longings of his countrymen.

This Saturday's elections in Lithuania, where a grassroots nationalist movement has made the old-guard Communist Party deny their own attachments to Moscow, seems equally astonishing, especially in light of the fact that 2 years ago Lithuanian Independence Day ceremonies were prohibited. It seems unlikely that Soviet President Gorbachev will be able to deny the Lithuanians their independence much longer.

Czechoslovakia and Lithuania—these are two astonishing examples of the spirit of democracy that is sweeping the world. What is less remarkable is that both movements are borne of the same spirit: a people's unwavering desire to be free.

Mr. POSHARD. Madam Speaker, I'm pleased to join my colleague from Illinois, Mr. ANNUNZIO, and the other Members here today to express my support for the people of Lithuania.

In the southern Illinois district which I represent there is a sizable population of people of Lithuanian descent, particularly in Franklin County and in the city of West Frankfort. Americans to the core, they never forget their heritage, and that sense of where they came from. That is a valuable asset for this country, a country built on the foundation of people searching for freedom, and I think our support for their homeland in this way and in others helps send an important message.

What an incredible couple of months it has been, as world events threaten to outpace even our modern society. The grip of communism is loosening and the urge for freedom is gaining strength as it surges through one oppressed population after another.

As we commemorate the 72d anniversary of Lithuanian Independence Day, we should be mindful of the struggle for freedom the Lithuanian people have engaged in for so long a time. After securing an all too brief taste of independence and democracy, the Lithuanian people were repressed by the Soviet Government, and have been under that repression for far too long.

As the beacon for democracy in this world, we stand proudly with the Republic of Lithuania in efforts for freedom.

Ms. ROS-LEHTINEN. Madam Speaker, I rise today to commemorate the 72d anniversary of the establishment of the independent state of Lithuania. On February 16, the recognition of Lithuanian Independence Day is officially noted by many Lithuanians. It was in 1918 when Lithuania, along with several other Baltic States, declared their independence as the empire of Czar Nicholas II collapsed.

The Lithuanian people have a long and powerful history. The first Lithuanian state was formed in the 1200's and was, at one time, the largest European country. Lithuania existed under the rule of the Russian czars from 1795 until 1915. For many years they endured the suppression of their cultural identity. Depsite the years of persecution, the people of Lithuania struggled to preserve their national traditions. It is now that we remember Lithua-

nia's years of perseverance through the observance of their independence.

The United States has never acknowledged the acquisition of Lithuania or the other Baltic Republics by the Soviet Union. Yet we never forget their suffering. Lithuania continues to struggle for democracy. Now, as all eyes are focused upon Eastern Europe, let us offer our support as well as our hearts. A fighter for Lithuanian civil rights once declared, "Lithuania, you always had such lofty hearts, who feared not suffering and death. Such hearts will appear today." Let the peaceful changes which have occurred in Eastern Europe serve as an example to other parts of the world.

Mr. MURPHY. Madam Speaker, it gives me great pleasure to join with my colleagues here in Congress to commemorate Lithuanian Independence Day. Our world is rapidly changing, and the drama of this change can be witnessed every day in the scenes from Eastern Europe. There, peoples long oppressed by governments not of their choosing are coming forward to demand democracy and freedom. And observers the world over note with happiness that they are accomplishing their goals.

Lithuanians are leading the way to change. They have stood together in the streets of their cities and the squares of their villages and spoken with one voice. Their persistence has reminded powerful nations that they are an equal partner in the world, and they have set in motion a movement that is reworking the world order.

For this reason, today's commemoration of Lithuanian Independence Day has special meaning. We are not only remembering the brave men and women who have fought for the national survival of Lithuania in the past, we are looking with hope to those who will lead their nation and all of Eastern Europe into the next century.

As a Member of Congress who represents many Lithuanian-Americans, I know I speak for them when I express their feelings of joy as Lithuania struggles for a renewal of its freedom. Might does not make right, and Lithuanians have never forgotten this fact throughout the past half century. It is only fitting that we join in noting this fact today, because the health of our own Nation depends just as much on us recognizing this certainty, as it does for the proud Lithuanian people now changing the world.

Ms. OAKAR. Madam Speaker, I join my colleagues in commemorating the brave people of Lithuania and their struggle for freedom and independence. I would like to thank my good friend and colleague FRANK ANNUNZIO for organizing this special order.

On February 16, 1918, the Lithuanian people proclaimed their will to be a free, self-governing, and independent nation. Their independence was tragically stolen when the Soviet Army began its occupation of Lithuania, Latvia, and Estonia in 1940.

The Lithuanian people have never accepted this foreign domination, even though their struggle for freedom has had a very high price. Since their occupation began under Stalin, they have been ruthlessly oppressed and their land has been exploited and polluted. Tens of thousands of people from the Baltic nations were deported from their native countries by the Soviet Government. Many of them were deported to Siberia and never returned home again.

But the alien Soviet system imposed on Latvia, Lithuania, and Estonia cannot erase the spark these Baltic people carry in their hearts. In fact, in the past year the peaceful movement for freedom in Lithuania has gained strength. On August 23, people in each of the Baltic countries joined together in an unprecedented demonstration. They formed a human chain from Vilnius to Tallinn to protest the secret agreement between Moscow and Nazi Germany which led to the annexation of their countries. The Lithuanian popular front, Sajudis, estimates that more than 1 million people joined the chain or attended other meetings in Lithuania.

Yet independence in Lithuania is far from accomplished. In the next year, we should anticipate threats to the movement toward democracy in Lithuania. A particular danger is posed by proposed changes in the Soviet constitution which would threaten the movement toward democracy in Lithuania. According to Marju Lauristin, a member of the Congress of Peoples Deputies from Estonia, drafts of laws being circulated in the Supreme Soviet include proposals to fine people up to 20,000 rubles—8 years of the average worker's salary—for belonging to nationalist organizations. Other dangers are posed by legislation in the Supreme Soviet which gives the President greater powers to declare a state of emergency and by legislation which would restrict and slow down a republic's ability to secede.

Our Nation has never recognized the illegal occupation of Lithuania, Latvia, and Estonia, and I support this policy completely. I urge the administration to implement policies to promote and encourage Lithuanian aspirations—and the hopes of all captive nations—for a future of freedom and self-determination. We must also continue to press the Soviet Union to abide by the Universal Declaration of Human Rights, the International Convention on Human Rights, and the Helsinki Compliance Commission.

As a democratic nation and a nation committed to human rights, we must never abandon the brave Lithuanian people. As a nation founded on the right to self-determination, we must encourage it wherever a spark of desire for freedom remains. We cannot help but to hope that someday soon the Lithuanian people's dreams will be realized.

Mr. RUSSO. Madam Speaker, it is with great excitement that I rise in support of this year's Lithuanian Independence Day celebration. For the first time since the Soviet Union illegally annexed the Baltic States 50 years ago, freedom and independence are within Lithuania's reach. The events of Eastern Europe have been truly amazing and have inspired many of us to appreciate more fully that freedom for which our ancestors fought so hard.

The winds of democracy are moving faster than we ever imagined. The right of self-determination has been seized by other Eastern European nations like Poland, Romania, and Czechoslovakia. The evidence of this birth of freedom has appeared twice in this very Chamber. Once in the form of Lech Walesa, and yesterday in the form of Vaclav Havel. Mr. Havel's words about the importance of world events are true. "The human face of the world is changing so rapidly that none of the familiar political speedometers are adequate." In Czechoslovakia they have indeed entered into an era of freedom and equality. It is now an era when all Czechs, "large and small, former slaves and former masters, will be able to create what [our] great President Lincoln called the family of man."

While Czechoslovakia and the other Eastern European countries are molding their egalitarian societies however, Lithuania and the other Baltic States remain under Soviet control. Without the right of self-determination, Lithuanians cannot begin to create the family of man.

During its short 22 years of existence as an independent nation, the Lithuanian Republic was based on democratic principles and a multiparty system. This weekend the Lithuanian people will go to the polls to participate in the first multiparty elections since they were illegally secured by the Soviets under the Hitler-Stalin Pact. While these elections are a visible step toward a more open and democratic system of government, Lithuania has a long way to go until it reaches true freedom.

We in the Congress and the United States support the people of Lithuania in their valiant struggle for freedom and democracy. While democracy and self-determination are not yet realities for the Baltic States, the designation of February 16 as Lithuanian Independence Day provides a tangible manifestation of our belief that the fight for freedom continues in Lithuania.

Mrs. BENTLEY. Madam Speaker, today commemorates the 72d anniversary of Lithuanian independence. As many of us know, Lithuanians declared their indepedence on February 16, 1918; and they retained their independence until 1940 when over 300,000 Soviet troops occupied the country. As a result of Stalin's and Hitler's decision to divide Eastern Europe.

The Lithuanian people are noted for their rich culture and religious devotion which has struggled to survive since the beginning of Soviet occupation. Yet through all of the repression the people of Lithuania continue their struggle for human rights and cultural identity.

Glasnost and Perestroika—Gorbachev's words have given so much hope to Eastern Europe and the world. We already see what has happened in Eastern Europe and the promise to pull back troops and the promise of a new order—but these promises, so far it seems, have not stretched north along the Baltic to Estonia, Latvia, and Lithuania.

Gorbachev has been challenged by the Lithuanian's drive for restored independence. Today, the Lithuanian people are voicing their strong desire for freedom from a system that has crushed them since 1940.

Baltimore Lithuanians celebrated the 72d anniversary last Sunday and hailed the changes in Eastern Europe. They have been very supportive of the changes in Eastern Europe and hope that the Soviet Union will recognize the need for reform in the Baltic region.

I support Lithuania's current initiatives of independence and autonomy; and, commemo-

rating their independence day we give proper recognition to Lithuania's people as well as Lithuanian-Americans. I ask you today Madam Speaker, and other Members, to join me in the honoring of Lithuanian Independence Day.

Mr. HORTON. Madam Speaker, I join today with my colleagues in commemorating Lithuanian Independence Day. I want to thank the gentleman from Illinois [Mr. ANNUNZIO] for taking this time to call our attention to this very special event.

But first, I want to state that I had the opportunity during the last district work period, to visit with some of my Lithuanian-American constituents during a commemoration of the 71st anniversary of Lithuanian Independence Day at a ceremony held at St. George's Parish in Rochester, NY. That meeting of the Lithuanian-American Council of Rochester took place on Sunday, February 11, 1990.

The overall feeling of my friends that were there that day is that now is a very hopeful time for Lithuanians, both those still living in Lithuania and those living abroad. I share this sentiment for this year's celebration comes at a time when Lithuanians are closer than ever to regaining their independence from the Soviet Union. It is an exciting time, it is also a time to be apprehensive.

The obvious cause of this excitement and this apprehension is the elections which are scheduled to be held on February 24. Nobody knows how free this exercise will be, but one can be sure that people from around the world will be watching those elections and checking to see that their results are respected. The integrity of the ballot box is one of the hallmarks of democracy. If that integrity is violated, the credibility of Glasnost and Perestroika will undoubtedly suffer.

There is no doubt in my mind what the results of the elections will be. I only hope that those results will be respected. I have my doubts, though, that the Soviets will accept Lithuanian independence without a fight.

The ball is in President Gorbachev's court. If he chooses to go against the will of the people, he may end up in the same predicament as many other recent Communist leaders in Eastern Europe—out of power. This would be unfortunate for all parties involved.

So today I call on the Soviet leaders to respect the basic human rights of the voters in Lithuania by letting them vote without interference and by respecting the results. In doing so, we will be able to stand here next year and celebrate the first anniversary of the rebirth of an independent Lithuania.

Mr. MOAKLEY. Madam Speaker, I am honored to join my good friend and colleague, FRANK ANNUNZIO, in today's special order commemorating Lithuanian Independence Day.

As in the past, we are saluting the indomitable will and courage of the brave Lithuanians; people who have been under the oppressive and illegal occupation by their Soviet neighbors. But today is different. Today, Lithuanians can truly taste freedom. They can picture the day when they will rightfully stand among other free nations. The day when Lithuania will again be her own country, with her own government and her own proud identity.

Mr. Speaker, incredible events have taken place around this world. The past year has seen changes that never would have been predicted taking place in a few decades much less a few months. The Soviet Union has eased the grip on some of its satellite countries and Lithuanians stand ready to separate themselves from the illegal Soviet influence of over half a century. Individually and as a country we must support this move to freedom. We must not rest until Lithuania is again a free country. The Lithuanian struggle is our struggle. The unflagging efforts for freedom should spur us all to action and to not be satisfied until true independence is achieved.

Mr. DWYER of New Jersey. Madam Speaker, it is with great pleasure that I join with my colleagues today to commemorate the 72d Anniversary of Lithuanian Independence.

I have been privileged to participate in this annual special order since first coming to the House of Representatives. However, for most of those years, we discussed the ongoing tragedy in that country due to the continued dominance of the Lithuanian people by the Soviet Union. Today, because of the changes which have taken place during the past year, there is a hope for realizing the dream of freedom which has been absent in the past. The era of perestroika provided the Lithuanian people with an opportunity for public protest and demonstrations without the usual harsh repercussions of the past. Encouraged by the expansion of protest, the Lithanian people pressed their calls for independence.

Today, many changes have taken place. The Lithuanian Supreme Soviet adopted a declaration of state sovereignty and constitutional amendments in May of last year. A commission of the Lithuanian Supreme Soviet approved a report which characterized the 1940 incorporation of Lithuania into the Soviet Union is illegal. And, in August of last year, hundreds of thousands of Lithuanians joined hands with Latvians, Estonians, and others in a 2-million-person chain that extended from Tallinn, Estonia, through Riga, Latvia, to Vilnius, Lithuania, as a sign of protest marking the 50th anniversary of the Molotov-Ribbentrop Pact.

The Baltic States have made important strides in their quest for independence from the Soviet Union. The Lithuanian people have been in the forefront of this effort.

Much remains to be done before Lithuania will be truly free again. But, the Lithuanian people have made historic progress during the past year, and their commitment to freedom will serve them well as they continue their fight for true independence.

Mr. CLINGER. Madam Speaker, I am pleased to join my colleagues in the House and Lithuanian-Americans throughout the Nation in commemorating the 72d anniversary of Lithuanian Independence Day.

The Soviet Union has dominated the brave country of Lithuania since 1940, when it sent invading troops into the neighboring nation, forcing annexation. But despite this presence, the free hearts and spirits of the Lithuanian people have refused to die.

Lithuania's struggle for freedom is written in the sorrows and courage of a strong people who have endured political repression, religious persecution, and the denial of human rights. Indeed, while it is distressing to realize that many people in Lithuania have never known what we in a free nation commonly take for granted—free speech, free worship, and the right to participate freely in political expression, it is heartening to know that a reversal of this policy may soon unfold.

Last year, the republic's Supreme Soviet passed a declaration of state sovereignty, proclaimed economic autonomy and abolished the constitutional clause guaranteeing the Communist lock on power. Lithuania's Communist Party responded by declaring independence from its national counterpart and, later this week local electors may choose a republican parliament. These are positive signals that severe reform is on the way. Hopefully, these changes can be carried out in a peaceful, effective manner that will ultimately bring prosperity and well-being to its citizens.

The United States has fully recognized Lithuania as a sovereign state since its independence was declared on February 16, 1918. Now, as the tide begins to turn, it's as if our cries for peace and freedom have finally been heard.

Let us join these proud people in celebrating Lithuanian Independence Day and in looking ahead to that joyous day when Lithuanians can again live together in freedom.

Mr. GILMAN. Madam Speaker, I wish to commend the gentleman from Illinois [Mr. ANNUNZIO], for taking out this time to commemorate Lithuanian-Americans. Today, February 22, Americans of Lithuanian descent will note with hope and joy, the anniversary of Lithuanian Independence Day; joy in remembering that day in 1918 when independence was first declared, and the years that followed which saw the flourishing of Lithuanian culture and heritage. The hope which now emanates from all Lithuanians, is a hope for freedom, and democracy.

We join the Lithuanian people in this hope, that the years spent under the domination of the Soviet Union will soon be over. With the current situation in Lithuania, where the first multiparty elections in the Soviet Union since 1918 are taking place, we hope these events will spread to all the Baltic States and ensure the lasting freedom of those States.

Lithuanian Independence Day will most certainly bring out hundreds of thousands of supporters, and with them go our own hopes for their future. Accordingly, Mr. Speaker, I invite my colleagues to acknowledge this anniversary of Lithuanian independence, certain that their national feeling cannot be stifled.

Mr. LIPINSKI. Madam Speaker, I rise today to commemorate the 71st anniversary of Lithuanian independence. This is a particularly exciting occasion considering the developments which are taking place in Lithuania. The movement toward Lithuanian independence has made dramatic progress in the last few months. In December of last year, the Lithuanian Communist Party made an unprecedented move to openly defy Kremlin rule by proclaiming independence from the Soviet Communist Party. This bold and courageous breakthrough by the Lithuanians marks the first time a Soviet Republic Party has defected from the Soviet Communist Party since it began its unwelcome reign 70 years ago.

An overwhelming majority of the Lithuanian people strongly supported their political lead-

ers' decision to sever party ties with Moscow. This break with the party initiated a multiparty political system and brought hope to the Lithuanian people for complete independence. Unlike the Soviet Communist Party, the Lithuanian Communist Party welcomes religious believers as members, endorses free markets and private ownership of industry and farmland. These events are just some of the many undeniable signs of the collapse of communism. Now, the brave peoples of Lithuania, as well as Estonia and Latvia, are on the verge of realizing their dream of independence. Today it is fitting to pay great tribute to the courageous struggle of the Lithuanians, a people who have never given up hope since being robbed of their independence and liberty through the Nazi-Soviet Pact of 1940.

Lithuania will soon add another chapter to its rich history. On February 24, the Lithuanian people will participate in the first democratic elections in their country in over 40 years. These elections will yield a parliament committed to the establishment of an independent Lithuania through peaceful measures. These Lithuanian leaders hope to accomplish a negotiated independence with the Soviet Union, avoiding both military and economic conflict.

In his recent trip to Lithuania, Mikhail Gorbachev acknowledged the principle of Lithuanian independence and their right to secede from the Soviet Union. In this past historic year of the dramatic dismantling of communism, the turn of events in Lithuania is greeted with joy on this Lithuanian Independence Day. The unjust Soviet grasp on Lithuania has finally been loosened. When the inevitable occurs, and Lithuania finally realizes its independence, we will have cause to celebrate once again. I look forward to this time next year in hopes of celebrating a truly independent Lithuania, brought about by the triumph of a courageous and determined people.

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. JONES of Georgia) to revise and extend their remarks and include extraneous material:)

Mr. HUBBARD, for 5 minutes, today.

Mr. GLICKMAN, for 60 minutes, on February 26.

Mr. FALEOMAVAEGA, for 60 minutes, on February 27.

EXTENSION OF REMARKS

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

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

Mr. CONTE.
Mr. HORTON.
Mr. FISH.
Mr. MCEWEN.
Mr. ROHRABACHER.
Mr. RITTER.

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

Mr. COLEMAN of Texas.
Mr. CLAY.
Mr. KLECZKA.
Mr. LANTOS in four instances.
Mr. SANGMEISTER.
Mr. RANGEL.
Mr. FASCELL in two instances.
Mr. CLEMENT.
Mr. WYDEN.
Mr. FAZIO.
Mr. VENTO.
Mr. PANETTA.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 169. An act to amend the National Science and Technology Policy, Organization, and Priorities Act of 1976 in order to provide for improved coordination of national scientific research efforts and to provide for a national plan to improve scientific understanding of the Earth system and the effect of changes in that system on climate and human well-being; to the Committee on Science, Space, and Technology.

S. 1310. An act to eliminate illiteracy by the year 2000, to strengthen and coordinate literacy programs, and for other purposes; to the Committee on Education and Labor.

ADJOURNMENT

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

The motion was agreed to; accordingly (at 11 o'clock and 54 minutes a.m.), under its previous order the House adjourned until Monday, February 26, 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:

2547. A letter from the Secretary of the Navy, transmitting a proposal to transfer the obsolete submarine *Requin* (AGSS-481) to the Carnegie Institute, Pittsburgh, PA, pursuant to 10 U.S.C. 7308(c); to the Committee on Armed Services.

2548. A letter from the Acting Administrator, Farmers Home Administration, transmitting a report on the feasibility of making available properties owned by FmHA to low-income persons whose homes were destroyed and are in the disaster areas of hurricane Hugo or the Loma Prieta earthquake during 1989, pursuant to Public Law 101-235, section 137; to the Committee on Banking, Finance and Urban Affairs.

2549. A letter from the Chairman, Federal Home Loan Mortgage Corporation, transmitting a report of actions taken to promote equal employment opportunities, including a report entitled "Affirmative Employment Program for Minorities and Women—Annual Accomplishment Report for FY 1989," pursuant to 12 U.S.C. 1833e; to the Committee on Banking, Finance and Urban Affairs.

2550. A letter from the Chairman, Board of Trustees, Harry S. Truman Scholarship Foundation, transmitting the annual report for 1988-89, pursuant to 20 U.S.C. 2012(b); to the Committee on Education and Labor.

2551. A letter from the President, Institute of American Indian and Alaska Native Culture and Arts Development, transmitting their annual report for 1988-89, pursuant to Public Law 99-498, section 1515(a) (100 Stat. 1609); to the Committee on Education and Labor.

2552. A letter from the General Counsel, Department of Commerce, transmitting a draft of proposed legislation to permit the Federal Communications Commission to utilize competitive bidding in awarding licenses for use of the electromagnetic spectrum; to the Committee on Energy and Commerce.

2553. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting copies of the original reports of political contributions by Deane Roesch Hinton, Ambassador Extraordinary and Plenipotentiary-designate to Panama; by Jonathan Moore, U.S. Representative-designate on the Economic and Social Council of the United Nations; and by Shirin Raziuddin Tahir-Kheli, Alternate Representative-designate for Special Political Affairs in the United Nations, and members of their families, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

2554. A letter from the Assistant Secretary for Administration, Department of Agriculture, transmitting a report of actions taken to increase competition for contracts, fiscal year 1989, pursuant to 41 U.S.C. 419; to the Committee on Government Operations.

2555. A letter from the Chairman, National Science Board, transmitting certification that the National Science Foundation completed all implementation actions under section 8E of the Inspector General Act of 1978, as amended, pursuant to Public Law 100-504, section 111 (102 Stat. 2529); to the Committee on Government Operations.

2556. A letter from the Deputy Director for Congressional Relations and Communications, Office of Thrift Supervision, transmitting a report on activities under the Freedom of Information Act for the Federal Home Loan Bank Board for the period of January 1, 1989, through August 8, 1989, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

2557. A letter from the Chairman, Tennessee Valley Authority, transmitting a report on activities under the Freedom of Information Act for the calendar year 1989, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

2558. A letter from the Chairman, U.S. Merit Systems Protection Board, transmitting a report on activities under the Freedom of Information Act for the calender year 1989, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

2559. A letter from the Deputy Chief, Forest Service, transmitting a report on Federal Lands Cleanup Day activities for fiscal year 1989, pursuant to 36 U.S.C. 169i-1(c)(1); to the Committee on Interior and Insular Affairs.

2560. A letter from the Assistant Secretary for Water and Science, Department of the Interior, transmitting notification of the deferment of a construction repayment installment due the United States from the Vale Oregon Irrigation District, Vale, OR,

pursuant to 43 U.S.C. 485b-1; to the Committee on Interior and Insular Affairs.

2561. A letter from the Director, Administrative Office of the United States Courts, transmitting a request to add an additional judgeship position for the Court of Appeals of the District of Columbia, as originally submitted on October 16, 1989; to the Committee on the Judiciary.

2562. A letter from the Director, Federal Judicial Center, transmitting a copy of the 1989 annual report of the Center, pursuant to 28 U.S.C. 623(b); to the Committee on the Judiciary.

2563. A letter from the Director, Office of Personnel Management, transmitting a copy of the fiscal year 1989 report on the implementation of the Federal Equal Opportunity Recruitment Program, pursuant to 5 U.S.C. 7201(e); to the Committee on Post Office and Civil Service.

2564. A letter from the U.S. Trade Representative, transmitting a draft of proposed legislation to provide authorization of appropriations to the Office of the United States Trade Representative for fiscal years 1991 and 1992, pursuant to 31 U.S.C. 1110; to the Committee on Ways and Means.

2565. A letter from the Secretary of Defense, transmitting a report entitled "Allies Assuming a Greater Share of the Common Defense Burden," pursuant to Public Law 101-148, section 118; jointly, to the Committees on Appropriations and Armed Services.

2566. A letter from the Assistant Secretary for Policy, Budget and Administration, Department of the Interior, transmitting a report on the implementation of section 318 of the DOI and Related Agencies Appropriations Act for Fiscal Year 1990, pursuant to Public Law 101-121, section 318(h) (103 Stat. 750); jointly, to the Committees on Agriculture, Interior and Insular Affairs, Merchant Marine and Fisheries, and Appropriations.

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. WISE (for himself and Mr. STALLINGS):

H.R. 4068. A bill to make affordable advanced telecommunciations services universally available to rural residents by the year 2000; to the Committee on Agriculture.

By Mr. AUCOIN:

H.R. 4069. A bill to establish within the Department of Education an Office of Vocational and Adult Education and Community Colleges; to the Committee on Education and Labor.

By Mr. GRANDY (for himself, Mr. GOODLING, and Mr. BUNNING):

H.R. 4070. A bill to provide for universal access to basic group health benefits coverage and to remove barriers and provide incentives in order to make such coverage more affordable; jointly, to the Committees on Education and Labor, Ways and Means, and Energy and Commerce.

By Mr. BOEHLERT:

H.R. 4071. A bill to extend the deadlines under the Federal Power Act applicable to the construction of a hydroelectric project in the State of New York; to the Committee on Energy and Commerce.

By Mr. CARDIN:

H.R. 4072. A bill to extend through December 31, 1992, the suspension of import duties on synthetic rutile; to the Committee on Ways and Means.

By Mr. CLAY (for himself, Mr. MARKEY, Mr. MOAKLEY, Mr. FRANK, Mr. DONNELLY, Mr. NEAL of Massachusetts, Mr. ATKINS, Mr. STUDDS, Mr. MAVROULES, Mr. KENNEDY, Mr. EARLY, Mr. CONTE, Mr. FORD of Michigan, Mr. MURPHY, Mr. MILLER of California, Mrs. UNSOELD, Mr. HOCHBRUECKNER, Mr. DE LUGO, Mr. FUSTER, Mr. SCHUMER, Mr. MARTINEZ, Mrs. COLLINS, Mr. GEJDENSON, Mr. GAYDONS, Mr. ACKERMAN, Mr. MORRISON of Connecticut, and Mr. ROSE):

H.R. 4073. A bill to amend the Labor Management Relations Act of 1947 to permit parties engaged in collective bargaining to bargain over the establishment and administration of trust funds to provide financial assistance for employee housing; to the Committee on Education and Labor.

By Mr. CLEMENT (for himself, Mr. COOPER, and Mr. NIELSON of Utah):

H.R. 4074. A bill to improve the effectiveness of Federal railroad safety regulation by providing limited direct enforcement authority to certified State agencies; to the Committee on Energy and Commerce.

By Mr. KOSTMAYER (for himself, Ms. SCHNEIDER, Mr. ATKINS, Mr. AUCOIN, Mr. BATES, Mr. BEILENSON, Mr. BERMAN, Mr. BOEHLERT, Mr. BOUCHER, Mrs. BOXER, Mr. BRYANT, Mrs. COLLINS, Mr. CROCKETT, Mr. DELLUMS, Mr. DURBIN, Mr. DYMALLY, Mr. ENGEL, Mr. FRANK, Mr. FRENZEL, Mr. GEJDENSON, Mr. GONZALEZ, Mr. GRAY, Mr. GREEN, Mr. KASTENMEIER, Mr. LEVINE of California, Mr. LOWEY of New York, Mr. MACHTLEY, Mr. MARKEY, Mr. MATSUI, Mr. MCDERMOTT, Mr. MCHUGH, Mr. MILLER of California, Mr. MOODY, Mrs. MORELLA, Mr. MORRISON of Connecticut, Mr. MRAZEK, Mr. PAYNE of New Jersey, Ms. PELOSI, Mr. PORTER, Mr. SABO, Mrs. SAIKI, Mr. SCHEUER, Mrs. SCHROEDER, Mr. SOLARZ, Mr. STARK, Mr. SWIFT, Mr. TORRICELLI, Mr. TOWNS, Mr. UDALL, Mrs. UNSOELD, Mr. WAXMAN, Mr. WEISS, Mr. WILSON, Mr. WYDEN, Mr. ACKERMAN, Mr. DIXON, Mr. CAMPBELL of California, Mr. LEWIS of Georgia, Mr. PANETTA, Mr. JOHNSTON of Florida, Mr. STUDDS, Mr. FAUNTROY, Mr. CONYERS, Mr. YATES, Mr. MARTINEZ, Mr. BROWN of California, Mr. FOGLIETTA, Mr. FEIGHAN, Mr. BOSCO, Mr. LEHMAN of Florida, Mr. TORRES, Mr. LEHMAN of California, Mr. SCHUMER, Mrs. JOHNSON of Connecticut, Mr. LEVIN of Michigan, Mrs. ROUKEMA, Mr. SHAYS, Mr. KENNEDY, Mr. OWENS of New York, Mr. CARDIN, and Mr. LANTOS):

H.R. 4075. A bill to authorize increased funding for international population assistance and to provide for a U.S. contribution to the United Nations Population Fund; to the Committee on Foreign Affairs.

By Mr. CONTE (for himself, Mr. IRELAND, and Mr. SKELTON);

H.R. 4076. A bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to exempt a Federal department, agency, or instrumentality from liability under that act when a facility is conveyed to the department, agency, or instrumentality due to bankruptcy, foreclosure, tax delinquency, abandonment, or similar means; to the Committee on Energy and Commerce.

By Mr. ENGLISH (for himself, Mr. COLEMAN of Missouri, Mr. DE LA GARZA, Mr. MADIGAN, Mr. STENHOLM, Mr. DERRICK, Mr. MORRISON of Washington, and Mr. VOLKMER):

H.R. 4077. A bill to amend the Consolidated Farm and Rural Development Act to require borrower good faith with respect to Farmers Home Administration loans; to improve the management of such delinquent loans including limiting the write-down of such loans; and for other purposes; to the Committee on Agriculture.

By Mr. FALEOMAVAEGA (for himself, Mr. BLAZ, and Mr. AKAKA):

H.R. 4078. A bill to establish a Gifted and Talented Program for certain Pacific Islanders; to the Committee on Education and Labor.

By Mr. GINGRICH (for himself, Mr. ARMEY, Mr. HUNTER, Mr. SMITH of New Hampshire, Mr. HANSEN, Mr. HILER, Mr. IRELAND, Mr. KYL, Mr. BARTON of Texas, Mr. MCEWEN, Mr. BLILEY, Mr. CONDIT, Mr. WELDON, Mr. FIELDS, Mr. STEARNS, Mr. SCHUETTE, Mr. DOUGLAS, Mr. LIVINGSTON, Mr. OXLEY, Ms. ROS-LEHTINEN, Mr. HANCOCK, Mr. SCHAEFER, Mr. BARTLETT, Mr. SHUMWAY, Mr. INHOFE, Mr. NIELSON of Utah, Mr. DONALD E. LUKENS, Mr. PAXON, Mr. HERGER, Mr. ROBINSON, Mr. LAGOMARSINO, Mr. SENSENBRENNER, Mr. JAMES, Mr. UPTON, Mr. BILIRAKIS, Mr. RITTER, Mr. DORNAN of California, Mr. BAKER, Mr. DELAY, Mr. HYDE, Mr. GRANDY, Mr. HEFLEY, Mr. COUGHLIN, Mr. CRAIG, Mr. SHAW, Mr. DREIER of California, Mr. SOLOMON, and Mr. MCCOLLUM):

H.R. 4079. A bill to provide swift and certain punishment for criminals in order to deter violent crime and rid America of illegal drug use; jointly, to the Committees on the Judiciary, Energy and Commerce, Public Works and Transportation, Education and Labor, and Armed Services.

By Mr. WAXMAN (for himself, Mr. SCHEUER, Mr. WALGREN, Mr. WYDEN, Mr. SIKORSKI, Mr. BATES, Mrs. COLLINS, Mr. RICHARDSON, Mr. TOWNS, Mr. MARKEY, Mr. BRYANT, Mr. PANETTA, Mrs. BOXER, Mr. KILDEE, Mr. BEILENSON, Mr. DWYER of New Jersey, Mr. BERMAN, Mr. ACKERMAN, Mrs. BYRON, Mr. CROCKETT, Mr. DE LUGO, Mr. DIXON, Mr. DYMALLY, Mr. EDWARDS of California, Mr. FAUNTROY, Mr. FOGLIETTA, Mr. FRANK, Mr. FROST, Mr. FUSTER, Mr. GILMAN, Mr. GREEN, Mr. HAWKINS, Mr. JOHNSTON of Florida, Mr. KASTENMEIER, Mr. LEVINE of California, Mr. MCDERMOTT, Mr. MILLER of California, Mr. PAYNE of New Jersey, Ms. PELOSI, Mr. RANGEL, Mr. ROYBAL, Ms. SCHNEIDER, Mr. STUDDS, Mr. WEISS, and Mr. WHEAT):

H.R. 4080. A bill to amend title XIX of the Social Security Act to give States the option of providing for coverage for certain HIV-related services for certain individuals who have been diagnosed as being HIV-positive, and for other purposes; to the Committee on Energy and Commerce.

By GOODLING (for himself, Mr. GUNDERSON, Mrs. ROUKEMA, Mr. TAUKE, Mr. FAWELL, Mr. GRANDY, Mr. ROBINSON, Mr. DEWINE, Mr. MICHEL, and Mr. GINGRICH):

H.R. 4081. A bill to amend the Revised Statutes of the United States in regard to the formation and implementation of con-

tracts, and title VII of the Civil Rights Act of 1964 to protect against discrimination in employment; and for other purposes; jointly, to the Committees on the Judiciary and Education and Labor.

By Mr. KOSTMAYER:

H.R. 4082. A bill to prohibit the use of Federal lands in the Allegheny National Forest in the State of Pennsylvania for the construction of certain commercial overnight accommodations, and for other purposes; to the Committee on Agriculture.

By Mr. MOODY (for himself, Mr. GUNDERSON, Mr. KASTENMEIER, Mr. OBEY, Mr. ASPIN, Mr. KLECZKA, Mr. MARTINEZ, Mr. PETRI, Mr. SENSENBRENNER, and Mr. ROTH):

H.R. 4083. A bill to permit dairy products to be called "reduced fat butter" if the products contain 52 percent by weight of milk fat; to the Committee on Energy and Commerce.

By Mr. OWENS of New York:

H.R. 4084. A bill to amend the National School Lunch Act to restore food supplement benefits under the Dependent Care Food Program to adolescent youth; to the Committee on Education and Labor.

By Mr. PANETTA:

H.R. 4085. A bill to direct the Secretary of Health and Human Services to make grants to certain small hospitals located in Federal disaster relief areas; to the Committee on Energy and Commerce.

H.R. 4086. A bill to amend title XVIII of the Social Security Act to permit certain hospitals located in Federal disaster relief areas to qualify for treatment as Medicare-dependent, small rural hospitals; to the Committee on Ways and Means.

By Mr. PENNY (for himself and Mr. SMITH of New Jersey):

H.R. 4087. A bill to amend title 38, United States Code, with respect to employment and training programs for veterans; to the Committee on Veterans' Affairs.

H.R. 4088. A bill to amend title 38, United States Code, with respect to veterans recruitment appointments; to the Committee on Veterans' Affairs.

H.R. 4089. A bill to amend title 38, United States Code, with respect to educational and vocational counseling for veterans, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. RICHARDSON:

H.R. 4090. A bill to authorize the establishment of the Glorieta National Battlefield in the State of New Mexico, and for other purposes; to the Committee on Interior and Insular Affairs.

H.R. 4091. A bill regarding the establishment of a United States-Panama Free Trade Area; to the Committee on Ways and Means.

By Ms. ROS-LEHTINEN:

H.R. 4092. A bill to amend title 18, United States Code, to provide penalties for criminal killings of State and local law enforcement officers, and for other purposes; to the Committee on the Judiciary.

By Mr. ROYBAL (for himself and Ms. OAKAR):

H.R. 4093. A bill to amend the Social Security Act to establish a lifecare long-term care program, and for other purposes; jointly, to the Committee on Ways and Means and Energy and Commerce.

By Mr. STENHOLM (for himself and Mr. ROBERTS):

H.R. 4094. A bill to improve the processes for establishing farm and crop acreage bases and establishing the actual yield for each farm for each program crop, to permit producers to plant nonprogram crops on crop base acres, and to accomplish these objectives in an efficient, equitable, flexible, and predictable manner; to the Committee on Agriculture.

By Mr. VENTO (for himself, Mr. ROE, Mr. FAUNTROY, Mr. PENNY, Mrs. COLLINS, Mr. WYDEN, and Mr. CHAPMAN):

H.R. 4095. A bill to amend title XVIII of the Social Security Act to provide coverage of respiratory therapy under the Medicare Program as part of extended care services in a skilled nursing facility; jointly, to the Committee on Ways and Means and Energy and Commerce.

By Mr. WAXMAN (for himself, Mr. SWIFT, Mr. COOPER, Mr. BOUCHER, Mr. LEVINE of California, Mr. SENSENBRENNER, Mr. OXLEY, Mr. DEWINE, Mr. FIELDS, Mr. RITTER, Mr. BRUCE, Mr. BARTON of Texas, and Mr. TAUKE):

H.R. 4096. A bill to implement a serial copy management system for digital audio tape recorders; to the Committee on Energy and Commerce.

By Mr. WAXMAN (for himself and Mr. ROYBAL):

H.R. 4097. A bill to amend the Public Health Service Act to extend the program of grants for preventive health services with respect to tuberculosis, and for other purposes; to the Committee on Energy and Commerce.

By Mr. WELDON (for himself, Mr. GRAY, Mr. WALGREN, Mr. BOEHLERT, Mr. ROE, Mr. WALKER, Mr. ACKERMAN, Mr. AKAKA, Mr. ANNUNZIO, Mr. ANTHONY, Mr. APPLEGATE, Mr. ARMEY, Mr. AUCOIN, Mr. BAKER, Mr. BALLENGER, Mr. BARTON of Texas, Mr. BATEMAN, Mrs. BENTLEY, Mr. BEREUTER, Mr. BEVILL, Mr. BILBRAY, Mr. BILIRAKIS, Mr. BLILEY, Mr. BORSKI, Mr. BOSCO, Mr. BOUCHER, Mr. BRENNAN, Mr. BROOMFIELD, Mr. BROWDER, Mr. BROWN of Colorado, Mr. BROWN of California, Mr. BRUCE, Mr. BRYANT, Mr. BUECHNER, Mr. BUNNING, Mr. BURTON of Indiana, Mr. BUSTAMANTE, Mrs. BYRON, Mr. CALLAHAN, Mr. CAMPBELL of California, Mr. CAMPBELL of Colorado, Mr. CARPER, Mr. CHANDLER, Mr. CHAPMAN, Mr. COBLE, Mr. COLEMAN of Texas, Mrs. COLLINS, Mr. CONTE, Mr. COSTELLO, Mr. COUGHLIN, Mr. COURTER, Mr. COYNE, Mr. CRAIG, Mr. CROCKETT, Mr. DANNEMEYER, Mr. DARDEN, Mr. DAVIS, Mr. DELLUMS, Mr. DERRICK, Mr. DICKS, Mr. DORNAN of California, Mr. DOUGLAS, Mr. DOWNEY, Mr. DREIER of California, Mr. DUNCAN, Mr. DWYER of New Jersey, Mr. DYSON, Mr. EDWARDS of Oklahoma, Mr. EMERSON, Mr. ENGEL, Mr. EVANS, Mr. FAUNTROY, Mr. FAWELL, Mr. FAZIO, Mr. FIELDS, Mr. FOGLIETTA, Mr. FROST, Mr. FUSTER, Mr. GALLEGLY, Mr. GALLO, Mr. GAYDOS, Mr. GEJDENSON, Mr. GEKAS, Mr. GEREN, Mr. GILMAN, Mr. GINGRICH, Mr. GONZALEZ, Mr. GOODLING, Mr. GORDON, Mr. GRANDY, Mr. GRANT, Mr. GUNDERSON, Mr. HAMILTON, Mr. HANCOCK, Mr. HANSEN, Mr. HASTERT, Mr. HARRIS, Mr. HAYES of Louisiana, Mr. HEFLEY, Mr. HERGER, Mr. HERTEL, Mr. HOCHBRUECKNER, Mr. HOLLOWAY, Mr. HOPKINS, Mr. HORTON, Mr. HOYER, Mr. HUBBARD, Mr. HUCKABY, Mr. HUGHES, Mr. HUNTER, Mr. HYDE, Mr. INHOFE, Mr. IRELAND, Mrs. JOHNSON of Connecticut, Mr. JOHNSON of South Dakota, Mr. JONES of Georgia, Mr. JONES of North Carolina, Mr. JONTZ, Mr. KANJORSKI, Mr. KASICH, Mr. KENNEDY, Mrs. KENNELLY, Mr. KILDEE, Mr. KOLBE, Mr. KOLTER, Mr. KOSTMAYER, Mr. KYL, Mr. LAGOMARSINO, Mr. LANCASTER, Mr. LANTOS, Mr. LAUGHLIN, Mr. LEATH of Texas, Mr. LEHMAN of Florida, Mr. LENT, Mr. LEWIS of California, Mr. LEWIS of Georgia, Mr. LIGHTFOOT, Mr. LIVINGSTON, Ms. LONG, Mrs. LOWEY of New York, Mr. DONALD E. LUKENS, Mr. MACHTLEY, Mr. MADIGAN, Mr. MANTON, Mr. MARLENEE, Mr. MARTIN of New York, Mrs. MARTIN of Illinois, Mr. MATSUI, Mr. MAVROULES, Mr. MAZZOLI, Mr. MCCLOSKEY, Mr. MCCOLLUM, Mr. MCCRERY, Mr. MCDADE, Mr. MCEWEN, Mr. MCGRATH, Mr. MCMILLAN of North Carolina, Mr. MCNULTY, Mrs. MEYERS of Kansas, Mr. MICHEL, Mr. MILLER of Ohio, Mr. MINETA, Mr. MFUME, Mr. MOLLOHAN, Mr. MONTGOMERY, Mr. MOORHEAD, Mrs. MORELLA, Mr. MURPHY, Mr. MURTHA, Mr. NAGLE, Mr. NEAL of North Carolina, Mr. NELSON of Florida, Mr. NIELSON of Utah, Mr. NOWAK, Mr. PACKARD, Mr. PALLONE, Mr. PARKER, Mr. PARRIS, Mr. PASHAYAN, Mr. PAYNE of New Jersey, Mr. PAYNE of Virginia, Mr. PENNY, Mr. PERKINS, Mr. PICKLE, Mr. POSHARD, Mr. PURSELL, Mr. QUILLEN, Mr. RANGEL, Mr. RAVENEL, Mr. RHODES, Mr. RICHARDSON, Mr. RIDGE, Mr. RINALDO, Mr. RITTER, Mr. ROBINSON, Mr. ROHRABACHER, Mrs. ROS-LEHTINEN, Mrs. ROUKEMA, Mr. ROWLAND of Connecticut, Mr. RUSSO, Mrs. SAIKI, Mr. SAWYER, Mr. SAXTON, Mr. SCHAEFER, Mr. SCHEUER, Mr. SCHIFF, Mr. SCHUETTE, Mr. SHAYS, Mr. SHARP, Mr. SHUMWAY, Mr. SHUSTER, Mr. SIKORSKI, Mr. SISISKY, Mr. SKAGGS, Mr. SKEEN, Mr. SKELTON, Mr. SLATTERY, Ms. SLAUGHTER of New York, Mr. SLAUGHTER of Virginia, Mr. SMITH of New Jersey, Mr. DENNY SMITH, Mr. SMITH of Texas, Mr. SMITH of New Hampshire, Mr. ROBERT F. SMITH, Mr. SMITH of Vermont, Mrs. SMITH of Nebraska, Mr. SOLOMON, Mr. SPENCE, Mr. SPRATT, Mr. STALLINGS, Mr. STANGELAND, Mr. STEARNS, Mr. STENHOLM, Mr. STUDDS, Mr. STUMP, Mr. SUNDQUIST, Mr. SWIFT, Mr. TALLON, Mr. TAUKE, Mr. TAYLOR, Mr. THOMAS of Wyoming, Mr. TORRICELLI, Mr. TOWNS, Mr. TRAFICANT, Mrs. UNSOELD, Mr. UPTON, Mr. VALENTINE, Mr. VANDER JAGT, Mr. VENTO, Mr. VOLKMER, Mrs. VUCANOVICH, Mr. WALSH, Mr. WEBER, Mr. WHEAT, Mr. WHITAKER, Mr. WHITTEN, Mr. WILSON, Mr. WISE, Mr. WOLF, Mr. WOLPE, Mr. WYDEN, Mr. WYLIE, Mr. YATRON, and Mr. YOUNG of Alaska):

H.R. 4098. A bill to provide for the minting of coins in commemoration of the bicentennial of the death of Benjamin Franklin and to enact a fire service bill of rights and programs to fulfill those rights; jointly, to the Committees on Banking, Finance and Urban Affairs and Science, Space, and Technology.

By Mr. FOGLIETTA:

H.J. Res. 484. Joint resolution designating April 1990 as "National Weight Loss Month"; to the Committee on Post Office and Civil Service.

By Mr. MOAKLEY:

H.J. Res. 485. Joint resolution designating October 25, 1990, as "Distributive Education Clubs of America National Marketing Education Day"; to the Committee on Post Office and Civil Service.

By Mr. WYDEN (for himself, Mr. WAXMAN, Mr. STARK, Mr. MARKEY, Mr. RINALDO, Mr. WALGREN, Mr. RICHARDSON, Mr. SLATTERY, Mr. SIKORSKI, Mr. MCGRATH, Mr. FLIPPO, Mr. FRENZEL, Mr. COYNE, Mr. MOODY, Mr. MCDERMOTT, Mr. BERMAN, Mrs. MORELLA, Mrs. PATTERSON, Mrs. ROUKEMA, Mr. OWENS of Utah, Mr. HORTON, Mr. RAHALL, Mrs. LOWEY of New York, Mr. VALENTINE, Mr. ACKERMAN, Mr. GEJDENSON, Mr. LANTOS, Mr. GREEN, Mr. MCMILLEN of Maryland, Mr. OWENS of New York, Mr. CARPER, Mr. LEHMAN of Florida, Mr. FAZIO, Mr. LEVINE of California, Mr. SPRATT, Mr. WOLPE, Mr. MOAKLEY, Mr. NEAL of Massachusetts, Mr. RAVENEL, Mr. LAGOMARSINO, Mr. GUARINI, Mr. ENGEL, Ms. LONG, Mr. CARR, Mr. KENNEDY, Mr. LANCASTER, Mr. MCEWEN, Mr. KOLTER, Mr. SAVAGE, Mr. DENNY SMITH, Mr. JONES of North Carolina, Mr. SKAGGS, Mr. MCHUGH, Mr. SCHUMER, Mr. BUSTAMANTE, Mr. DEFAZIO, Mr. WOLF, Mr. HAYES of Illinois, Mr. TAUZIN, Mr. ROSE, Ms. SLAUGHTER of New York, Mr. JONES of Georgia, Mr. MILLER of Washington, Mr. BILIRAKIS, Mr. EMERSON, Mr. NOWAK, Ms. OAKAR, Mr. QUILLEN, Mr. COLEMAN of Texas, Mr. HALL of Texas, Mr. HOAGLAND, Mr. LEACH of Iowa, Mr. SANGMEISTER, Mr. WILSON, Mr. STUDDS, Mr. MRAZEK, Mr. CLARKE, Mr. MANTON, Mr. JONTZ, and Mr. CROCKETT):

H.J. Res. 486. Joint resolution to designate the week of October 7, 1990, through October 13, 1990, as "Mental Illness Awareness Week"; to the Committee on Post Office and Civil Service.

By Mr. MAZZOLI:

H. Con. Res. 269. Concurrent resolution expressing the sense of the Congress that the President should establish a White House conference regarding solid waste disposal and reduction; to the Committee on Energy and Commerce.

By Mr. CONYERS (for himself, Mr. DELLUMS, Mr. ESPY, Mr. DYMALLY, Mr. MFUME, Mr. CROCKETT, Mr. OWENS of New York, Mr. LEWIS of Georgia, Mrs. COLLINS, Mr. FAUNTROY, Mr. HAWKINS, Mr. CLAY, Mr. WASHINGTON, Mr. FLAKE, Mr. DIXON, Mr. SAVAGE, Mr. RANGEL, Mr. TOWNS, Mr. PAYNE of New Jersey, Mr. HAYES of Illinois, Mr. STOKES, Mr. FORD of Tennessee, Mr. APPLEGATE, Mr. WHEAT, Mr. WAXMAN, and Mr. HORTON):

H. Con. Res. 270. Concurrent resolution expressing the sense of the Congress that United States economic sanctions on the Republic of South Africa should not be lifted until such time as all conditions under the Comprehensive Anti-Apartheid Act of 1986 for the termination of such sanctions are met and a democratic political process in South Africa is established; to the Committee on Foreign Affairs.

By Mr. DE LA GARZA:

H. Res. 341. Resolution providing amounts from the contingent fund of the House for expenses of investigations and studies by the Committee on Agriculture in the 2d session of the 101st Congress; to the Committee on House Administration.

By Mr. MARLENEE:

H. Res. 342. Resolution expressing the opposition of the House of Representatives to any further extension of the temporary surtax component of the Federal unemployment tax; to the Committee on Ways and Means.

MEMORIALS

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

314. By the SPEAKER: Memorial of the Legislature of the State of Maine, relative to the protection of workers at the Portsmouth Naval Shipyard in Kittery, ME; to the Committee on Armed Services.

315. Also, memorial of the Legislature of the State of Nevada, relative to the passage of a Coinage Act; to the Committee on Banking, Finance and Urban Affairs.

ADDITIONAL SPONSORS

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

H.R. 60: Ms. SCHNEIDER and Mr. HEFNER.

H.R. 101: Mr. FLAKE and Mr. BEILENSON.

H.R. 252: Mr. WELDON.

H.R. 543: Mr. FRANK, Mr. KANJORSKI, Mr. MAVROULES, Mr. JAMES, Ms. ROS-LEHTINEN, Mr. ROYBAL, Mr. BERMAN, Mr. DOWNEY, Mr. DIXON, Mr. PACKARD, Mr. BROWN of California, Mr. HUNTER, Mr. ENGEL, Mr. BEILENSON, Mr. LEWIS of Georgia, Mr. RAVENEL, and Ms. SCHNEIDER.

H.R. 563: Mr. GOODLING.

H.R. 655: Mr. GRAY.

H.R. 775: Mr. WILSON, Mr. KOSTMAYER, and Mr. STARK.

H.R. 911: Mr. MCCRERY, Mr. STALLINGS, and Mr. BAKER.

H.R. 1383: Mr. PENNY.

H.R. 1400: Mrs. SMITH of Nebraska, Mr. WOLF, Mr. NELSON of Florida, Mr. BONIOR, Mr. HAMMERSCHMIDT, Mr. AKAKA, Mr. ANNUNZIO, and Mr. CONYERS.

H.R. 1461: Ms. SCHNEIDER and Mr. SMITH of Vermont.

H.R. 1582: Mr. MORRISON of Connecticut.

H.R. 2025: Ms. KAPTUR and Mr. CROCKETT.

H.R. 2168: Mr. LEVIN of Michigan and Mr. STUDDS.

H.R. 2204: Mr. FORD of Michigan.

H.R. 2205: Mr. FORD of Michigan.

H.R. 2285: Mr. BEREUTER, Mr. JOHNSON of South Dakota, and Mr. OBERSTAR.

H.R. 2373: Mr. AUCOIN and Mr. NEAL of Massachusetts.

H.R. 2452: Mr. KYL.

H.R. 2584: Mr. VISCLOSKY, Mr. SAVAGE, Mrs. LLOYD, Mr. BONIOR, Mr. GALLO, Mr. GUARINI, Mr. STENHOLM, and Mr. SMITH of New Jersey.

H.R. 2700: Mr. NIELSON of Utah, Mr. PEASE, and Mr. COUGHLIN.

H.R. 2718: Mrs. BOXER.

H.R. 2781: Mr. GILLMOR.

H.R. 2958: Mr. PALLONE.

H.R. 2972: Mr. KOSTMAYER and Mr. SISISKY.

H.R. 3004: Ms. SNOWE and Mr. SOLARZ.

H.R. 3129: Mr. CHAPMAN, Mr. COBLE, Mr. DERRICK, Mr. DORGAN of North Dakota, Mr. GRANDY, Mr. HAMILTON, Mr. HANCOCK, Mr. HOYER, Mr. JONES of North Carolina, Mr. KOLBE, Mrs. LLOYD, Mr. MCDADE, Mr. ORTIZ, Mr. RAHALL, Mr. ROBERTS, Mr. ROBINSON, Mr. ROSE, Mr. SARPALIUS, Mr. SPENCE, Mr. STALLINGS, Mr. THOMAS of Georgia, Mr. VENTO, and Mr. WILLIAMS.

H.R. 3270: Mr. WELDON, Mr. GEKAS, Mr. FIELDS, Mr. DWYER of New Jersey, Mr. DELAY, Mr. BEREUTER, Mr. HUNTER, Mr. GEREN, Mr. MCCRERY, Mr. LEWIS of California, Ms. SLAUGHTER of New York, Mr. MCDERMOTT, Mr. STEARNS, Mr. HANSEN, and Mr. ERDREICH.

H.R. 3480: Mrs. MORELLA, Mr. DONALD E. LUKENS, Mr. FUSTER, Mr. BROWN of California, Mr. AKAKA, Mr. INHOFE, Mr. ROE, Mr. GILMAN, Mr. MRAZEK, Mr. DINGELL, Mr. LAGOMARSINO, Mr. DWYER of New Jersey, Ms. KAPTUR, Mr. PRICE, Mr. HEFNER, Mr. HEFLEY, Mrs. KENNELLY, Mr. STANGELAND, Ms. LONG, Mr. LANCASTER, Mr. GEJDENSON, Mr. BONIOR, and Mr. NAGLE.

H.R. 3501: Mr. BLILEY.

H.R. 3522: Mr. JAMES.

H.R. 3745: Mr. DELLUMS, Mr. FAUNTROY, and Mr. MFUME.

H.R. 3755: Mr. HYDE.

H.R. 3789: Mr. WILLIAMS, Ms. SLAUGHTER of New York, Mr. MOODY, Mr. BOUCHER, and Mr. MAZZOLI.

H.R. 3805: Mr. CONDIT, Mr. FROST, Mr. WELDON, Mr. DWYER of New Jersey, Mr. KOSTMAYER, Mr. FAWELL, Mr. EMERSON, and Mr. GORDON.

H.R. 3818: Ms. PELOSI.

H.R. 3831: Mr. BENNETT, Mr. LANCASTER, Mr. DONNELLY, Mr. MARKEY, Mr. NEAL of Massachusetts, and Mr. ATKINS.

H.R. 3851: Mr. MCNULTY, Mr. MURTHA, Mr. GAYDOS, Mr. JOHNSON of South Dakota, Mr. POSHARD, Mr. PAYNE of New Jersey, Mr. ROE, Mr. TOWNS, Mr. FAUNTROY, Ms. KAPTUR, Mr. MORRISON of Connecticut, Mr. EVANS, Mr. KANJORSKI, Mr. SOLARZ, Mr. EMERSON, Ms. PELOSI, Mr. DWYER of New Jersey, Mr. PALLONE, Mr. DEFAZIO, Mr. CLARKE, and Mr. APPLEGATE.

H.R. 3859: Mrs. LOWEY of New York, Mr. PALLONE, Mr. SMITH of Vermont, and Mr. CLAY.

H.R. 3870: Mr. WOLPE and Mr. JONTZ.

H.R. 3880: Mr. SHAYS, Mr. JENKINS, Mr. SANGMEISTER, and Mr. RHODES.

H.R. 3903: Mr. GALLO, Mr. RINALDO, and Mr. DWYER of New Jersey.

H.R. 3906. Mr. MCCLOSKEY, Mr. ENGEL, Mr. SLATTERY, Mr. PICKETT, Mr. PAYNE of Virginia, and Mrs. MARTIN of Illinois.

H.R. 3909: Mr. PENNY, Mr. MONTGOMERY, Mr. GAYDOS, Mrs. LLOYD, Ms. ROS-LEHTINEN, Mr. MCDERMOTT, Mr. DE LUGO, Mr. YATES, Mrs. JOHNSON of Connecticut, Mr. LEHMAN of Florida, Mr. GUNDERSON, Mr. HAYES of Illinois, Mr. WALSH, Mr. LEWIS of Georgia, Mr. FAUNTROY, Mr. FAWELL, Mrs. MEYERS of Kansas, Mr. SMITH of Vermont, Mrs. BOXER, Mr. FORD of Tennessee, Mr. BOEHLERT, Mr. LANCASTER, Mr. RAHALL, Mr. TOWNS, and Mr. RANGEL.

H.R. 3936: Mr. MURPHY, Mr. JACOBS, Mr. STOKES, Mr. PENNY, Mr. MRAZEK, Mr. FAUNTROY, Mr. BERMAN, Mr. AUCOIN, Mrs. COLLINS, Mr. KLECZKA, Mr. RAHALL, Mr. KASTENMEIER, Mr. ACKERMAN, and Mr. MILLER of California.

H.R. 3949: Mr. THOMAS A. LUKEN.

H.R. 3972: Mr. BARTON of Texas, Mr. BALLENGER, Mr. DELAY, Mr. SHUMWAY, Mr. BOEHLERT, Mr. LIVINGSTON, Mr. PAXON, Mr. QUILLEN, Mr. WALKER, Mr. ROWLAND of Connecticut, Mr. HYDE, Mr. BLILEY, and Mr. KYL.

H.R. 3973: Mr. JACOBS.

H.R. 3978: Mr. SKAGGS, Mr. FAUNTROY, Mr. RANGEL, Mr. MRAZEK, Mr. ROYBAL, Mr. OWENS of Utah, Mr. WOLPE, Ms. PELOSI, Mrs. MORELLA, Mrs. UNSOELD, Mr. BEILENSON, Mr. CROCKETT, Mr. YATES, Mrs. COLLINS, Mr. SCHEUER, Mr. GEJDENSON, Mr. SMITH of Vermont, Mr. HAYES of Illinois,

Mr. JOHNSON of South Dakota, Mr. FORD of Tennessee, Mr. MILLER of California, Mr. CARDIN, Mr. LEHMAN of Florida, Mr. KILDEE, Mr. EDWARDS of California, and Mr. MORRISON of Connecticut.

H.R. 4025: Mr. PALLONE, Mr. CLINGER, Mr. EVANS, Mr. ACKERMAN, Mr. FALEOMAVAEGA, Mr. HORTON, Mr. LAGOMARSINO, and Mr. GOODLING.

H.J. Res. 240: Mr. EVANS, Mr. JACOBS, Mrs. MARTIN of Illinois, Mr. NELSON of Florida, and Ms. ROS-LEHTINEN.

H.J. Res. 364: Ms. SLAUGHTER of New York, Mr. MCCLOSKEY, Mr. NATCHER, Mrs. JOHNSON of Connecticut, Mr. ANNUNZIO, Mr. BOSCO, Mr. CLARKE, Mr. HAMILTON, Mr. HORTON, Mr. SKEEN, Mr. TRAXLER, Mr. WALGREN, Mr. IRELAND, Mr. STARK, Mr. VANDER JAGT, Mr. HARRIS, Mr. SCHULZE, Mr. SMITH of New Hampshire, Mr. TAUZIN, Mr. SUNDQUIST, Mr. ROHRABACHER, Mr. FAUNTROY, Mr. SKELTON, Mr. DERRICK, Mr. SPENCE, Mr. PAYNE of New Jersey, Mr. PRICE, Mr. LAFALCE, Ms. LONG, Mr. DE LUGO, Mr. NAGLE, Mr. JENKINS, Mr. ANDERSON, Mr. MCDADE, Mr. BARNARD, Mr. RAY, Mr. HENRY, Mr. CLEMENT, Mr. BROWDER, Mr. ROWLAND of Connecticut, Ms. PELOSI, Mr. LIPINSKI, Mr. YATRON, Ms. KAPTUR, Mr. MADIGAN, Mr. WALSH, Mr. CHANDLER, Mr. HAMMERSCHMIDT, Mr. STANGELAND, Mr. MACHTLEY, Mr. TAUKE, Mrs. UNSOELD, Mr. MILLER of Washington, Mr. OBEY, Mr. LEWIS of Georgia, Mr. KASTENMEIER, Mr. BOEHLERT, Mr. SAWYER, Mr. BOUCHER, and Mr. FAZIO.

H.J. Res. 417: Mr. KASTENMEIER and Mr. CONDIT.

H.J. Res. 436: Mr. RAVENEL, Mr. PARRIS, Mr. THOMAS of Georgia, Mr. BURTON of Indiana, Mr. MANTON, Mr. WAXMAN, Mr. BROWN of California, Ms. SLAUGHTER of New York, Mr. KANJORSKI, Mr. BUSTAMANTE, Mr. HUGHES, Mr. DYMALLY, Mr. HORTON, Mr. SAWYER, Mr. LANCASTER, Mr. HEFNER, Mr. LAUGHLIN, Mr. WASHINGTON, Mr. DELLUMS, Mr. HAYES of Illinois, Mr. DE LUGO, Mr. AKAKA, Mr. APPLEGATE, Mr. FOGLIETTA, Mr. BEVILL, Mr. BORSKI, Mr. FORD of Michigan, Mr. LEVIN of Michigan, Mr. CLARKE, Mr. DEFAZIO, Mr. DICKS, Mr. DONNELLY, Mr. FALEOMAVAEGA, Mr. FLIPPO, Mr. FORD of Tennessee, Mr. FUSTER, Mr. CROCKETT, Mr. CARR, Mr. BRUCE, Mr. HARRIS, Mr. JONES of North Carolina, Mr. HUBBARD, Mr. KENNEDY, Mr. LEHMAN of California, Mr. LIPINSKI, Mr. KOLTER, Mr. MCHUGH, Mr. MAVROULES, Mr. MFUME, Mr. MOODY, Mr. MURPHY, Mr. ENGEL, Mr. NATCHER, Mr. NEAL of Massachusetts, Mr. PAYNE of Virginia, Mr. SARPALIUS, Mr. SAVAGE, Mr. ROYBAL, Mr. INHOFE, Mr. SLATTERY, Mr. STAGGERS, Mr. SOLARZ, Mr. SISISKY, Mr. SKELTON, Mr. COLEMAN of Texas, Mr. HUTTO, Mr. GONZALEZ, Mr. MCDERMOTT, Mr. KYL, Mr. STOKES, Mr. TALLON, Mr. PICKETT, Mr. TRAXLER, Mr. FASCELL, Mr. WILSON, Mr. RAHALL, Mr. TRAFICANT, Mr. WHEAT, Mr. HATCHER, Mr. BATEMAN, Mr. MCNULTY, Mr. CARDIN, Mr. BARNARD, Mr. BOSCO, Mr. LANTOS, Mr. CARPER, Mr. WYDEN, Mr. MCEWEN, Mr. DYSON, and, Mr. DWYER of New Jersey.

H.J. Res 460: Mr. GALLEGLY, Mr. ATKINS, Mr. NOWAK, Mr. TORRICELLI, Ms. KAPTUR, Mr. RAVENEL, Mr. EVANS, Mr. WALSH, Mr. MCNULTY, Mr. THOMAS A. LUKEN, Mr. COURTER, Mr. FUSTER, Mr. MAVROULES, Mr. LEHMAN of Florida, Mr. PALLONE, Mr. WOLF, Mr. FASCELL, Mr. GUARINI, Mr. SANGMEISTER, Mr. STANGELAND, Mr. SMITH of Iowa, Mrs. COLLINS, Mr. FORD of Tennessee, Mr. ERDREICH, Mr. BOEHLERT, Mr. HOCHBRUECKNER, Mr. STUDDS, Mr. FAUNTROY, Mr. TRAFICANT, Mr. HORTON, Mrs. BOXER, Mr. SCHAEFER, Mr. WAXMAN, Mr. BLILEY, Mr. WALGREN, Mr. BONIOR, Mr. PAYNE of New Jersey, Mr. TOWNS, Mr. DWYER of New Jersey, Mr. SPRATT, Mr. HARRIS, Mr. MCMILLEN of Maryland, Mr. GONZALEZ, Mr. BOUCHER, Mr. ANNUNZIO, Mr. PARRIS, Mr. COUGHLIN, Mr. BROWN of California, Mr. HEFNER, Mr. HALL of Texas, Mr. JOHNSON of South Dakota, and Mr. LANCASTER.

H. Con. Res. 7: Mr. JONES of Georgia.

H. Con. Res. 23: Mr. SHUMWAY, Mr. BOUCHER, Mr. YATRON, Mr. WALGREN, Mr. HARRIS, Mr. PORTER, and Mr. CALLAHAN.

H. Con. Res. 87: Mr. DWYER of New Jersey, Mr. LENT, Ms. OAKAR, Mr. WYDEN, and Mr. TOWNS.

H. Con. Res. 249: Mr. DOWNEY, Mr. ATKINS, Mr. BORSKI, Mr. MORRISON of Connecticut, Mr. ENGEL, Mr. BATES, Mr. RANGEL, Mr. PALLONE, Mr. HYDE, Mr. MCHUGH, and Mr. SCHUMER.

H. Con. Res. 264: Mr. BORSKI, Mr. BOUCHER, Mr. BRUCE, Mr. CAMPBELL of California, Mr. CARDIN, Mr. DELLUMS, Mr. DOUGLAS, Mr. FRANK, Mr. HALL of Ohio, Mr. HUGHES, Mr. GLICKMAN, Mr. GILMAN, Mr. KILDEE, Mr. PALLONE, Ms. PELOSI, Mr. PENNY, Mr. SCHAEFER, Mr. SHAW, Mr. SPENCE, Mr. SYNAR, Mr. WAXMAN, and Mr. STALLINGS.

PETITIONS, ETC.

Under clause 1 of rule XXII:

141. The SPEAKER presented a petition of Lucian T. Robinson, Raleigh, NC, relative to a new Star-Spangled Banner anthem; which was referred to the Committee on Post Office and Civil Service.

SENATE—*Thursday, February 22, 1990*

(Legislative day of Tuesday, January 23, 1990)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the Honorable WYCHE FOWLER, JR., a Senator from the State of Georgia.

PRAYER

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

Let us pray:

* * * *man doth not live by bread only, but by every word that proceedeth out of the mouth of the Lord doth man live.*—Deuteronomy 8:3.

* * * *seek ye first the kingdom of God, and His righteousness; and all these things shall be added unto you.*—Matthew 6:33.

Eternal God, our Father, listening to the provocative message of President Vaclav Havel in the joint meeting of Congress yesterday, these two texts from the Bible came to mind. Thank Thee for his profound insight that, "We still do not know how to put morality ahead of politics, science, and economics." Help us to contemplate his wise words and remember that it is matters of the heart which are more basic than matters of the head.

Thank Thee for his gentle reminders of the moral roots of the freedom we have enjoyed for 200 years. Thank Thee for the wisdom of one who represents a people who have lived under the rock of repression for 40 years. Help us who have never experienced oppression to understand and heed. Save us from the materialism that denies the faith and moral foundations of our way of life.

We pray in Jesus' name who is Truth. 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, February 22, 1990.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable WYCHE FOWLER, JR., a Senator from the State of Georgia, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

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

READING OF WASHINGTON'S FAREWELL ADDRESS

The ACTING PRESIDENT pro tempore. Under the order of the Senate of January 24, 1990, the Senator from Virginia [Mr. ROBB], having been appointed by the President of the Senate, is recognized to read George Washington's Farewell Address.

Mr. ROBB. Mr. President, on this, the 258th anniversary of the birth of the man often referred to as the "father of his country," I have the privilege not only, along with Senator WARNER, of representing his native State of Virginia, but also on this day of reading in its entirety, in accordance with custom, George Washington's Farewell Address to the Nation which he led and served with such distinction.

Mr. ROBB, at the rostrum, read the Farewell Address, as follows:

To the people of the United States.

FRIENDS AND FELLOW CITIZENS: The period for a new election of a citizen to administer the executive government of the United States being not far distant, and the time actually arrived when your thoughts must be employed in designating the person who is to be clothed with that important trust, it appears to me proper, especially as it may conduce to a more distinct expression of the public voice, that I should now apprise you of the resolution I have formed, to decline being considered among the number of those, out of whom a choice is to be made.

I beg you, at the same time, to do me the justice to be assured, that this resolution has not been taken, without a strict regard to all the considerations appertaining to the relation which binds a dutiful citizen to his country; and that, in withdrawing the tender of service which silence in my situation might imply, I am influenced by no diminution of zeal for your future interest; no deficiency of grateful respect for your past kindness; but am supported by a full conviction that the step is compatible with both.

The acceptance of, and continuance hitherto in the office to which your suffrages have twice called me, have been a uniform sacrifice of inclination to the opinion of duty, and to a deference for what appeared to be your desire. I constantly hoped that it would have been much earlier in my power, consistently with motives which I was not at liberty to disregard, to return to that retirement from which I had been reluctantly drawn. The strength of my inclination to do this, previous to the last election, had even led to the preparation of an address to declare it to you; but mature reflection on the then perplexed and critical posture of our affairs with foreign nations, and the unanimous advice of persons entitled to my confidence, impelled me to abandon the idea.

I rejoice that the state of your concerns external as well as internal, no longer renders the pursuit of inclination incompatible with the sentiment of duty or propriety; and am persuaded, whatever partiality may be retained for my services, that in the present circumstances of our country, you will not disapprove my determination to retire.

The impressions with which I first undertook the arduous trust, were explained on the proper occasion. In the discharge of this trust, I will only say that I have, with good intentions, contributed towards the organization and administration of the government, the best exertions of which a very fallible judgment was capable. Not unconscious in the outset, of the inferiority of my qualifications, experience, in my own eyes, perhaps still more in the eyes of others, has strengthened the motives to diffidence of myself; and, every day, the increasing weight of years admonishes me more and more, that the shade of retirement is as necessary to me as it will be welcome. Satisfied that if any circumstances have given peculiar value to my services they were temporary, I have the consolation to believe that, while choice and prudence invite me to quit the political scene, patriotism does not forbid it.

In looking forward to the moment which is to terminate the career of my political life, my feelings do not permit me to suspend the deep acknowledgment of that debt of gratitude which I owe to my beloved country, for the many honors it has conferred upon me; still more for the steadfast confidence with which it has supported me; and for the opportunities I have thence enjoyed of manifesting my inviolable attachment, by services faithful and persevering, though in usefulness unequal to my zeal. If benefits have resulted to our country from

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

these services, let it always be remembered to your praise, and as an instructive example in our annals, that under circumstances in which the passions, agitated in every direction, were liable to mislead amidst appearances sometimes dubious, vicissitudes of fortune often discouraging—in situations in which not unfrequently, want of success has countenanced the spirit of criticism—the constancy of your support was the essential prop of the efforts, and a guarantee of the plans, by which they were effected. Profoundly penetrated with this idea, I shall carry it with me to my grave, as a strong incitement to unceasing vows that heaven may continue to you the choicest tokens of its beneficence—that your union and brotherly affection may be perpetual—that the free constitution, which is the work of your hands, may be sacredly maintained—that its administration in every department may be stamped with wisdom and virtue—that, in fine, the happiness of the people of these states, under the auspices of liberty, may be made complete by so careful a preservation, and so prudent a use of this blessing, as will acquire to them the glory of recommending it to the applause, the affection and adoption of every nation which is yet a stranger to it.

Here, perhaps, I ought to stop. But a solicitude for your welfare, which cannot end but with my life, and the apprehension of danger, natural to that solicitude, urge me, on an occasion like the present, to offer to your solemn contemplation, and to recommend to your frequent review, some sentiments which are the result of much reflection, of no inconsiderable observation, and which appear to me all important to the permanency of your felicity as a people. These will be offered to you with the more freedom, as you can only see in them the disinterested warnings of a parting friend, who can possibly have no personal motive to bias his counsel. Nor can I forget, as an encouragement to it, your indulgent reception of my sentiments on a former and not dissimilar occasion.

Interwoven as is the love of liberty with every ligament of your hearts, no recommendation of mine is necessary to fortify or confirm the attachment.

The unity of government which constitutes you one people, is also now dear to you. It is justly so; for it is a main pillar in the edifice of your real independence; the support of your tranquility at home; your peace abroad; of your safety; of your prosperity; of that very liberty which you so highly prize. But, as it is easy to foresee that, from different causes and from different quarters much pains will be taken, many artifices employed, to weaken in your minds the conviction of this truth; as this is the point in your political fortress against which the batteries of internal and external enemies will be most constantly and actively (though often covertly and insidiously) directed; it is of infinite movement, that you should properly estimate the immense value of your national union to your collective and individual happiness; that you should cherish a cordial, habitual, and immovable attachment to it; accustoming yourselves to think and speak of it as of the palladium of your political safety and prosperity; watching for its preservation with jealous anxiety; discountenancing whatever may suggest even a suspicion that it can, in any event, be abandoned; and indignantly frowning upon the first dawning of every attempt to alienate any portion of our country from the rest, or to enfeeble the sacred ties which now link together the various parts.

For this you have every inducement of sympathy and interest. Citizens by birth, or choice, of a common country, that country has a right to concentrate your affections. The name of American, which belongs to you in your national capacity, must always exalt the just pride of patriotism, more than any appellation derived from local discriminations. With slight shades of difference, you have the same religion, manners, habits, and political principles. You have, in a common cause, fought and triumphed together; the independence and liberty you possess, are the work of joint counsels, and joint efforts, of common dangers, sufferings and successes.

But these considerations, however powerfully they address themselves to your sensibility, are greatly outweighed by those which apply more immediately to your interest.—Here, every portion of our country finds the most commanding motives for carefully guarding and preserving the union of the whole.

The *north*, in an unrestrained intercourse with the *south*, protected by the equal laws of a common government, finds in the productions of the latter, great additional resources of maritime and commercial enterprise, and precious materials of manufacturing industry.—The *south*, in the same intercourse, benefiting by the same agency of the *north*, sees its agriculture grow and its commerce expand. Turning partly into its own channels the seamen of the *north*, it finds its particular navigation invigorated; and while it contributes, in different ways, to nourish and increase the general mass of the national navigation, it looks forward to the protection of a maritime strength, to which itself is unequally adapted. The *east*, in a like intercourse with the *west*, already finds, and in the progressive improvement of interior communications by land and water, will more and more find a valuable vent for the commodities which it brings from abroad, or manufactures at home. The *west* derives from the *east* supplies requisite to its growth and comfort—and what is perhaps of still greater consequence, it must of necessity owe the *secure* enjoyment of indispensable *outlets* for its own productions, to the weight, influence, and the future maritime strength of the Atlantic side of the Union, directed by an indissoluble community of interest as *one nation*. Any other tenure by which the *west* can hold this essential advantage, whether derived from its own separate strength; or from an apostate and unnatural connection with any foreign power, must be intrinsically precarious.

While then every part of our country thus feels an immediate and particular interest in union, all the parts combined cannot fail to find in the united mass of means and efforts, greater strength, greater resource proportionably greater security from external danger, a less frequent interruption of their peace by foreign nations; and, what is of inestimable value, they must derive from union, an exemption from those broils and wars between themselves, which so frequently afflict neighboring countries not tied together by the same government; which their own rivalship alone would be sufficient to produce, but which opposite foreign alliances, attachments, and intrigues, would stimulate and embitter.—Hence likewise, they will avoid the necessity of those overgrown military establishments, which under any form of government are inauspicious to liberty, and which are to be regarded as particularly hostile to republican liberty. In this sense it is, that your union ought to be considered as a main prop of your liberty, and that the love of the one ought to endear to you the preservation of the other.

These considerations speak a persuasive language to every reflecting and virtuous mind, and exhibit the continuance of the union as a primary object of patriotic desire. Is there a doubt whether a common government can embrace so large a sphere? let experience solve it. To listen to mere speculation in such a case were criminal. We are authorized to hope that a proper organization of the whole, with the auxiliary agency of governments for the respective subdivisions, will afford a happy issue to the experiment. It is well worth a fair and full experiment. With such powerful and obvious motives to union, affecting all parts of our country, while experience shall not have demonstrated its impracticability, there will always be reason to distrust the patriotism of those who, in any quarter, may endeavor to weaken its hands.

In contemplating the causes which may disturb our Union, it occurs as

matter of serious concern, that any ground should have been furnished for characterizing parties by *geographical* discriminations,—*northern* and *southern—Atlantic* and *western;* whence designing men may endeavor to excite a belief that there is a real difference of local interests and views. One of the expedients of party to acquire influence within particular districts, is to misrepresent the opinions and aims of other districts. You cannot shield yourselves too much against the jealousies and heart burnings which spring from these misrepresentations; they tend to render alien to each other those who ought to be bound together by fraternal affection. The inhabitants of our western country have lately had a useful lesson on this head; they have seen, in the negotiations by the executive, and in the unanimous ratification by the senate of the treaty with Spain, and in the universal satisfaction at the event throughout the United States, a decisive proof how unfounded were the suspicions propagated among them of a policy in the general government and in the Atlantic states, unfriendly to their interests in regard to the Mississippi. They have been witnesses to the formation of two treaties, that with Great Britain and that with Spain, which secure to them everything they could desire, in respect to our foreign relations, towards confirming their prosperity. Will it not be their wisdom to rely for the preservation of these advantages on the union by which they were procured? will they not henceforth be deaf to those advisers, if such they are, who would sever them from their brethren and connect them with aliens?

To the efficacy and permanency of your Union, a government for the whole is indispensable. No alliances, however strict, between the parts can be an adequate substitute; they must inevitably experience the infractions and interruptions which all alliances, in all times, have experienced. Sensible of this momentous truth, you have improved upon your first essay, by the adoption of a constitution of government, better calculated than your former, for an intimate union, and for the efficacious management of your common concerns. This government, the offspring of our own choice, uninfluenced and unawed, adopted upon full investigation and mature deliberation, completely free in its principles, in the distribution of its powers, uniting security with energy, and containing within itself a provision for its own amendment, has a just claim to your confidence and your support. Respect for its authority, compliance with its laws, acquiescence in its measures, are duties enjoined by the fundamental maxims of true liberty. The basis of our political system is the right of the people to make and to alter their constitutions of government.—But the constitution which at any time exists, until changed by an explicit and authentic act of the whole people, is sacredly obligatory upon all. The very idea of the power, and the right of the people to establish government, presupposes the duty of every individual to obey the established government.

All obstructions to the execution of the laws, all combinations and associations under whatever plausible character, with the real design to direct, control, counteract, or awe the regular deliberations and action of the constituted authorities, are destructive of this fundamental principle, and of fatal tendency.—They serve to organize faction, to give it an artificial and extraordinary force, to put in the place of the delegated will of the nation the will of party, often a small but artful and enterprising minority of the community; and, according to the alternate triumphs of different parties, to make the public administration the mirror of the ill concerted and incongruous projects of factions, rather than the organ of consistent and wholesome plans digested by common councils, and modified by mutual interests.

However combinations or associations of the above description may now and then answer popular ends, they are likely, in the course of time and things, to become potent engines, by which cunning, ambitious, and unprincipled men, will be enabled to subvert the power of the people, and to usurp for themselves the reigns of government; destroying afterwards the very engines which have lifted them to unjust dominion.

Towards the preservation of your government and the permanency of your present happy state, it is requisite, not only that you steadily discountenance irregular opposition to its acknowledged authority, but also that you resist with care the spirit of innovation upon its principles, however specious the pretext. One method of assault may be to effect, in the forms of the constitution, alterations which will impair the energy of the system; and thus to undermine what cannot be directly overthrown. In all the changes to which you may be invited, remember that time and habit are at least as necessary to fix the true character of governments, as of other human institutions:—that experience is the surest standard by which to test the real tendency of the existing constitution of a country:—that facility in changes, upon the credit of mere hypothesis and opinion exposes to perpetual change from the endless variety of hypothesis and opinion: and remember, especially, that for the efficient management of your common interests in a country so extensive as ours, a government of as much vigor as is consistent with the perfect security of liberty is indispensable. Liberty itself will find in such a government, with powers properly distributed and adjusted, its surest guardian. It is, indeed, little else than a name, where the government is too feeble to withstand the enterprises of fraction, to confine each member of the society within the limits prescribed by the laws, and to maintain all in the secure and tranquil enjoyment of the rights of person and property.

I have already intimated to you the danger of parties in the state, with particular references to the founding them on geographical discrimination. Let me now take a more comprehensive view, and warn you in the most solemn manner against the baneful effects of the spirit of party generally.

This spirit, unfortunately, is inseparable from our nature, having its root in the strongest passions of the human mind.—It exists under different shapes in all governments, more or less stifled, controlled, or repressed; but in those of the popular form it is seen in its greatest rankness, and is truly their worst enemy.

The alternate domination of one faction over another, sharpened by the spirit of revenge natural to party dissension, which in different ages and countries has perpetrated the most horrid enormities, is itself a frightful despotism.—But this leads at length to a more formal and permanent despotism. The disorders and miseries which result, gradually incline the minds of men to seek security and repose in the absolute power of an individual; and, sooner or later, the chief of some prevailing faction, more able or more fortunate than his competitors, turns this disposition to the purpose of his own elevation on the ruins of public liberty.

Without looking forward to an extremity of this kind, (which nevertheless ought not to be entirely out of sight) the common and continual mischiefs of the spirit of party are sufficient to make it the interest and duty of a wise people to discourage and restrain it.

It serves always to distract the public councils, and enfeeble the public administration. It agitates the community with ill founded jealousies and false alarms; kindles the animosity of one party against another; foments occasional riot and insurrection. It opens the door to foreign influence and corruption, which finds a facilitated access to the government itself through the channels of party passions. Thus the policy and the will of one country are subjected to the policy and will of another.

There is an opinion that parties in free countries are useful checks upon the administration of the government, and serve to keep alive the spirit of liberty. This within certain limits is prob-

ably true; and in governments of a monarchial cast, patriotism may look with indulgence, if not with favor, upon the spirit of party. But in those of the popular character, in governments purely elective, it is a spirit not to be encouraged. From their natural tendency, it is certain there will always be enough of that spirit for every salutary purpose. And there being constant danger of excess, the effort ought to be, by force of public opinion, to mitigate and assuage it. A fire not to be quenched, it demands a uniform vigilance to prevent it bursting into a flame, lest instead of warming, it should consume.

It is important likewise, that the habits of thinking in a free country should inspire caution in those intrusted with its administration, to confine themselves within their respective constitutional spheres, avoiding in the exercise of the powers of one department, to encroach upon another. The spirit of encroachment tends to consolidate the powers of all the departments in one, and thus to create, whatever the form of government, a real despotism. A just estimate of that love of power and proneness to abuse it which predominate in the human heart, is sufficient to satisfy us of the truth of this position. The necessity of reciprocal checks in the exercise of political power, by dividing and distributing it into different depositories, and constituting each the guardian of the public weal against invasions of the others, has been evinced by experiments ancient and modern: some of them in our country and under our own eyes.—To preserve them must be as necessary as to institute them. If, in the opinion of the people, the distribution or modification of the constitutional powers be in any particular wrong, let it be corrected by an amendment in the way which the constitution designates.—But let there be no change by unsurpation; for through this, in one instance, may be the instrument of good, it is the customary weapon by which free governments are destroyed. The precedent must always greatly overbalance in permanent evil, any partial or transient benefit which the use can at any time yield.

Of all the dispositions and habits which lead to political prosperity, religion and morality are indispensable supports. In vain would that man claim the tribute of patriotism, who should labor to subvert these great pillars of human happiness, these firmest props of the duties of men and citizens. The mere politician, equally with the pious man, ought to respect and to cherish them. A volume could not trace all their connections with private and public felicity. Let it simply be asked, where is the security for property, for reputation, for life, if the sense of religious obligation *desert* the oaths which are the instruments of investigation in courts of justice? and let us with caution indulge the supposition that morality can be maintained without religion. Whatever may be conceded to the influence of refined education on minds of peculiar structure, reason and experience both forbid us to expect, that national morality can prevail in exclusion of religious principle.

It is substantially true, that virtue or morality is a necessary spring of popular government. The rule, indeed, extends with more or less force to every species of free government. Who that is a sincere friend to it can look with indifference upon attempts to shake the foundation of the fabric?

Promote, then, as an object of primary importance, institutions for the general diffusion of knowledge. In proportion as the structure of a government gives force to public opinion, it should be enlightened.

As a very important source of strength and security, cherish public credit. One method of preserving it is to use it as sparingly as possible, avoiding occasions of expense by cultivating peace but remembering, also, that timely disbursements, to prepare for danger, frequently prevent much greater disbursements to repel it; avoiding likewise the accumulation of debt, not only by shunning occasions of expense, but by vigorous exertions, in time of peace, to discharge the debts which unavoidable wars may have occasioned, but ungenerously throwing upon posterity the burden which we ourselves ought to bear. The execution of these maxims belongs to your representatives, but it is necessary that public opinion should co-operate. To facilitate to them the performance of their duty, it is essential that you should practically bear in mind, that towards the payment of debts there must be revenue; that to have revenue there must be taxes; that no taxes can be devised which are not more or less inconvenient and unpleasant; that the intrinsic embarrassment inseparable from the selection of the proper object (which is always a choice of difficulties,) ought to be a decisive motive for a candid construction of the conduct of the government in making it, and for a spirit of acquiescence in the measures for obtaining revenue, which the public exigencies may at any time dictate.

Observe good faith and justice toward all nations; cultivate peace and harmony with all. Religion and morality enjoin this conduct, and can it be that good policy does not equally enjoin it? It will be worthy of a free, enlightened, and, at no distant period, a great nation, to give to mankind the magnanimous and too novel example of a people always guided by an exalted justice and benevolence. Who can doubt but, in the course of time and things, the fruits of such a plan would richly repay any temporary advantages which might be lost by a steady adherence to it; can it be that Providence has not connected the permanent felicity of a nation within its virtue? The experiment, at least, is recommended by every sentiment which ennobles human nature. Alas! is it rendered impossible by its vices?

In the execution of such a plan, nothing is more essential than that permanent, inveterate antipathies against particular nations and passionate attachment for others, should be excluded; and that, in place of them, just and amicable feelings towards all should be cultivated. The nation which indulges towards another an habitual hatred, or an habitual fondness, is in some degree a slave. It is a slave to its animosity or to its affection, either of which is sufficient to lead it astray from its duty and its interest. Antipathy in one nation against another, disposes each more readily to offer insult and injury, to lay hold of slight causes of umbrage, and to be haughty and intractable when accidental or trifling occasions of dispute occur. Hence, frequent collisions, obstinate, envenomed, and bloody contests. The nation, prompted by ill will and resentment, sometimes impels to war the government, contrary to the best calculations of policy. The government sometimes participates in the national propensity, and adopts through passion what reason would reject; at other times, it makes the animosity of the nation subservient to projects of hostility, instigated by pride, ambition, and other sinister and pernicious motives. The peace often, sometimes perhaps the liberty of nations, has been the victim.

So likewise, a passionate attachment of one nation for another produces a variety of evils. Sympathy for the favorite nation, facilitating the illusion of an imaginary common interest, in cases where no real common interest exists, and infusing into one the enmities of the other, betrays the former into a participation in the quarrels and wars of the latter, without adequate inducements or justifications. It leads also to concessions, to the favorite nation, of privileges denied to others, which is apt doubly to injure the nation making the concessions, by unnecessarily parting with what ought to have been retained, and by exciting jealousy, ill will, and disposition to retaliate in the parties from whom equal privileges are withheld; and it gives to ambitious, corrupted or deluded citizens who devote themselves to the favorite nation, facility to betray or sacrifice the interests of their own country, without odium, sometimes even with popularity; gilding with the appearances of a virtuous sense of obligation, a commendable deference for

public opinion, or a laudable zeal for public good, the base or foolish compliances of ambition, corruption, or infatuation.

As avenues to foreign influence in innumberable ways, such attachments are particularly alarming to the truly enlightened and independent patriot. How many opportunities do they afford to tamper with domestic factions, to practice the arts of seduction, to mislead public opinion, to influence or awe the public councils!—Such an attachment of a small or weak, towards a great and powerful nation, dooms the former to be the satellite of the latter.

Against the insidious wiles of foreign influence, (I conjure you to believe me fellow citizens,) the jealousy of a free people ought to be *constantly* awake; since history and experience prove, that foreign influence is one of the most baneful foes of republican government. But that jealousy, to be useful, must be impartial, else it becomes the instrument of the very influence to be avoided, instead of a defense against it. Excessive partiality for one foreign nation and excessive dislike for another, cause those whom they actuate to see danger only on one side, and serve to veil and even second the arts of influence on the other. Real patriots, who may resist the intrigues of the favorite, are liable to become suspected and odious; while its tools and dupes usurp the applause and confidence of the people, to surrender their interests.

The great rule of conduct for us, in regard to foreign nations, is, in extending our commercial relations, to have with them as little *political* connection as possible. So far as we have already formed engagements, let them be fulfilled with perfect good faith:—Here let us stop.

Europe has a set of primary interests, which to us have none, or a very remote relation. Hence, she must be engaged in frequent controversies, the causes of which are essentially foreign to our concerns. Hence, therefore, it must be unwise in us to implicate ourselves, by artificial ties, in the ordinary vicissitudes of her politics, or the ordinary combinations and collisions of her friendships or enmities.

Our detached and distant situation invites and enables us to pursue a different course. If we remain one people, under an efficient government, the period is not far off when we may defy material injury from external annoyance; when we may take such an attitude as will cause the neutrality we may at any time resolve upon, to be scrupulously respected; when belligerent nations, under the impossibility of making acquisitions upon us, will not lightly hazard the giving us provocation, when we may choose peace or war, as our interest, guided by justice, shall counsel.

Why forego the advantages of so peculiar a situation? Why quit our own to stand upon foreign ground? Why, by interweaving our destiny with that of any part of Europe, entangle our peace and prosperity in the toils of European ambition, rivalship, interest, humor, or caprice?

It is our true policy to steer clear of permanent alliance with any portion of the foreign world; so far, I mean, as we are now at liberty to do it; for let me not be understood as capable of patronizing infidelity to existing engagements. I hold the maxim no less applicable to public than private affairs, that honesty is always the best policy. I repeat it, therefore, let those engagements be observed in their genuine sense. But in my opinion, it is unnecessary, and would be unwise to extend them.

Taking care always to keep ourselves by suitable establishments, on a respectable defense posture, we may safely trust to temporary alliances for extraordinary emergencies.

Harmony, and a liberal intercourse with all nations, are recommended by policy, humanity, and interest. But even our commercial policy should hold an equal and impartial hand; neither seeking nor granting exclusive favors or preferences; consulting the natural course of things; diffusing and diversifying by gentle means the streams of commerce, but forcing nothing; establishing with powers so disposed, in order to give trade a stable course, to define the rights of our merchants, and to enable the government to support them, conventional rules of intercourse, the best that present circumstances and mutual opinion will permit, but temporary, and liable to be from time to time abandoned or varied as experience and circumstances shall dictate; constantly keeping in view, that it is folly in one nation to look for disinterested favors from another; that it must pay with a portion of its independence for whatever it may accept under that character; that by such acceptance, it may place itself in the condition of having given equivalents for nominal favors, and yet of being reproached with ingratitude for not giving more. There can be no greater error than to expect, or calculate upon real favors from nation to nation. It is an illusion which experience must cure, which a just pride ought to discard.

In offering to you, my countrymen, these counsels of an old and affectionate friend, I dare not hope they will make the strong and lasting impression I could wish; that they will control the usual current of the passions, or prevent our nation from running the course which has hitherto marked the destiny of nations, but if I may even flatter myself that they may be productive of some partial benefit, some occasional good; that they may now and then recur to moderate the fury of party spirit, to warn against the mischiefs of foreign intrigue, to guard against the impostures of pretended patriotism; this hope will be a full recompense for the solicitude for your welfare by which they have been dictated.

How far, in the discharge of my official duties, I have been guided by the principles which have been delineated, the public records and other evidences of my conduct must witness to you and to the world. To myself, the assurance of my own conscience is, that I have, at least, believed myself to be guided by them.

In relation to the still subsisting war in Europe, my proclamation of the 22d of April, 1793, is the index to my plan. Sanctioned by your approving voice, and by that of your representatives in both houses of congress, the spirit of that measure has continually governed me, uninfluenced by any attempts to deter or divert me from it.

After deliberate examination, with the aid of the best lights I could obtain, I was well satisfied that our country, under all the circumstances of the case, had a right to take, and was bound, in duty and interest, to take a neutral position. Having taken it, I determined, as far as should depend upon me, to maintain it with moderation, perseverance and firmness.

The considerations which respect the right to hold this conduct, it is not necessary on this occasion to detail. I will only observe that, according to my understanding of the matter, that right, so far from being denied by any of the belligerent powers, has been virtually admitted by all.

The duty of holding a neutral conduct may be inferred, without any thing more, from the obligation which justice and humanity impose on every nation, in cases in which it is free to act, to maintain inviolate the relations of peace and amity towards other nations.

The inducements of interest for observing that conduct will best be referred to your own reflections and experience. With me, a predominant motive has been to endeavor to gain time to our country to settle and mature its yet recent institutions, and to progress, without interruption, to that degree of strength, and consistency which is necessary to give it, humanly speaking, the command of its own fortunes.

Though in reviewing the incidents of my administration, I am unconscious of intentional error, I am nevertheless too sensible to my defects not to think it probable that I may have committed many errors. Whatever they may be, I fervently beseech the Almighty to avert or mitigate the evils to which they may tend. I shall also carry with

me the hope that my country will never cease to view them with indulgence; and that, after forty-five years of my life dedicated to its service, with an upright zeal, the faults of incompetent abilities will be consigned to oblivion, as myself must soon be to the mansions of rest.

Relying on its kindness in this as in other things, and actuated by that fervent love towards it, which is so natural to a man who views in it the native soil of himself and his progenitors for several generations; I anticipate with pleasing expectation that retreat in which I promise myself to realize, without alloy, the sweet enjoyment of partaking, in the midst of my fellow citizens, the benign influence of good laws under a free government—the ever favorite object of my heart, and the happy reward, as I trust, of our mutual cares, labors and dangers.

GEO. WASHINGTON.

UNITED STATES,
17th September, 1796.

The ACTING PRESIDENT pro tempore. The Chair thanks the distinguished Senator from Virginia [Mr. ROBB] for reading Washington's Farewell Address.

ARMENIAN GENOCIDE DAY OF REMEMBRANCE

MOTION TO PROCEED

The ACTING PRESIDENT pro tempore. The pending question before the Senate is the motion to proceed to Senate Joint Resolution 212 on which there will be 2 hours debate, to be equally divided and controlled by the Senator from West Virginia [Mr. BYRD] and the Senator from Kansas [Mr. DOLE] or their designees.

Mr. DIXON addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Illinois.

Mr. DIXON. Mr. President, in view of the fact that the parties are not yet ready to proceed, I ask unanimous consent to proceed as in morning business not to exceed 5 minutes.

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

FLAG DESECRATION

FLAG STATUTE DECLARED UNCONSTITUTIONAL

Mr. DIXON. Mr. President, yesterday a Federal district judge in Seattle declared unconstitutional the statute we passed last year prohibiting flag desecration. A similar case is before a Federal district judge in the District of Columbia today.

From the start, I had grave doubts whether one could construct a statute that would pass constitutional muster. I have always maintained that the only way to provide sufficient protection for the flag is to pass a constitutional amendment.

In her ruling Judge Barbara Rothstein stated:

> In order for the flag to endure as a symbol of freedom in this Nation, we must protect with equal vigor the right to destroy it and the right to wave it.

I cannot agree with Judge Rothstein that the act of burning the flag is a protected form of expression. I have always agreed with the interpretation of the first amendment as provided in Chaplinsky versus New Hampshire. In that case, a unanimous court stated,

> * * * it is well understood that the right of free speech is not absolute at all times and under all circumstances. There are certain well-defined and narrowly limited classes of speech, the prevention and punishment of which have never been thought to raise any constitutional problem. These include the lewd and obscene, the profane, the libelous, and the insulting or "fighting" words—those which by their very utterance inflict injury or tend to incite an immediate breach of the peace. It has been well observed that such utterances are no essential part of any exposition of ideas, and are of such slight social value as a step to truth that any benefit that may be derived from them is clearly outweighed by the social interest in order and morality.

I look forward with great interest to the ruling in the District of Columbia case, as well as a final ruling on the Seattle case. But I believe it remains very doubtful that the flag burning statute will ultimately be upheld.

As I said on the floor of the Senate in October,

> I would be the first to say that, if the courts uphold (the statute), a constitutional amendment becomes unnecessary. However, we cannot know with certainty what the Supreme Court will do if faced with this statute.

Mr. President, I voted for the statute when it was before the Senate. I had a great deal of respect for the concerted efforts that went into the construction of this statute. However, I stated at that time that the best way to go was on a two-track process, thereby allowing both the statute and the amendment equal opportunity to proceed through the system. It now looks more likely that this train may only have one track left.

I do not know how a higher court is going to rule in either of these cases from yesterday or today, but I know this: no court in this country is going to overturn an amendment to the Constitution that bans flag burning.

We still do not know for certain what the Supreme Court will do when faced with this statute, Mr. President. But the initial indicator is a poor prognosis for the statute.

Mr. President, I continue to believe we need a constitutional amendment.

DISTRICT COURT DECISION IN FLAG CASE

Mr. SPECTER. Mr. President, I seek the floor to make a comment about the decision by the district court on the flag case. I am told Senator DOLE also wants to comment. I will be glad to yield to my colleague, if desired.

The decision by the U.S. district court invalidating the statute prohibiting the burning of the flag, Mr. President, I believe to be wrong as a matter of law based on the excerpts which have appeared so far. I have not yet had an opportunity to examine the full opinion, but the extracts do not deal with the critical distinction made by the statute which covers both private as well as public burning and the extensive debate in the Senate on the statute which was passed.

Whatever the opinion of the full Court may be, it is my thought that it is premature to come to any conclusion based on the single decision by the district court.

When the issue was before the Supreme Court of the United States in Texas versus Johnson on a different, weaker statute, there was a 5-to-4 opinion, and it is my sense that when the case is reviewed ultimately by the Supreme Court of the United States, considering the great national concern about the decision, and considering the appropriate consideration by the Court of such response, including the response of the Congress in enacting legislation and the President in signing legislation, the statute will ultimately be upheld.

I do not believe that the single decision should cause any rush to conclude that the flag-burning statute is dead. My own sense is that it will be upheld and that conclusion should not be drawn based on a single decision before there has been an opportunity to examine in detail the text of the opinion.

I thank the Chair and yield the floor.

The PRESIDING OFFICER (Mr. DIXON). Who yields time?

Mr. BYRD. Mr. President, I ask unanimous consent that the time until 5 minutes after 11 not be charged against either side.

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

A KEYNOTE ADDRESS

Mr. FOWLER. Mr. President, charges involving several of our colleagues now undergoing preliminary investigation by the Senate Ethics Committee have, I believe, intensified the attention that every Senator is giving both to reform of our campaign finance practices and to the ethical implications of how Senators respond to constituent requests. These are necessary and useful consequences of the publicity generated by Charles Keating's activities, no matter what the recommendations of the Ethics Committee ultimately may be.

Senator ALAN CRANSTON last week began an address to the California Newspaper Publishers Association with a discussion of his involvement with Charles Keating. It is a straightforward and candid statement by Senator CRANSTON of what he did and why he did it.

But the speech does not end there. Senator CRANSTON goes on to discuss the foreign policy challenges facing our Nation as a consequence of the tidal wave of freedom and democracy engulfing Communist dictatorships throughout the world. He also pinpoints our challenges in the 21st century—our need to protect the quality of our lives: our rights, our environment, our children's education. We ignore these challenges at our peril.

Mr. President, I ask unanimous consent that Senator CRANSTON's remarks be printed in the RECORD.

KEYNOTE ADDRESS OF U.S. SENATOR ALAN CRANSTON, CALIFORNIA NEWSPAPER PUBLISHERS ASSOCIATION, FEBRUARY 16, 1990

I thank all of you for giving me the opportunity to speak at this convention. As long as I have been attending your convention—some 33 straight years without a miss—this is the first time I've been asked to give your keynote address.

If the last nine months of news coverage of me is the kind of requirement for becoming keynote speaker, let me inform you now that I will gladly give up the honor to someone else next year.

No, I have not come here to argue about my press coverage. I used to be a reporter—and I know how little good it does to argue with a reporter, or an editor, or a publisher.

I might have been one of you today, for way back in the 'teens my wonderful father, who led an otherwise flawless life, turned down an opportunity to buy the Palo Alto Times for $10,000!

But maybe I'd have become a Senator anyway because of the over-riding interests that drew me to public life: the issues of war and peace, an expanding and healthy economy, housing, education, the environment and human rights.

I'm going to talk about those matters. But I know you expect to hear about Charles Keating and Lincoln Savings and Loan. That's what I'll talk about first.

Just as I've been in your shoes, let me ask you to wear mine for a minute.

Pretend you are a United States Senator from California. Really, I ask each of you to pretend that for a few moments. Now: What would you do if a businessman heading a very large operation in California came to you and said that his business, with 740 California employees and more than 120,000 depositors, was being harassed and given the run-around by the federal bureaucracy.

He tells you his business is successful and solvent, but that federal regulators who've never been in business, and don't understand his business, are threatening to wreck his institution with an everlasting audit that is damaging his business and has been going on for two years, the longest in history, with no end in sight.

You listen to what this businessman says. Then you check.

The respected economist, Alan Greenspan—who now heads the Federal Reserve Board—says the man's business is solvent and will be solvent for the foreseeable future.

Arthur Young, one of the nation's "big eight" accounting firms, says this business is solvent.

A letter from the Arthur Young firm says the business's "strategies have thus far proved successful and have turned around an association headed for failure into a strong and viable financial entity."

Arthur Young says the duration of the federal audit "appears to be clearly outside normal standards." And that the Bureaucrats working on the audit "did not have the requisite experience or knowledge to evaluate the types of transactions entered into" by the firm, and the bureaucrats are being "openly hostile and inflexible."

A second international accounting firm states that the business's accounting practices followed in respect to loans challenged by the bureaucrats, are appropriate.

You also find out that both Senators from the businessman's home state—one a Republican and one a Democrat—consider him to be substantial and successful and believe that his business is being unfairly and improperly dealt with by the government regulators.

Now, if you were the Senator, what would you do?

Would you try to find out why the audit was taking so long?

That in fact is all I did at the now famous meetings of Senators with the regulators.

You don't have to take my word for it. Consider the sworn testimony of Mr. Edwin Gray, who was then head of the Federal Home Loan Bank Board.

Mr. Gray, my chief accuser, makes wild charges to the press when he's not under oath but he's more careful when he's subject to perjury. When under oath he has admitted that *all* I did at the meeting with him was ask about the duration of the audit. He also has testified under oath that he did not take any action, refrain from any action, or delay any action because of anything I or the other Senators said or did at any time. Mr. Danny Wall, Gray's successor as regulator, has made the same satement under oath.

A couple of weeks ago I asked the managing editor of a large California daily—a paper that's been very critical of me over the Lincoln affair—the same question I'm asking you: What would you have done in my place?

His answer was: "Off the record, Senator, I would have done just what you did."

Now, you're probably saying to yourself: "OK, Alan, but what about all those contributions you got from Keating?"

Let me tell you, about that.

I figure that I and my staff have helped some 300,000 lindividuals and businesses in California over the past 21 years who have been frustrated by the red tape, delays and incompetence of federal bureaucrats. And I don't have to tell you that the people who have the most problems with bureaucrats are businessmen and women like yourselves.

I've helped them as best I could when I've felt they've had legitimate complaints.

And let me tell you something else: Some were contributors. Most were not. Some contributed to my opponents. That's never the question. The only question is: do they seem to have a real problem, a legitimate complaint?

Most of you don't make political contributions, but you can give or withhold endorsements, and run favorable or unfavorable editorials, not to mention what happens in your news columns. Occasionally over the years, some of you have sought my help on a business matter or on a free first amendment issue. I'm sure that those of you who have been through that experience with me would testify that my response was never influenced by your endorsements, or your editorials, or your news coverage. You know that in every instance, I did what I thought was the right thing to do.

My efforts on behalf of Lincoln Savings were no different.

The fact is that the bulk of the money which careless reporters have asserted Mr. Keating gave to me for my 1986 campaign was really given later on—not to *my* campaign, but to non-partisan voter registration drives two years later in the 1988 presidential race. Those contributions obviously had no effect whatsoever on my 1986 race—in which Keating also gave $80,000 to the Republican Party in California to help defeat me!

I recognize that the $850,000 I raised from Keating for registration is a huge amount of money. Some people think it was too much to have raised from one man—even for a "motherhood" cause like helping people register to vote.

But not a penny of that money—not a penny of any of Keating's money—went into my pocket.

I ask you: Do you really believe that I would have sold out, that I would have risked a lifetime reputation for integrity and a record of solid achievement for my state and my country for these purposes for this man?

The fact is I did not.

And I firmly believe that Californians ultimately will realize that I did not.

Keating never raised any quid-pro-quo with me. I would have thrown him out of my office if he had.

Frankly, I wish I'd never met Charles Keating. I wish I'd never raised a dime from him.

But I have faith in the capacity of the people of California to be fair, and to separate fact from fiction. I'm confident that in the course of time they will know that Alan Cranston has not changed his stripes, and that the causes that have motivated my public service to California will continue to be my guiding compass.

Those are:

Working for peace and human rights throughout the world, and justice and equal opportunity here at home.

Striving for better health care and education, and more affordable housing for America's families.

Honoring our veterans, and our obligations to them.

Strengthening the economy and protecting the environment, which belongs to all of us.

These are some of the causes which have mattered most to me over the years, and matter the most as we enter the 1990's.

As I watch the staggering political upheaval in Europe, I am reminded of another tumultuous time, when, as a young reporter, I was stationed in Rome for International News Service.

It was the mid-'30s, and I covered the rise of Mussolini and Hitler. I decided to return home, and do what I could to awaken our people to the changes I had seen and the threats we all faced.

It was clear to me that America could not be complacent—that the Nazis and Fascists would stop at nothing, and that we needed to prepare to fight for freedom.

Fortunately, the changes in Europe today are more hopeful, far more promising—but perhaps no less significant to the future of that continent and to world peace.

And they are no less urgent in their cry against complacency.

Today, the challenge for the United States is not to bring an end to worldwide aggression and tyranny, as it was in the '30's, but to nurture the infant democracies that are just being born, * * * and to seize this golden opportunity to bring about a reduction in deadly nuclear arsenals and in the costly burdens of the arms race.

We must not shrink from this challenge.

If you look at the new political map of Europe, you see that the Warsaw Pact has collapsed. The Communists in Poland, Hungary, Czechoslovakia, East Germany, Bulgaria and Romania no longer hold dictatorial power in their hands.

These events present us with the most significant opening for arms reductions since the end of World War II.

But so far, how has President Bush responded?

His answer is to propose to increase military spending in FY 1991 by $5 billion—from $301 billion to $306 billion. He wants more missiles and more bombers.

I submit that to increase military spending when the Communist threat to us is so greatly reduced would be a profligate waste and misuse of the American taxpayer's money. In the face of revolution, to change the status quo, we should not be defending the status quo.

The Pentagon's planning guide for fighting the Warsaw Pact countries is unchanged from a year ago. Yet the 55 central European divisions of the Warsaw Pact have been swept off the table. Or, more likely, have moved to our side of the table.

If we are supposed to build up our nuclear armaments to fight in Europe, who does the President expect us to fight?

Vaclav Havel in Czechoslovakia?

Lech Walesa in Poland?

Three former military heads of the Joint Chiefs of Staff, who served under President Reagan and Carter, have recently stated that we do not need both the MX and the Midgetman missiles and could get along without either.

These hardened military men see that times have changed. Why can't President Bush?

I believe we can at least do away with both the MX and the B-2 Stealth bomber. Each B-2 will wind up costing a billion dollars! The B-2 is the first airplane in the history of the world to literally cost more than it would cost if it was made of solid gold! The B-2 has no clear military mission. Experts believe that if B-2s are ever sent out to bomb, the odds that they will ever return are not too good.

I'm leading the fight against the B-2 in the Senate.

And I'll be a leader in the fight to make sense out of the military budget—to cut from it all that we can, consistent with our security. That is my highest priority now in the Senate because it touches everything. If I and many Democrats and Republicans in Congress who share my view succeed in reducing military spending significantly, a sizeable part of the savings should be used to cut the over-all deficit. The rest should be put to work. If, step-by-step with matching military reductions by Mikhail Gorbachev's Soviet Union, we move far enough and fast enough in this direction, we may be able to avoid a tax increase while slashing the deficit and addressing the real needs of our people like education.

The federal government's latest report card on education shows that 50 percent of 17-year-olds in America can't really read.

How can we ever expect to be a viable economic power—how can we ever compete with Japan and the new and coming greater Germany—if half our young people are semi-illiterate?

President Bush has asked for a 2 percent increase in education funding—not enough to cover inflation.

Surely we can do better—and I will be working in the Senate to see that we do.

We must provide more support for education for two principle purposes:

1. To raise teacher salaries. Teachers, along with nurses, are today the lowest paid professionals in our society. That's outrageous. And just plain dumb. We simply must pay what is necessary to attract and retain the best possible teachers. Excellent teachers, who could earn far more in other professions, stay in our schools only at great personal sacrifice. That's not fair.

2. We must provide more support for education to reduce class size, so teachers can know what goes on in the lives and minds of their students. This is particularly important in California. Do you know that among the 50 states, we now rank number 49, next to the worst, next to last, in class size? That's because we've failed to fund California's schools properly.

Money alone is not the answer to our education problems, of course. We must work to reach our kids at an early age, because too many are lost before they make it to the first grade.

We need to expand school time, so that children spend more hours learning every year.

We also need to give teachers more flexibility and authority to teach, and in turn, to ask for more accountability from them.

Beyond fixing our educational system, America must renew its commitment to funding basic research, which has been the seed of our economic growth.

The National Science Foundation reports that this year, for the first time in 14 years, spending on corporate research and development has not kept pace with inflation.

We need to turn this around if we want strong industries, especially high technology.

I believe government has a major role to play in encouraging academic and corporate research and development. That is why I have repeatedly pushed for research and development tax credits.

I have also long worked for a reduction in capital gains taxes to stimulate private investment—I'm sort of a renegade Democrat on this issue—and for less government red tape and fewer licensing restrictions on American industries selling their goods abroad.

America's economic vitality will be the number one national security test of the 1990's—not the MX, not the Midgetman, not the B-2, not Star Wars.

And as we peer past the 1990's into the next century, however, we know that economic issues alone cannot be the sole measure of America's worth.

When we consider the kind of America we want to build, we must look not just at the quantity of our goods, but at the quality of our lives.

The America I'm working for is an America where all women will be guaranteed the right to choose for themselves whether or not they will bear a child. I've introduced legislation in the Senate to assure them of that right.

The America I'm working for is an America that does not accept drugs and crime as evils we have to live with endlessly. And my plan to create law enforcement task forces in high intensity drug areas, and to support local community groups fighting drugs and crime, will put the resources where they can do the most good.

The America I want to build is one where every family can find an affordable place to live, and where those who work hard and save will be able to own their own homes. I have introduced legislation to broaden the opportunity for home ownership for young families just starting out.

The America I want to see is one where we will step up to our environmental responsibilities. It won't wait for the next catastrophe to wash up on our shores.

In the Senate, I'm working to save the California desert, and to prevent unrestrained drilling for oil and gas off the California coast. I'm working to put America in the forefront of the drive to stifle global warming and the greenhouse effect, and to enact a tough Clean Air Act.

That measure's on the Senate floor right now, and I'm fighting for a significant reduction in carbon dioxide emissions and other gases that now mingle with the oxygen we breathe, and accumulate in the atmosphere.

Let me give you a couple of startling statistics:

We are presently putting 22 million tons of sulphur dioxide into the sky every year! Along with 200 other toxic chemicals.

We must put a stop to this!

If we don't, our health and, indeed, our lives are in jeopardy—yours, mine, everybody's!

Environmentalism is no longer a luxury to be enjoyed by the comfortable—but a necessity by which we all will live, or die.

Im meeting the environmental challenge, and all the challenges I've touched upon, it will not be enough for us to know what we do not want—to know that we are against war, and pollution, and ignorance, and economic stagnation, and crime and drug-addiction.

We will need to have and hold a clear vision of the world we want to create and the actions we must take to create that world.

America did not reach its place in the world by sitting on the sidelines of history, waiting for change to take place.

America must lead the forces of change, and California as always, must help show the way.

And that is what I intend to keep on doing in the United States Senate.

Thank you.

ARMENIAN GENOCIDE DAY OF REMEMBRANCE

MOTION TO PROCEED

Mr. MITCHELL. Mr. President, I ask unanimous consent that the time for debate on the pending resolution be extended from 11:05 until 1:30 p.m., with the time to be equally divided and under the control of Senators DOLE and BYRD or their designees.

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

Mr. MITCHELL. Accordingly, Mr. President, Senators should be aware in planning their schedules that the vote will occur at 1:30. I earlier had obtained consent that the mandatory live quorum be waived and that the vote occur at 1 o'clock. This concept does not alter the waiver of the live quorum; it merely changes the time for the vote at 1:30. Senators, in adjusting their schedules, previously would have been under the view that the vote would be at 1 p.m. It will now be at 1:30 p.m. to permit an additional period of debate for both sides.

I thank the Senator from Kansas and I thank the distinguished President pro tempore.

Mr. BYRD. Mr. President, I shall allot myself such time as I consume.

THE ARMENIAN RESOLUTION

I. SENSITIVITY TO SUFFERING

Mr. President, I wish to make it clear that I am not insensitive to the suffering of the Armenian people during World War I. Clearly the plight of the Armenians in the Ottoman Empire was a tragic episode. The war that consumed Europe in 1914 had many tragic consequences. Thousands of Armenians died in eastern Anatolia, as did millions of Turks, and Kurds, and Russians. Many of them died as a direct result of wartime military actions. Many more died from starvation and disease exacerbated by wartime conditions. And still more died as a result of atrocities committed by one group on the other.

If this resolution were intended to recognize the suffering and deaths of these scores of thousands, I would be happy to support it. I abhor the senseless misery of war as much as anyone. I realize that the Armenians in eastern Anatolia suffered unimaginable hardships during the First World War. Their location on the border between the two warring empires, tsarist Russia and the Turkish Ottomans, put them in an impossible position, just as it did the Armenians on the Russian side of the border, and just as it did the Turks and Kurds living in this region. But this resolution does not seek to recognize the suffering of all of these people and does not seek only to recognize the suffering of the Armenians. This resolution attempts to lay the blame for all the tragedy of the First World War on the rulers of the Ottoman Empire, the forbearers of modern Turkey. To this, I cannot agree.

Mr. President, I oppose this resolution for several reasons. First, historians do not agree on what happened in the Anatolia region of the Ottoman Empire between 1915 and 1923. Scholarly research continues, and that is how the facts should be verified, not through legislative mandate. We cannot legislate history. Second, this resolution charges the rulers and citizens of the Ottoman Empire, forbearers of the people of today's Republic of Turkey, with genocide. Genocide is a crime punishable under United States and international law. No one here, or anywhere else in the world, has conducted the kind of inquiry into the events of 70 years ago necessary to make such a determination of criminal guilt. Third, Eastern Europe, the Middle East, and the Transcaucasus region are rife with ethnic tensions and nationalistic urges. I am convinced that this resolution will fan the flames of violence and play into the hands of the extremists within those movements. Fourth, and perhaps most importantly, Turkey is one of our most vital strategic allies and this resolution can do that relationship egregious harm.

II. THE HISTORICAL DEBATE

A. SCHOLARLY DISAGREEMENT

The crux of my first objection to Senate Joint Resolution 212 is that we simply do not know for sure what happened. Historians who study the period do not agree on the facts. For every book or article cited to support the claims of one side, an equal number can be cited by their opposition. It may become necessary at some point to evaluate the evidence presented by both sides, but for now I merely want to make it clear that many reputable historians do not support the charge of genocide.

In 1985, the House of Representatives was considering House Joint Resolution 192 to commemorate a "National Day of Remembrance of Man's Inhumanity to Man." This resolution contained language similar to the resolution we are now considering. Specifically, it singled out for special recognition, "the one and one-half million people of Armenian ancestry who were victims of genocide perpetrated in Turkey between 1915 and 1923. * * *" In response to House Joint Resolution 192, 69 scholars, all experts in Turkish, Ottoman, and Middle Eastern studies, signed a declaration which appeared in the Washington Post and the New York Times. The declaration strongly objected to the portrayal of this version of the events as universally accepted historical fact. This historians declared:

> As for the charge of "genocide:" No signatory of this statement wishes to minimize the scope of Armenian suffering. We are likewise cognizant that it cannot be viewed as separate from the suffering experienced by the Muslim inhabitants of the region. The weight of evidence so far uncovered points in the direction of serious inter-communal warfare (perpetrated by Muslim and Christian irregular forces), complicated by disease, famine, suffering and massacres in Anatolia and adjoining areas during the First World War. Indeed, throughout the years in question, the region was the scene of more or less continuous warfare, not unlike the tragedy which has gone on in Lebanon for the past decade. The resulting death toll among both Muslim and Christian communities was immense. But much more remains to be discovered before historians will be able to sort out precisely responsibility between warring and innocent, and to identify the causes for the events which resulted in the death or removal of large numbers of the eastern Anatolian population, Christian and Muslim alike.

One of the central points in the historian's objection to House Joint Resolution 192 was the need for more research. As they put it, "Statesmen and politicians make history, and scholars write it. For this process to work, scholars must be given access to the written records of the statesmen and politicians of the past. To date, the relevant archives of the Soviet Union, Syria, Bulgaria and Turkey all remain, for the most part, closed to dispassionate historians. Until they become available the history of the Ottoman Empire in the period encompassed by House Joint Resolution 192 (1915-23) cannot adequately be known." The declaration continues, "As the above comments illustrate, the history of the Ottoman-Armenians is much debated among scholars, many of whom do not agree with the historical assumptions embodied in the wording of H.J. Res. 192." The same historical assumptions are contained in Senate Joint Resolution 212 and the objections are still valid.

Some people might quickly dismiss such a declaration as the work of a fringe group of crackpots. I have heard the scholars who dispute the charge of genocide in the Ottoman Empire compared to extremists who today claim the Holocaust of the Second World War never occurred. However, the 69 individuals who lent their support to this cause can hardly be termed crackpots. They serve on the faculties of some of the finest colleges and universities in America, including: Indiana University, Brandeis University, Princeton University, Ohio State University, Johns Hopkins University, George Washington University, the University of Utah, the University of Massachusetts, the University of Connecticut, Columbia University, Texas Tech University, the University of Chicago, the University of California at Berkeley, and, of course, Glenville State College in West Virginia.

B. OPENING OF THE ARCHIVES

In 1985, those scholars called for greater access to historical records. In response to such calls, the Turkish Government has recently taken steps to facilitate scholarly research into this and other chapters of its history. On June 23, 1989, the Council of Ministers of the Republic of Turkey signed into law new regulations affecting the Turkish State Archives.

The new law greatly simplifies the procedures by which foreign and Turkish scholars obtain permission to conduct research in the archives. Under the previous procedure an applicant had to wait from 6 to 10

months before receiving access to records. Even after receiving permission to use the documents, researchers were often denied access to specific material on the grounds that it was unrelated to the original request. I am told that the new regulations allow a researcher to begin work within 1 day of submitting an application and provide far greater access.

A much larger body of material is available under the new law. Prior to the new law, all documents in the archives dated after May 1914 were closed to scholars. Now, any records dated before 1939 that have been cataloged are open and available for use. This encompases up to 100 million records from Ottoman administrators collected over a period of 500 years. Study of these records will give historians a better understanding of life from the 15th to the early 20th century.

The process of documenting these records has been going on under the direction of Mr. Ismet Miroglu for the last 3 years. Since being named administrator for the Prime Minister's Archives, Mr. Miroglu has assembled a team of over 100 archivists to analyze and catalog the boxes, bags, and stacks of ledgers, decrees, and surveys. Turkish universities have even added courses to train historians and other specialists to assist with this monumental task.

Many documents already cataloged and made available have direct relevance to the dispute over what happened in eastern Anatolia. Registers specifically devoted to the non-Muslim peoples of the Ottoman Empire containing a great deal of information on Turkish-Armenian relations are among the new material. Some of the most important releases are the 224 bound and cataloged volumes of the deliberations and decisions of the Ottoman Council of Ministers. These records cover the years from 1885 to 1922. In the past, many scholars have used these registers to study events which occurred prior to May 1914. Now, for the first time, all of the deliberations and actions of the Council of Ministers during the First World War are available to scholars. This record obviously includes many decisions relating to the relocation of the Ottoman Armenians during the war. Dozens of other categories of records in the Prime Minister's Archives, containing thousands of documents from the period of the First World War, were automatically opened to scholars with the implementation of the new law.

The Ottoman Archives pertaining to Turkish-Armenian history are open and available to all qualified scholars. Since the implementation of the new regulations, no scholar who has applied for permission to work on the newly opened records has been denied. The Turkish Government is doing everything it can to facilitate true scholarly research of the period around the First World War, and of the Armenian relocation specifically.

While the opening of the archives is an extremely important development, the historical debate still rages. The rapid evolution of regimes in Eastern Europe and the increasing openness of the Soviet Union may also encourage further research into the events of the First World War. Relevant documents from the Ottoman Empire surely exist in Bulgaria, the Soviet Union, and Syria, and perhaps other countries as well. We must encourage those governments to follow the lead of Turkey and grant scholars the freedom they need to resolve these important historical questions.

C. LET HISTORIANS DECIDE, NOT LEGISLATORS

Mr. President, now is not the time for the U.S. Senate to engage in an interpretation of history. And this resolution is exactly that, an interpretation of events that took place in the early days of World War I and that are still hotly debated by historians. Now is the time to encourage historians to settle the dispute. The interpretation of this history is better left to scholars, not legislators.

The 69 scholars I mentioned earlier, who opposed a similar resolution in 1985, put it this way: "We believe that the proper position for the United States Congress to take on this and related issues, is to encourage full and open access to all historical archives, and not to make charges on historical events before they are fully understood. Such charges as those contained in H.J. Res. 192 would inevitably reflect unjustly upon the people of Turkey, and perhaps set back irreparably progress historians are just now beginning to achieve in understanding these tragic events." These distinguished historians, political scientists, and other scholars concluded their statement with this thought, "By passing the resolution Congress will be attempting to determine by legislation which side of a historical question is correct. Such a resolution, based on historically questionable assumptions, can only damage the cause of honest historical enquiry, and damage the credibility of the American legislative process."

I consider myself a student of history and as such I know that a particular historical event can be interpreted many different ways. To truly understand isolated occurrences they must be evaluated in a larger context. This is the task that historians now face. They must discover the truth of what took place, and, more importantly, how those events fit into the overall picture of the world at war.

Mr. President, I know that a particular historical event can be interpreted in many different ways. To truly understand isolated occurrences, they must be evaluated in a larger context. This is the task that historians now face. They must discover the truth of what took place, and more importantly, how those events fit into the overall picture of the world at war.

My good friend, Mr. DOLE, has claimed that only 4 of these 69 scholars are even qualified to comment on the resolution. I am not sure what criteria this analysis uses. But the information Senator DOLE introduced into the RECORD shows clearly the academic qualifications of each individual. At least 45 of the scholars are historians, and 22 of these have published extensively on the time period covered by and on the specific charges made in this resolution.

Of the other scholars, the academic specialty of each was identified in the original declaration. They are political scientists, anthropologists, experts in language, literature, art, history, folklore, and other specialties.

But there was never any attempt to claim any different. Whatever their specialty, they all have extensive knowledge of the issues involved, and they all agreed that the charge of genocide needed closer examination. Three did not deny what happened to the Armenians. They simply made the same point that I have made; namely, we have not done the kind of research necessary to reach a decision on the charge of genocide.

My friend, Senator DOLE, also claimed that many of these scholars have repudiated their inclusion on this declaration. Close examination of the evidence submitted for the record will reveal that there are no names associated with the alleged repudiation, and a more telling point is that those claims were made by the Armenian Assembly of America. Despite the wishful thinking of the Armenian lobbying groups, none of these 69 scholars have withdrawn support for the declaration, I have been advised.

Mr. DOLE also identified a scholar by the name of Dr. Phillip Stoddard as a paid agent of the Turkish Government. This characterization does a disservice to Dr. Stoddard, who served this country in a long and distinguished career at the U.S. State Department, including a position as the head of the Intelligence and Research Division.

After retiring, Dr. Stoddard was employed by the Middle East Institute. That may receive funding from the Government of Turkey, but it is dominated by other Middle Eastern countries.

Dr. Stoddard has now retired from his post as director for the institute.

Finally, I would like to quote from the information that the distinguished minority leader introduced yesterday, that all of the signatories of the ad

have at some time studied or written about some aspect of Turkey's history, language, architecture, anthropology, literature, political science, or folklore.

Mr. President, I think these scholars should be afforded the credit that they deserve.

The PRESIDING OFFICER (Mr. ROBB). Who yields time?

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, the Republican leader, Senator DOLE, has yielded 25 minutes to this Senator, and Senator BRADLEY has asked for 2 minutes to speak at this time. I am prepared to yield him 2 of my 25 minutes, to take precedence over my seeking the floor.

The PRESIDING OFFICER. Without objection, the Senator from New Jersey is recognized for 2 minutes on the time chargeable to the Senator from Kansas. is that correct?

Mr. SPECTER. That is correct.

Mr. BRADLEY. Mr. President, I rise today in support of Senate Joint Resolution 212, which would establish a national day of remembrance for those Armenians who were systematically murdered between the years 1915-23.

On April 24 each year Armenians recall, and mourn, the violent deaths of their ancestors. This resolution commemorates the 75th anniversary of a tragic era in Armenian and Turkish history. During these years more than 1.5 million Armenians were killed, and hundreds of thousands more forced from their homelands by the Turkish Ottoman Empire. The history of the Armenian people is a powerful lesson for Americans, and the world—one that we must not neglect because others would rather forget. History is perhaps our best teacher and a powerful force to prevent such evil from happening to anyone, anywhere, ever again.

A number of people oppose this resolution in the mistaken belief that it promotes anti-Turkish sentiments and will damage relations between one of our most valuable NATO allies. Still others have attempted to interpret the historical circumstances of this era to deny that mass genocidal killings of Armenians occurred.

Mr. President, there is no question of the importance of United States-Turkish relations. This resolution is not a condemnation of the Republic of Turkey. In fact, this legislation was specifically designed not to fan ethnic hatred—rather it was offered to exemplify the tragic consequences of such animosity. The terrible events of 1915-23 occurred. And while people of many ethnic persuasions suffered during this period, the contention that the millions of Armenians who were systematically killed were the natural consequences of war is nonsense. It was a flagrant abuse of human rights and the agony of this period is only prolonged as long as some attempt to deny it.

Mr. President, I urge my colleagues to vote for this measure so the world can begin the long and difficult process of putting this tragedy behind us.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Pennsylvania.

Mr. SPECTER. Mr. President, as represented, I say that Senator DOLE has yielded 25 minutes to this Senator, with the time chargeable used by Senator BRADLEY.

The PRESIDING OFFICER. Without objection, the Senator is recognized for 25 minutes.

Mr. SPECTER. Mr. President, after extensive consideration and a great deal of reading and discussing this issue with many people, I have decided to support the resolution, and have done so after analyzing many difficult considerations: First, the complex legal issue as to what constitutes genocide; second, the involved factual questions as to what actually happened; third, the consideration of the strategic issues affecting our important relationship with Turkey; and fourth, having friends on both sides of this highly charged emotional issue, friends here in the Senate, friends outside of the Senate in Pennsylvania, and even friends who have contacted me who live outside of the United States.

Deputy Secretary Eagleburger has discussed the issue with me, and I have discussed the matter with other administration officials. One who has urged me to oppose the resolution has been Ambassador Strausz-Hupe, whom I have known for 42 years when he was Professor Strausz-Hupe while I attended the University of Pennsylvania and he was in international relations in that institution.

Mr. President, when the Senate expresses itself on this issue, it is my hope that it would not be more broadly construed than the Senate judgment on whether a genocide occurred in the Ottoman Empire against the Armenians from the period between 1915 and 1923, and that it not be considered to be a reflection of the view of United States' sentiment about the people of Turkey or about the present Government of Turkey.

That United States sentiment in terms of supporting the Turkish people was expressed in vote No. 120 in the 101st Congress on an amendment offered by Senator BYRD, the amendment which expressed the sense of the Congress condemning Bulgaria's brutal treatment of its Turkish minority, attacks against and the arbitrary detention of peaceful demonstrators and forceful expulsion of Turks from their homes.

That 99-to-0 vote, where I was one of the Senators voting in favor of the resolution, is a very forceful expression of our friendship for the Turkish Government and people. As has already been articulated, it would be my expectation that the action of the U.S. Senate would have no impact on any later question about reparation or lands that would not be involved here. I see as a matter of legal judgment no legal impact as to what we have to say about this issue at this time.

As the matter is moved through the Senate, Mr. President, I see two important conclusions emerging on this debate. First, the importance of human rights, because so much attention is focusing on the Senate's reaction to this issue. Second, the importance of a judgment by the U.S. Senate on human rights.

When the issue came before the Judiciary Committee on October 17 and it emerged without an opportunity for extensive consideration, it seemed to me at that time, and I expressed reservations which I held at that time and questions which existed in my mind as to whether the U.S. Senate should make a judgment on events going back 75 years, and, second, what were the facts which I was not prepared to evaluate last October 17.

After reflecting on these matters, it has been my conclusion that the Senate should express a judgment because of the tremendous importance of human rights and the constant involvement of the U.S. Senate on the issue of human rights and the fact that the Senate statement on human rights will have an impact on what is happening around the world today and tomorrow and will affect the lives of many people, thousands, perhaps tens of thousands, perhaps hundreds of thousands, perhaps millions of people.

It has only been in the course of recent history that human rights have been elevated, and only in the course, perhaps, of the last two decades have institutions like the U.S. Senate taken a close look at these questions. And it is a tribute, Mr. President, to the importance of this body that so much attention is being focused on our opinion and judgment on this issue. Certainly, our statement, yes or no, on this resolution will be broadly viewed in terms of those who would violate human rights, whether the U.S. Senate will stand up and say human rights are important, and the U.S. Senate is prepared to condemn a violation of human rights.

I do believe that it will have an impact on the lives of many people and that is why it is an issue which cannot be avoided but has to be addressed squarely.

Mr. President, in terms of what are the facts, it is not possible for any

factfinders to make any conclusive determination even if they are very close to an event and we struggle in the course within even a few weeks or months after an event in trying to determine what actually happened with a variety of standards which we apply in those contexts.

But in my analysis and evaluation as to what the historians have to say and what some witnesses who were there have to say, it is my conclusion that the facts establish that genocide did occur.

I have taken this close account, Mr. President, the letter from the Turkish Embassy dated September 29, 1989, where the contention is made by Nuzhit Kandemir, the Ambassador, that the resolution would legislate false history, as he articulates it, and the reasons he has set forth.

I have studied closely a letter from U.S. Ambassador Morton Abramowitz, dated November 16, 1989, and have considered the views of his predecessor Ambassador Strausz-Hupe, who I have already noted was a professor at the University of Pennsylvania when I attended that school many years ago.

My staff and I have engaged in very extensive reading on the subject: "The Armenian Question," by Mim Kemal Oke, including a chapter regarding the massacres; "The Slaughterhouse Province," by Leslie A. Davis, reputed to be an unabridged account of massacres by a former American consul in the Ottoman Empire; the book "Muslims and Minorities," where Justin McCarthy devotes a full chapter to the issue; the book, "Great Events From History," edited by Frank M. McGill, including a chapter regarding this matter; the book by K.B. Bardakjian, "Hitler and the Armenian Genocide," and quite a number of other source materials.

The publication, Mr. President, which I consider to be the most persuasive of all, is the book written by Henry Morgenthau, who was the Ambassador to Constantinople, the Ambassador to the Ottoman Empire in the period from 1913 to 1916.

I ask unanimous consent that the text of Mr. Morgenthau's book from pages 301 to 325 be printed in the RECORD at the conclusion of this statement.

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

(See exhibit 1.)

Mr. SPECTER. That will enable me Mr. President, to refer only to limited portions of what Ambassador Morgenthau had to say. In chapter 14 on the pages enumerated Ambassador Morgenthau starts off with the title "The murder of a Nation" and immediately refers to "The destruction of the Armenian race".

He refers to this factor, Mr. President, at page 302:

> It now became almost the general practice to shoot them—

Referring to the Armenians—

> in cold blood. In almost all cases the procedure was the same. Here and there squads of 50 or 100 men taken and bound together in groups of four, and then marched out to a secluded spot a short distance from the village.

He goes on at page 303 to refer to an incident involving 2,000 Armenians and concludes:

> Practically every man of these 2,000 was massacred.

At page 304 he points out:

> A systematic attempt was made to kill all able-bodied males, not only for the purpose of removing all males who might propagate a new generation of Armenians, but for the purpose of rending the weaker part of the population an easier prey.

Without quoting extensively as I intended to, Mr. President, because of the limited time, I would refer to Ambassador Morgenthau's statement at 319 where he reports:

> It is absurd for the Turkish government to assert—

This is not the current Turkish Government, this is the Turkish Government when he wrote the book originally published in 1919, that he says:

> It is absurd for the Turkish government to assert that it ever seriously intended to "deport the Armenians to new homes"; the treatment which was given the convoys clearly shows that extermination was the real purpose of Enver and Talaat.

And then one final reference, Mr. President. His conclusion that he has:

> * * * by no means told the most terrible details, for a complete narration of the sadistic orgies of which these Armenian men and women were victims can never be printed in an American publication.

But as I find the statement on page 322 that:

> * * * the sufferings of the Armenians in which at least 600,000 people were destroyed and perhaps as many as 1 million.

Mr. President, following the position which I took at the October 17 meeting of the Judiciary Committee, where as I noted earlier I expressed a reservation about the propriety of the Senate taking up this issue and the fact that I had had conflicting accounts on both sides, in 1983, I made a short statement for the CONGRESSIONAL RECORD on the Armenian genocide issue.

It taught me a lesson. I have not made one since without doing independent research, because after I made that statement I had complaints from many of my Turkish constituents and friends who said I was wrong. So I ceased and desisted from making any statement.

Then when the matter came before the Judiciary Committee with Senator DOLE's resolution, we had to deal with it one way or another, and to repeat, on October 17 I stated I was not prepared to deal with the issue on the facts.

At that time as I traveled through Pennsylvania in open-house town meetings many people on both sides of the question came to me to give me their views. And I then wrote to them, soliciting evidence as to what had actually occurred.

I received a large number of statements, Mr. President. I culled them out, and I ask unanimous consent that at the conclusion of my statement 22 written statements appear from people who were in Armenia at that time.

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

[See exhibit 2.]

Mr. SPECTER. Mr. President, I ask how much time I have remaining so I may conclude my remaining remarks.

The PRESIDING OFFICER. The Senator has 7½ minutes remaining.

Mr. SPECTER. Mr. President, one statement from these says:

> I was 14 years old when my father, two uncles, five aunts, their husbands and children were massacred. I was saved by a Turk neighbor.
>
> I saw a pile of human bones near Derzor, which was estimated to be the bones of 200,000 Armenians.

This gentleman is aged 90.

A second statement from a John Alabilikian, 82 in part:

> My grandmother, father, mother, and baby brother in my mother's arms were killed in 1915.

A statement by a 90-year-old Armenian, Mr. Der-Bedrossian.

> My brother of 14 years old was shot and then attached to the tail of a horse, dragged him in the city and was killed like that. My mother and sister of 10 years, my brother of 6 and my sister of 1 year were driven into the desert and hungry died in the desert.

Because of the brevity of time I shall not go further but they will appear in the CONGRESSIONAL RECORD with the consent of the body.

Mr. President, I have had factual representations on the other side. The only one in writing that I have to present at this time, and it is the reason I am presenting only one, is from a very distinguished Pennsylvanian, Ayhan Hakimoglu, who writes to me in part:

> My family, a Turkish family, was a victim of the Armenians and several others right here in the Delaware Valley, including the wife of Dr. Kenan Umar of Norristown, whose parents were killed by Armenians and Dr. Rogers of Wilmington, Delaware, whose relatives were killed by Armenians during the Civil War.

Doubtless there is much additional evidence that could be presented on both sides, Mr. President, but in the time available since this issue came to my forceful attention in October to this date I have done what I could to consider the issue, including talking to people in the anteroom while awaiting my time on the floor while the distin-

guished Presiding Officer was making the Washington Farewell Address on calls I received late yesterday afternoon and said if they could come over early this morning I will see them and I will listen to them. I have a mind set, but I am prepared to hear other people out.

Mr. President, the remaining issue is what does constitute the genocide. I talked to a very distinguished Member of Congress yesterday at some length who articulated the position that this was not a genocide because all of the Armenians were not killed, nor were all the Armenians available killed, that there were some Armenians who were left alive. It seems to me that that sort of a definition is not a realistic one. You do not have to kill an entire race.

I have based that legal judgment on a very learned treatise on the subject by Raphael Lemkin. And I ask unanimous consent Mr. President, that pages 79 and 80 be printed in the RECORD because I do not have time to read it all.

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

CHAPTER IX—GENOCIDE

I. GENOCIDE—A NEW TERM AND NEW CONCEPTION FOR DESTRUCTION OF NATIONS

New conceptions require new terms. By "genocide" we mean the destruction of a nation or of an ethnic group. This new word, coined by the author to denote an old practice in its modern development, is made from the ancient Greek word genos (race, tribe) and the Latin cide (killing), thus corresponding in its formation to such words as tyrannicide, homocide, infanticide, etc.[1]

Generally speaking, genocide does not necessarily mean the immediate destruction of a nation, except when accomplished by mass killings of all members of a nation. (It is intended rather to signify a coordinate plan of different actions aiming at the destruction of essential foundations of the life of national groups, with the aim of annihilating the groups themselves.) The objectives of such a plan would be disintegration of the political and social institutions, of culture, language, national feelings, religion, and the economic existence of national groups, and the destruction of the personal security, liberty, health, dignity, and even the lives of the individuals belonging to such groups. Genocide is directed against the national group as an entity, and the actions involved are directed against individuals, not in their individual capacity, but as members of the national group.

The following illustration will suffice. The confiscation of property of nationals of an occupied area on the ground that they have left the country may be considered simply as a deprivation of their individual property rights. However, if the confiscations are ordered against individuals solely because they are Poles, Jews, or Czechs, then the same confiscations tend in effect to weaken the national entities of which those persons are members.

Genocide has two phases: one, destruction of the national pattern of the oppressed group; the other, the imposition of the national pattern of the oppressor. This imposition, in turn, may be made upon the oppressed population which is allowed to remain, or upon the territory alone, after removal of the population and the colonization of the area by the oppressor's own nationals. Denationalization was the word used in the past to describe the destruction of a national pattern.[1a]

The author believes, however, that this word is inadequate because: (1) it does not connote the destruction of the biological structure; (2) in connoting the destruction of one national pattern, it does not connote the imposition of the national pattern of the oppressor; and (3) denationalization is used by some authors to mean only deprivation of citizenship.[2]

Many authors, instead of using a generic term, use currently terms connoting only some functional aspect of the main generic notion of genocide. Thus, the terms "Germanization," "Magyarization," Italianization," for example, are used to connote the imposition by one stronger nation (Germany, Hungary, Italy) of its national pattern upon a national group controlled by it. The author believes that these terms are also inadequate because they do not convey the common elements of one generic notion and they treat mainly the cultural, economic, and social aspects of genocide, leaving out the biological aspect, such as causing the physical decline and even destruction of the population involved. If one uses the term "Germanization" of the Poles, for example, in this connotation, it means that the Poles, as human beings, are preserved and that only the national pattern of the Germans is imposed upon them. Such a term is much too restricted to apply to a process in which the population is attacked, in a physical sense, and is removed and supplanted by populations of the oppressor nations.

Genocide is the antithesis of the Rousseau-Portalis Doctrine, which may be regarded as implicit in the Hague Regulations. This doctrine holds that war is directed against sovereigns and armies, not against subjects and civilians. In its modern application in civilized society, the doctrine means that war is conducted against states and armed forces and not against populations. It required a long period of evolution in civilized society to mark the way from wars of extermination,[3] which occurred in ancient times and in the Middle Ages, to the conception of wars as being essentially limited to activities against armies and states. In the present war, however, genocide is widely practiced by the German occupant. Germany could not accept the Rousseau-Portalis Doctrine: first, because Germany is waging a total war; and secondly, because, according to the doctrine of National Socialism, the nation, not the state, is the predominant factor.[4]

Mr. SPECTER. Mr. President, the essence of what Lemkin has to say is that genocide occurs when the activities are directed not against sovereigns and armies but against subjects and civilians.

The Genocide Convention provides this definition:

> Genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnic, racial, or religious group as such. Among the categories, the first one A, killing members of the group; B, causing serious bodily or mental harm to members of the group; C, deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part.

The conduct which is involved here, Mr. President, fits within that definition, that you do not have to kill an entire race or nationality. The Genocide Convention refers to the destruction in whole or in part. The acts which were perpetrated here on which there is very strong evidence establish that Armenians were sought out—civilians, women and children—and were massacred because they were Armenians. They were not parties to a conflict. They were not soldiers. They were not involved in hostilities. So that, where the contention has been made that there was an uprising and that it was necessary to take this action against the Armenians as a matter of national self-defense, it seems to me that simply does not stand up, and that the evidence does support the accepted definition of a genocide.

Mr. President, in conclusion, it is my hope that this resolution will not adversely affect United States-Turkish relations. There is enormous friendship from the United States of America and from the Senate and from this Senator for the Turkish Government and the Turkish people. It is a very difficult matter for me to have to call up many of my friends and tell them how I am voting on the matter. But in the U.S. Senate we have to stand up and be counted. I think it is important for the Senate to put everyone on notice worldwide that the Senate will not stand by if there is evidence of human rights violations whatever the consequences may be.

When we talk about our relationship with Turkey and important strategic interests with NATO, we are supporting NATO because we support important values—the value of the United States security, the value of freedom,

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[1] Another term could be used for the same idea, namely, ethnocide, consisting of the Greek word "enthnos"—nation—and the Latin word "cide."

[1a] See Violation of the Laws and Customs of War: Reports of Majority and Dissenting Reports of American and Japanese Members of the Commission of Responsibilities, Conference of Paris, 1919, Carnegie Endowment for International Peace, Division of International Law, Pamphlet No. 32 (Oxford: Clarendon Press, 1919), p. 39.

[2] See Garner, *op. cit.*, Vol. I, p. 77.

[3] As classical examples of wars of extermination in which nations and groups of the population were completely or almost completely destroyed, the following may be cited: the destruction of Carthage in 146 B.C.; the destruction of Jerusalem by Titus in 72 A.D.; the religious wars of Islam and the Crusades; the massacres of the Albigenses and the Waldenses; and the siege of Magdeburg in the Thirty Years' War. Special wholesale massacres occurred in the wars waged by Genghis Khan and by Tamerlane.

[4] "Since the State in itself is for us only a form, while what is essential is its content, the nation, the people, it is clear that everything else must subordinate itself to its sovereign interests."—Adolf Hitler, *Mein Kampf* (New York: Reynal & Hitchcock, 1939), p. 842.

the value of democracy, and the right to live in peace and the right of women and children as well as men to live in peace. If we do not stand up for these values, then the $300 billion a year that we pour into national defense and the money that we spend on NATO, including our bases in Turkey, is not well spent. So that when you come down to the tough judgment on whether we are going to stand for the human rights and the values embodied in this resolution that I believe we have, then I believe we have to give precedence to that over strategic interests.

But it would be my hope Mr. President, that our friends in the Turkish Government, the Turkish people and those in the United States of Turkish extraction will not take our judgment in this matter in any way other than an evaluation of what has happened in the past and our honest judgment as to what the outcome of this resolution should be.

It is not easy to vote against friends. But it you cannot vote your conscience contrary to the wishes of your friends, then there may not be much of the bond of friendship. And I would say that both as a personal matter for me and I would say that as a national matter for the United States and our relationship with Turkey. But given the benefit of this issue on the floor in October, my preference would have been not to have decided it for the factors that I have elaborated on, but it is here we are placing the vote and I believe the evidence supports a favorable vote.

I thank the Chair and yield the floor.

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

EXHIBIT 1

AMBASSADOR MORGENTHAU'S STORY

(By Henry Morgenthau, Formerly American Ambassador to Turkey)

CHAPTER XXIV—THE MURDER OF A NATION

The destruction of the Armenian race in 1915 involved certain difficulties that had not impeded the operations of the Turks in the massacres of 1895 and other years. In these earlier periods the Armenian men had possessed little power or means of resistance. In those days Armenians had not been permitted to have military training, to serve in the Turkish army, or to possess arms. As I have already said, these discriminations were withdrawn when the revolutionists obtained the upper hand in 1908. Not only were the Christians now permitted to bear arms, but the authorities, in the full flush of their enthusiasm for freedom and equality, encouraged them to do so. In the early part of 1915, therefore, every Turkish city contained thousands of Armenians who had been trained as soldiers and who were supplied with rifles, pistols, and other weapons of defense. The operations at Van once more disclosed that these men could use their weapons to good advantage. It was thus apparent that an Armenian massacre this time would generally assume more the character of warfare than those wholesale butcheries of defenseless men and women which the Turks had always found so congenial. If this plan of murdering a race were to succeed, two preliminary steps would therefore have to be taken: it would be necessary to render all Armenian soldiers powerless and to deprive of their arms the Armenians in every city and town. Before Armenia could be slaughtered, Armenia must be made defenseless.

In the early part of 1915, the Armenian soldiers in the Turkish army were reduced to a new status. Up to that time most of them had been combatants, but now they were all stripped of their arms and transformed into workmen. Instead of serving their country as artillerymen and cavalrymen, these former soldiers now discovered that they had been transformed into road labourers and pack animals. Army supplies of all kinds were loaded on their backs, and, stumbling under the burdens and driven by the whips and bayonets of the Turks, they were forced to drag their weary bodies into the mountains of the Caucasus. Sometimes they would have to plough their way, burdened in this fashion, almost waist high through snow. They had to spend practically all their time in the open, sleeping on the bare ground—whenever the ceaseless prodding of their taskmasters gave them an occasional opportunity to sleep. They were given only scraps of food; if they fell sick they were left where they had dropped, their Turkish oppressors perhaps stopping long enough to rob them of all their possessions—even of their clothes. If any stragglers succeeded in reaching their destinations, they were not infrequently massacred. In many instances Armenian soldiers were disposed of in even more summary fashion, for it now became almost the general practice to shoot them in cold blood. In almost all cases the procedure was the same. Here and there squads of 50 or 100 men would be taken, bound together in groups of four, and then marched out to a secluded spot a short distance from the village. Suddenly the sound of rifle shots would fill the air, and the Turkish soldiers who had acted as the escort would sullenly return to camp. Those sent to bury the bodies would find them almost invariably stark naked, for, as usual, the Turks had stolen all their clothes. In cases that came to my attention, the murderers had added a refinement to their victims' sufferings by compelling them to dig their graves before being shot.

Let me relate a single episode which is contained in one of the reports of our consuls and which now forms part of the records of the American State Department. Early in July, 2,000 Armenian "amélés"—such is the Turkish word for soldiers who have been reduced to workmen—were sent to Harpoot to build roads. The Armenians in that town understood what this meant and pleaded with the Governor for mercy. But this official insisted that the men were not to be harmed, and he even called upon the German missionary, Mr. Ehemann, to quiet the panic, giving that gentleman his word of honour that the ex-soldiers would be protected. Mr. Ehemann believed the Governor and assuaged the popular fear. Yet practically every man of these 2,000 was massacred and his body thrown into a cave. A few escaped, and it was from these that news of the massacre reached the world. A few days afterward another 2,000 soldiers were sent to Diarbekir. The only purpose of sending these men out in the open country was that they might be massacred. In order that they might have no strength to resist or to escape by flight, these poor creatures were systematically starved. Government agents went ahead on the road, notifying the Kurds that the caravan was approaching and ordering them to do their congenial duty. Not only did the Kurdish tribesmen pour down from the mountains upon this starved and weakened regiment, but the Kurdish women came with butcher's knives in order that they might gain that merit in Allah's eyes that comes from killing a Christian. These massacres were not isolated happenings; I could detail many more episodes just as horrible as the one related above; throughout the Turkish Empire a systematic attempt was made to kill all able bodied men, not only for the purpose of removing all males who might propagate a new generation of Armenians, but for the purpose of rendering the weaker part of the population as an easy prey.

Dreadful as were these massacres of unarmed soldiers, they were mercy and justice themselves when compared with the treatment which was now visited upon those Armenians who were suspected of concealing arms. Naturally the Christians became alarmed when placards were posted in the villages and cities ordering everybody to bring their arms to headquarters. Although this order applied to all citizens, the Armenians well understood what the result would be, should they be left defenseless while their Moslem neighbours were permitted to retain their arms. In many cases, however, the persecuted people patiently obeyed the command; and then the Turkish officials almost joyfully seized their rifles as evidence that a "revolution" was being planned and threw their victims into prison on a charge of treason. Thousands failed to deliver arms simply because they had none to deliver, while an even greater number tenaciously refused to give them up, not because they were plotting an uprising, but because they proposed to defend their own lives and their women's honour against the outrages which they knew were being planned. The punishment inflicted upon these recalcitrants forms one of the most hideous chapters of modern history. Most of us believe that torture has long ceased to be an adminstrative and judicial measure, yet I do not believe that the darkest ages ever presented scenes more horrible than those which now took place all over Turkey. Nothing was sacred to the Turkish gendarmes; under the plea of searching for hidden arms, they ransacked churches, treated the altars and sacred utensils with the utmost indignity, and even held mock ceremonies in imitation of the Christian sacraments. They would beat the priests into insensibility, under the pretense they they were the centres of sedition. When they could discover no weapons in the churches, they would sometimes arm the bishops and priests with guns, pistols, and swords, then try them before courts-martial for possessing weapons against the law, and march them in this condition through the streets, merely to arouse the fanatical wrath of the mobs. The gendarmes treated women with the same cruelty and indecency as the men. There are cases on record in which women accused of concealing weapons were stripped naked and whipped with branches freshly cut from trees, and these beatings were even inflicted on women who were with child. Violations so commonly accompanied these searches that Armenian women and girls, on the approach of the gendarmes, would flee to the woods, the hills, or to mountain caves.

As a preliminary to the searches everywhere, the strong men of the villages and towns were arrested and taken to prison. Their tormentors here would exercise the most diabolical ingenuity in their attempt to make their victims declare themselves to be "revolutionists" and to tell the hiding places of their arms. A common practice was to place the prisoner in a room, with two Turks stationed at each end and each side. The examination would then begin with the bastinado. This is a form of torture not uncommon in the Orient; it consists of beating the soles of the feet with a thin rod. At first the pain is not marked; but as the process goes slowly on, it develops into the most terrible agony, the feet swell and burst, and not infrequently, after being submitted to this treatment, they have to be amputated. The gendarmes would bastinado their Armenian victim until he fainted; they would then revive him by sprinkling water on his face and begin again. If this did not succeed in bringing their victim to terms, they had numerous other methods of persuasion. They would pull out his eyebrows and beard almost hair by hair; they would extract his finger nails and toe nails; they would apply red-hot irons to his breast, tear off his flesh with red-hot pincers, and then pour boiled butter into the wounds. In some case the gendarmes would nail hands and feet to pieces of wood-evidently in imitation of the Crucifixion, and then, while the sufferer writhed in his agony, they would cry:

"Now let your Christ come and help you!"

These cruelties—and many others which I forbear to describe—were usually inflicted in the night time. Turks would be stationed around the prisons, beating drums and blowing whistles, so that the screams of the sufferers would not reach the villagers.

In thousands of cases the Armenians endured these agonies and refused to surrender their arms simply because they had none to surrender. However, they could not persuade their tormentors that this was the case. It therefore became customary, when news was received that the searchers were approaching, for Armenians to purchase arms from their Turkish neighbours so that they might be able to give them up and escape these frightful punishments.

One day I was discussing these proceedings with a responsible Turkish official, who was describing the tortures inflicted. He made no secret of the fact that the Government had instigated them, and, like all Turks of the official classes, he enthusiastically approved this treatment of the detested race. This official told me that all these details were matters of nightly discussion at the headquarters of the Union and Progress Committee. Each new method of inflicting pain was hailed as a splendid discovery, and the regular attendants were constantly ransacking their brains in the effort to devise some new torment. He told me that they even delved into the records of the Spanish Inquisition and other historical institutions of torture and adopted all the suggestions found there. He did not tell me who carried off the prize in this gruesome competition, but common reputation throughout Armenia gave a preeminent infamy to Djevdet Bey, the Vali of Van, whose activities in that section I have already described. All through this country Djevdet was generally known as the "horseshoer of Bashkale" for this connoisseur in torture had invented what was perhaps the masterpiece of all—that of nailing horseshoes to the feet of his Armenian victims.

Yet these happenings did not constitute what the newspapers of the time commonly referred to as the Armenian atrocities; they were merely the preparatory steps in the destruction of the race. The Young Turks displayed greater ingenuity than their predecessor, Abdul Hamid. The injunction of the deposed Sultan was merely "to kill, kill", whereas the Turkish democracy hit upon an entirely new plan. Instead of massacring outright the Armenian race, they now decided to deport it. In the south and southeastern section of the Ottoman Empire lie the Syrian desert and the Mesopotamian valley. Though part of this area was once the scene of a flourishing civilization, for the last five centuries it has suffered the blight that becomes the lot of any country that is subjected to Turkish rule; and it is now a dreary, desolate waste, without cities and towns or life of any kind, populated only by a few wild and fanatical Bedouin tribes. Only the most industrious labor, expended through many years, could transform this desert into the abiding place of any considerable population. The Central Government now announced its intention of gathering the two million or more Armenians living in the several sections of the empire and transporting them to this desolate and inhospitable region. Had they undertaken such a deportation in good faith it would have represented the height of cruelty and injustice. As a matter of fact, the Turks never had the slightest idea of reestablishing the Armenians in this new country. They knew that the great majority would never reach their destination and those who did would either die of thirst and starvation, or be murdered by the wild Mohammedan desert tribes. The real purpose of the deportation was robbery and destruction; it really represented a new method of massacre. When the Turkish authorities gave the orders for these deportations, they were merely giving the death warrant to a whole race; they understood this well, and, in their conversations with me, they made no particular attempt to conceal the fact.

All through the spring and summer of 1915 the deportations took place. Of the larger cities, Constantinople, Smyrna, and Aleppo were spared; practically all other places where a single Armenian family lived now became the scenes of these unspeakable tragedies. Scarcely a single Armenian, whatever his education or wealth, or whatever the social class to which he belonged, was exempted from the order. In some villages placards were posted ordering the whole Armenian population to present itself in a public place at an appointed time—usually a day or two ahead, and in other places the town crier would go through the streets delivering the order vocally. In still others not the slightest warning was given. The gendarmes would appear before an Armenian house and order all the inmates to follow them. They would take women engaged in their domestic tasks without giving them the chance to change their clothes. The police fell upon them just as the eruption of Vesuvius fell upon Pompeii; women were taken from the washtubs, children were snatched out of bed, the bread was left half baked in the oven, the family meal was abandoned partly eaten, the children were taken from the schoolroom, leaving their books open at the daily task, and the men were forced to abandon their ploughs in the fields and their cattle on the mountain side. Even women who had just given birth to children would be forced to leave their beds and join the panic-stricken throng, their sleeping babies in their arms. Such things as they hurriedly snatched up—a shawl, a blanket, perhaps a few scraps of food—were all that they could take of their household belongings. To their frantic questions "Where are we going?" the gendarmes would vouchsafe only one reply: "To the interior."

In some cases the refugees were given a few hours, in exceptional instances a few days, to dispose of their property and household effects. But the proceeding, of course, amounted simply to robbery. They could sell only to Turks, and since both buyers and sellers knew that they had only a day or two to market the accumulations of a lifetime, the prices obtained represented a small fraction of their value. Sewing machines would bring one or two dollars—a cow would go for a dollar, a houseful of furniture would be sold for a pittance. In many cases Armenians were prohibited from selling or Turks from buying even at these ridiculous prices; under pretense that the Government intended to sell their effects to pay the creditors whom they would inevitably leave behind, their household furniture would be placed in stores or heaped up in public places, where it was usually pillaged by Turkish men and women. The government officials would also inform the Armenians that, since their deportation was only temporary, the intention being to bring them back after the war was over, they would not be permited to sell their houses. Scarcely had the former possessors left the village, when Mohammedan mohadjirs—immigrants from other parts of Turkey—would be moved into the Armenians quarters. Similarly all their valuables—money, rings, watches, and jewellery—would be taken to the policed stations for "safe keeping" pending their return, and then parcelled out among the Turks. Yet these robberies gave the refugees little anguish, for far more terrible and agonizing scenes were taking place under their eyes. The systematic extermination of the men continued; such males as the persecutions which I have already described had left were now violently dealt with. Before the caravans were started, it became the regular practice to separate the young men from the families, tie them together in groups of four, lead them to the outskirts, and shoot them. Public hangings without trial—the only offense being that the victims were Armenians—were taking place constantly. The gendarmes showed a particular desire to annihilate the educated and the influential. From American consuls and missionaries I was constantly receiving reports of such executions, and many of the events which they described will never fade from my memory. At Angora all Armenian men from fifteen to seventy were arrested, bound together in groups of four, and sent on the road in the direction of Caesarea. When they had travelled five of six hours and had reached a secluded valley, a mob of Turkish peasants fell upon them with clubs, hammers, axes, scythes, spades, and saws. Such instruments not only caused more agonizing deaths than guns and pistols, but, as the Turks themselves boasted, they were more economical, since they did not involve the waste of powder and shell. In this way they exterminated the whole male population of Angora, including all its men of wealth and breeding, and their bodies, horribly mutilated, were left in the valley, where they were devoured by wild beasts. After completing this destruction, the peasants and gendarmes gathered in the local tavern, comparing notes and boasting of the number of "giaours" that each had slain. In Trebizond

the men were placed in boats and sent out on the Black Sea; gendarmes would follow them in boats, shoot them down, and throw their bodies into the water.

When the signal was given for the caravans to move, therefore, they almost invariably consisted of women, children, and old men. Any one who could possibly have protected them from the fate that awaited them had been destroyed. Not infrequently the prefect of the city, as the mass started on its way, would wish them a derisive "pleasant journey." Before the caravan moved the women were sometimes offered the alternative of becoming Mohammedans. Even though they accepted the new faith, which few of them did, their earthly troubles did not end. The converts were compelled to surrender their children to a so-called "Moslem Orphanage," with the agreement that they should be trained as devout followers of the Prophet. They themselves must then show the sincerity of their conversion by abandoning their Christian husbands and marrying Moslems. If no good Mohammedan offered himself as a husband, then the new convert was deported, however strongly she might protest her devotion to Islam.

At first the Government showed some inclination to protect these departing throngs. The officers usually divided them into convoys, in some cases numbering several hundred, in others several thousand. The civil authorities occasionally furnished ox-carts which carried such household furniture as the exiles had succeeded in scrambling together. A guard of gendarmerie accompanied each convoy, ostensibly to guide and protect it. Women, scantily clad, carrying babies in their arms or on their backs, marched side by side with old men hobbling along with canes. Children would run along, evidently regarding the procedure, in the early stages, as some new lark. A more prosperous member would perhaps have a horse or a donkey, occasionally a farmer had rescued a cow or a sheep, which would trudge along at his side, and the usual assortment of family pets—dogs, cats, and birds—became parts of the variegated procession. From thousands of Armenian cities and villages these desparing caravans now set forth; they filled all the roads leading southward; everywhere, as they moved on, they raised a huge dust, and abandoned débris, chairs, blankets, bedclothes, household utensils, and other impedimenta, marked the course of the processions. When the caravans first started, the individuals bore some resemblance to human beings; in a few hours, however, the dust of the road plastered their faces and clothes, the mud caked their lower members, and the slowly advancing mobs, frequently bent with fatigue and crazed by the brutality of their "protectors," resembled some new and strange animal species. Yet for the better part of six months, from April to October, 1915, practically all the highways in Asia Minor were crowded with these unearthly bands of exiles. They could be seen winding in and out of every valley and climbing up the sides of nearly every mountain—moving on and on, they scarcely knew whither, except that every road led to death. Village after village and town after town was evacuated of its Armenian population, under the distressing circumstances already detailed. In these six months, as far as can be ascertained, about 1,200,000 people started on this journey to the Syrian desert.

"Pray for us," they would say as they left their homes—the homes in which their ancestors had lived for 2,500 years. "We shall not see you in this world again, but sometime we shall meet. Pray for us!"

The Armenians had hardly left their native villages when the persecutions began. The roads over which they travelled were little more than donkey paths; and what had started a few hours before as an orderly procession soon became a dishevelled and scrambling mob. Women were separated from their children and husbands from their wives. The old people soon lost contact with their families and became exhausted and footsore. The Turkish drivers of the ox-carts, after extorting the last coin from their charges, would suddenly dump them and their belongings into the road, turn around, and return to the village for other victims. Thus in a short time practically everybody, young and old, was compelled to travel on foot. The gendarmes whom the Government had sent, supposedly to protect the exiles, in a very few hours became their tormentors. They followed their charges with fixed bayonets, prodding any one who showed any tendency to slacken the pace. Those who attempted to stop for rest, or who fell exhausted on the road, were compelled, with the utmost brutality, to rejoin the moving throng. They even prodded pregnant women with bayonets; if one, as frequently happened, gave birth along the road, she was immediately forced to get up and rejoin the marchers. The whole course of the journey became a perpetual struggle with the Moslem inhabitants. Detachments of gendarmes would go ahead, notifying the Kurdish tribes that their victims were approaching, and Turkish peasants were also informed that their long-waited opportunity had arrived. The Government even opened the prisons and set free the convicts, on the understanding that they should behave like good Moslems to the approaching Armenians. Thus every caravan had a continuous battle for existence with several classes of enemies—their accompanying gendarmes, the Turkish peasants and villagers, the Kurdish tribes and bands of Chétés or brigands. And we must always keep in mind that the men who might have defended these wayfarers had nearly all been killed or forced into the army as workmen, and that the exiles themselves had been systematically deprived of all weapons before the journey began.

When the victims had travelled a few hours from their starting place, the Kurds would sweep down from their mountain homes. Rushing up to the young girls, they would lift their veils and carry the pretty ones off to the hills. They would steal such children as pleased their fancy and mercilessly rob all the rest of the throng. If the exiles had started with any money or food, their assailants would appropriate it, thus leaving them a hopeless prey to starvation. They would steal their clothing, and sometimes even leave both men and women in a state of complete nudity. All the time that they were committing these depradations the Kurds would freely massacre, and the screams of women and old men would add to the general horror. Such as escaped these attacks in the open would find new terrors awaiting them in the Moslem villages. Here the Turkish roughs would fall upon the women, leaving them sometimes dead from their experiences or sometimes ravingly insane. After spending a night in a hideous encampment of this kind, the exiles, or such as had survived, would start again the next morning. The ferocity of the gendarmes apparently increased as the journey lengthened, for they seemed almost to resent the fact that part of their charges continued to live. Frequently any one who dropped on the road was bayoneted on the spot. The Armenians began to die by hundreds from hunger and thirst. Even when they came to rivers, the gendarmes, merely to torment them, would sometimes not let them drink. The hot sun of the desert burned their scantily clothed bodies, and their bare feet, treading the hot sand of the desert, became so sore that thousands fell and died or were killed where they lay. Thus, in a few days, what had been a procession of normal human beings became a stumbling horde of dust-covered skeletons, ravenously looking for scraps of food, eating any offal that came their way, crazed by the hideous sights that filled every hour of their existence, sick with all the diseases that accompany such hardships and privations, but still prodded on and on by the whips and clubs and bayonets of their executioners.

And thus, as the exiles moved, they left behind them another caravan—that of dead and unburied bodies, of old men and of women dying in the last stages of typhus, dysentery, and cholera, of little children lying on their backs and setting up their last piteous vails for food and water. There were women who held up their babies to strangers, begging them to take them and save them from their tormentors, and failing this, they would throw them into wells or leave them behind bushes, that at least they might die undisturbed. Behind was left a small army of girls who had been sold as slaves—frequently for a medjidie, or about eighty cents—and who, after serving the brutal purposes of their purchasers, were forced to lead lives of prostitution. A string of encampments, filled by the sick and the dying, mingled with the unburied or half-buried bodies of the dead, marked the course of the advancing throngs. Flocks of vultures followed them in the air, and ravenous dogs, fighting one another for the bodies of the dead, constantly pursued them. The most terrible scenes took place at the rivers, especially the Euphrates. Sometimes, when crossing this stream, the gendarmes would push the women into the water, shooting all who attempted to save themselves by swimming. Frequently the women themselves would save their honour by jumping into the river, their children in their arms.

"In the last week in June," I quote from a consular report, "several parties of Erzeroum Armenians were deported on successive days and most of them massacred on the way, either by shooting or drowning. One, Madame Zarouhi, an elderly lady of means, who was thrown into the Euphrates, saved herself by clinging to a boulder in the river. She succeeded in approaching the bank and returned to Erzeroum to hide herself in a Turkish friend's house. She told Prince Argoutinsky, the representative of the "All-Russian Urban Union" in Erzeroum, that she shuddered to recall how hundreds of children were bayoneted by the Turks and thrown into the Euphrates, and how men and women were stripped naked, tied together in hundreds, shot, and then hurled into the river. In a loop of the river near Erzinghan, she said, the thousands of dead bodies created such a barrage that the Euphrates changed its course for about a hundred yards."

It is absurd for the Turkish Government to assert that it ever seriously intended to "deport the Armenians to new homes"; the treatment which was given the convoys

clearly shows that extermination was the real purpose of Enver and Talaat. How many exiled to the south under these revolting conditions ever reached their destinations? The experiences of a single caravan show how completely this plan of deportation developed into one of annihilation. The details in question were furnished me directly by the American Consul at Aleppo, and are now on file in the State Department at Washington. On the first of June a convoy of three thousand Armenians, mostly women, girls, and children, left Harpoot. Following the usual custom the Government provided them an escort of seventy gendarmes, under the command of a Turkish leader, a Bey. In accordance with the common experience these gendarmes proved to be not their protectors, but their tormentors and their executioners. Hardly had they got well started on the road when—Bey took 400 liras from the caravan, on the plea that he was keeping it safely until their arrival at Malatia; no sooner had he robbed them of the only thing that might have provided them with food than he ran away, leaving them all to the tender mercies of the gendarmes.

All the way to Ras-ul-Ain, the first station on the Bagdad line, the existence of these wretched travellers was one prolonged horror. The gendarmes went ahead, informing the half-savage tribes of the mountains that several thousand Armenian women and girls were approaching. The Arabs and Kurds began to carry off the girls, the mountaineers fell upon them repeately, violating and killing the women, and the gendarmes themselves joined in the orgy. One by one the few men who accompanied the convoy were killed. The women had succeeded in secreting money from their persecutors, keeping it in their mouths and hair; with this they would buy horses, only to have them repeatedly stolen by the Kurdish tribesmen. Finally, the gendarmes, having robbed and beaten and violated and killed their charges for thirteen days, abandoned them altogether. Two days afterward the Kurds went through the party and rounded up all the males who still remained alive. They found about 150, their ages varying from 15 to 90 years, and these they promptly took away and butchered to the last man. But that same day another convoy from Sivas joined this one from Harpoot, increasing the numbers of the whole caravan to 18,000 people.

Another Kurdish Bey now took command, and to him, as to all men placed in the same position, the opportunity was regarded merely as one for pillage, outrage, and murder. This chieftain summoned all his followers from the mountains and invited them to work their complete will upon this great mass of Armenians. Day after day and night after night the prettiest girls were carried away; somethimes they returned in a pitiable condition that told the full story of their sufferings. Any stragglers, those who were so old and infirm and sick that they could not keep up with the marchers, were promptly killed. Whenever they reached a Turkish village all the local vagabonds were permitted to prey upon the Armenian girls. When the diminishing band reached the Euphrates they saw the bodies of 200 men floating upon the surface. By this time they had all been so repeatedly robbed that they had practically nothing left except a few ragged clothes, and even these the Kurds now took; and the large part of the convoy marched for five days almost completely naked under the scorching desert sun. For another five days they did not have a morsel of bread or a drop of water. "Hundreds fell dead on the way," the report reads, "their tongues were turned to charcoal, and when, at the end of five days, they reached a fountain, the whole convoy naturally rushed toward it. But here the policeman barred the way and forebade them to take a single drop of water. Their purpose was to sell it at from one to three liras a cup and sometimes they actually withheld the water after getting the money. At another place, where there wells, some women threw themsleves into them, as there was no rope or pail to draw up the water. These women were drowned and, in spite of that, the rest of the people drank from that well, the dead bodies still remaining there and polluting the water. Sometimes, when the wells shallow and the women could go down into them and come out again, the other people would rush to lick or suck their wet, dirty clothes, in the effort to quench their thirst. When they passed an Arab village in their naked condition the Arabs pitied them and gave them old pieces of cloth to cover themselves with. Some of the exiles who still had money bought some clothes; but some still remained who travelled thus naked all the way to the city of Aleppo. The poor women could hardly walk for shame; they all walked bent double.

On the seventieth day a few creatures reached Aleppo. Out of the combined convoy of 18,000 souls just 150 women and children reached their destination. A few of the rest, the most attractive, were still living as captives of the Kurds and Turks; all the rest were dead.

My only reason for relating such dreadful things as this is that, without the details, the English-speaking public cannot understand precisely what this nation is which we call Turkey. I have by no means told the most terrible details, for a complete narration of the most terrible details, for a complete narration of the sadistic orgies of which these Armenian men and women were the victims can never be printed in an American publication. Whatever crimes the most perverted instincts of the human mind can devise, and whatever refinements of persecution and injustice the most debased imagination can conceive; became the daily misfortunes of this devoted people. I am confident that the whole history of the human race contains no such horrible episode as this. The great massacres and persecutions of the past seem almost insignificant when compared with the sufferings of the Armenian race in 1915. The slaughter of the Albigenses in the early part of the thirteenth century has always been regarded as one of the most pitiful events in history. In these outbursts of fanaticism about 60,000 people were killed. In the massacre of St. Bartholomew about 30,000 human beings lost their lives. The Sicilian Vespers, which has always figured as one of the most fiendish outbursts of this kind, caused the destruction of 8,000. Volumes have been written about the Spanish Inquisition under Torquemada, yet in the eighteen years of his administration only a little more than 8,000 heretics were done to death. Perhaps the one event in history that most resembles the Armenian deportations was the expulsion of the Jews from Spain by Ferdinand and Isabella. According to Prescott 160,000 were uprooted from their homes and scattered broadcast over Africa and Europe. Yet all these previous persecutions seem almost trivial when we compare them with the sufferings of the Armenians, in which at least 600,000 people were destroyed and perhaps as many as 1,000,000. And these earlier massacres, when we compare them with the spirit that directed the Armenian atrocities, have one feature that we can almost describe as an excuse: they were the product of religious fanaticism and most of the men and women who instigated them sincerely believed that they were devoutly serving their Maker. Undoubtedly religious fanaticism was an impelling motive with the Turkish and Kurdish rabble who slew Armenians as a service to Allah, but the men who really conceived the crime had no such motive. Practically all of them were atheists, with no more respect for Mohammedanism than for Christianity, and with them the one motive was cold-blooded, calculating state policy.

The Armenians are not the only subject people in Turkey which have suffered from this policy of making Turkey exclusively the country of the Turks. The story which I have told about the Armenians I could also tell with certain modifications about the Greeks and the Syrians. Indeed the Greeks were the first victims of this nationalizing idea. I have already described how, in the few months preceding the European War, the Ottoman Government began deporting its Greek subjects along the coast of Asia Minor. These outrages aroused little interest in Europe or the United States, yet in the space of three or four months more than 100,000 Greeks were taken from their age-long homes in the Mediterranean littoral and removed to the Greek Islands and the interior. For the larger part these were bona-fide deportations; that is, the Greek inhabitants were actually removed to new places and were not subjected to wholesale massacre. It was probably for the reason that the civilized world did not protest against these deportations that the Turks afterward decided to apply the same methods on a larger scale not only to the Greeks but to the Armenians, Syrians, Nestorians, and others of its subject peoples. In fact, Bedri Bey, the Perfect of Police at Constantinople, himself told one of my secretaries that the Turks had expelled the Greeks so successfully that they had decided to apply the same method to all the other races in the empire.

The martyrdom of the Greeks, therefore, comprised two periods: that antedating the war, and that which began in the early part of 1915. The first affected chiefly the Greeks on the seacoast of Asia Minor. The second affected those living in Thrace and in the territories surrounding the Sea of Marmora, the Dardanelles, the Bosphorus, and the coast of the Black Sea. These latter, to the extent of several hundred thousand, were sent to the interior of Asia Minor. The Turks adopted almost identically the same procedure against the Greeks as that which they had adopted against the Armenians. They began by incorporating the Greeks into the Ottoman army and then transforming them into labour battalions, using them to build roads in the Caucasus and other scenes of action. These Greek soldiers, just like the Armenians, died by thousands from cold, hunger, and other privations. The same house-to-house searches for hidden weapons took place in the Greek villages, and Greek men and women were beaten and tortured just as were their fellow Armenians. The Greeks had to submit to the same forced requisitions, which amounted in their case, as in the case of the Armenians, merely to plundering on a wholesale scale.

The Turks attempted to force the Greek subjects to become Mohammedans; Greek girls, just like Armenian girls, were stolen and taken to Turkish harems and Greek boys were kidnapped and placed in Moslem households. The Greeks, just like the Armenians, were accused of disloyalty to the Ottoman Government; the Turks accused them of furnishing supplies to the English submarines in the Marmora and also of acting as spies. The Turks also declared that the Greeks were not loyal to the Ottoman Government, and that they looked forward to the day when the Greeks inside of Turkey would become part of Greece. These latter charges were unquestionably true; that the Greeks, after suffering for five centuries the most unspeakable outrages at the hands of the Turks, should look longingly to the day when their territory should be part of the fatherland, was to be expected. The Turks, as in the case of the Armenians, seized upon this as an excuse for a violent onslaught on the whole race. Everywhere the Greeks were gathered in groups and, under so-called protection of Turkish gendarms, they were transported, the larger part on foot, into the interior. Just how many were scattered in this fashion is not definitely known, the estimates varying anywhere from 200,000 up to 1,000,000. These caravans suffered great privation, but they were not submitted to general massacre as were the Armenians, and this is probably the reason why the outside world has not heard so much about them. The Turks showed them this greater consideration not from any motive of pity.

The Greeks, unlike the Armenians, had a government which was vitally interested in their welfare. At this time there was a general apprehension among the Teutonic Allies that Greece would enter the war on the side of the Entente, and a wholesale massacre of Greeks in Aisa Minor would unquestionably have produced such a state of mind in Greece that its pro-German king would have been unable longer to keep his country out of the war. It was only a matter of state policy, therefore, that saved these Greek subjects of Turkey from all the horrors that befell the Armenians. But their sufferings are still terrible, and constitute another chapter in the long story of crimes for which civilization will hold the Turk responsible.

EXHIBIT 2

A SURVIVOR OF THE ARMENIAN GENOCIDE

Name: Ohannes Averdissian

Address: 3421 W. Chester Pk., Newtown Sq., PA

Tel. No.: 353-1066

Age: 90

Number of loved ones massacred: 42-45

A short life story: Was 14 yrs. old when my father, two uncles, five aunts, their husbands and children were massacred. I was saved by a Turk neighbor. About 14-18 of my classmates 14-16 yrs. old were massacred. I used to go and watch the pile of dead corpses. In 1922 on my way to Syria I saw a pile of human bones near Derzor which was estimated to be the bones of 200,000 Armenians. These bones were later buried by the French and some were taken to the Great House of Cilicia in Lebanon and put in the archives. I don't have many years left, but I hope, Senator Specter, you will help pass Senate Joint Resolution 212, so I can die in peace knowing that partial justice was done, and all those innocent victims will not be forgotten.

A SURVIVOR OF THE ARMENIAN GENOCIDE

Name: John Alabilikian

Address: 132 Charles Dr., Havertown, PA.

Tel. No.: H16-9304

Age: 82

Number of loved ones massacred: 10

A short life story: My Grandmother, Father, Mother and Baby Brother in my mother's arms were killed in 1915. They were peace-loving people. I saw them killed with my own eyes.

I was left an orphan at the age of six. When I lost my family I lived with a Turkish one until I was put in an Armenian Orphanage. I stayed here for 3 years until I came to the United States.

The story of my life and of the Armenian Genocide has been documented on tape and is housed in the Museum on Ellis Island. It has also been published in Newsweek, Sept. 1986 and National Park Magazine July 1986. The Museum also has my documents in their archives.

John Alabilikian.

A SURVIVOR OF THE ARMENIAN GENOCIDE

Name: Noeruzar Der-Bedrossian.

Address: 1147 Morris Rd., Wynnewood, Pa. 19096.

Tel. No.: Mi-9-3572.

Age: 90.

Number of loved ones massacred: 62.

A short life story: My family was: My father 42 years old, my mother 32 years, my brothers 21 years, 6 years, and 14 years, my sisters 10 and 1 years old. I was 15 years old. In 1915, my father, who was the head of all Armenians, and was a deputy in the Government was caught with all the famous personalities of Oueja, OIS, archbishop, bishop, priests, lawyers, doctors, etc. He had a uniform and a sword given by the Sultan before his fall. My father after 52 days of imprisonment was tortured and killed. My brother of 22 years was hanged. My brother of 14 years was shot, then attached to the tail of a horse, dragged him in the city, and was killed like that. My mother, my sister of 10 years, my brother of 6 and my sister of one year were driven into the desert and hungry, died in the desert.

In the past, my father had helped a German doctor, who was a missionary in Oueja. So during the genocide, my mother took me to him, who kept me during all the massacre: The name of the doctor was Dr. Yacoub Kunzler; after peace I was sent to Aleppo, Syria, where I found my fiance, Bedros Der-bedrojsiah. My husband, Bedros was the survivor of seven brothers, all married, children, all massacred.

My uncles, my aunts, my grand parents, married with children, massacred.

So I am the only survivor of all 62 members; and I survived thanks to Dr. Kunzler.

Noyemzar Der-Bedrossian (Ymiszian)

A SURVIVOR OF THE ARMENIAN GENOCIDE

Name: Makroohi Barsamian. Address: 2951 Dawn Terrace, Broomall. Telephone no: 215-356-3937. Age: 86. Number of loved ones massacred: 15 at least.

A short life story: I was born in Yozgat, Turkey, in 1903. I was an eyewitness to the killing of the Armenians by the Turks. My father and all the male members of my family were rounded up and taken away—we never saw any of them again. The Turks then came for the women and children. Only 3 of us from my family were saved from being killed.

We came to America in 1921. I am the only one of my entire family living now. I am a survivor of the 1915 Genocide.

This was a Genocide—without question.

Makroohi Barsamian.

A SURVIVOR OF THE ARMENIAN GENOCIDE

Name: Armen Derderian. Address: 20 Bishop Hollow Road Apt. H-12, Newtown Sq. Pa. 19073 Telephone No.: (215) 356-8817. Age: 82, Number of loved ones massacred: 10.

A short life story: My father was deported from his house and killed with his brother and sisters. Thank's to a very nice Turk neighbor they kept my mother and her three children because my mother used to do their house work. For one year this family kept us but when the government heard that here and there were some hidden Armenians, they called everybody that whoever was caught with Armenian families were going to be punished, this man called my mother and told her that this animals are going to come after you and us, so tonight I'm going to put on one of my donkeys with your three children and you have to leave before the day breaks. So me and my brother—I was seven my brother 10—we led the donkey and for days we traveled through the Syrian desert to Aleppo. In 1971 we emigrated to U.S.A. I am 82 years old and I have stories in me that if I tell, you'll have goose bumps.

For the past 75 years I haven't forgotten the massacre and no Armenian should forget it because its a big scare in our hearts.

Armen Derderian.

A SURVIVOR OF THE ARMENIAN GENOCIDE

Name: Dr. Charles N. Mahjoubian.

Address: 26 Windsor Circle, Wayne, PA 19087.

Tel. No.: 215-640-1752.

Age: 82.

Number of loved ones massacred: On Mother's side ten of eleven died on the road.

A short life story: My family had advance information on what the intention of the government was and we managed to return home after we were taken to the railroad station. The governor General opposed the deportation. My birthplace being the railroad service area, the governor saved Armenian according to law and on his courage, justice, and humanity saving 50,000 out of the 500,000 being deported by rail as the last phase of deportation which lasted only eight months from April to November, 1915.

Deportation was called "extermination" by missionaries and consuls because of the way deportation worked as a usual procedure in the undeveloped country. The deportees were under military/gendarmery control who had life and death power over them. In stead of protecting the deportees, the gendarms protected the criminals who were let loose to do the killings and other crimes. The crimes occurred in the millions of square miles of the Ottoman empire leaving the partially or totally unburied bodies to spread epidemic among the Muslim population. Also deporting about 2 million Armenians denied the population of their productivity. Also Armenians were disarmed and could not resist the crimes which were administered before their very eyes.

I was eight years old and at times I went to the camp with my grandfather while Governors sorting of deportees was taking place for a month.

The governor resigned under threat of punishment and the next Governor carried out the order of the gangster government of the Committee for Union and Progress.

More relevant information is furnished in a separate envelope.

Charles N. Mahjoubian.

A SURVIVOR OF THE ARMENIAN GENOCIDE

Name: Kaloust Derminassian.

Address: 3821 Plumstead Ave., Drexel Hill, PA 19026.

Tel. No.: (215) 259-8312.

Age: 95, (Born in Deort Yol) 1895.

Number of loved ones massacred: 70 members.

A short life story: "We were deported first to Alleppo, and from Alleppo to Rakka (Syrian Desert) where most of our dynasty perished. I survived with my aunt and my cousin. From Rakka we were deported walking over 200 miles, to Der-El Zor. There, my cousin perished. In the Desert, all the survivors made their camp. Suddenly, there was an attack on us by "chechens". I was one of the few who survived. My family thought that I was dead however I survived with the help of the Arab Bedouins. After a long journey I came back to Rakka naked and starving. I stayed there until the end of the war. This is a small episode of a very long story."

Kaloust Derminassian.

A SURVIVOR OF THE ARMENIAN GENOCIDE

Name: Enza Tarakjian.

Address: 310 Gramont Lane, Villanova, PA 19085.

Tel. No.: (215) 527-4388.

Age: 68 Born in Kilis (Turkey).

Number of loved ones massacred: Mother and 3 brothers.

A short life story: During the first World War one, my family was deported to Selemiya (a town in Central Syria), my three brothers were starved to death. After the war, with the victorious French army, my family returned to Kilis where I was born. When Mustafa Kemal came to power and the French decided to neglect the Armenians and withdrew from Cilicia, the Turks massacred the Armenians of Hajen, Marash and Adana. At that time, my father decides to run away from Kilis like many Armenians. The night before Turks attacked our house, to rob my father after robbing us, they shot to death my mother and my younger sister who was only two months old, gets injured from her forehead while in my mother's arms. That's how we, four sisters, grew orphans from my mother, besides losing all our properties.

Enza Tarakjian.

A SURVIVOR OF THE ARMENIAN GENOCIDE

Name: Ester Avedissian.

Address: 3421 W. Chester Pk., Newtown Sq., PA.

Tel. No.: 353-1066.

Age: 82.

Number of loved ones massacred: 35-40.

A short life story: I lost my father, brother, three uncles, three aunts, many cousins and nephews. I still remember how my father and brother were taken in the middle of the night and massacred. I was left an orphan with my sister.

A SURVIVOR OF THE ARMENIAN GENOCIDE

Name: Elize Megerian.

Address: 809 Ellis Ave. Newtown Sq., PA 19073.

Tel. No.: 356-8126.

Age: 80.

Number of loved ones massacred: 35-40.

A short life story: 6 years old when massacre happened. They were chased from homes. Many were whipped. They had no food and ate weeds, some were wild and poisoned mouths. The brides jumped in rivers to keep themselves from being raped. Three cousins (young girls) jumped in rivers so they wouldn't get raped. Cousins, aunts, uncles, neighbors died.

Elize Megerian.

A SURVIVOR OF THE ARMENIAN GENOCIDE

Name: Terranda Derminassian.

Address: 3821 Plumstead Ave. Drexel Hill, PA. 19026.

Tel. No.: (215) 259-8312.

Age: 86 (She was 11 yrs old in 1915).

Number of loved ones massacred: 15 people.

A short life story: My family was deported to Alleppo by railroad and carts. My father and my uncles were craftsmen, that's why we weren't deported to the deserts. The Turks needed their labor. Instead of the desert, we were sent to the town of Bab, we were separated from my father and his brothers. We were put in a woman's shelter. We survived by eating wild vegetables, or any thing we could find on the street. We lived this way for four years and my mother and I survived by a miracle.

Terranda Derminassian.

A SURVIVOR OF THE ARMENIAN GENOCIDE

Name: Deroohe H. Mahjoubian.

Address: 26 Wingsor Circle, Wayne, PA 19087.

Tel. No.: 215-640-1762.

Age: 74.

Number of loved ones massacred: three.

A short life story: I survived because I was a baby and was left with my grandmother who was kept as a cook by the Pasha who moved into our house as the rest of the family was deported. My father escaped from the caravan and grandmother kept him hidden for a while then he was arrested and was in prison when Armistice was signed.

Deroohe H. Mahjoubian.

A SURVIVOR OF THE ARMENIAN GENOCIDE

Name: Sirvart Aspajian.

Address: 261 Hemlock Lake, Springfield, PA 19064.

Tel. No.: (215) 544-1210.

Age: 75 years old. Born in Evereg, 1914.

Number of loved ones massacred: Five uncles and 1 aunt with all their families, and my father.

A short life story: What I remember when I was a child, me and my mother with my 2 sisters were living among Kurks in a Kurdith village. Our house was a stable living with animals. After the war was over Armenians came to this Kurdish village. They took us to an orphange in Aleppo, where I grew up.

Sirvart Arpajian.

A SURVIVOR OF THE ARMENIAN GENOCIDE

Name: Mrs. Arousiag Baltian.

Address: 6201 Washington Ave., Phila., PA 19143.

Age: 86.

Number of loved ones massacred: One—father.

A short life story: Her father came to the United States in 1914 and then in 1915 went back to Turkey. He was put in jail there and then they set fire to the jail and all perished.

A SURVIVOR OF THE ARMENIAN GENOCIDE

Name: Nigoghosk Boyadjian.

Address: 2981 Eastburn Ave., Broomall, PA 19008.

Tel. No.: (215) 356-7265.

Age: Born 1901, Neide, Turkey.

Number of loved ones massacred: Four uncles with all their families.

A short life story: I was 14 years old, when our family with 5 uncles and their families, with other Armenians from Neide were deported to Adana and from Adana to Aleppo. In Aleppo my father and one of my uncles were deported to Damascus by train. My father could do this by paying some bribe to Turkish officer who happened to be from our town. My four other uncles with their families were sent to Syrian desert, where they were massacred. We could be saved because we were sent to Damascus. After the war was over my brother-in-law had come to U.S.A. in 1913. He was a physician M.D. My brother-in-law sent me money. That's how I came here and joined my sister.

Nigoghos K. Boyadjian.

A SURVIVOR OF THE ARMENIAN GENOCIDE

Name: Avedis Khantzian.

Address: 9-4 Wilde Ave., Drexel Hill, PA 19026.

Tel. No.: (215) 259-7601.

Age: Born 09/05/1911—Malatia, Turkey.

Number of loved ones massacred: Two uncles, two aunts with all their family members.

A short life story: What I remember, they asked all Armenians to be gathered out of town, with their personal belongings only. There, Turks separated us into different groups and each group was deported in different directions under watchful eyes of Turkish gendarmeries. I was saved, thanks to my aunt, because she could make shoes for Turks. She got permission to stay in Malatia, and she told I was her son. After the war was over and Malatia Kewal came to power, we were allowed to move to Heippo and from there I came to U.S.A.

A SURVIVOR OF THE ARMENIAN GENOCIDE

Name: Vertime Satian Semeryian.

Address: 1425 Brierwood Rd., Havertown, PA.

Tel. No.: 215-449-0328.

89—now deceased (3 years).

Number of loved ones massacred: 15—in family.

A short life story: Vertime came to U.S.A. in 1922 and told this story to me, her daughter.

In 1915 the Turkish soldiers came and took her father away and he was never seen again.

We know this was a genocide and that this tragedy should be recognized.

Mary Semeryian Heslip.

A SURVIVOR OF THE ARMENIAN GENOCIDE

Name: Garbes Garabedian.

Address: 824 Fairziz Rd., Drexel Hill, PA 19026.

Tel. No.: 215-789-3959.

Age: 85.

Number of loved ones massacred: 11.

A short life story: Born in 1904 in Turkey, Town of Nevshhor. I am one of the survivors from 4,500 people. Only five saved from this genocide, I am one of them.

Garbes Garabedian.

A SURVIVOR OF THE ARMENIAN GENOCIDE

Name: Mary Derderian.

Address: 20 Bishop Hollow Rd., Apt. H-12, Newton Sq., Pa. 19073

Tel. No.: (215) 356-8817.

Age: 76.

Number of loved ones massacred: All family and all relatives.

A short life story: I was nine months old baby, the first of my parents whom I never saw, and up today I don't know what's mother love is because I didn't feel it. The Turks deprived me of it.

Thanks to my one aunt she found me in the rubbles and raised me until I was ten. After that I was sent to a foster house where I was raised as their maid for ten years then I married at twenty to my husband in 1934. It was our 54th anniversary this year. The hurt of never feeling a mothers love and fathers love is very deep.

Mary Derderian.

A SURVIVOR OF THE ARMENIAN GENOCIDE

Name: Sarkis Kechian.

Address: 58 North Keystone Ave.

Tel. No.: 352-8171.

Age: 79.

Number of loved ones massacred: 8.

A short life story: Sarkis Kechian was 4 years old when he fled from Adana and he was hungry for 3 days. One day he found a rotten orange, which the people fed him so he won't die. Then he fled to Palistan and France and England came and took all the orphans to Posaiele, and in the tents they fed them. Then the French people took them to Adana, because they had captured it. Then again they fled to Sanchack and then fled to Lebanon, wher he was put in an orphanage. When all this happened he was separated from his mom. When they go to Lebanon at age 15, he was reunited with his mom.

A SURVIVOR OF THE ARMENIAN GENOCIDE

Name: Asdghig Keshgegian.

Address: 5836 N. 4th St., Phila., PA 19120.

Tel. No.: (215) WA4-6841.

Age: 76.

Number of loved ones massacred: 3.

A short life story: Was deported into desert as an infant with her mother. Her father and two sisters were killed.

Mr. BYRD. I yield 10 minutes to the distinguished Senator from Virginia [Mr. WARNER].

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

Mr. WARNER. Mr. President, I draw on the last comments of my distinguished colleague and refer to the bonds of this institution which have held it together these many years and which make it possible for Senators, no matter how deep the friendship exists between them or how great the mutual respect, to rise on this floor and express to one another our free will and our own independent conclusions.

In each Senator's career, there are moments he or she shall remember, and I will indeed remember this one, because I rise to speak in opposition to my dear friend, the Senator from Kansas, the leader of my party, on the substantive issues of this debate. But I further believe that, as the elected leader, he has a very special privilege to have this body address his proposal in such a way as we can express our decision, as we say, on an up-or-down vote. I will therefore support him on this first vote. Thereafter I will vote in support of my own convictions on the substantive issues.

There are three reasons that I believe we should not adopt the resolution, on an up-and-down vote, as now proposed by the distinguished Senator from Kansas.

First, what are the facts? Is there anyone among us who can say with certainty that all, or the greater part, of the facts that are relevent to this issue are before this body? Are all the known vaults of knowledge across the world freely accessible for objective study and analysis? I believe not. I am told that certain libraries, or caches of books and papers, are not being opened.

Therefore, we are proceeding without the full benefit of the analysis of relevant facts on a most serious and grave international issue.

The second reason is the instability that now prevails in certain areas of central Europe and the Soviet Union that could quickly impact on what we call the flanks of NATO. The flanks are always vulnerable to instability. The march of democracy has been dramatic, unforseen, unprecedented in its speed in central Europe, and to a certain extent, the Soviet Union. But accompanying that has been a measure of political, economic, and, indeed, military instability. That is why I support ever so strongly the continued presence of our troops in central Europe and on NATO's flanks—including those troops stationed in Turkey—at or about the levels recommended by the President of the United States.

We, in what I perceive as the new world, sometimes have great difficulty in understanding the motivations of those who live in Europe, the old world. Particularly in those areas which have experienced ancient civilizations such as the Ottoman Empire, which spanned several centuries. Often, we have difficulty understanding why ethnic groups in those areas continue to harbor feelings which have roots that go back for centuries.

We are witnessing today in the Soviet Republics of Azerbaijan, Tadzhikistan, and Uzbekistan killing, pillaging, civil strife. Each day we hear news of incredible human suffering.

Speaking for one Senator, I have difficulty understanding how these people can fall upon each other, creating death and destruction and compounding the misery of their own lifestyles with this self-inflicted human suffering.

Can anyone in this institution predict with certainty that if we were to adopt this resolution that we would not foster further human suffering and death in certain areas of Turkey and perhaps in other areas of Europe and the Soviet Union where there coexist Armenians and others of different ethnic background? Is this resolution worth the price of another human being's life? We have to ask ourselves that question before we cast our votes.

I, for one, think the United States at this point in time, with the dramatic unfolding of history throughout the world, should do everything we can to reach out and help convey the message of stability and peace and be ever so cautious about any steps we take, be they this resolution or drastic cutbacks in our own national security, for fear we could bring about greater instability and human suffering.

Lastly, the national security implications. I have had the opportunity to visit Turkey, the southern flank of NATO, now off and on for 20 years. It was exactly 20 years ago this month that I was privileged to join the Department of Defense and work for the Department of the Navy. During the course of these 20 years, except for a brief hiatus, I have had special responsibilities with respect to NATO.

Today, NATO is going through a reexamination to establish its future credibility and value as a peacekeeping bond between nations. It is essential that NATO go forward. We cannot predict with certainty exactly how it will fulfill its missions in the wake of this march for democracy in central Europe. But we do know, each of us, instinctively, that it must remain, that it must remain strong and that we, the United States, must exercise a role of leadership in maintaining, to the maximum extent possible, harmonious relationships between the member nations.

Turkey has been a very bold and courageous member of this alliance. Geographically, it is in a strategic location, bordering the Soviet Union and Persian Gulf nations. I know the distinguished Senator from West Virginia has visited there, as have I.

The PRESIDING OFFICER. The time allocated for the Senator from Virginia has expired.

Mr. WARNER. If I could have 1½ minutes additional?

Mr. BYRD. I yield an additional 1½ minutes to the able Senator.

The PRESIDING OFFICER. The Senator from Virginia is recognized for an additional 1½ minutes.

Mr. WARNER. Mr. President, we must bear our responsibility as a member nation of NATO to promote harmony among other member nations of NATO, to continue to try to provide stability in this remarkable period of change. I think it is important that we recognize the strong feelings of Turkey, feelings that are deeply rooted. Likewise we must recognize the suffering and death of incalculable numbers of Armenians throughout history. We must find ways to help them that do not impair and impinge upon the relationship between Turkey and the NATO alliance.

It is for these reasons and others that I shall oppose Mr. DOLE's current form of proposal.

The PRESIDING OFFICER. Who yields time?

Mr. SIMON. Mr. President, I am authorized to yield myself 5 minutes on behalf of the minority leader.

The PRESIDING OFFICER. Without objection, the Senator is recognized for 5 minutes with time chargeable to the minority leader.

Mr. SIMON. Mr. President, let me—and I have spoken twice on this issue already—respond to my distinguished friend from Virginia, Senator WARNER. He brings up basically three points: No. 1, are all the facts before us? And the answer is all the facts are never completely before us. If we were debating the holocaust, they would not all be before us. We do not need to wait until we get all the facts before we can make a decision. We do know enough of the facts, and that is, at a minimum, hundreds of thousands of people were slain simply because they were Armenians. That is the reality.

Many will put that number higher. I wish there were a good scholarly book. If there is anyone from a university press watching this proceeding, I hope someone will do it.

But the evidence is just overwhelming that genocide occurred. There is no question about it. We do not have all the facts, but we have enough of the facts that we can make a judgment.

The second question the Senator from Virginia asks is, Will we foster further suffering and death? And here is a judgment call. The conclusion of the Senator from Virginia is that we might. My conclusion is a different one. My conclusion is when we stand up for human rights, whether it is the holocaust, whether it is the question of Armenians, whether it is human rights in China, we discourage future suffering.

This is a judgment call, I confess. My judgment on this is it differs from the Senator from Virginia. Finally, he brings up the whole question of our relationship with Turkey. Again, here, it seems to me, we do have an interest. We have two interests here: One is to maintain a good relationship with the Government of Turkey, and I want to do that. I have also visited Turkey. But this resolution does not condemn that present Government of Turkey. It does not condemn the people of Turkey. It talks about something that took place many decades ago. If the Government of Turkey, for example, the Parliament of Turkey, were to adopt a resolution condemning slavery in our country or the way we treated American Indians or what we did to Japanese-Americans, I would not consider that an insult to those of us sitting in the United States Senate today, nor to the people of this country today. Our record in the area of human rights is not a perfect one any more than it is of any government. What is, I think, in our national interest is to stand up clearly, firmly for human rights, and that is what the resolution does.

Finally, Mr. President, I want to commend the minority leader. I have great respect for the President pro tempore, as he knows, but I want to commend particularly the minority leader for standing up. We go through this business of making speeches and you can from time to time sense when someone is doing something because there is a passion there and when you are doing it routinely. I sense, to the credit of Senator DOLE, there is a passion on this issue. He really believes strongly, as do I. I hope we will follow the minority leader and vote for this resolution.

The PRESIDING OFFICER. The time allocated to the Senator from Illinois has expired.

PRIVILEGE OF THE FLOOR

Mr. BYRD. Mr. President, I ask unanimous consent that Joseph Le Baron, a congressional fellow with the Democratic Policy Committee, be given the privilege of the floor on the motion to proceed to Senate Joint Resolution 212.

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

Mr. BYRD. Mr. President, I yield 2 minutes to the distinguished Senator from Wyoming [Mr. WALLOP].

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

Mr. WALLOP. Mr. President, I thank the able Senator from West Virginia. It is a pretty rare event in my life that I find myself on the floor of the U.S. Senate arguing against the policy of the Senator from Kansas [Mr. DOLE]. In my 14th year of service, I can remember no time when I have actually risen to oppose an initiative of his. But today I do, and I do so not with reluctance, but with regret.

I think that this is the wrong thing to do. I think it is poorly conceived, and I think it is dangerous to the interests of the country we both serve.

Mr. President, our friend and great ally Turkey is located in a region dominated by turmoil. The Republic of Turkey was born in the aftermath of World War I and the Bolshevik Revolution. Now, all around her, the Bolshevik order is collapsing and the post-World War II system is collapsing.

To her east and southeast are Iran, Iraq, and Syria—countries where war, revolution, nerve gas, and medium range rockets are the order of the day. Frankly, Mr. President, I think those geostrategic factors alone should deter us from this resolution, but there is more to be said.

We are being asked to accept one version of the events in question, and much time has been spent during this debate on the question of whose version of events is correct. Clearly it is very hard to tell, and yet we are asked to make profoundly moral judgments with such faulty information.

Some things are disputed, others are not. What is not? Well, it was the middle of World War I when all this happened. I do not know why the events of 1921-23 are included here. Turkey was already out of the war, the Bolsheviks had suppressed the independent Armenian state. The Russo-Turkish treaty had been signed, establishing their common border. There was no more Turkish involvement. Where does all this "1923" come from?

Next, some Armenians were in revolt. They do not deny this. They acknowledge it. They are even proud of it. They were in revolt against their own government, and collaborated with its enemies. Do not misunderstand. I do not argue that that is justification for atrocities and it is no excuse for anything. It simply must be borne in mind that this was not like some of the instances which have been cited in debate, where the world has condemned events and called them genocide.

The old Ottoman government, which the Turks themselves overthrew, may have been bad, even venal, but it was not simply a matter of going after an innocent population. It was the middle of the war, and many were in revolt. That is in addition to those Armenians who were fighting with the Russians against the Ottomans until 1917, when the Bolsheviks took power and Russia withdrew from the war. And much of what we are talking about, however it is characterized, took place between 1915 and 1917. I repeat, Mr. President, 1915-17. Not 1920 or 1921, certainly not 1923, not the Turks.

I do not believe anyone has said anything about the Turkish view of these events either, and that needs to be said as well. Yes, there were mass deportations of Armenians. Is that alone, at that time and place, criminal under these conditions? There were also disease and famine. Will it make a difference to history to determine how many died of disease and poor conditions? Do we know? These are weighty and terrifying questions of human life and morality. I do not believe we have looked at these grisly aspects of a terrible time. What is going on in Armenia and Azerbaijan today pales by comparison, and we are shocked by those events.

Some of the Iraqi Kurdish refugees whom Turkey has taken in during the last year and is supporting with the help of the United States and the United Nations have suffered from poor conditions, and the United States

and the United Nations have provided funds and advice to help Turkey cope with these people. Some are even the victims of having been gassed by their own government. How do we describe those deaths? Some from cold, or disease, the latent effects of the gassings, age, heart attack? Is it genocide? Are the gassings genocide—or do we have another description for that horror?

Nobody denies the deaths of the Armenians, but what about Turkish civilian deaths? There were at least as many, and a large number at the hands of Armenians, as well as the Russian army. Was their suffering less? Do their grandchildren bear less of a burden?

I will return to these themes, Mr. President, but must say something about this friend and ally itself.

Turkey today, which is 98 percent Moslem, still sits in that dangerous part of the world. When the Turkish Republic emerged from the ruins of the Ottoman Empire after World War I it adopted our Western values and has worked to live up to those standards even since.

Compare the history of Turkey since 1923 with that of Germany or Russia, let alone the Communist countries. Turkey confronted the job of nation-building and, as far as one can tell, did far better than most of their neighbors in Eastern Europe or neighboring Arab countries.

The peace treaties at the end of World War I obligated the Turks to do certain things, and they have done them. At that time, Mr. President, the Armenians, whose sufferings I do not deny or minimize, approached the peace conferences. For all the talk of cables and reports and eyewitness accounts, the world did not see it that way then and there. They did not order Turkish reparations be paid to the Armenians. Remember the effect of war reparations on Germany and the rise of Hitler.

As for earlier proceedings of the Senate, which the distinguished leader of my own party and the distinguished president pro tempore discussed yesterday on the floor, I must simply say that the judgment of our predecessors in the 1920's on the events of their day in Europe did not in every case prove to be informed or lead to successful policy.

That same Senate was unwilling to support President Wilson's efforts in Europe. So even then, Mr. President, and in every forum, there was not only information which was debated in different ways, but our own needs to be considered, even if the judgment which was exercised was not always correct. Is the Senate of that time indirectly complicitous in World War II because it refused to let the United States join the League of Nations after World War I, or because it did not object to the high reparations which Germany had to pay France, or to the territorial claims of France against Germany?

Indeed, Turkey managed to understand very well the threats around her in those years after World War I, just as she does today. When the Fascists came to power in Italy and the Nazis in Germany, the United States remained isolationist.

After war broke out, Turkey had to mobilize her army, just in case, and late in the war entered on our side. Turkey made the kind of commitment then after World War II which eluded the United States after World War I.

Why then is it that just in the last few years have Armenian terror groups appeared on the world stage? I do not in any way reference the thousands of upstanding Armenian Americans who have denounced the terror, expressed their legitimate rage, and rightfully protested. No, Mr. President, I refer to real terror groups and ask why now, in the last decade, are they going after Turkey?

How many have been trained by the PLO or in Libya? I think our FBI and CIA know. Where were these supporters of a commemorative in the 1950's or the 1960's, before international terror, with the help of the KGB before Gorbachev, became so widespread? And why is it just now, with the collapse of the U.S.S.R. and the attempt to dismember it into independent states, that we, of all people, should get involved in attacking the territorial integrity of an ally?

Make no mistake. My good friend, the leader of my party in the Senate, has referred to David and Goliath, little Armenia and big Turkey. I think I see it differently than my friend Senator DOLE, who is, I know in good conscience, of a different opinion. I see a Russian Goliath about to be dismembered by the little Davids who made it up, but Turkey, too, is David across the border.

Who are we to support the redrawing of the Russo-Turkish border? That is what Armenia says she wants. Nagorno-Karabag and the redrawing of the border. Mount Ararat, the symbol of Armenian life, is in Turkey, Mr. President. And it is the Armenian Supreme Soviet, its legislature, which has established a commission to "examine," that is to say, to undermine and repudiate, that 1921 treaty.

Mr. President, at the end of World War II, the United States invested manpower and money in preventing the Soviet takeover of northern Iran, again in the news every day. We recognized the threat to democracy there. There was a Soviet supported insurgency, and we fought it with the Marshall Plan and in other ways. Just in our time, almost 50 years later, is it becoming clear that the battle may be over.

Since those first days after World War II, Turkey has been our faithful ally. She fought with us in Korea. Need I even say anything about it? The Turks were there. They fought hard. They were decorated. We did not wonder about them.

Much has been said about whether the Nazi Germans and the Turks have a similar past. Mr. President, the world saw fit to occupy Germany, but certainly not to visit guilt and responsibility on the children, and the later generations.

However, we have always been cautious about German troops getting involved outside NATO. They even back off of U.S. peacekeeping duty of their own accord. We never worried about the Turks. Why now, with Armenia and Azerbaijan in flames once again, are these questions out there?

The course to democracy in Turkey has not been easy, Mr. President, and we all know the trials and tribulations too well. The Turkish population, Turkish institutions, and the Turkish military have all shown their devotion to civilian democracy. Who else in that area, Mr. President, can say that? The U.S.S.R.? Soviet Armenia? Bulgaria? Romania? Iran?

Mr. President, I think we are riding the wrong horse here. I do not mean the horse of freedom for the peoples of the U.S.S.R. But I do mean that we are riding toward border disputes and undoing the Turkish border. I have not heard much here about the role of Armenian lobbyists, only the role of Turkish lobbyists. Has there not been lobbying on both sides?

It has been said that the Turkish Ambassador has been here, but Armenia has no lobbyists. I wonder, then, who has supplied all the materials which the other side is entering into the record? Has not the distinguished Governor of California himself lobbied?

Mr. President, Turkey should serve as an inspiration for the region, both in Europe and in the Middle East. Despite the difficulties of their struggle, Turkey remains on the democratic path. There are fair and free elections. Where else in that part of the world? Only in Israel and Greece.

Here, however, we endanger them. It should be a source of pride to us all that, apart from this resolution, relations between our two countries are good. Turkish-American relations have been good under various administrations, even despite some disagreements, and under different governments in Turkey. I hope we do not squander that source of good will by our actions here. I fear the divisiveness it may bring.

Mr. President, Turkey has been so helpful to us in NATO that it hardly needs repeating here. With her long Soviet border and hostile neighbors,

she has done more than her duty, carried more than her share. Turkey has been our full partner over the years.

We have a few thousand advisers there, but the Turks really do the job for us and the rest of the allies. The missions which NATO gave Turkey have always been critical ones and she has done them well, and when we asked that alliance members increase military expenditures by 3 percent in real dollars Turkey averaged 4.4 percent, dropping back to 3.5 percent in 1988, still more than we asked.

Mr. President, what will the Turkish population say to this decree? With the turmoil in the Soviet Union and Eastern Europe that may continue for some time, I am truly worried about where this may lead us.

I think this is the beginning of the latest chapter in ethnic conflict which bodes ill for us and for Turkey. She must see the possibility of turmoil near her borders and wonder how reliable we really are. Do not forget: it has been a Soviet goal to separate Turkey from NATO, just as they wanted to sever us from Western Europe.

Mr. President, Turkey is unique among our friends. We all know that. Why have we not even granted her a full hearing? Why has it come to parliamentary procedure to assure at least a partial hearing? Are we really satisfied that this is the right way to proceed? I am not. I do not deny the tragedy, but I fear we are laying the foundation for another one, far greater than most of us imagine.

Mr. President, there is much to be examined here and we could have examined a good deal of that had the interest been in the committee to hold a hearing on these events and have them flushed out in the appropriate arena. Absent that, we are toying with the fate and feelings of a loyal ally that fought with us in Korea, fought with us every step along the way, and has the longest border with the Soviet Union of any country in NATO. We dare not do this lightly, Mr. President.

The PRESIDING OFFICER (Mr. LIEBERMAN). Who yields time?

Mr. BYRD. Mr. President, I thank the distinguished Senator from Wyoming for an excellent statement, and I thank the distinguished Senator from Virginia [Mr. WARNER] for an excellent statement.

I wonder if the other side now could produce a speaker so that we could keep the time pretty much evenly running between the two sides.

Mr. President, I ask unanimous consent that for the next 2 minutes the time not be charged against either side.

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

Mr. BYRD. Mr. President, the two sides I understand are awaiting the arrival of speakers. I ask unanimous consent that the next 3 minutes not be charged against either side.

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

Mr. BYRD. Mr. President, how much time remains to the two sides?

The PRESIDING OFFICER. The proponents control 42 minutes and the opponents 34 minutes.

Mr. BYRD. Mr. President, I shall try to give just a little more time to the speakers who are arriving. I ask unanimous consent, and I trust that I will not be perceived as intruding on the two leaders in extending this time. It has the effect of extending the time. I believe one of the speakers has probably arrived.

So I ask that the time begin running when the distinguished Senator from New Jersey has taken the floor.

Mr. LAUTENBERG. I thank the distinguished President pro tempore for his always kind remarks even at those times, Mr. President, when we may disagree on an issue. It is never easy to disagree with the distinguished Senator from West Virginia, whose leadership has been demonstrated here for so many years, and whose views and comments are very hard to argue with.

Mr. President, I am asking unanimous consent that 5 minutes from the Republican leaders time be made available to me.

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

Mr. LAUTENBERG. Thank you, Mr. President.

Mr. President, I rise today in support of Senate Joint Resolution 212, to establish a National Day of Remembrance of the Armenian Genocide of 1915-23. I am pleased to be a cosponsor of this joint resolution. With its passage, we will recognize the first genocide of the 20th century.

Between 1915 and 1918, over 1½ million Armenians perished of starvation and butchery at the hands of the Ottoman Empire. The genocide involved not only the killing of innocents but their forcible deportation across Asia Minor. They were persecuted, banished, and slaughtered while much of Europe was engaged in World War I.

Mr. President, in the debate on the motion to proceed to this resolution, a great deal has been said about our relations with the Republic of Turkey. I want to make one thing perfectly clear. This resolution goes out of its way to distinguish between the acts that occurred under the Ottoman Empire and the modern-day Government of Turkey.

Turkey is our valued ally, one which has contributed much to NATO. My support of this resolution is in no way meant to change or undercut that relationship.

I understand that the Turkish Government strongly opposes this resolution. It has been suggested that we should refrain from proceeding to and adopting this resolution, because it would be an affront to our ally.

Mr. President, I cannot agree.

Turkey is indeed a valued NATO ally and an important friend of the United States. It is in a part of the world where it is surrounded by a sea of hostility. I have met with many of the representatives of the Turkish Government, and with Turkish-Americans about this resolution, and have listened to their concerns in detail. I appreciate their pride in their country. I recognize their important strategic relationship to the United States.

But these are not reasons to ignore or deny historical evidence. To deny these facts is not only to downgrade the horror of the Armenian killings, but to remove the underpinnings of human progress. Remembrance is a way to serve notice on those who would perpetrate future atrocities that we will not forget, nor permit such horrors to happen again.

This resolution does not blame modern-day Turkey. The events in question occurred in 1915-23. We refer to actions of the Ottoman Empire.

Mr. President, West Germany is no less of an ally because we recognize the Holocaust, or because we are building a museum to remember it. West Germany and its people acknowledge the Holocaust and the Nazi mistreatment and slaughter of 6 million Jews and tens of thousands of other Europeans. The German people continue to grapple with that horrible chapter of their history.

We in the United States have recognized the sad chapters in our own history and have tried to make redress. Most recently, we enacted legislation to make reparations to Asian Americans who were incarcerated during World War II. We remember the enslavement of black Americans and continue to this day to address the legacy of pain and injury that black Americans have inherited from that chapter in American history.

Senate Joint Resolution 212 acts as a reminder of the violations of human rights against the Armenian people. To the Armenians and those who filed endless numbers of eyewitness accounts of the massacres and mass death following forced deportation of Armenians across Asia Minor in 1915, there could be no set of circumstances imaginable more completely depraved, or corrupt, or inhumane.

The Genocide Treaty, which the United States ratified in 1988, defines genocide as acting with a "specific intent to destroy, in whole or in substantial part, a national, ethnic, racial or religious group." History shows that the Ottomans intended to eradicate the Armenian population.

As many as 1.5 million Armenians—including women and children who were not a security threat to the Ottomans—died from forced marches and massacres. International diplomats in Turkey at the time—including Henry Morganthau—denounced the Ottomans' policy as a massacre of the Armenians. The Turkish Interior Minister at the time sent telegrams urging the extermination of the Armenians.

It was Prof. Raphael Lemkin, a lawyer who escaped Poland during the Nazi invasion of 1939, who first coined the word genocide in 1944. After designating the term "genocide" to describe the deliberate destruction of a people, Lemkin became the first person to characterize the atrocities of 1915-23 as the "Armenian genocide." In his tireless work for the ratification of the Genocide Convention, he repeatedly referred to the Armenian genocide, together with the Holocaust, as a prototype of the crime of genocide.

I salute those of Armenian descent who have worked hard to ensure that the genocide of their people does not fade into historical irrelevance but remains a shocking lesson and horrendous example of inhumanity of man to man. I think it is time for the U.S. Government to recognize these events, and to ensure that such a tragedy is never again visited upon any people anywhere on this Earth.

I ask my colleagues to vote for cloture on the motion to proceed.

The PRESIDING OFFICER. Who yields time?

Mr. BYRD. Mr. President, how much time remains on the two sides?

The PRESIDING OFFICER. The proponents of the resolution have 36 minutes remaining and the opponents 46 minutes remaining. Who yields time?

Mr. BYRD. Mr. President, the time is running against both sides equally, is it not?

The PRESIDING OFFICER. The Senator is correct. The time is running against both sides.

Mr. BYRD. Does the distinguished Republican leader have a speaker?

Mr. DOLE. I yield 2 minutes to the Senator from California [Mr. CRANSTON].

Mr. CRANSTON. Mr. President, I rise today in support of the resolution to designate April 24, 1990, as the National Day of Remembrance of the Armenian Genocide of 1915-23. This resolution honors those who died during the Armenian massacre perpetrated by the Turkish Ottoman Empire.

This legislation is in no way designed to accuse the current governments of Turkey, very different from the Turkish Ottoman Empire, or the Turkish people, who are our friends and allies. Nor is it designed to detract from the numerous contributions that the Turkish people have made to this county.

Rather, this legislation in designating April 24 as a remembrance for those who perished in the Armenian massacre, is intended to recognize and acknowledge the atrocity that occurred against the Armenian people in an effort to help ensure that genocide, against any group of people, does not even recur, and that America will always express its anger over acts of genocide.

I deeply sympathize with those whose relatives were killed in the Armenian massacre. I understand their anger that there are those who still deny that the massacre indeed took place, despite the fact that the massacre has been well documented over the past six decades. This is analogous to the denials that there was genocide against the Jewish people in Nazi Germany. Obviously, a bold lie.

To refute these facts—re: the Armenian genocide—is to perpetrate yet another crime against the Armenian people. We have an obligation to remember the victims of the Armenian massacre. As later events proved, the world did not learn a lesson from this, the first genocide of the 20th century—unfortunately, not the last.

We cannot reverse the events of the past, but we can and we must strive to keep the memory of this tragedy alive, so as to help prevent a recurrence of the extermination of a people because of their nationality, their race or their religion.

Mr. METZENBAUM. Mr. President, Senate Joint Resolution 212, the Armenian genocide resolution, is finally before the full Senate, after months of intense deliberation in committee and in Senators' private consultations. Senators have spoken eloquently and forcefully on both sides of this issue. Usually, a commemorative item is dealt with speedily, and with little controversy. The lengthy debate over this particular commemorative testifies to the Senate's concern about this issue. This is as it should be. No one pretends that this is just another commemorative, or that the Armenian tragedy should be approached with anything but the utmost gravity.

Mr. President, I share my colleagues' deep conviction that Senate Joint Resolution 212 deserves careful thought. For many years, I have felt very strongly that the mass slaughter of Armenians deserved to be commemorated in a meaningful way. I made strong statements to that effect here on the Senate floor. I have said as much to the Turkish representatives here in Washington. This aspect of my position has not changed one bit.

Another aspect of my position has changed, however. My colleagues are aware of the amendment I offered to Senate Joint Resolution 212 last fall when the Senate Judiciary Committee considered the resolution. What prompted this amendment? Frankly, it was an attempt to find a middle ground. The most deeply involved parties in the Armenian genocide issue, the Armenians themselves and the Government of the Republic of Turkey, are separated by a vast emotional gulf.

Mr. President, my amendment was an attempt to bridge this gulf. Turkey is a responsible, valued ally. Armenian-Americans have contributed as much to our society as any of the many proud ethnic groups in the United States. It seemed to me that the U.S. Congress could play a role in bringing these parties to some mutually agreeable understanding.

I also acted out of concern over what the U.S. Senate would implicitly be doing in approving the original text of Senate Joint Resolution 212. This text, which is before us today, puts the U.S. Government, through the Congress, on record as commemorating a genocide against the Armenian people by the Ottoman Empire.

Mr. President, genocide is probably one of the most sensitive issues ever to be considered by the Congress. Indeed, I was an outspoken supporter and original sponsor of legislation to implement the Convention on the Prevention of Genocide several years ago. But the Congress must act very carefully when its actions give official recognition to events as contentious as genocide.

In particular, the Congress must temper its voice, or even withhold judgment, when a question is still being debated by responsible historians. This imperative is all the more pressing when two such valued parties as Armenian-Americans and Turkey are involved.

Mr. President, I wish that the historical community had reached a definitive conclusion about the Armenian genocide. It would certainly have made by personal deliberations on this resolution easier. But historians have not reached a definitive conclusion. In fact, some of the leading experts on the Middle East have repeatedly expressed their concerns about this resolution.

My amendment was an attempt to air those concerns. I am not a historian, and I know of no Senator who was a historian before his or her election to public office. I am concerned that the Senate is drawing official conclusions before the experts have reached their conclusions.

Mr. President, my staff and I have met with representatives of the Armenian-American community repeatedly over the past 3 months. They make a very compelling, well documented argument for their cause. I respect their dedication and I applaud their commitment. I recognize the fact that over a million Armenians were massacred in a wave of violence around the time

of World War I. I deplore the atrocities committed against them. But I remain concerned that strong—responsible—voices continue to challenge the text of Senate Joint Resolution 212.

Mr. President, my amendment was defeated by the Judiciary Committee. Out of concern that this issue not be glossed over by the full Senate, I remained a cosponsor of Senate Joint Resolution 212, during the committee's deliberations. Without that cosponsorship the resolution may not have sufficient votes to be considered by the committee. I did not think that was fair. Since the committee's action I have taken my name off as a cosponsor.

As we approach a final vote on the issue, my concerns have not yet been allayed. I remain worried that the Senate may be acting where the experts have yet to reach a consensus.

Mr. President, it is my hope that a way can be found to appropriately remember the 75th anniversary of the Armenian tragedy on April 24, while allowing more time for consideration of the genocide question.

For now, I believe that Senate Joint Resolution 212 is a step too far for the U.S. Senate to take at this time.

If the cloture motion is defeated I still hope we can find a compromise suitable and fair to both the Armenians and the Turks.

Mr. KERRY. Mr. President, this April 24 will mark the 75th anniversary of the Armenian genocide perpetrated by the rulers of the old Ottoman Empire. It is appropriate and important for the U.S. Senate to enact Senate Joint Resolution 212, designating this date as "The National Day of Remembrance of the 75th Anniversary of the Armenian Genocide of 1915-1923."

The resolution is opposed very vigorously by the Government of Turkey. Opposition on the part of the administration has been equally intense. However, I believe it is imperative for us to be guided by our collective consciences, rather than a sense of political expediency and adopt this resolution.

President Bush stated in 1988 that "the American people, our Government and certainly the Bush administration will never allow political pressure to prevent our denunciation of crimes against humanity * * *. I would join Congress in commemorating the victims."

In October of the same year, the President reinforced this view saying:

> The United States must acknowledge the attempted genocide of the Armenian people in the last years of the Ottoman Empire, based on the testimony of survivors, scholars, and indeed our own representatives at the time, if we are to insure that such horrors are not repeated.

That is the purpose of Senate Joint Resolution 212. We seek to send a message once again to citizens of our own country and the international community that the Armenian Genocide of 1915 through 1923 should not be relegated to the dust bin of history. Documented reports from that horrible chapter in the history of man's inhumanity to his fellow man show that an estimated 1.5 million Armenians out of 2.3 Ottoman-Armenians either died or were deported from their homeland—a homeland which had been theirs for 3,000 years.

Human rights concerns among the various religious denominations were as deep-seated in the early 20th century as they are today. Much of the information concerning the Armenian genocide in the old Ottoman Empire came from Protestant missionaries working in Armenia. Their reports, and reports from other sources, so concerned the United States Ambassador to Turkey at the time, Henry Morgenthau, Sr., that he filed repeated protests to the government. A 684-page British report on the massacre was written by Viscount James Bryce with the assistance of Arnold Toynbee.

Even the old Ottoman Empire's allies during World War I, the Germans and Austrians, raised concerns about the genocide being directed against the Armenian people. The German military advisor to the Ottoman Empire, Otto Liman van Sanders, personally intervened to halt the deportation of Armenians from Smyrna in November 1916. German theologian Johnannes Lepsius, did much to expose the Ottoman atrocities in Germany through his activities among German clergymen, university professors and journalists.

But perhaps the most damning evidence of the genocide came during this century's first war crimes trial. A short-lived liberal Ottoman govenment condemned the young Turk triumvirate, responsible for ordering the genocide, to death in absentia.

The indictment, which was read during the first session of the court martial, was directed at the leaders of the young Turk Government of the Ottoman Empire, and all members of the Committee of Union and Progress. The indictment stated that the committee operated as a secret agency, acting through oral and secret instructions aimed at the destruction of the Armenians and subverting the constitution.

Rather than recounting the entire indictment, I ask unanimous consent that the documents regarding the indictments and subsequent verdicts of the court martial be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. KERRY. I want to express my appreciation to Leo Kuper, professor emeritus at UCLA and vice president of International Alert Against Genocide and Mass Killing, for making these materials available to the Members of the Senate.

At the time of the perpetration of this mass atrocity, the United States Government was vigorous in launching protests after protest on behalf of the beleaguered Armenians. Unfortunately, there was very little we could do at the time. Ambassador Morgenthau was particularly outraged over the genocide and devoted a chapter of his book entitled, "Secrets of the Bosphorus" to the massacre. He appropriately titled the chapter "The Murder of a Nation." I ask unanimous consent that this material be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 2.)

Mr. KERRY. Despite protestations to the contrary, the simple fact of the matter is that the Armenian people were eliminated from western Anatolia. Where more than a million Armenians lived before the war, almost none survived later.

Mr. President, times does not heal all wounds. Certainly it should not hide them. Just ask the families of the victims of the other two great genocides of this century, the victims of the Holocaust and the victims of the Khmer Rouge. In the case of the Armenians it has been one thing to suffer a tragedy of such horrendous proportions; it is quite another to be told that nothing occurred. Tragically, the administration opposes this resolution which calls upon the people of the United States to pause for a moment on April 24, to remember the victims of the Armenian genocide. It would be a tragedy if the Senate succumbs to political considerations which, once again, will make victims of the Armenian people.

By passing Senate Joint Resolution 212, we will be repeating the words never again. It is time to help in the healing process and extent to the Armenian people the world over the dignity and justice they so richly deserve. In so doing, we will be asserting our own right to help define civilization, to assert moral principles, and to act with basic human decency and compassion.

This resolution does not blame the Government of the Republic of Turkey for the massacre which took place under the Ottomon rulers. By so strenuously opposing this resolution, the present day government of Turkey does a disservice to itself by attempting to camouflage or avoid altogether the truth.

We cannot treat this issue like the deficit. We cannot succumb to political

expediency that allows us to ignore the truth. An expendiency that allows us to ignore this truth is an expediency that allows these human tragedies to happen time and again.

Acknowledging the truth regarding this tragic chapter of history can help us to move forward. Turkey is a friend and ally of the United States. And as a friend and ally, it is important for us to counsel the Government to come to terms with this tragic event—to reach out to the Armenian people and addresses this issue with the resolve it deserves.

The persistence of the Armenian community to gain international recognition of this atrocity is appropriate, particularly in light of the cultural pain felt so deeply by all Armenians around the world. It is imperative that their efforts meet with success because it is important for the issue of genocide to be placed in front of our collective human conscience once again. In so doing, we may help to save some other culture or race from future suffering or repression from a government which has decided that genocide may once again be implemented as a national policy to deal with a minority.

EXHIBIT 1

INTERNATIONAL ALERT,
Los Angeles, CA, November 9, 1989.

To Members of Congress: I am writing in connection with the proposed day of remembrance of the massacres of Armenians during World War I.

As a sociologist concerned with major issues of human rights, I have carried out research, and written extensively over a period of some twenty years on the crime of genocide and the means for its prevention.

The massacre of Armenians is one of the cases I studied intensively. Based on a wide range of sources, including not only eyewitness accounts and the testimony of survivors, but also governmental records, there is conclusive evidence that the massacres constituted the crime of genocide.

Among the less publicly known documents is the record of the Turkish court martial proceedings against leading members of the former government, including the Ministers of War, the Interior and the Navy, and the Committee of Union and Progress, who organized the killings.

Attached to this letter is a summary of the indictment and of the sentences, as well as a brief statement on the background to the Armenian tragedy.

LEO KUPER, Professor Emeritus UCLA and Vice President, International Alert Against Genocide and Mass Killing.

INTRODUCTION

Following World War I, the new Turkish government instituted courts martial against the Young Turk dictators, including the ministers of War, Interior, and Navy and other members of the dominant Committee of Union and Progress, [CUP] who had perpetrated the genocide of the Armenians.

These proceedings established, beyond any doubt, that the deportations and massacres against the Armenian people during the War were planned and premeditated. The aim of the policy was clearly the extermination of all Armenians in Ottoman Turkish territories.

The evidence gathered and introduced at these trials included official telegrams sent by the central government to the provinces and accounts by eyewitnesses from various nationalities. The transcripts recording this evidence are widely available, since they were reported in the official gazette of the Ottoman Empire, the Takvim-i-Vekayi. Yet the Turkish government has never released the actual evidence. In fact, in some of the verified testimony, former officials acknowledge that they were ordered to destroy critical evidence.

Rejecting defenses based on the "orders from higher authorities" argument, the courts overwhelmingly found those indicted guilty as charged.

After World War II the Allies used these proceedings as precedent for the Nurnberg trials.

BRIEF BACKGROUND

Starting in 1915, the Ottoman government embarked on a course to exterminate the Armenian people. To its credit, the post WWI Turkish government instituted courts martial to prosecute those responsible for the worst crimes. The trial of the Young Turk leaders, initiated by the new government of the Ottoman Empire, is the first offical war crimes trial. The Extraordinary Courts Martial dealt with the major question of the subversion of the constitutional order and the wholesale deportations and massacres of the Armenian population of the Empire during World War I, what came to be known since as the Genocide of the Armenians.

The government plan to try those responsible for crimes during the War divided defendants into three categories:

1. Major criminals, who would be tried before the Supreme Court;
2. Functionaries cooperating with major criminals, who would be tried in civil courts;
3. Common citizens, who would be tried in the lower courts.

Extraordinary courts would be formed according to articles 89 and 91 of the Ottoman constitution. The Empire was divided into ten zones to try all the criminals. By January 1919, prosecutors and judges of instruction were selected for four of the regions.

The Commission of Inquiry established by the new Turkish government was authorized to collect all evidence from the governors throughout the Ottoman Empire. The Commission, through the Ministry of Interior and Post and Telegraph (PTT), requested that PTT offices in the provinces submit to the capital all communications which were sent out by the defendants pertaining to Armenians from May 1915 through April 1917. Many governors complied, others did not. In addition, the Commission of Inquiry interrogated the statesmen and military commanders who served under the Young Turk government during the War.

Enough evidence was gathered in 1918 to implicate a number of members of Parliament, making it a liability for a government trying to distance itself from the extermination policy of the Young Turks. The Sultans dissolved Parliament. Calls for the imprisonment of those who had taken an active part in the implementation of Young Turk policy increased. In an attempt to bring some legitamacy to his government, Ottoman Foreign Minister Mustafa Reshad Pasha stated in Paris, in 1919:

A pallid light is extended upon the atrocities committed against the Armenians, atrocities which aroused the indignation of humanity; our land has been given back to us transformed into a gigantic slaughter house.

By the end of 1918, almost 200 CUP leaders had fled, but the Ottoman government demanded the extradition of major criminals.

Ultimately the Ottoman government arrested about 100 who fled. On December 9, 1918, a Court Martial constituted to try Enver, Jemal and Talat the major perpetrators. The verdict, given on July 5, 1919, condemned all three and Nazim, and sentenced in absentia to death. The courts martial in Istanbul also announced that others involved in deportations and massacres at Ankara, Gerasoon, Sivas, Adabazar, Bilejik, Bitlis, Izmit, Mamuret ul-Aziz, Amasia, Der es-Zor, Kirshehir, Diyarbekir, Kayseri, Konia, Changeri, Adrianople, Karahisar, Adana, Chatalja, Dardanelles, Bafra, Marash, Akhisar, Istanbul, and Kutahia must be brought to justice. By April 1920, the Commission of Inquiry had 110 files yet to be examined and the Courts Martial office had more than 100 dossiers of people to be brought to trial.

The rise of the nationalist movement in Turkey and changes in Western policy toward it made it impossible to continue trials of Turkish leaders for crimes committed against non-Turks.

LIST OF MAJOR DEFENDANTS MENTIONED IN THIS FILE

Aziz Atif—Head of the special Organization in Istanbul.

Enver Pasha—Minister of War, Commander-in-chief of the Ottoman Army. Member of the CUP Central Committee.

Hasim—Minister of Post and Telegraph.

Ahmed Izzet Pasha—Former Prime Minister.

Jemal Pasha—Minister of Marine. A fugitive abroad. Member of the CUP Central Committee.

Mahmud Kamil—Former Commander of the Third Army.

Musa Kazim—Former religious head.

Nazim Effendi—Minister of Education, Special Organization and CUP leader in Istanbul.

Rifat Bey—Speaker of Upper House of the Ottoman Parliament.

Riza Bey—CUP plenipotentiary in Trebzon.

Behaeddin Shakir—Head of the Special Organization.

Javid Sheref—Minister of Finance.

Mustafa Sheref Bey—Minister of Commerce and Agriculture.

Talat Pasha—Minister of the Interior, former Prime Minister. President of the Central Committee of the CUP.

Vehip Pasha—Commander of the Third Army.

SUMMARY OF THE INDICTMENT AGAINST THE LEADERS OF THE YOUNG TURK GOVERNMENT OF THE OTTOMAN EMPIRE—APRIL 12, 1919

[Full text of indictment read during the first session of the court martial, April 27, 1919 and reported in Takvim-i-Vekayi (official gazette of the Ottoman Empire,) Number 3040.]

The post-War Turkish Government indicted the leaders of the Young Turk Government of the Ottoman Empire, all members of the Committee of Union and Progress (CUP), for the following [numbers are for convenience]:

1. The Committee of Union and Progress had operated in two ways in an effort to deceive the people:

(a) as a public organization, a party abiding and acting by its by-laws;

(b) as a secret agency, acting through oral and secret instructions aimed at the destruction of the Armenians and subverting the constitution.

2. CUP activities were marked by violence, murder, pillage and abuse. Talat, Enver, Jemal and their party resorted to terror and violence in ruling the country, causing enormous disasters.

3. The CUP had decided to enter the War on the side of Germany long before the Ottoman Empire declared war formally.

4. To realize its secret program of eliminating Armenians, the CUP set up the Special Organization, composed mainly of criminals released from prisons.

(a) Ostensibly, the Special Organization was created to help the war effort. In fact, it was involved in criminal activities. Behaeddin Shakir was stationed in Erzerum and supervised the brigades in the Eastern Provinces. Riza was in Trebizond. Aziz Atif and Nazim led the effort in Istanbul.

(b) The Special Organization was given abundant money, secret cipher codes, vehicles and weapons.

(c) Members of the Special Organization, the CUP Representatives and local employees were engaged in manslaughter, pillaging, burning of buildings and bodies, and violating the honor of women. All Ottoman subjects suffered from these acts and a significant number of those who suffered were Armenians.

(d) An important portion of the files of the Special Organization and the files of the CUP Central Committee regarding Armenians were stolen.

The specific object of this investigation being the tragedy that befell the Armenians during their deportation, the Court notes.

5. These tragic acts were not local or isolated incidents but were brought about by a central body, consisting of the indicted defendants, who directed them through oral and secret instructions.

(a) The Ministry of Interior headed by Talat and the CUP were both engaged in organizing the Special Organization which was employed in massacring and annihilating the convoys of deported Armenians.

(b) Telegrams demonstrated that Talat, Enver and Jemal ordered the massacres. The CUP government leaders gave strict orders to bury the dead and burn their effects, as corpses lay around for too long or were thrown into rivers, particularly the Euphrates, embarrassing the authorities and contaminating the environment.

(c) Talat approved the drowning of Armenians in the Black Sea.

(d) Vehip Pasha [who replaced Mahmud Kamil as Commander of the Third Army] testified that the destruction and annihilation of the Armenians and the plunder of their belongings were the result of the decisions of the Central Committee of the CUP.

(e) Nazim believed that the measures taken against the Armenians would permanently solve the question of Turkey's treatment of minorities.

(f) Talat was aware of and consistently refused to act seriously on reports concerning the Armenian massacres.

6. The CUP intended to annihilate the Armenians through deportations and massacres.

(a) The CUP and Goverment carried out deportations and massacres even in distant places where there was neither military nor disciplinary necessity.

(b) The governor of Mamuret-ul-Aziz reported that all the roads were covered with so many corpses of women and children, that they didn't have enough manpower and time to bury them quickly.

(c) From Diyarbekir alone, 120,000 Armenians were deported.

7. Some Muslims opposed the measures. For example, the Muslims of Kastamonu told the governor: "Like [animals led to a] slaughterhouse, the Armenians of neighboring districts and their wives and children are being taken to the mountains and killed. We do not want this to happen here.

8. The CUP and Government authorities strictly forbid Muslins to protect the Armenians. For instance, Mahmud Kamil, Commander of the Third Army, decreed in a telegram that any Muslim protecting an Armenian will be executed before his own house and his house will be burnt. Muslim employees and military personnel [protecting Armenians] will be court martialed.

(a) The CUP and Government classified those who refused to take part in the massacres and deportations as traitors. Those who went along were protected and supported.

(b) The CUP and Government dismissed officials for not carrying the orders to annihilate the Armenians from the central authorities; some of them were executed.

All the points raised in the Indictment are supported by documents and testimonies.

THE EXTRAORDINARY COURTS MARTIAL—SUMMARY OF THE SENTENCE, JULY 5, 1919

[Full text of the sentences reproduced in the Takvim-i-Vekayi (official gazette of the Ottoman Empire,) Number 3604.]

Based on verified and credible testimony, on documents, and on the irrefutable facts of the massacres and deportations which left practically no Armenians in the Ottoman Empire, the court found the defendants guilty as charged, except for Rifat [Speaker of Upper House of the Ottoman Parliament] and Hasim [Minister of Post and Telegraph].

In this session the court referred to five points to justify its guilty verdicts:

1. The massacres in Trebizond, Yozgat and Boghazliyan were organized and perpetrated by the leaders of the CUP. Claims that they became aware of the crime rather late were found invalid since the accused made no effort either to prevent their recurrence or [to punish] the perpetrators.

2. The decision to enter the war was made not by the cabinet but by the CUP.

3. Former Prime Minister Ahmed Izzet Pasha had to resign from his post as Minister of War because of the intervention of the CUP [in government affairs].

4. Supplies financial transactions, and assets were monopolized by the CUP, especially by its Representative in Istanbul so that public wealth was in the hands of a handful of individuals. This impoverished the population, caused hardship, and consequently considerably weakened the war effort. It was also an instance of interference in government affairs.

5. The CUP ran the affairs of the state as it wished.

As a result, the CUP commanded the machinery of the government and imposed its will on the country.

The Verdict

As principal organizers of the slaughter of innocent Armenians in an attempt to exterminate them, Talat, Enver, Jemal and Nazim were found guilty.

Javid and Mustafa Sheref were also found guilty.

Musa Kazim, religious head and head of clergy, was found guilty as an accomplice.

Rifat and Hasim were found not guilty.

Talat, Enver, Jemal and Nazim were sentenced to death.

Javid, Mustaf Sheref and Musa Kazim were sentenced to 15 years of hard labor.

The court's decision——was unanimous.

EXHIBIT 2

SECRETS OF THE BOSPHORUS

(By Ambassador Henry Morgenthau)

[Constaninople, 1913-1916]

CHAPTER XXIV

THE MURDER OF A NATION

The destruction of the Armenian race in 1915 involved certain difficulties that had not impeded the operations of the Turks in the massacres of 1895 and other years. In these earlier periods the Armenian men had possessed little power or means of resistance. In those days Armenians had not been permitted to have military training, to serve in the Turkish Army, or to possess arms. As I have already said, these discriminations were withdrawn when the revolutionists obtained the upper hand in 1908. Not only were the Christians now permitted to bear arms, but the authorities, in the full flush of their enthusiasm for freedom and equality, encouraged them to do so. In the early part of 1915, therefore, every Turkish city contained thousands of Armenians who had been trained as soldiers and who were supplied with rifles, pistols, and other weapons of defence.

The operations at Van disclosed that these men could use their munitions to good advantage. A similar "rebellion" at Zeitoun also proved that those despised merchants and traders of the Empire possessed energetic fighting power. It was thus apparent that an Armenian massacre this time would generally assume more the character of warfare than those wholesale butcheries of defenceless men and women which the Turks had always found so congenial. If this plan of murdering a race was to succeed, two preliminary steps would therefore have to be taken: it would be necessary to render all Armenian soldiers powerless and to deprive of their arms the Armenians in every city and town. Before Armenia could be slaughtered, Armenia must be made defenceless.

In the early part of 1915 the Armenian soldiers in the Turkish Army were reduced to a new status. Up to that time most of them had been combatants, but now they were all stripped of their arms and transformed into workmen. Instead of serving their countrymen as artillerymen and cavalrymen, these former soldiers now discovered that they had been transformed into road labourers and pack animals. Army supplies of all kinds were loaded on their backs, and stumbling under the burdens, and driven by the whips and bayonets of the Turks, they were forced to drag their weary bodies into the mountains of the Caucasus. Sometimes they would have to plough their way, burdened in this fashion, almost waist-high through snow. They had to spend practically all their time in the open, sleeping on the bare ground—whenever the ceaseless prodding of their taskmasters gave them an occasional opportunity to sleep. They were given only scraps of food; if they fell sick they were left where they had dropped, their Turkish oppressors perhaps stopping long enough to rob them of all their possessions—even of their clothes. If any stragglers succeeded in reaching their destinations they were not infrequently massacred.

In many instances Armenian soldiers were disposed of in even more summary fashion, for it now became almost the general practice to shoot them in cold blood. In almost all cases the procedure was the same. Here and there squads of fifty or a hundred men would be taken, bound together in groups of four, and then marched out to a secluded spot a short distance from the village. Suddenly the sound of rifle-shots would fill the air, and the Turkish soldiers who had acted as the escort would sullenly return to camp. Those sent to bury the bodies would find them almost invariably stark naked, for, as usual, the Turks had stolen all their clothes. In cases that came to my attention, the murderers had added a refinement to their victims' sufferings by compelling them to dig their graves before being shot.

Let me relate a single episode which is contained in one of the reports of our Consuls and which now forms part of the records of the American State Department. Early in July 2,000 Armenian "amélés"—such is the Turkish word for soldiers who have been reduced to workmen—were sent from Harpoot to build roads. The Armenians in that town understood what this meant and pleaded with the Governor for mercy. But this official insisted that the men were not to be harmed, and he even called upon the German missionary, Mr. Ehemann, to quiet the panic, giving that gentleman his word of honour that the ex-soldiers would be protected. Mr. Ehemann believed the Governor and assuaged the popular fear. Yet practically every man of these 2,000 was massacred, and his body thrown into a cave. A few escaped, and it was from these that news of the massacre reached the world. A few days afterward another 2,000 soldiers were sent to Diarbekir. The only purpose of sending these men out in the open country was that they might be massacred.

In order that they might have no strength to resist and to escape by flight, these poor creatures were systematically starved. Government agents went ahead on the road, notifying the Kurds that the caravan was approaching and ordering them to do their congenial duty. Not only did the Kurdish tribesmen pour down from the mountains upon this starved and weakened regiment, but the Kurdish women came with butchers' knives in order that they might gain that merit in Allah's eyes that comes from killing a Christian. These massacres were not isolated happenings; I could detail many more episodes just as horrible as the one related above. Throughout the Turkish Empire a systematic attempt was made to kill all able-bodied men, not only for the purpose of removing all males who might propagate a new generation of Armenians, but for the purpose of rendering the weaker part of the population an easy prey.

Dreadful as were these massacres of unarmed soldiers, they were mercy and justice themselves when compared with the treatment which was now visited upon those Armenians who were suspected of concealing arms. Naturally, the Christians became alarmed when placards were posted in the villages and cities ordering them to bring all their arms to headquarters. Since this order applied only to Christians, the Armenians well understood what the result would be should they be left defenceless while their Moslem neighbours were permitted to retain their arms. In many cases, however, the persecuted people patiently obeyed the command, and then the Turkish officials almost joyfully seized their rifles as evidence that a "revolution" was being planned, and threw their victims into prison on a charge of treason. Thousands failed to deliver arms simply because they had none to deliver, while an even greater number tenaciously refused to give them up, not because they were plotting an uprising, but because they proposed to defend their own lives and their women's honour against the outrages which they knew were being planned.

The punishment inflicted upon these recalcitrants forms one of the most hideous chapters of modern history. Most of us believe that torture has long ceased to be an administrative and judicial measure, yet I do not believe that the darkest ages ever presented scenes more horrible than those which now took place all over Turkey. Nothing was sacred to the Turkish gendarmes; under the plea of searching for hidden arms they ransacked churches, treated the altars and sacred utensils with the utmost indignities, and even held mock ceremonies in imitation of the Christian sacraments. They would beat the priests into insensibility, under the pretence that they were the centres of sedition. When they could discover no munitions in the churches, they would sometimes arm the bishops and priests with guns, pistols, and swords, then try them before courts-martial for possessing weapons against the law, and march them in this condition through the streets, merely to arouse the fanatical wrath of the mobs. The gendarmes treated women with the same cruelty and indecency as their husbands. There are cases on record in which women accused of concealing weapons were stripped naked and whipped with branches freshly cut from trees, and these beatings were even inflicted on women who were with child. Violations so commonly accompanied these searches that Armenian women and girls, on the approach of the gendarmes, would flee to the woods, the hills, or to mountain caves.

As a preliminary to the searches everywhere the strong men of the villages and towns were arrested and taken to prison. Their tormentors here would exercise the most diabolical ingenuity in their attempt to make their victims declare themselves to be "revolutionists" and to tell the hiding-places of their arms. A common practice was to place the prisoner in a room, with two Turks stationed at each end and each side. The examination would then begin with the bastinado. This is a form of torture not uncommon in the Orient; it consists of beating the soles of the feet with a thin rod. At first the pain is not marked, but as the process goes slowly on it develops into the most terrible agony, the feet swell and burst, and not infrequently, after being submitted to this treatment, they have to be amputated. The gendarmes would bastinado their Armenian victim until he fainted; they would then revive him by sprinkling water on his face and begin again. If this did not succeed in bringing their victim to terms they had numerous other methods of persuasion. They would pull out his eyebrows and beard almost hair by hair; they would extract his fingernails and toe-nails; they would apply red-hot irons to his breast tear off his flesh with red-hot pincers, and then pour boiled butter into the wounds. In some cases the gendarmes would nail hands and feet to pieces of wood—evidently in imitation of the crucifixion, and then, while the sufferer writhed in his agony, they would cry: "Now let your Christ come and help you!"

These cruelties—and many others which I forbear to describe—were usually inflicted in the night time. Turks would be stationed around the prisons, beating drums and blowing whistles, so that the screams of the sufferers would not reach the villagers.

In thousands of cases the Armenians who endured these agonies had refused to surrender their arms simply because they had none to surrender. However, they could not persuade their tormentors that this was the case. It therefore became customary, when news was received that the searchers were approaching, for Armenians to purchase arms from their Turkish neighbours so that they might be able to give them up and escape these frightful punishments.

One day I was discussing these proceedings with Bedri Bey, the Constantinople Prefect of Police. With a disgusting relish Bedri described the tortures inflicted. He made no secret of the fact that the Government had instigated them, and, like all Turks of the official classes, he enthusiastically approved this treatment of the detested race. Bedri told me that all these details were matters of nightly discussion at the headquarters of the Union and Progress Committee. Each new method of inflicting pain was hailed as a splendid discovery, and the regular attendants were constantly ransacking their brains in the effort to devise some new torment. Bedri told me that they even delved into the records of the Spanish Inquisition and other historic institutions of torture, and adopted all the suggestions found there. Bedri did not tell me who carried off the prize in this gruesome competition, but common reputation throughout Armenia gave a pre-eminent infamy to Djevdet Bey, the Vali of Van, whose activities in that section I have already described. All through this country Djevdet now became known as the "marshall blacksmith of Bashkale," for this connoisseur in torture had invented what was perhaps the masterpiece of all—that of nailing horseshoes to the feet of his Armenian victims.

Yet these happenings did not constitute what the newspapers of the time commonly referred to as the Armenian atrocities; they were merely the preparatory steps in the destruction of a race. The Young Turks displayed greater ingenuity than their predecessor, Abdul Hamid. The injunction of the deposed Sultan was merely "to kill, kill," whereas the Turkish democracy hit upon an entirely new plan. Instead of massacring out-right the Armenian race, they now decided to deport it. In the south and south-eastern section of the Ottoman Empire lies the Syrian desert and the Mesopotamian valley. Though part of this area was once the scene of a flourishing civilisation, for the last five centuries it has suffered the plight that becomes the lot of any country that is subjected to Turkish rule; and it is now a dreary, desolate waste, without cities and towns or life of any kind, populated only be a few wild and fanatical Bedouin tribes. Only the most industrious labour, expended through many years, could transform this desert into the abiding-place of any considerable population. The Central Government now announced its intention of gathering the 2,000,000 or more Armenians living in the several sections of the Empire and transporting them to this desolate and inhospitable region. Had they undertaken such a deportation in good faith it would have represented the height of cruelty and injustice. For a large part the Armenians are not agriculturists; their talents are chiefly for business and commercial life; though many of them do cultivate farms and engage in sheep-herding, many lived in

cities and large towns, and, as I have already said, they represent the economic force of the country. To seize such peoples by the million and send them into one of the most barren parts of Asia would have been an act of the most inhuman spoliation. As a matter of fact, the Turks never had the slightest idea of re-establishing the Armenians in this new country. They knew that the great majority would never reach their destination and that those who did would either die of thirst and starvation, or be murdered by the wild Mohammedan desert tribes. The real purpose of the deportation was robbery and destruction; it really represented a new method of massacre. When Talaat, as Minister of the Interior, gave the orders for these deportations, he was merely giving the death-warrant to a whole race; he understood this well, and in his conversations with me he made no particular attempt to conceal the fact.

All through the spring and summer of 1915 the deportations took place. Of the larger cities, only Constantinople, Smyrna, and Kutahia were spared; practically all other places where a single Armenian family lived now became the scenes of these unspeakable tragedies. Scarcely a single Armenian, whatever his education or wealth, or whatever the social class to which he belonged, was exempted from the order. In some villages placards were posted ordering the whole Armenian population to present itself in a public place at an appointed time—usually a day or two ahead, and in other places the town-crier would go through the streets delivering the order vocally. In still others not the slightest warning was given. The gendarmes would appear before an Armenian house and order all the inmates to follow them. They would take women engaged in their domestic tasks without giving them the chance to change their clothes. The police fell upon them first as the eruption of Vesuvius fell upon Pompeii; women were taken from the washtubs, children were snatched out of bed, the bread would be left half-baked in the oven, the family meal would be abandoned partly eaten, the children would be taken from the schoolroom, leaving their books open at the daily task, the men would be forced to abandon their plough in the fields and their cattle on the mountain-side. Even women who had just given birth to children would be forced to leave their beds and join the panic-stricken throng, their sleeping babies in their arms. Such things as they hurriedly snatched up—a shawl, a blanket, perhaps a few scraps of food—was all that they could take of their household belongings. To their frantic question, "Where are we going?" the gendarmes would vouchsafe only one reply: "To the interior."

In some cases the refugees were given a few hours, in exceptional instances a few days, to dispose of their property and household effects. But the proceeding, of course, amounted simply to robbery. They could sell only to Turks, and since both buyers and sellers knew that they had only a day or two to market the accumulations of a lifetime, the prices obtained represented a small fraction of their value. Sewing-machines would bring one or two dollars—a cow would go for a dollar, a houseful of furniture would be sold for a pittance. In many cases Armenians were prohibited from selling or Turks from buying even at these ridiculous prices; under pretence that the Government intended to sell their effects to pay the creditor whom they would inevitably leave behind, their household furniture would be placed in stores or heaped up in public places, where it was usually pillaged by Turkish men and women. The Government officials would also inform the Armenians that, since their deportation was only temporary, the intention being to bring them back after the war was over, they would not be permitted to sell their houses. Scarcely had the former possessors left the village, when Mohammedan Mohadjirs—immigrants from other parts of Turkey—would be moved into the Armenian quarters. Similarly all their valuables, money, rings, watches, and jewellery, would be taken to the police-stations for "safe keeping" pending their return, and then parcelled out among the Turks. Yet these robberies gave the refugees little anguish, for far more terrible and agonising scenes were taking place under their eyes. The systematic extermination of the men continued; such males as the persecutions which I have already described had left, were now violently dealt with. Before the caravans were started, it became the regular practice to separate the young men from the families, tie them together in groups of four, lead them to the outskirts, and shoot them. Public hangings without trial—the only offence being that the victims were Armenians—were taking place constantly. The gendarmes showed a particular desire to annihilate the educated and the influential. From American Consuls and missionaries I was constantly receiving reports of such executions, and many of the events which they described will never fade from my memory. At Angora all Armenian men from fifteen to seventy were arrested, bound together in groups of four, and sent on the road in the direction of Caesaria. When they had travelled five or six hours and had reached a secluded valley, a mob of Turkish peasants fell upon them with clubs, hammers, axes, scythes, spades, and saws. Such instruments not only caused more agonising deaths than guns and pistols, but, as the Turks themselves boasted, they were more economical, since they did not involve the waste of powder and shell. In this way they exterminated the whole male population of Angora, including all its men of wealth and breeding, and their bodies, horribly mutilated, were left in the valley, where they were devoured by wild beasts. After completing this destruction, the peasants and gendarmes gathered in the local tavern, comparing notes and boasting of the number of "giaours" that each had slain. In Trebizond the men were placed in boats and sent out on the Black Sea; gendarmes would then come up in boats, shoot them down, and throw their bodies into the water.

When the signal was given for the caravans to move, therefore, they almost invariably consisted of women, children, and old men. Anyone who could possibly have protected them from the fate that awaited them had been destroyed. Not infrequently the prefect of the city, as the mass started on its way, would wish them a derisive "pleasant journey." Before the caravan moved the women were sometimes offered the alternative of becoming Mohammedans. Even though they accepted the new faith, which few of them did, their earthly troubles did not end. The converts were compelled to surrender their children to a so-called "Moslem Orphanage," with the agreement that they should be trained as devout followers of the Prophet. They themselves must then show the sincerity of their conversion by abandoning their Christian husbands and marrying Moslems. If no good Mohammedan offered himself as a husband, then the new convert was deported, however strongly she might protest her devotion to Islam.

At first the Government showed some inclination to protect these deporting throngs. The officers usually divided them into convoys, in some cases numbering several hundred, in others several thousand. The civil authorities occasionally furnished ox-carts which carried such household furniture as the exiles had succeeded in scrambling together. A guard of gendarmerie accompanied each convoy, ostensibly to guide and protect it. Women, scantily clad, carrying babies in their arms or on their backs, marched side by side with old men hobbling along with canes. Children would run along, evidently regarding the procedure, in the early stages, as some new lark. A more prosperous member would perhaps have a horse or a donkey, occasionally a farmer had rescued a cow or a sheep, which would trudge along at his side, and the usual assortment of family pets, dogs, cats, and birds, became part of the variegated procession. From thousands of Armenian cities and villages these despairing caravans now set forth; they filled all the roads leading south; everywhere, as they moved on, they raised a huge dust, and abandoned débris, chairs, blankets, bedclothes, household utensils, and other impediments, marked the course of the processions. When the caravans first started, the individuals bore some resemblance to human beings; in a few hours, however, the dust of the road plastered their faces and clothes, the mud caked their lower members, and the slowly-advancing mobs, frequently bent with fatigue and crazed by the brutality of their "protectors," resembled some new and strange animal species. Yet for the better part of six months, from April to October, 1915, practically all the highways in Asia Minor were crowded with these unearthly bands of exiles. They could be seen winding in and out of every valley and climbing up the sides of nearly every mountain—moving on and on, they scarcely knew whither, except that every road led to death. Village after village and town after town was evacuated of its Armenian population, under the distressing circumstances already detailed. In these six months, as far as can be ascertained, about 1,200,000 people started on this journey to the Syrian desert.

"Pray for us," they would say as they left their homes—the homes in which their ancestors had lived for 2,500 years. "We shall not see you in this world again, but sometime we shall meet. Pray for us!"

The Armenians had hardly left their native villages when the persecutions began. The roads over which they travelled were little more than donkey-paths; and what had started a few hours before as an orderly procession soon became a dishevelled and scrambling mob. Women were separated from their children and husbands from their wives. The old people soon lost contact with their families and became exhausted and footsore. The Turkish drivers of the ox-carts, after extorting the last penny from their charges, would suddenly dump them and their belongings into the road, turn around and return to the village for other victims. Thus in a short time practically everybody, young and old, was compelled to travel on foot. The gendarmes whom the Government had sent supposedly to protect the exiles, in a very few hours became their tormentors. They followed their charges with fixed bayonets, prodding anyone who

showed any tendency to slacken the pace. Those who attempted to stop for rest, or who fell exhausted on the road, were compelled, with the utmost brutality, to rejoin the moving throng. They even prodded pregnant women with bayonets; if one, as frequently happened, gave birth along the road, she was immediately forced to get up and rejoin the marchers. The whole course of the journey became a perpetual struggle with the Moslem inhabitants. Detachments of gendarmes would go ahead notifying the Kurdish tribes that their victims were approaching, and Turkish peasants were also informed that their long-waited opportunity had arrived. The Government even opened the prisons and set free the convicts on the understanding that they should behave like good Moslems to the approaching Armenians. Thus every caravan had a continuous battle for existence with several classes of enemies—their accompanying gendarmes, the Turkish peasants and villagers, the Kurdish tribes and bands of Chétés or brigands. And we must always keep in mind that the men who might have defended these wayfarers had nearly all been killed or forced into the army as workmen, and that the exiles themselves had been systematically deprived of all weapons before the journey began.

When they had travelled a few hours from their starting-place, the Kurds would sweep down from their mountain homes. Rushing up to the young girls, they would lift their veils and carry the pretty ones off to the hills. They would steal such children as pleased their fancy and mercilessly rob all the rest of the throng. If the exiles had started with any money or food, their assailants would appropriate it, thus leaving them a hopeless prey to starvation. They would steal their clothing, and sometimes even leave both men and women in a state of complete nudity. All the time that they were committing these depradations the Kurds would freely massacre, and the screams of old men and women would add to the general horror. Such as escaped these attacks in the open would find new terrors awaiting them in the Moslem villages. Here the Turkish roughs would fall upon the women, leaving them sometimes dead from their experiences or sometimes ravingly insane. After spending a night in a hideous encampment of this kind, the exiles, or such as had survived, would start again the next morning. The ferocity of the gendarmes apparently increased as the journey lengthened, for they seemed almost to resent the fact that part of their charges continued to live. Anyone who dropped on the road was frequently bayoneted on the spot. The Armenians began to die by hundreds from hunger and thirst. Even when they came to rivers, the gendarmes, merely to torment them, would sometimes not let them drink. The hot sun of the desert burned their scantily-clothed bodies, and the bare feet, treading the hot sand of the desert, became so sore that thousands fell and died or were killed where they lay. Thus, in a few days, what had been a procession of normal human beings became a stumbling horde of dust-covered skeletons, ravenously looking for scraps of food, eating any offal that came their way, crazed by the hideous sights that filled every hour of their existence, sick with all the diseases that accompany such hardships and deprivations, but still prodded on and on by the whips and clubs and bayonets of their executioners.

And thus, as the exiles moved they left behind them another caravan—that of dead and unburied bodies, of old men and women in the last stages of typhus, dysentery, and cholera, of little children lying on their backs and setting up their last piteous wails for food and water. There were women who held up their babies to strangers, begging them to take them and save them from their tormentors, and failing this, they would throw them into wells or leave them behind bushes, that at least they might die undisturbed. Behind was left a small army of girls who had been sold as slaves—frequently for a medjidie, or about eighty cents—and who, after serving the brutal purposes of their purchasers, were forced to lead lives of prostitution. A string of encampments filled by the sick and the dying, mingled with the unburied or half-buried bodies of the dead, marked the course of the advancing throngs. Flocks of vultures followed them in the air, and ravenous dogs, fighting one another for the bodies of the dead, constantly pursued them. The most terrible scenes took place at the rivers, especially the Euphrates. Sometimes, when crossing this stream, the gendarmes would push the women into the water, shooting all who attempted to save themselves by swimming. Frequently the women themselves would save their honour by jumping into the river, their children in their arms. "In the last week in June," I quote from an authentic report, "several parties of Erzeroum Armenians were deported on successive days and most of them massacred on the way, either by shooting or drowning. One, Madame Zarouhi, an elderly lady of means, who was thrown into the Euphrates, saved herself by clinging to a boulder in the river. She succeeded in approaching the bank and returned to Erzeroum to hide herself in a Turkish friend's house. She told Prince Argoutinsky, the representative of the 'All-Russian Urban Union' in Erzeroum, that she shuddered to recall how hundreds of children were bayoneted by the Turks and thrown into the Euphrates, and how men and women were stripped naked, tied together in hundreds, shot, and then hurled into the river. In a loop of the river near Erzinghan, she said, the thousands of dead bodies created such a barrage that the Euphrates changed its course for about a hundred yards."

It is absurd for the Turkish Government to assert that it ever seriously intended to "deport the Armenians to new homes"; the treatment which was given the convoys clearly shows that extermination was the real purpose of Enver and Talaat. How many exiled to the south under these revolting conditions ever reached their destinations? The experiences of a single caravan shows how completely this plan of deportation developed into one of annihilation. The details in question were furnished me directly by the American Consul at Aleppo, and are now on file in the State Department at Washington. On the first of June a convoy of 3,000 Armenians, mostly women, girls, and children, left Harpoot. Following the usual custom the Government provided them an escort of seventy gendarmes, under the command of a Turkish leader—Bey. In accordance with the common experience these gendarmes proved to be not their protectors, but their tormentors and their executioners. Hardly had they got well started on the road when . . . Bey took 400 liras from the caravan, on the plea that he was keeping it safely until their arrival at Malatia; no sooner had he robbed them of the only thing that might have provided them with food than he ran away, leaving them all to the tender mercies of the gendarmes.

All the way to Ras-ul-Ain, the first station on the Bagdad line, the existence of these wretched travellers was one prolonged horror. The gendarmes went ahead, informing the half-savage tribes of the mountains that several thousand Armenian women and girls were approaching. The Arabs and Kurds began to carry off the girls, the mountaineers fell upon them repeatedly, killing and violating the women, and the gendarmes themselves joined in the orgy. One by one the few men that accompanied the convoy were killed. The women had succeeded in secreting money from their persecutors, keeping it in their mouths and hair; with this they would buy horses, only to have them repeatedly stolen by the Kurdish tribesmen. Finally the gendarmes, having robbed and beaten and killed and violated their charges for thirteen days, abandoned them altogether. Two days afterward the Kurds went through the party and rounded up all the males who still remained alive. They found about 150, their ages varying from fifteen to ninety years, and these they promptly took away and butchered to the last man. But that same day another convoy from Sivas joined this one from Harpoot, increasing the numbers of the whole caravan to 18,000 people.

Another Kurdish Bey now took command, and to him, as to all men placed in the same position, the opportunity was regarded merely as one for pillage, outrage, and murder. This chieftain summoned all his followers from the mountains and invited these to work their complete will upon this great mass of Armenians. Day after day and night after night the prettiest girls were carried away; sometimes they returned in a pitiable condition that told the full story of their sufferings. Any stragglers, those who were so old and infirm and sick that they could not keep up with the marches, were promptly killed. Whenever they reached a Turkish village all the local vagabonds were permitted to prey upon the Armenian girls. When the diminishing band reached the Euphrates they saw the bodies of 200 men floating upon the surface. By this time they had all been so repeatedly robbed that they had practically nothing left except a few ragged clothes, and even these the Kurds now took, the consequence being that the whole convoy marched for five days completely naked under the scorching desert sun. For another five days they did not have a morsel of bread or a drop of water. "Hundreds fell dead on the way," the report reads; "their tongues were turned to charcoal, and when, at the end of five days, they reached a fountain, the whole convoy naturally rushed toward it. But here the policemen barred the way and forebade them to take a single drop of water. Their purpose was to sell if at from one to three liras a cup, and sometimes they actually withheld the water after getting the money. At another place, where there were wells, some women threw themselves into them, as there was no rope or pail to draw up the water. These women were drowned and, in spite of that, the rest of the people drank from that well, the dead bodies still remaining there and polluting the water. Sometimes when the wells were shallow and the women could go down into them and come out again, the other people would rush to lick or suck their wet, dirty clothes, in the effort to quench their thirst. When they passed an Arab village in their naked condition the Arabs pitied them and gave them old pieces of cloth to cover themselves with. Some of the exiles who still had money

bought some clothes; but some still remained who travelled thus naked all the way to the city of Aleppo. The poor women could hardly walk for shame; they all walked bent double."

On the seventieth day a few creatures reached Aleppo. Out of the combined convoy of 18,000 souls just 150 women and children reached their destination. A few of the rest, the most attractive, were still living as captives of the Kurds and Turks; all the rest were dead.

My only reason for relating such dreadful things as this is that, without the details, the English-speaking public cannot understand precisely what this nation is which we call Turkey. I have by no means told the most terrible details, for a complete narration of the sadistic orgies of which these Armenian men and women were the victims can never be printed in an American publication. Whatever crimes the most perverted instincts of the human mind can devise, and whatever refinements of persecution and injustice the most debased imagination can conceive, became the daily misfortunes of this devoted people. I am confident that the whole history of the human race contains no such horrible episode as this. The great massacres and persecutions of the past seem almost insignificant when compared to the sufferings of the Armenian race in 1915. The slaughter of the Albigenses in the early part of the thirteenth century has always been regarded as one of the most pitiful events in history. In these outbursts of fanaticism about 60,000 people were killed. In the massacre of St. Bartholomew about 30,000 human beings lost their lives. The Sicilian Vespers, which has always figured as one of the most fiendish outbursts of this kind, caused the destruction of 8,000. Volumes have been written about the Spanish Inquisition under Torquemada, yet in the eighteen years of his administration only a little more than 8,000 heretics were done to death. Perhaps the one event in history that most resembles the Armenian deportations was the expulsion of the Jews from Spain by Ferdinand and Isabella. According to Prescott 160,000 were uprooted from their homes and scattered broadcast over Africa and Europe. Yet all these previous persecutions seem almost trivial when we compare them with the sufferings of the Armenians, in which at least 600,000 people were destroyed and perhaps as many as 1,000,000. And these earlier massacres, when we compare them with the spirit that directed the Armenian atrocities, have one feature that we can almost describe as an excuse: they were the product of religious fanaticism, and most of the men and women who instigated them sincerely believed that they were devoutly serving their Maker. Undoubtedly religious fanaticism was an impelling motive with the Turkish and Kurdish rabble who slew Armenians as a service to Allah, but the men who really conceived the crime had no such motive. Practically all of them were atheists, with no more respect for Mohammedanism than for Christianity, and with them the motive was a cold-blooded, calculating state policy.

The Armenians are not the only subject people in Turkey who have suffered from this policy of making Turkey exclusively the country of the Turks. The story which I have told about the Armenians I could also tell with certain modifications about the Greeks and the Syrians. Indeed, the Greeks were the first victims of this nationalising idea. I have already described how, in the few months preceding the European war, the Ottoman Government began deporting its Greek subjects along the coast of Asia Minor. These outrages aroused little interest in Europe or the United States, yet in the space of three or four months about 400,000 Greeks were taken from their age-long homes in the Mediterranean littoral and removed to the Greek Islands in the Aegean Sea. For the larger part these were bona fide deportations; that is, the Greek inhabitants were actually removed to new places and were not subjected to wholesale massacre. It was probably for the reason that the civilised world did not protest against these deportations that the Turks afterward decided to apply the same methods on a larger scale not only to the Greeks but to the Armenians, Syrians, Nestorians, and others of its subject peoples. In fact, Bedri Bey, the Prefect of Police at Constantinople, himself told one of my secretaries that the Turks had expelled the Greeks so successfully that they had decided to adopt the same method to all the other races in the empire.

The Martyrdom of the Greeks therefore comprised two periods, that antedating the war, and that which began in the early part of 1915. The first affected the Greeks living on the sea-coast of Asia Minor. The second affected those living in Thrace and in the territories surrounding the Sea of Marmora, the Dardanelles, the Bosphorus, and the coast of the Black Sea. These latter, to the extent of several hundred thousand, were sent to the interior of Asia Minor. The Turks adopted almost identically the same procedure against the Greeks as that which they had adopted against the Armenians. They began by incorporating the Greeks into the Ottoman Army and then transforming them into labour battalions, using them to build roads in the Caucasus and other scenes of action. These Greek soldiers, just like the Armenians, died by thousands from cold, hunger, and other privations. The same house-to-house searches for hidden weapons took place in the Greek villages, and Greek men and women were beaten and tortured just as were their fellow Armenians. The Greeks had to submit to the same forced requisitions, which amounted in their case, as in the case of the Armenians, merely to plundering on a wholesale scale. The Turks attempted to force the Greek subjects to become Mohammedans; Greek girls, just like Armenian girls, were stolen and taken to Turkish harems, and Greek boys were kidnapped and placed in Moslem households. The Greeks, just like the Armenians, were accused of disloyalty to the Ottoman Government; the Turks accused them of furnishing supplies to the English submarines in the Marmora and also of acting as spies. The Turks also decalared that the Greeks were not loyal to the Ottoman Government, but that they also looked forward to the day when the Greeks outside of Turkey would become part of Greece. These latter charges were unquestionably true; that the Greeks, after suffering for five centuries the most unspeakable outrages at the hands of the Turks, should look longingly to the day when their territory should be part of the Fatherland, was to be expected. The Turks, as in the case of the Armenians, seized upon this as an excuse for a violent onslaught on the whole race. Everywhere the Greeks were gathered in groups and, under the so-called protection of Turkish gendarmes, they were transported, the larger part on foot, into the interior. Just how many were scattered in this fashion is not definitely known, the estimates varying anywhere from 200,000 up to 1,000,000. These caravans, suffered great privations, but they were not submitted to general massacre as were the Armenians, and this is probably the reason why the outside world has not heard so much about them. The Turks showed them this greater consideration not from any motive of pity. The Greeks, unlike the Armenians, had a Government which was vitally interested in their welfare. At this time there was a general apprehension among the Teutonic Allies that Greece would enter the war on the side of the Entente, and a wholesale massacre of Greeks in Asia Minor would unquestionably have produced such a state of mind in Greece that its pro-German king would have been unable longer to have kept his country out of the war. It was only a matter of state policy, therefore, that saved these Greek subjects of Turkey from all the horrors that befell the Armenians. But their sufferings are still terrible, and constitute another chapter in the long story of crimes for which civilization will hold the Turk responsible.

ADMINISTRATION OF JIMMY CARTER, MAY 16, 1978

RECEPTION HONORING ARMENIAN AMERICANS

[Remarks at the White House Reception, May 16, 1978]

The PRESIDENT. The first thing I want to say is that it is an honor for Rosalynn and me to have you here in our home, which is also your home.

In preparation for the previous meeting that I had with your group in the Roosevelt Room in the West Wing, I went back and studied some of the history of the Armenian people. And I, again, am impressed with the tremendous contribution that you've made to our own Nation, the high examples that you've set in leadership, in music, arts, in business, in politics, in education, and in your sound political judgment in choosing to be Democrats—[laughter]—also in your very early support of me when I ran for President. Yours was the first group that had confidence in me, and I will always remember it. And your help for our party and our country is something that I appreciate very much.

As one of the oldest people in the world, you have, I think, struggled with great courage and tenacity to preserve your own identity, your own customs, and, too, in a very modest way, let the world come to appreciate what you've accomplished.

I feel close to you because you were the first Christian people, first Christian nation, and because of that, your deep religious beliefs, I doubt that any other people have ever suffered more. I know that through the early years of the foundation of your people's home, you suffered a great deal. But it's generally not known in the world that in the years preceding 1916, there was a concerted effort made to eliminate all the Armenian people, probably one of the greatest tragedies that ever befell any group. And there weren't any Nuremburg trials. There weren't any high public figures who recognized how much you and your families had to suffer.

Well, I feel very deeply that I, as President, ought to make sure that this is never forgotten, not only the tragedy of your history but also the present contributions that you make and the bright future that you have.

I'm very grateful that there are about a million Armenian Americans who provide stability in a unique place in our Nation's social and political structure, and I'm very grateful to you.

I might add one other thing. You are very generous people. Some of you have become quite influential, quite affluent, and quite famous because of your superb achievements. And this is a matter of great pride to me as it is to you.

So, I just wanted to let you know that, in a few words, as President, and on behalf of the American people, I appreciate what you are.

Thank you very much.

ADMINISTRATION OF RONALD REAGAN, APR. 22, 1981

DAYS OF REMEMBRANCE OF VICTIMS OF THE HOLOCAUST

(By the President of the United States of America)

A Proclamation

The Congress of the United States established the United States Holocaust Memorial Council to create a living memorial to the victims of the Nazi Holocaust. Its purpose: So mankind will never lose memory of that terrible moment in time when the awful spectre of death camps stained the history of our world.

When America and its allies liberated those haunting places of terror and sick destructiveness, the world came to a vivid and tragic understanding of the evil it faced in those years of the Second World War. Each of those names—Auschwitz, Buchenwald, Dachau, Treblinka and so many others—became synonymous with horror.

The millions of deaths, the gas chambers, the inhuman crematoria, and the thousands of people who somehow survived with lifetime scars are all now part of the conscience of history. Forever must we remember just how precious is civilization, how important is liberty, and how heroic is the human spirit.

Like the genocide of the Armenians before it, and the genocide of the Cambodians which followed it—and like too many other such persecutions of too many other peoples—the lessons of the Holocaust must never be forgotten.

As part of its mandate, the Holocaust Memorial Council has been directed to designate annual Days of Remembrance as a national, civic commemoration of the Holocaust, and to encourage and sponsor appropriate observances throughout the United States. This year, the national Days of Remembrance will be observed on April 26 through May 3.

Now, therefore, I, Ronald Reagan, President of the United States of America, do hereby ask the people of the United States to observe this solemn anniversary of the liberation of the Nazi death camps, with appropriate study, prayers and commemoration, as a tribute to the spirit of freedom and justice which Americans fought so hard and well to preserve.

In witness whereof, I have hereunto set my hand this 22nd day of April, in the year of our Lord nineteen hundred and eighty-one, and of the Independence of the United States of America the two hundred and fifth.

[Filed with the Office of the Federal Register, 10:52 a.m., April 23, 1981]

[From the A.N.C. News, March 1983]

SPEAKER OF THE HOUSE REQUESTS A RETRACTION OF STATE DEPARTMENT BULLETIN NOTE

SPEAKER THOMAS P. O'NEILL'S ORIGINAL INQUIRY

THE SPEAKER'S ROOMS,
U.S. HOUSE OF REPRESENTATIVES,
Washington, DC, December 9, 1982.

Hon. GEORGE P. SCHULTZ,
Secretary of State, Department of State, Washington, DC.

DEAR MR. SECRETARY: I have read the Department of State Bulletin of August 1982 and I am deeply disturbed because the Department takes an official position that "the Department of State does not endorse allegations that the Turkish Government committed a genocide against the Armenian people".

In modern times, genocide is a crime that can be committed only through the instrumentalities of a national government or with the approval of a national government. Both President Reagan and President Carter have acknowledged that the genocide of Armenians took place and that it must not be forgotten. The United States Senate confirmed the Armenian genocide on May 31, 1920 in S. Res. 359. On April 8, 1975 the United States House of Representatives confirmed it in H.R.J. 148, which I cosponsored. And of course the genocide is well documented in the State Department's cable from United States diplomats in Ottoman, Turkey. These cables and Ambassador Morganthau's writings reflect no ambiguity regarding the responsibility of the Ottoman Government for the hideous fate of millions of Armenians.

This sort of revisionism is an outrage when engaged in by historians; it is absolutely inexcusable when it comes from the Department of State of the greatest democracy in the world. Consequently, I am formally requesting the Department reconsider its position on the matter and retract its erroneous "Note" of August 1982.

Sincerely,

THOMAS P. O'NEILL, Jr.,
The Speaker.

DEPARTMENT OF STATE RESPONSE

DEAR MR. SPEAKER: Assistant Secretary of State for Congressional Affairs, Powell A. Moore, promised in his January 7 letter to keep you abreast of developments on the issues raised by the August 1982 Department of State Bulletin article "Armenian Terrorism—A Profile." In this regard I am writing you on behalf of the Department of State, Ed Derwinski, I and other department officials who participated on January 12 in a frank, cordial and mutually educational meeting with five individuals reflecting a broad cross-section of the Armenian-American community.

At this meeting I explained that since assuming my position as Assistant Secretary for Public Affairs last summer, I had carefully investigated the circumstances surrounding the publication of the article on Armenian terrorism and its accompanying footnotes. The article was published as part of a special section on terrorism intended to cover the department's serious concern over terrorism, whatever the group or the justification invoked for violent actions. The article on Armenian terrorism was published not as an official statement of policy but as an article of interest. After its publication and receipt of inquiries, we published in the very next edition of the Bulletin (September) the editor's note which follows:

"The article, 'Armenian Terrorism—A Profile' which appeared in the feature on terrorism in the August, 1982 issue of the Bulletin does not necessarily reflect an official position of the Department of State, and the interpretive comments in the article are solely those of the author."

The Armenian Americans with whom we met raised no objection to the September editor's note in itself. Nonetheless, I want to confirm to you as we did to them that neither the August footnote nor the article represent an effort to present the official position of the Department of State Publication of the article and footnotes represent no policy change by the Department of State.

I appreciated your directing our attention to this problem and giving us the opportunity to clarify the matter, I hope that you find the above explanation helpful.

Sincerely,

JOHN HUGHES,
Assistant Secretary for Public Affairs and Department Spokesman.

Mr. WILSON. Mr. President, I rise today in enthusiastic support as the primary cosponsor of this resolution to establish a national day of remembrance for the victims of the Armenian genocide from 1915 through 1923.

I remember the day a few short years ago that I cast the crucial 67th vote enabling the Senate to adopt the international convention against all forms of racial and cultural genocide. It was a proud day for this body—a day when we collectively condemned the evil motives of men and governments that led them to systematically exterminate entire populations as a result of what they believed or the cultures into which they were born. On that day, we declared that these martyred millions of yesteryear did not die in vain. And on that day, we nobly kept alive the hope that agony suffered by the just could yet bring victory.

Today, the Senate has before it a specific historic example of the type of premeditated mass murder—spurred by visions of empire and power—that it so soundly rejected in theory with the passage of the genocide convention. Yet we pause when confronted with one tragic totalitarian event which stained the early history of this century otherwise known for its gradual discovery of how civilizations can thrive if their inhabitants are only left free.

Indeed, Mr. President, no questions or mysteries should linger about whether the Armenian people endured a fierce rule of terror during World War I that we could only characterize as a genocidal campaign. We float on a sea of evidence—published accounts, eyewitness reports, and the confessions of the persecutors themselves—that furnish the proof of this devastating experience. If only as dispassionate evaluators, we cannot wade through this sea with indecision or indifference.

We can cite the documentation for the Armenian genocide even before it began in earnest. We know that in April 1915, Ottoman rulers issued a proclamation ordering the deportation of all Armenians to designated "vilayets"—or provinces—mainly within eastern Turkey. Subsequent memoranda filed with the State Department by missionaries, businessmen, diplomatic personnel, and educators—now available for review at the U.S. Archives—indicate that 600,000 Armenians alone died in the deportations carried out only between April and December of the genocide's first year.

The American consul posted to one of the major deportation provinces of eastern Turkey, Leslie A. Davis, notes in a number of written reports sent to Washington yet never acknowledged in the public debate on the Armenian genocide until today, that Americans living in the region labeled it as the "slaughterhouse vilayet." In a December 30, 1915 dispatch to the United States Ambassador to the Ottoman Empire, Henry Morganthau, Mr. Davis wrote that:

> The term slaughterhouse vilayet * * * has been fully justified by what I have learned and actually seen since September. it appears * * * that men, women, and children were massacred about five hours distance from here. In fact, it is almost certain that with the exception of a very small number * * * all who have left here have been massacred before reaching the borders of the vilayet.

We have this information because Leslie Davis recorded it in a 132-page typewritten report for his superiors upon his return to the United States after 3 years of consular duty during which he witnessed countless numbers of murders and forced deportations. Susan Blair, a researcher and author, reproduced the Davis report in her 1989 book "The Slaughterhouse Province." Blair points out that Davis offered a unique perspective of the Armenian genocide because as a diplomat representing a neutral nation, he personally visited massacre sites only to see "the bodies of murdered Armenians whom he had previously seen alive." Despite these traumatic occurrences, Davis, by his own admission, held little respect for the Armenian people or their culture. This eyewitness, Mr. President, was not a propagandist or a hired gun.

So that my colleagues may have the opportunity to review the Davis account, Mr. President, before we fully dispose of this resolution, I ask unanimous consent that a copy of it appear in the RECORD.

Higher American officials than Leslie Davis, Mr. President, with no political or personal motives to cite the Armenian genocide other than their interpretations of fact, agreed that a systematic extermination took place.

Davis' immediate superior, Ambassador Morganthau, concluded in a July 1915 telegram sent to the Secretary of State that "A campaign of race extermination" against "peaceful Armenians" had begun "under a pretext of reprisal against rebellion."

Out of the White House and not yet even a Chief Justice, William Howard Taft wrote in 1920 that the Serbians and the Armenians shouldered more wartime suffering than any other noncombatants.

President Wilson, deliberating on the growing body of genocidal accounts produced by Davis and others, instructed his Secretary of State in 1919 to negotiate with Congress for the sending of United States troops to Armenia.

And in our own day, with the benefit of historical analysis, Presidents of both parties have not hesitated to voice the truth about this tragedy.

At a Holocaust memorial service in 1981, President Reagan invoked "The genocide of the Armenians" in promising that America would never forget the lessions in human hardship learned from the two World Wars.

President Carter also said in 1978 that the Ottomans made a "concerted effort to eliminate all the Armenian people."

Yet we need not rely exclusively on the word of our own countrymen, past or present, to search for more confirmation of the Armenian genocide. The Ottoman Government itself, ravaged by war and plagued by remorse, put the main perpetrators of the genocide on trial in 1919.

The empire's indictment against its own Ministers of War, Interior, and the Navy states that through any number of oral or clandestine means, these officials authorized "an unending chain of massacres, pillage, and abuse." But much of the evidence for the trials also originated in formal telegrams mailed from the central government to the deportation provinces. Under the harsh if not hypocritical judgment of their peers, four authorities were sentenced to death and four others consigned to 15 years of hard labor.

It should therefore come as no surprise, Mr. President, that the founder of the modern Republic of Turkey, Kemal Ataturk, explicitly renounced the "massacres of millions" by the Ottoman regime. Like free and democratic Germany, free and democratic Turkey opened its history with a rejection of the horror previously visited upon its own minority populations.

It puzzles me, then, why our strong ally Turkey expresses concern about this resolution. They know as we do that as Ataturk proclaimed, the utopian Ottoman rulers, and not the Turkish culture or nation, were the instigators of the genocide.

They know as we do that the United States Senate, both before and after this resolution, will assist the Ozal government with its economic reform program; that before and after this resolution, Turkey will remain a trusted and strategically vital member of NATO; and that before and after this resolution, we will still share the same security concerns.

They know as we do, Mr. President, that Turkey will remain one of the top five recipients of United States foreign aid, with a military assistance package to equal $500 million this year.

And they know as we do, Mr. President, that no logical, moral, or political connection exists between recognizing one of the great human tragedies of world history and our friendship with, or respect for, the Turkish people.

Let us focus, then, on the only issue at hand—a proper commemoration—a single quiet day—devoted to these brave souls who fell because they dared to be proud members of one community and professors of one faith.

Mr. President, the highest ranking Armenian-American in the history of our Nation is Gov. George Deukmejian, of California.

We in California, whether privileged to share in his proud Armenian heritage by blood or just by the hospitality of our Armenian friends and neighbors, are justly proud of Governor Deukmejian. He is unable to address us in person with the eloquent arguments for passage of this resolution that he can make so convincingly.

Being unable to address us in person, he has sent a letter addressed to me but deserving the attention and thoughtful consideration of all Members of the Senate concerned with justice and with prevention of the recurrence of tragedy.

I ask my colleagues to give to Governor Deukmejian's letter the attention it deserves and ask unanimous consent that it be printed in the RECORD at this point in the debate.

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

STATE OF CALIFORNIA,
GOVERNOR'S OFFICE,
Sacramento, CA, February 21, 1990.

Hon. PETE WILSON,
U.S. Senate, Hart Office Building, Washington, DC.

DEAR PETE: I am writing to ask you to convey to your Republican colleagues in the United States Senate my strong support for Senate Minority Leader Bob Dole's initiative to commemorate the victims of the Armenian genocide.

The diplomatic representatives of the United States at the time, along with missionary organizations who provided relief to the victims and survivors and reputable scholars have all attested to the systematic effort by the Ottoman Turkish Empire to

annihilate the Armenian people between 1915 and 1923.

On April 24, 1990, the 75th anniversary of these atrocities will be commemorated throughout the world. The Congress of the United States has an obligation to join in remembering the victims of that tragic period, and in doing so, to send an unmistakable signal to those who believe that silence is tolerance.

I strongly urge the Senate to vote for this commemorative resolution.

Your efforts and those of Senator Dole to secure passage of this measure are greatly appreciated.

Most cordially,

GEORGE DEUKMEJIAN.

Mr. KOHL. Mr. President, I have approached this debate with mixed emotions. I have been dealing with this issue ever since Senate Joint Resolution 212 was referred to the Judiciary Committee on which I serve. When the resolution was scheduled to be acted on, I started receiving phone calls and letters from friends and from the Government of Turkey suggesting that this commemorative was a dangerous statement: it contained, I was told, false information and would, if adopted, threaten our relationship with Turkey, and encourage political unrest and terrorism.

Well, those are serious problems. So before the committee acted, I spent a good deal of time studying the facts. I have regretfully concluded that, while there is nothing in the resolution which justifies it, adoption of this legislation may threaten our relationship with Turkey and may encourage political unrest and terrorism. But I have also concluded that this resolution is historically correct—it factually memorializes the tragic genocide of the Armenian people by the Ottoman Empire between 1915 and 1923.

These conclusions create something of a quandary. Obviously I do not wish to offend Turkey or contribute to political instability or terrorism. Nor do I want to commit the unpardonable sin of ignoring a crime against humanity. I think all of my colleagues who share my conclusion that a genocide took place have struggled with the same problem.

I believe that Senator DOLE has made a good faith effort to solve that problem. He has repeatedly said that this resolution has nothing to do with modern Turkey—it refers to events which took place before the state of Turkey was established. He has repeatedly said that this resolution has nothing to do with the political agenda of some segments of the Armenian community—it does not imply support for reparations and is certainly not an indication of support for the terrorism which has been conducted by some Armenian nationalists.

Senator DOLE has gone further than that: he has publicly indicated that he is willing to modify the language of the resolution in a variety of ways. He had said that he is willing to amend the pending resolution so that it makes it unequivocally clear that we oppose "raising the issues of reparations or territorial dismemberment of Turkey as being absolutely dangerous, unjustified, unfair, and unacceptable." He has already made it clear that the resolution does not refer to Turkey but he is willing to go further: he has proposed language which says that the events being memorialized took place under "the government of the Ottoman Empire of that period prior to the establishment of the Republic of Turkey."

Indeed Senator DOLE has gone perhaps even further than I would be willing to go. He has suggested that he would support an amendment to the resolution which would avoid the need to make a judgment about the historic validity of the claim of genocide and simply request that the people of the United States "join the millions of Armenians and other people around the world who commemorate every April 24 as the anniversary of the Armenian genocide."

My point, Mr. President, is that there has been a real effort made here to compromise. But we cannot compromise the facts—and the facts demonstrate that there was a planned and systematic effort to eliminate the Armenian community by the Ottoman Empire between 1915 and 1923. Other Members of the Senate have already filled pages of the CONGRESSIONAL RECORD with documents and reports which support the claim of genocide. I would simply indicate that the Government of the United States, along with other governments, has already recognized the validity of the claim of genocide; this resolution may represent an initial statement by the Senate but it is not the first time that this conclusion has been reached by governments or other organizations. Let me cite just a few examples.

Our Ambassador to the Ottoman Empire, Henry Morganthau, told our Government that "it appears that a campaign of race extermination is in progress under the pretext of reprisal against rebellion."

American Presidents have consistently referred to the genocide. Ronald Reagan, Jimmy Carter, George Bush—at least as a candidate—have all spoken about the genocide.

The European Parliament, the American Bar Association, the United Nations Commission on Human Rights—all have reached the conclusion that there was a genocide.

So, Mr. President, I believe that we are being asked to reject a violation of basic human rights for the sake of political expediency. That I cannot do. I believe there was a genocide. I cannot ignore that fact. I cannot evade it. Recognizing it is the only way to prevent such disasters in the future.

If we accept the notion that diplomatic and political needs ought to govern our behavior, where does that leave us? I see a rising tide of anti-Semitism in the Soviet Union; are we going to allow our diplomatic desire to improve relations with the Soviets to prevent us from protesting anti-Semitism? I hope not. But if the arguments of those who oppose this resolution are accepted, then we might be asked to ignore or minimize the anti-Semitism we all see. Will we use the same moral compass to determine our policy in Cambodia—should we take the easy course and embrace the leaders of the genocidal regime who seek to regain power? That is simply not what we ought to be about as human beings. And it ought not be what we are about as a country.

Mr. President, I regret the fact that the people of Turkey may be upset by this resolution. I do not think they should be upset. I do think we have done everything we can to moderate the language of the resolution. But if the cost of making them happy is ignoring a genocide undertaken by the Ottoman Empire before the modern Republic of Turkey was even established, I do not believe we can afford to pay the price. I will vote for cloture and hope to have an opportunity to vote for an amended version of this resolution.

Mr. JEFFORDS. Mr. President, this has been a long and troubling debate. It has focused on a particularly painful period in history. It has focused unwanted attention on one of our good allies and fellow NATO members. It has called into contention the Armenian suffering at the hands of the Turks, 1915-23. It has opened old wounds and unfortunately created new animosities.

It is time to put all this behind us. It is time to step back from the emotionalism of the moment and rationally consider how we can resolve the issue. For we are not historians. We are not qualified to make the definitive judgment on whether or not genocide actually occurred in Armenia or anywhere else. But we do have a responsibility to bring this dispute to a close in a way that will acknowledge the suffering of the past and prevent any further suffering in the future.

I am a cosponsor of Senate Joint Resolution 212, which would resolve:

That April 24, 1990, is designated as "National Day of Remembrance of the Seventy-fifth Anniversary of the Armenian Genocide of 1915-1923," and that the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe this date as a day of remembrance for the 1.5 million people of Armenian ancestry who were victims of the genocide perpetrated by the governments of the Ottoman Empire from 1915 to 1923, prior to the establishment of the Republic of Turkey, and in their memory this

date is commemorated by all Armenians and their friends throughout the world.

The distinguished Republican leader, Mr. DOLE, is offering an alternative that I believe can resolve this controversy. He has proposed that Senate Joint Resolution 212 be replaced by a Senate Concurrent Resolution with the following text:

That April 24, 1990, is designated as Armenian Martyrs Day, commemorating the 75th anniversary of the systematic destruction of the Armenian people in the period from 1915 to 1923.

Congress calls on the people of the United States to join the millions of Armenians and other people around the world who commemorate every April 24 as the anniversary of the Armenian genocide, a day of remembrance of the 1½ million Armenian people who were the victims of the government of the Ottoman empire of that period prior to the establishment of the Republic of Turkey.

This alternative makes several important changes. First, instead of being signed by the President and becoming a law as would a joint resolution, a concurrent resolution is merely a statement of opinion by the House of Representatives and the Senate, carrying no force of law.

Second, the concurrent resolution could not be construed as a certification by Congress that there was a genocide. Rather, it calls upon the American people to join Armenians and others in a day of remembrance of the 1½ millon Armenians who died.

Third, this language makes very clear that Congress in no way considers the present Government of Turkey or the present Turkish people responsible for the events of close to a century ago. While I can understand the sensitivities of the Turkish people on this issue, I would hope that they will not misconstrue this statement to be any more than it is—a commemoration of those who died 75 years ago. Turkey is a strong and valued ally. She should not consider this language to in any way diminish that standing.

Finally, let me say that I support Senate Joint Resolution 212. Yet, I realize that this is a time for compromise, for understanding the sensitivities of each side, and for resolving this issue with finality. Therefore, I urge my colleagues to support Senator DOLE's motion to end debate and to move to a vote on the proposed Senate concurrent resolution.

The PRESIDING OFFICER. Who yields time?

Mr. BYRD. Mr. President, I have discussed this request with the distinguished Republican leader, and he is agreeable to it. I ask unanimous consent that of our remaining time, which I understand is about equal now, that he and I proceed to discuss the matter for 15 minutes each, and in that way, we will be able to profitably utilize the remaining time for the next 30 minutes and hopefully thereafter.

The PRESIDING OFFICER. Without objection, the next 30 minutes will be divided equally between the distinguished President pro tempore and the distinguished Republican leader.

Mr. BYRD. Mr. President, I yield myself the full 15 minutes.

The PRESIDING OFFICER. Without objection.

Mr. BYRD. Mr. President, let me begin to sum up the reasons I oppose the resolution and support cloture.

First of all, the scholars themselves disagree as to what the facts were and are in relation to the question of genocide having been committed by the Ottoman Empire. So I think it is important that scholars have the opportunity to study the facts.

As I have already indicated in my remarks today and heretofore, provisions have now been made for those facts to be made available. The State Archives of the Republic of Turkey are open. The Council of Ministers only last year determined that they should be open. Students may have available to themselves ready access to those archives, and certainly the orders and regulations and proclamations and decisions of the Council of Ministers under the Ottoman Empire, just as the minutes of our own Department of State are made available, and they comprise volumes on top of volumes.

Those minutes and proclamations, decisions, regulations, orders of the Ottoman Council of Ministers will be made available, so that scholars and historians may indeed determine for themselves what the facts are.

So my point is that scholars today disagree, and I have already made a statement to that effect. I have quoted eminent scholars and historians, who are presently associated with various outstanding universities in this country. I pointed out that they disagree as to what the facts were and are. So let us make it possible for the scholars to study.

Alexander Pope said, "Who shall decide when doctors disagree?" So I say, who shall decide when politicians disagree? Who shall decide when legislators in this body disagree? Let the scholars and the historians determine what history was. Legislators and politicians make history. But it is the historian who interprets and analyzes the history that is made by legislators and politicians. So let the scholars determine the facts, after careful scrutiny and study.

My second point is that to adopt this resolution would inflame the virulent passions that have existed in the Balkans and the Transcaucuses and in the Middle East for decades, and even now are being inflamed.

There are old enmities and hatreds, misunderstandings, and great instability that today exists in the Transcaucasus and in at least three of the southern Soviet provinces in the Balkans, and we should not by our action herein inflame those passions further and exacerbate violence, hatred, and militancy, and that is what we will be doing. Too much has already been said, Mr. President, in truth on this floor. Too much by way of inflammatory statements have been said, not intentionally. They were not intended to be, but I am concerned that too much has already been said.

This is the place where we debate issues and sometimes things may be said out of passion that are not intended to fuel the fires. So it is dangerous to fuel these fires and they are not latent. They are not latent. It is dangerous to fuel them.

Third, I oppose this resolution because Turkey is the diplomat of the Middle East. The present Republic of Turkey has the confidence of Syria and Israel, and those countries in the Middle East. If indeed we see a shift from the East European stage to the Middle East, if we see for some reason the Warsaw Pact should dissolve, the stage is going to shift to the Middle East, and it will be important that we have a trusted ally there that is a recognized diplomat and has used its good offices already in the interest of peace. In the interest of peace we need to have that ally. We need not offend that ally as we will do so grievously should this resolution pass.

I have heard all of the qualifying statements and disclaimers stated. Mr. President, it is not necessarily how we view the language in this resolution. It is how it will be viewed elsewhere, and I am informed that the debates are already going forward in the Turkish assembly where they have been watching and listening with consternation as to what is going on on this floor.

So Turkey has a growing importance in that cauldron of the Middle East. There are fundamentalists, there are radical fundamental forces at work in Turkey today that would enjoy seeing Turkey's orientation toward the West reversed.

We have seen what happened in Iran when the radical fundamentalists took over that country. Let us hope that that never happens in Turkey, a country which sits astride the straits that lead from the Sea of Marmara to the Black Sea, the Bosporus, and from the Sea of Marmara to the Aegean Sea, a country that stretches astride and bridges Asia and Europe. Let us hope that that country never falls prey to radical fundamentalism. It is the only non-Arab Moslem friend of Israel, non-Arab Moslem friend in the Middle East. And we should do whatever we can do to strengthen the diplomat of the Middle East, to strengthen the Republic of Turkey.

I know we say oh, well, we are not charging the present-day Turks. Mr.

President, it would offend me if someone were to charge that my grandfather was a horse thief. And it will offend today's generation of Turks for their forebears to be labeled as criminals.

So I say that we should not do anything that would impair or menace the strength of Turkey as a diplomat as the shifting stage will go to that area of the world in future.

How much time do I have remaining?

The PRESIDING OFFICER. The President pro tempore has 4 minutes remaining.

Mr. BYRD. Mr. President, I shall address a fourth point.

Mr. President, the Constitution of the United States in article VI, paragraph 2, reads as follows: "This Constitution, and the Laws of the United States which shall be made in Pursuance thereof, and all Treaties made," all treaties made, "or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land and the Judges in every State shall be bound thereby."

In 1986 this Senate under the able leadership of the distinguished Senator from Kansas [Mr. DOLE] approved the ratification of the International Convention on Prevention and Punishment of the Crime of Genocide. We put the stamp of approval, the Senate's approval on that convention and that is the law of the land.

Now what do we do today? We propose to contravene, to act in contravention of that international convention, which required a two-thirds vote in this body, and which carried in this body by an overwhelming super majority. Now we set down the instrument at that point. What was the instrument? The international convention. This Government was a signatory to the international convention. That convention was negotiated. It was signed by our Government. It was approved by this Senate and we should let our handiwork do its job.

That convention provided for the codification of international law in respect to the crime of genocide.

That convention provided the instrument, the mechanism, through which contracting parties could bring before the international organs, including the General Assembly of the United Nations and other organizations of the United Nations, their disputes before the United Nations.

And that convention also provided that the contracting parties in dispute could have their disputes with respect to the interpretation of the convention and their disputes as to the responsibility of a state for genocide to be brought before the international court of justice. That is what we have already provided. We put our stamp of approval on that international convention.

That is where this matter should be decided, in the organ that was created partly by ourselves. We should not sit as a tribunal in this matter. We should not sit as some rump juridical assembly in the determination of whether or not the forebears of the present government of our friend, our ally, the Republic of Turkey should be branded as criminals.

How much time do I have out of my 15 minutes?

The PRESIDING OFFICER. The 15 minutes have expired.

Mr. BYRD. I yield the floor for the moment.

The PRESIDING OFFICER. The Chair recognizes the Senate Republican leader.

Mr. DOLE. Mr. President, I thank the Chair. I pay my respects to my friend, the President pro tempore, the Senator from West Virginia [Mr. BYRD]. We find ourselves on different sides of an issue that I think is important. We have tried to complete the record on this side with documents, one after another, facts, statements, stories from the New York Times. In fact, I have a book of clippings from around the world that was compiled about the Armenian genocide.

I think we have to ask ourselves before this vote—and keep in mind this is only a vote to proceed; we are not voting on the merits. We are voting whether or not we have enough sensibilities in this body to even undertake to discuss the question of Armenian genocide. And who is going to speak for the annihilation of the Armenians if we do not do it in the Senate?

Words spoke a half century ago by adolf Hitler as he unleashed the Holocaust, words that echo still today in this Chamber, in our hearts, when Hitler said, "Who, afterall, speaks today of the * * * Armenians?" Do not worry about the Jews, they have forgotten about the Armenians.

Well, I believe the Senate must speak because if we do not speak now, then who will?

I still recall the justifiable outrage expressed when President Reagan visited the Bitburg Cemetery a long time after the Holocaust. I am not moved by the plea that we should not punish the sons and daughters of those who may have participated in the Ottoman Empire in the slaughter of Armenians. I am moved by who might have been the sons and the daughters of the 1½ million Armenians who were slaughtered. What about their sons, what about their daughters, if any?

So as I said, we have a classic case here of David and Goliath. Armenia is flat on its back, devastated by earthquakes, 500,000 people homeless in a little country of 3½ million; 30,000 of its citizens killed 14 months ago. Armenia—David.

And on the other side, Goliath—Turkey.

And I will concede, as I did in my opening statement, Turkey is an important ally. They are our friend, and that is why we must make certain in our resolution that we are talking about the Ottoman Turkey.

We will give Turkey a half billion dollars in aid this year. Not bad. We gave Armenia $5 million. In fact, our record in helping Armenia is probably the poorest of any industrialized nation, the record of the United States.

And we had to scrounge around to find $5 million to help some of the people who are still living in shacks in a part of the world where they have very adverse winters. So Turkey gets $500 million. They get a lot of benefits from us. It is not just that Turkey is helping us.

Turkey has a very active ambassador here. He is a very fine man. I have met with him, talked to him. I have no quarrel about him doing his job, and he has been to see every Senator.

But Armenia has no ambassador, they have no embassy. They do not have any contracts with any businesses in the United States. They cannot put pressure on Senators. It does not happen to be a very attractive site for an investment in Armenia, at least right now.

But lots of big American companies operate in Turkey. They put in billions in investment and they take out millions in profits. And some of those investment dollars end up in the coffers of the Turkish Government which spends them on high-priced lobbyists who have been all over us the past few months. And some of those profits are paying for the American industry representatives who have been hammering home to many of us how important their profit margins in Turkey are.

Turkey—Goliath—has all the troops, all the guns, money, an embassy, American business, lobbyists—the whole 9 yards. They can all speak for Turkey and make the case for Turkey.

Armenia, none of the above. Nothing. A country flat on its back.

And I just ask my colleagues in this procedural vote, if we do not speak for Armenia, who will? We have heard we should not decide this issue. It ought to be left to the courts. Let me remind my friends that this convention on genocide had been hanging around the Senate for 37 years before we acted in 1986. We decided the issue. It is prospective; it is not retroactive.

We have expressed our outrage about the German genocide, the Nazi genocide, genocide in Uganda, genocide in Cambodia. We passed resolutions on the Senate floor. We decided, without near the evidence in two of

those cases, Uganda and Cambodia that we have in the case of Armenia.

The Senate has already made its decision in 1920, in a unanimously passed resolution. I put in the text of that yesterday. The Senate has hardly been the only body making a judgment in this case. The European Parliament declared that there was an Armenian genocide in the face of strong Turkish threats of retaliation. The U.N. Human Rights Commission, a fairly objective group as I understand, has declared there was a genocide. The American Bar Association has declared their was a genocide. And so have all of the following distinguished citizens of the world: Winston Churchill, not bad for a start; Elie Wiesel; Samuel Gompers; the Archbishop of Canterbury; former French President Giscard D'Estaing; Rafael Lemkin, the person who coined the word "genocide" in 1946; 10 American Presidents, Democrats and Republicans; former Speaker Tip O'Neill; former President Gerald Ford; Henry Cabot Lodge; Cardinal Cushing.

I put in the RECORD yesterday the names of 26 of my colleagues on each side of the aisle who made strong statements about this over the years. All of these people cared enough to look at the facts.

Let me say again, this is not a small book. This is a book on the Armenian genocide. News stories from around the world in 1915, 1916, 1918, and not one has been refuted on the Senate floor. The New York Times talked about 800,000 slain, how Armenian children were starved, how Armenian women were sold. So let us look at the facts.

I said earlier on, let us let history be the judge. "Oh, we have not waited long enough. We want the scholars to look at it." After 75 years, the Turks are saying, "We are finally going to open up the archives." They have been saying that for years. And that is not my quote. It is a story which appears in one of the Turkish newspapers which I made reference to 2 days ago. Normally archives are opened after 50 years. We waited 75 years. They are now saying we do not want this to happen; if there is anything left you can look at it.

Again records in the Turkish newspapers, not Armenian newspapers, say they have been going through those things for years to delete all the material that might be incriminating. So we have all kinds of evidence. We have cartons of it. We have 10 times as much documentary evidence on this genocide as we ever had on the killing fields of Cambodia. But no one I know of stands around on the floor saying, "Well, I do not have the proof on Cambodia." We all voted for it. And we were right.

We have some of the same kind of gruesome photography of Armenian women and children—I did not display it on this floor because I did not want to do that—that shows the murdered, mutilated, burned, decapitated, and battered bodies of Armenian women and children and men. It was a genocide.

We do not need more time to study. We have had lots of hearings, lots of debate.

Some want more hearings. Who are they going to call to testify? Who is alive that perpetrated the crime of genocide? No one. We do not fault the present Turkish leaders, the sons and the grandsons and the daughters and the granddaughters of those who may have perpetrated the crimes, but we are trying to remember the sons and the grandsons and the daughters and the granddaughters of the 1.5-million Armenians had who were slaughtered.

My colleagues will weigh the equity, and see how they come out. So, I suggest, we are going to have a procedural vote. They can vote not to take it up; then they may never have to face it.

There are some saying Congress is becoming more and more like this; we do not have to face tough issues. This is not a popular issue. Some say: "Armenia? Who cares?" The poor, suffering Armenians. We used to talk about it at home: "Eat your food; save it for the Armenians."

They have been survivors. I guess the last time I counted, I know of one Armenian in Kansas. I understand there are about 50 of Turkish descent in my State. I met one Armenian in Winfield, KS, just a few months ago. So I do not have some big constituency in Kansas. But if we do not get a cloture vote today or next week or later, this issue is going to come back.

We care deeply about the issue. We had up to 60 cosponsors. I will confess it has dropped to 46, because a lot of people are concerned. Every Senator on this floor has said:

> I sympathize with the Armenians. I wish we could do something. It was terrible. There were atrocities. There were tragedies. But I cannot do anything that might offend the Turkish Republic.

Then came the onslaught. The onslaught started before it came out of committee. We have offered a compromise. I am still prepared to compromise. Before we have the vote I am going to ask unanimous consent that we convert the joint resolution into a concurrent resolution and change the language. I do not want to offend Turkey. I have been there. As I said before, I went at the suggestion of the distinguished President pro tempore. And he is right, more of our colleagues should visit the Turkish Republic. They are our friends.

I am not certain I will be welcome again, but others may be. It is an important ally. But we are not talking about today. We are talking about something that happened 75 years ago.

Maybe we can compromise. I am prepared to do that, but I understand they do not want anything. I do not know of any way to duck the issue. I understand there are going to be efforts in the House and maybe efforts here later. If we cannot see it through this way, we will start offering it as an amendment to every bill that comes up. I do not think we want to do that. I would like to try to figure out some way to resolve it and have it done.

It is not pleasant for the Republican leader in this case to be on the other side of the President. And we think we have a solution to that.

Mr. President, how much time do I have?

The PRESIDING OFFICER (Mr. KERREY). One and one-half minutes, under the present unanimous consent.

Mr. DOLE. I want to close this phase of the debate and I want to read the words from a telegram sent by the Minister of the Interior of the Ottoman Empire—this is the guy in charge of the genocide—to the Government of Aleppo, dated January 15, 1916. I read this. This is it. It was signed by Talaat. He was part of the triumverate responsible. Let me read quickly. It is dated January 15, 1916.

> We hear that certain orphanages which have been open receive also the children of Armenians. Whether this is done through ignorance of our real purpose, or through contempt of it, the government will regard the feeding of such children or any attempt to prolong their lives as an act entirely opposed to its purpose, since it considers the survival of these children as detrimental. I recommend that such children shall not be received into the orphanages, and no attempts are to be made to establish special orphanages for them. Minister of the Interior.

That is an order: Starve the children. And they did. They were successful. Drown the women, sell the women, slaughter the men. They were successful. And we stand here today and say we are powerless. We cannot even express our sense of Congress through a joint resolution, concurrent resolution, or simple resolution.

So, I hope in the closing few minutes that my colleagues will understand this is a procedural vote. This is a vote about the human rights we all talk about, talk about, and parade around and say "Oh, I am for human rights." Well, this is a good place to start. I hope my colleagues will let us proceed to the resolution and then we can have our debate, offer our amendments. But, if we cannot even proceed to the resolution, we have no other choice but to offer it at the next opportunity as an amendment, so we do not have to go through this process.

The PRESIDING OFFICER. Who yields time?

Mr. BYRD. Mr. President, how much time does each side have remaining?

The PRESIDING OFFICER. The Senator from West Virginia has 16 minutes, 25 seconds. The minority leader, Republican leader has 16 minutes, 23 seconds.

Mr. BYRD. Mr. President, I have listened to my friend with great interest and I share his feeling of compassion toward the victims of atrocities. I share those compassions wherever they may exist or occur.

The distinguished Republican leader has spoke about the Turkish Ambassador and how the Turkish Ambassador has contacted Members of the Senate. And he has said that the Armenians have no Ambassador.

Not only the Turkish Ambassador has discussed this with Members of the Senate, but the American Ambassador to Turkey has had discussions with Members of the Senate and has underlined the concerns that have been expressed here on this floor by myself and others, with respect to what may be the pernicious results of this well-intentioned resolution.

Reference has been made to the American Bar Association, and others, who have labeled the actions of the Ottoman Empire as genocide.

Mr. President, this is the U.S. Senate. The American Bar Association—I have great respect for that association—may make a proclamation. Senators on this floor may stand and say, well, the actions were genocide. But there is a great deal of difference, when it comes to the Senate itself, the most powerful upper legislative body of the free world, when it makes a proclamation, when it puts on its stamp of approval. It is far different from an edict or announcement or proclamation from some other group, let it be American to the core.

We are talking about the Senate now, and we are Members of the Senate. My good friend speaks of the resolutions that we all passed in 1978 concerning Cambodia. Mr. President, 1978 was 10 years before this Senate approved the ratification of the international convention. But now, ex post facto, we want to go back. It is being urged that we, that the Senators, the Senate go back now 70 years and proclaim about actions about which we do not have the facts, I do not have the facts, no one of 100 Senators has the facts, on which to make a careful, deliberate, objective judgment.

So that is why the Senate approved the ratification of the International Convention.

Mr. President, under the American system, there are tribunals that have been constitutionally created to determine what is right and what is wrong in cases before them. I have heard it said here on the Senate floor, let us vote for the resolution; it is right; it is right.

Mr. President, the court system of the United States is different from the court system of England, but we can look at the English history and see the incipient beginnings of our own court system in many respects.

Henry I, who reigned from 1100 to 1135, created the Exchequer court and the system of itinerant justices who went out and down into the Shire courts and the hundred courts, the other feudal courts from the Curia Regis to represent the king, the crown.

William I, William the Conqueror, reigned from 1066 to 1087. He brought over from the continent itself what is the equal of today's accusing jury, the special inquest, the grand inquest. And Henry II enlarged upon his grandfather's actions, whereas under Henry I, royal writs could take from the Shire courts and other courts specified cases and bring them before the Curia Regis, which was the King's court, the royal court.

Henry II, who reigned from 1154, following the reign of Stephen, to 1189—1154 to 1189—enlarged and expanded on the system of writs whereby contesting parties could make use of the jury system. Henry II introduced the jury system—I am not talking about the accusing jury; I am talking about the jury system—and expanded the reach of the Exchequer court and created a Court of Common Pleas.

The Magnum Concilium was the great council made up of 500 barons and thanes and people of wealth and property. That constituted the high court of Parliament. Another British system, the House of Lords, still constitutes the highest court under the British system.

Our forefathers saw it differently. They did not place into the hands of the Senate of the United States juridical powers; they created a Supreme Court. And the Senate in the First Congress initiated the act, the judiciary act by which that Supreme Court was formally constituted and made up of six justices at that time.

So this Senate did not sit as a high court except in cases of impeachment. Here, again, we might retire to the history of the motherland, imposed on many of us and certainly many who sat at the convention and the First Congress.

So it was the reign of Edward III. Edward I reigned from 1272 to 1307. Edward II, deposed by the first Parliament, reigned from 1307 to 1327 and Edward III reigned from 1327 to 1377.

It was during Edward I's reign that Parliament found a way to control the King's ministers. The first impeachment occurred in 1376 when Richard Lyons, who was a customs officer, was accused of illegal acts. But that was not the last time that impeachment was used. It was used many more times. So our forebears provided for this Senate to be the tribunal in the cases of impeachment, but not in the cases that the courts of this country were constituted to decide.

So as for the right and wrongs in particular cases, those were decided by the courts. The same is true with regard to international conventions. This Senate, by its own hand, put its stamp of approval by a supermajority, two-thirds required, on the International Convention on the Prevention and Punishment of the Crime of Genocide. There it is that cases involving suspected genocide are to be determined.

So there is the instrument, there is the mechanism where this matter should be decided. It should not be in this court of impeachment that we should try a friendly country, an ally—Turkey.

I hope that the distinguished Republican leader will draw back from something that he has said, and I paraphrase him: If we do not succeed today, we will try Tuesday. If we do not try Tuesday, we will try again and again and again. We will do it by amendment.

I hope that my friend will not persist. Of course, this is on a motion to invoke cloture on a motion to proceed. But that is within the Senate's rules, and there have been other instances in which the motion to proceed was indeed filibustered. Sometimes it turns out to be best.

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

The PRESIDING OFFICER. The Senator has 4 minutes and 53 seconds.

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

Mr. DOLE. Mr. President, I yield 4 minutes to the distinguished Senator from Massachusetts.

Mr. KENNEDY. Mr. President, the Senate is about to vote on one of the most critical issues of human rights in the 20th century, involving one of the most senseless and despicable atrocities in all of human history.

The question before the Senate is very simple. The issue is justice for the Armenians, and it is time for the Senate of the United States to go on record in support of the Armenian genocide resolution.

Nothing in this resolution disparages the modern Government of Turkey.

But those who have studied the history of the tragic times during and immediately after World War I are well aware of the cruel and bloody and continuing massacre of the courageous and proud Armenian people that took place beginning in 1915.

Over 1½ million innocent Armenian men, women, and children were tortured and murdered under the Ottoman Empire, in one of the darkest

chapters in the history of man's inhumanity to man.

By remembering the Armenians today, by adopting the Armenian genocide resolution, the United States Senate can help to ensure that the abominable crime of genocide is never repeated again—in any nation in any place on earth.

I urge the Senate to invoke cloture and to pass this long overdue resolution.

I yield back the remaining time to the minority leader.

Mr. DOLE. Mr. President, how much time do I have?

The PRESIDING OFFICER. The minority leader has 14 minutes 40 seconds.

Mr. DOLE. I may not need all that time and will be pleased to have the distinguished President pro tempore close the debate. He has about 4 or 5 minutes remaining.

The PRESIDING OFFICER. The Senator is correct.

Mr. DOLE. I did want to touch on one point that has been discussed by some. We have talked about the strategic importance of Turkey, and it is true. This is an argument some of us made when we debated a resolution on Chinese students that did not seem to sell too well on the other side and not too well on this side. Thirty-seven Senators voted to sustain the President's veto, and in that case the President had already done everything by Executive order that would have been done by the legislation. So I want to point out there is a rather clear difference.

Mr. President, I have listened to the distingished Senator from Arkansas [Mr. BUMPERS]; and the Senator from Oklahoma [Mr. BOREN]; and the Senator from Florida [Mr. GRAHAM]. Nearly every Senator that I can recall—and I have not missed too much of the debate—has stated very precisely their concern and their feeling for those Armenians who did suffer during this period without any reference to the word "genocide." And, again, I displayed for those who may have missed it some of the news stories. Those in the back of the Chamber happen to be from the New York Times, but they are reprinted in this book on the Armenian genocide, stories from around the world.

The distinguished President pro tempore said, well, that is fine but we passed enabling legislation here in 1988 that says now if we are going to have anybody talk about genocide, you have to have a trial. I did not know we were having a trial. I thought we were here passing a commemorative resolution. Let me read the language of the pending resolution:

That April 24, 1990, is designated as "National day of remembrance of the Seventy-fifth Anniversary of the Armenian genocide of 1915-23," and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe this date as a day of remembrance for the 1,500,000 people of Armenian ancestry who were victims of the genocide perpetrated by the governments of the Ottoman Empire from 1915 to 1923, prior to the establishment of the Republic of Turkey, and in their memory this date is commemorated by all Armenians and their friends throughout the world.

Now, that is the language of Senate Joint Resolution 212. That is the language to which some 60 Senators initially gave their stamp of approval. I do not question the motives of anyone in this Chamber; I have been here too long, but I do think some people felt—maybe on reflection, whatever—they would like to have some expression for the Armenians but they were concerned about our relationship with Turkey. I have said from day one that I would be willing to compromise, but we understand we are told by the Turks, in addition to all the things they do to intimidate us, that they do not want to compromise, they do not have to compromise. Maybe they do not. But I have listened to all of these arguments of my friends in the Senate on both sides of the aisle.

In a moment or two I am going to make a proposition which I do not think anybody can refuse. I would like to propose that the joint resolution, Senate Joint Resolution 212, be converted into a concurrent resolution and also that the language be modified. I would ask the clerk to read the proposed concurrent resolution. I have not yet made a request, but I would ask that the clerk read what I will propose.

The PRESIDING OFFICER. Without objection, the clerk will read the resolution.

The legislative clerk read as follows:

Resolved by the Senate and House of Representatives in Congress assembled, That April 24, 1990, is designated as "Armenian Martyrs Day," commemorating the seventy-fifth anniversary of the systematic destruction of the Armenian people in the period from 1915 to 1923. Congress calls on the people of the United States to join the millions of Armenians and other people around the world to commemorate every April 24th as the anniversary of the Armenian genocide, a day of remembrance of the 1,500,000 Armenian people who were the victims of the Government of the Ottoman Empire of that period. These events occurred prior to the establishment of the Republic of Turkey, which was in no way involved in any of the activities of that period.

Mr. DOLE. Mr. President, let me point out some rather significant differences in the two proposals. I think this concurrent resolution would meet the objections of the opponents of the joint resolution. First, this form will not have the force of law. It is a concurrent resolution approved by the House and Senate, not signed by the President. It would be only an expression on the part of Congress as to its feelings about the events between 1915 to 1923. It makes very clear that the present Republic of Turkey was in no way involved in those events. I think a careful reading of the language of Senate Joint Resolution 212 and the proposed concurrent resolution will point out, first of all, there is no finding or statement of fact that there was a genocide. What it says is that Congress calls on the people of the United States to join the millions of Armenian and other people around the world to commemorate every April 24 as the anniversary of the Armenian genocide, a day of remembrance of the 1,500,000 Armenian people who were the victims of the Ottoman Empire of that period. So we call upon the people of the United States to join the millions of Armenians who so commemorate.

What does the pending resolution say? It says, "Armenian ancestry who were victims of the genocide," and, also, in the title would be "the Seventy-Fifth Anniversary of the Armenian Genocide of 1915-1923." We have changed that to "Armenian Martyrs Day."

Mr. President, I want to make certain that the distinguished Senator from Ohio has a copy of the revised resolution.

Mr. METZENBAUM. I do now.

Mr. DOLE. I failed to get it to him earlier. Having been around here awhile, I cannot believe there is not some way we can address the concerns, certainly not to the complete satisfaction of the other side; that does not always happen around here, but if in fact we are concerned about the fate of the Armenians, call it what you will, then it would seem to me there is some obligation to let us proceed to the resolution. I will alert the distinguished Senator from West Virginia, I would not propose that the joint resolution (S.J. Res. 212) be converted into a concurrent resolution in the form that I have submitted.

The PRESIDING OFFICER. Is there objection?

Mr. METZENBAUM addressed the Chair.

Mr. BYRD. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. And I do object.

The PRESIDING OFFICER. Objection is heard.

The PRESIDING OFFICER. Who yields time?

Mr. DOLE. I have the floor, Mr. President.

The PRESIDING OFFICER. The Republican leader.

Mr. DOLE. This demonstrates, I hope, to all those who have any concern for the Armenians, any concern, that what the opponents seek to do is shut us out, not even giving us an opportunity to modify or otherwise change the form or substance of our

pending resolution. I say to my colleagues who have expressed their concern, who have made speeches on this floor, who have told me privately, if you just change it a little bit and take out the statement there was a genocide, we all are sympathetic to what you are trying to do, well, I tried. I made that effort, and it was objected to. I should indicate that the President would support the language I have just sent to the desk.

But I know there are other Senators who may wish to speak. I do not want to take all of the time but there is still time for undecided Senators to leaf through their booklets, to look at some of the headlines from papers around the country, the Los Angeles Times, New York Times, papers all over the country, that talk about the Armenian genocide.

I know the Senator from Arkansas is on the floor, the distinguished Senator from Arkansas, Senator BUMPERS. I hope he will have a chance to take a look at the modified language that we talked about some yesterday.

So I say to my colleagues we made the effort to modify the language. I cannot do that unless I can proceed to the legislation. Rarely is a member of this body denied the opportunity to proceed. I am not talking about the final form, I am talking about proceeding to the legislation that is pending. If we cannot do it this way, we do not have any other recourse. Why not have a vote right now on the motion to proceed? Just do away with the cloture vote. I think most colleagues who are fairminded, whether they may be for or against the final resolution, are going to let me proceed. I cannot recall——

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

The PRESIDING OFFICER. The Senate will come to order.

Mr. DOLE. This is a procedural vote. It is not a vote on the merits.

For those who have just joined us, I just made a unanimous-consent request that I convert the joint resolution to a concurrent resolution. It does not become law, and is not as offensive. So I can modify the language, and take out some of those things that offended the Turkish Republic. And there was an objection to it.

If we are denied the right to proceed, we cannot even change the amendment, and cannot even get to the substance. We do not have any other choice but to continue to offer this until someday we get a vote. It is not a threat.

I agree with the Senator from West Virginia. We ought to get it resolved. It does not help our relationship with Turkey at all.

But again let me ask my friends in the remaining few minutes to go back and read some of the stories in the New York Times, from the fifties and sixties. Read what our Ambassador, Mr. Morgenthau, had to say. He was there. He talked about the atrocities. It is in nice big print so everybody can read it.

Again, I say that I was called this morning by a friend of mine, dear friend of mine, saying, "Bob, I wish you would stop talking about the Armenian resolution. That was a long time ago." Who cares? Who cares about the million and a half Armenians who were slaughtered? There are not many Armenians in America. They are not a political force. They are not going to defeat anyone or elect anyone. Who cares about the Armenians? Nobody, I guess.

We are going to find out here in a minute. We are going to wait for the court to act. We are going to wait until they open up the archives. "It has been 75 years that we have waited for them to open up the archives." That old dog will not hunt anymore. They have been using that for years. "Oh, we will just open up the archives."

These are not my words. These are from the Turkish press who said it is another game. Every 7 months the Turkish Government announces: "We are going to open up the archives." And we fall for it.

But I just say to my colleagues, Mr. Talaat was the man in charge. He is the one who wrote about the orphans, and stopped feeding the children. "Starve the children. It is all right. They are only Armenians." They did not want them in the orphanage. They did not want to feed them.

I do not know what will happen in the vote. I think it is an important one. You talk about human rights. We all make speeches on human rights and we talk about abuses. The State Department issued their report 2 days ago. It has been condemned, criticized, applauded. If you are really concerned about human rights you can dismiss the lives of a million and a half Armenians because they are a small country with 3½ million people, 3,500 homeless because of the earthquake 14 months ago. They do not have an embassy. They do not have an Ambassador. They do not have any lobbyists. They do not have American business in Armenia. They do not have anything at all. All they have is their hope that the U.S. Senate will hear them and let history be the judge.

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

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

The PRESIDING OFFICER. Four minutes and thirty-five seconds.

Mr. BYRD. Mr. President, I call attention once more to article 6, paragraph 2, of the Constitution of the United States. I read therefrom.

This Constitution, and the Laws of the United States which shall be made in Pursuance thereof, and all Treaties made, or which shall be made, under Authority of the United States, shall be the supreme Law of the Land, and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.

This body by an overwhelming super majority in 1986 put its stamp of approval on the International Convention on Prevention and Punishment of the Crime of Genocide. In so doing, and in connection with the implementing legislation which came later, it set up the mechanism by which disputes such as this could be handled, and provided the organizations, including the Security Council and the General Assembly of the United Nations to which the contracting parties could go to make their charges; and, provided that disputes with respect to the interpretation of the international convention as to the responsibility of any state where genocide occurs should go to the international court of justice. This is where we said these cases should go.

Now in circumvention of what we said, and what our Government signed, we say no, let us not trust our handiwork, let us make the decision here and now, no hearing, no witnesses, and 13 hours of debate.

Mr. President, we should not try our friend in this court. The distinguished Republican leader offered a unanimous-consent request that the joint resolution, Senate Joint Resolution 212, be converted into a concurrent resolution. I objected. My friend, Mr. DOLE, said this demonstrates that those who oppose this resolution want to shut us out.

Mr. President, what it demonstrates is that some of us, as well as the distinguished Republican leader, understand the rules of the Senate. We understand that a Senate joint resolution under the Constitution and a bill go to the President of the United States for his signature. They are presented under the Constitution to the President for his signature. Those who object to converting this resolution into a concurrent resolution, like the distinguished Republican leader, understand too that a concurrent resolution does not go to the President.

It was not presented to the President for his decision. So what this would do is remove from the President the responsibility of vetoing or signing or letting it become law over his veto. He would not have to do that with the concurrent resolution. It would not be law anyhow. It would have no legally binding affect, but the President would not have to showdown, would not have to make any judgment with respect to that concurrent resolution, because it would never have to go to his desk. That is what the situation is here.

Further, may I say that as to the language itself, whether it is genocide or whether another similarly pejora-

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tive characterization is in the language of the resolution is not the main point. The offensive and pernicious results of passage of the resolution derive from that kind of pejorative judgment about the events of that period. Turkey is still on trial on this floor. The foreign policy disaster in the making if this resolution passes would be the same. The reaction in Turkey would be the same upon passage of the resolution. It cannot be cured by substituting language like massacre, or slaughter, or widespread killing, or some such characterization of genocide.

May I point out that the language that the distinguished Republican leader has read includes the language "systematic destruction of the Armenian people." What is that, but genocide? It also makes reference to the anniversary of the Armenian genocide. So the words are there, no matter how they are cloaked or otherwise.

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

Mr. BYRD. I ask unanimous consent that each side may have 2 additional minutes.

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

Mr. BYRD. The resolution cannot be cured by substituting language such as that. It essentially means the same thing. The outcome will be the same: A very negative reaction in Turkey and significant damage to America's security interests in that region, the same inflammatory effects on the ethnic rivalries and tensions in that critical region.

The passage of the resolution, with such cosmetic alterations, still puts a stamp of Senate condemnation of judgment on Turkish history. There is no useful purpose in fooling ourselves with such cosmetic surgery. The effect would be identical. The fine distinctions of English words that carry the same meaning, same message, same judgment and the same condemnation, will not make any difference.

Mr. President, a concurrent resolution, as I say, is a way for the White House to wash its hands——

The PRESIDING OFFICER. The Senate will come to order.

Mr. BYRD. I thank the Chair.

It is a way for the White House to wash its hands of a major foreign policy issue. The distinguished Republican leader says the President would support the concurrent resolution. Why, of course. It will not have to go to his desk. He will not have to showdown, veto it. That is quite a reversal of White House insistance on its sole prerogative to make foreign policy.

Mr. President, I yield the floor.

Mr. DOLE. Mr. President, I know there are Senators who have other commitments. I just say that this is the "David versus Goliath vote." This is one country with nothing, except an earthquake and a half-million homeless, and no American interests, no lobbyists, no Embassy here, no Ambassador, nothing. The only place they can come is to the U.S. Senate. You have another country, "Goliath," Turkey, with an Embassy, Ambassador, $1 billion of American investment in Turkey, and they say, do not pass this on to our children and grandchildren.

What about the children and grandchildren of the million-and-a-half Armenians? Does anybody want to shed any tears for them? So if we really are concerned about human rights, as we properly were in the Holocaust, though it took us 38 years to ratify the Genocide Convention in this body, so we were not very eager to even do that. Maybe we can redeem ourselves a bit today by letting the world know that we do not always support the rich and the powerful and those with the most lobbyists. Sometimes we judge right from wrong. That is all the debate is here, right or wrong.

The right thing to do is let us proceed. This is not a filibuster on the merits. It is on a procedural vote. I cannot believe I am going to be denied that right. So we want to proceed. We might work something out, except the Turks say, "We do not want to work anything out." Welcome to America. We like to work things out. So give us the chance to do that. Do not cut us off at the knees by saying we cannot even proceed to the resolution. That is all I want to do, proceed to the resolution.

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

Mr. DOLE. We have offered a modification. I am prepared to vote.

CLOTURE MOTION

The PRESIDING OFFICER. The hour of 1:30 having arrived, by unanimous consent, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The legislative clerk read as follows:

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to proceed to the consideration of S.J. Res. 212, a joint resolution designating April 24, 1990, as "National Day of Remembrance of the 75th Anniversary of the Armenian Genocide of 1915-1923."

CALL OF THE ROLL

The PRESIDING OFFICER. By unanimous consent, the quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the motion to proceed to the consideration of Senate Joint Resolution 212, a joint resolution designating April 24, 1990 as "National Day of Remembrance of the 75th Anniversary of the Armenian Genocide of 1915-1923" shall be brought to a close.

The yeas and nays are required. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Connecticut [Mr. DODD] is absent on official business.

Mr. SIMPSON. I announce that the Senator from Indiana [Mr. COATS] is necessarily absent.

The PRESIDING OFFICER (Mr. ADAMS). Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 49, nays 49, as follows:

[Rollcall Vote No. 16 Leg.]

YEAS—49

Armstrong	Glenn	Mikulski
Bentsen	Gore	Mitchell
Biden	Grassley	Moynihan
Bingaman	Harkin	Murkowski
Boschwitz	Hatch	Pell
Bradley	Heflin	Pressler
Burdick	Heinz	Riegle
Burns	Helms	Rudman
Chafee	Humphrey	Sarbanes
Cohen	Jeffords	Simon
Cranston	Kassebaum	Specter
D'Amato	Kasten	Stevens
DeConcini	Kennedy	Thurmond
Dole	Kerry	Warner
Domenici	Kohl	Wilson
Durenberger	Lautenberg	
Garn	Levin	

NAYS—49

Adams	Graham	Nickles
Baucus	Gramm	Nunn
Bond	Hatfield	Packwood
Boren	Hollings	Pryor
Breaux	Inouye	Reid
Bryan	Johnston	Robb
Bumpers	Kerrey	Rockefeller
Byrd	Leahy	Roth
Cochran	Lieberman	Sanford
Conrad	Lott	Sasser
Danforth	Lugar	Shelby
Daschle	Mack	Simpson
Dixon	Matsunaga	Symms
Exon	McCain	Wallop
Ford	McClure	Wirth
Fowler	McConnell	
Gorton	Metzenbaum	

NOT VOTING—2

Coats	Dodd

The PRESIDING OFFICER. On this vote, the yeas are 49, the nays are 49. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that there now be a period for morning business for 2 hours with Senators permitted to speak therein.

The PRESIDING OFFICER. Is there objection? Hearing no objection, it is so ordered.

Mr. MITCHELL. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Is leader time reserved today,

The PRESIDING OFFICER. The Chair will state there was no leader time reserved today.

ORDER FOR LEADER TIME

Mr. MITCHELL. Mr. President, I ask unanimous consent that there be 30 minutes of leader time to be equally divided between the distinguished Republican leader and the majority leader.

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

Mr. SARBANES. Will the majority leader yield for a question?

Mr. MITCHELL. Certainly.

SCHEDULE

Mr. SARBANES. Does the majority leader have any illumination he can give us on the schedule for the rest of the day—for the rest of the week?

Mr. MITCHELL. I will do so very shortly, following consultation with the distinguished Republican leader, the chairman of the Senate Labor Committee, and others who have been involved in matters pending.

I expect to have an announcement very shortly regarding the schedule for the remainder of this week and the first part of next week?

The PRESIDING OFFICER. The Republican leader.

THE FIRST CLOTURE VOTE

Mr. DOLE. Mr. President, I just want to take 1 minute to comment on the vote. I congratulate my colleagues who supported the motion to proceed on the first cloture vote. I think it was 40-49. It was fairly close.

But the point is to get cloture you need 60, and I know of a number who vote for cloture on the second time around. I believe at least one if not both of the absentees support our position.

I think in the final analysis it will be a clear majority for moving ahead, which would give us courage to do so, if not through this process, through the amendment process. But I will discuss it with the majority leader.

I intend to file another cloture petition today, on which, unless there was some agreement, the vote would occur probably next Tuesday. And there will be additional debate. I think we are making a case.

I will be very pleased to visit with any of my colleagues who have different views and would like to figure out something. I have already been approached by two on the other side trying to see if there is some way we can work it out. There should be some way to work it out.

I think every one of the 49 who voted against the motion to proceed certainly cares about the Armenians and is sympathetic with those who were slaughtered in 1915 to 1923. but I guess, with administration and other opposition, the fact we had 49 votes is an indication there is strong support for doing something.

I can say in that regard, the President of the United States is prepared to make an accommodation, and I will have printed in the RECORD portions or a letter from the President which indicate if, in fact, there were a concurrent resolution with the language I suggested earlier, that we would have the support from the President of the United States.

I say a concurrent resolution instead of a joint resolution because, I am advised, if it is not law but only a resolution, it does not have the same adverse impact with some of our friends in Turkey.

Mr. President, we will proceed, we will persist, and I hope we will succeed in the final analysis.

Mr. BOSCHWITZ. Will the minority leader yield for a moment?

Mr. DOLE. I will be happy to.

Mr. BOSCHWITZ. I think there are some national interests involved that go beyond the period of these difficulties, 1915 to 1923. I hope he is able to work out the differences on this resolution. I think it would be, indeed, in our national interests.

Mr. DOLE. I thank the Senator for his support.

THE FLAG BURNERS

Mr. DOLE. Mr. President, the flag burners have won yet another victory. Yesterday, a district judge in Seattle ruled the so-called Flag Protection Act of 1989 was unconstitutional and the act of flag burning is constitutionally protected symbolic speech.

It is no surprise that the flag burners are already celebrating, scheduling a news conference here in Washington to toast the desecrators and to roast Congress for its well-intentioned but so far useless efforts to protect our national symbol.

But the litigation game is not quite over yet. The Supreme Court will now have the opportunity to review the district court's decision, and in fact the flag statute itself contains an expedited review provision.

As I have said before, it is the obligation of the statute's sponsors and those who support it to ensure that this expedited review provision works as advertised, so the Supreme Court can settle the score once and for all and determine whether the flag statute is the "great fix" that its sponsors claim it to be.

But so far, the flag statute is receiving a flunking grade. Despite its marquee billing, the so-called Flag Protection Act of 1989 has not protected a single flag. In fact, it has encouraged the flag burners to commit their outrages, to show their contempt for Congress' handiwork.

That is why it is so important to get an expedited decision on the statute's constitutionality, and that is why I continue to urge the flag statute sponsors to ensure that expedited review does indeed become a reality.

Mr. President, during last year's debate on the constitutional amendment, I argued that the amendment approach was the only sure-fire way to give Old Glory the protection it deserves. I argued that a constitutional amendment was the only way to overturn the Texas versus Johnson decision and to protect the integrity of our flag without impinging upon our cherished first amendment freedoms.

Yesterday's ruling confirms that these arguments were right all along. And it confirms that the overwhelming majority of Americans were right on target last year when they urged Congress to pass the 27th amendment to our Constitution.

Mr. President, I would be remiss if I did not thank the distinguished Senator from South Carolina, Senator THURMOND, the senior Senator from South Carolina, for his initial efforts. He was the first one to introduce a constitutional amendment.

It was sort of overtaken by events, but he has been out in the forefront, and I say to the distinguished ranking member of the Judiciary Committee, I think he was right then and I think we are right now.

I hope we will see an expedited process so, if this statute is held unconstitutional finally by the Supreme Court, we may move expeditiously to pass the constitutional amendment.

Mr. THURMOND. Will the distinguished Senator yield?

Mr. DOLE. I will be happy to yield.

A CONSTITUTIONAL AMENDMENT TO PROTECT THE FLAG

Mr. THURMOND. Mr. President, I want to thank the able Republican leader for his kind remarks. I remember, I attended a ceremony over in Arlington in which President Bush spoke on this very subject.

The able Republican leader, Senator DOLE, was there at that time and spoke. The distinguished Senator from Illinois spoke too at that ceremony.

We told the people then, we told the committee, Judiciary Committee, of which I am the ranking member, the way to accomplish this was a constitutional amendment. But for some reason they insisted on going forward with the statute.

I voted for the statute, but I said then I felt it was inadequate. Now this Federal judge has held it inadequate. So if we really want to get relief and protect the flag, the thing to do is first to pass a constitutional amendment of

the nature of which I introduced shortly after that first decision on this subject.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. BOSCHWITZ. I thank the Chair.

(The remarks of Mr. BOSCHWITZ pertaining to the introduction of S. 2159 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. MCCAIN. I thank the Chair.

(The remarks of Mr. MCCAIN pertaining to the introduction of S. 2159 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. LOTT. I thank the Chair.

(The remarks of Mr. LOTT pertaining to the introduction of S. 2159 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

AWARD OF ANTIDRUG FUNDS

Mr. GORTON. Mr. President, I am pleased to announce that under the President's national drug control strategy the Department of Justice today awarded $7.3 million in Federal antidrug funds to the State of Washington for local law enforcement. The award of this grant to the Washington State Department of Community Development is indeed timely. It was just 5 weeks ago that the State requested Federal funding for additional law enforcement because of the rapid increase in crime from the illegal drug trade in our State.

I am a firm supporter of the President's national drug strategy, and commend the administration on its decisive response to the critical need for law enforcement in Washington State. In my view, the propriety of the President's plan with its emphasis on law enforcement is clear. A recent presentation by the Washington State Association of Counties reported that Yakima, Pasco, and Seattle, WA, each has more crime per capita than the much larger cities of New York, Chicago, Detroit, and Philadelphia. To those of us who live in Washington, regrettably this is no great surprise. Washington State is awash in drugs. Just last week, the illegal drug trade in Washington was compared by the media to that of Miami and New York.

Unfortunately, Yakima Valley has become a major west coast distribution point for illegal drugs crossing our United States border from Mexico. Our national drug czar was astounded to learn on his visit to Yakima that drug dealers have created a pipeline to smuggle illegal drugs along long-established migrant farm labor routes extending deep inside Mexico.

The Yakima Valley, once quiet orchard country, is now on the front lines of our Nation's drug war. The drug epidemic has heavily burdened Yakima County, which has one of the lowest average per capita incomes in Washington State. With such inadequate resources, Yakima alone could not even begin to deal with the national drug problem and was nearly on the brink of collapse. These essential Federal funds will help allay this crisis and give us tools to battle the scourge of illegal drugs that is wreaking havoc across the country.

I do not believe for one moment, however, that the war on drugs will be won without holding criminals accountable for their illegal behavior. President Bush is providing leadership, and has asked for concrete reforms of our criminal justice system fully to carry out his drug war strategy. But Congress has failed to provide the requested statutory reforms to punish criminals.

Mr. President, our criminal justice system is in critical need of reform. I will not cease my pursuit for that reform until the American people are no longer victims of a system of justice which fails to hold users and dealers accountable for their illegal behavior. The people of Washington State and of this great Nation expect no less.

I hope that all of my colleagues will join me in enacting legislation to provide necessary statutory reform.

The PRESIDING OFFICER. Who seeks recognition?

Mr. GORTON. 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. EXON. 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 1991 BUDGET

Mr. EXON. Mr. President, I have reviewed the President's budget, and while there are some new receipts and new bakers, the President's 1991 budget serves up the same cooked number as we have seen in the past.

It is fluffy pastry, filled with the air of rhetoric, but lacking the needed policy fiber to enrich the Nation's economic health. This budget conclusively discredits the Gramm-Rudman law through its use of all too optimistic economic forecasts, clever accounting gimmicks, and budgetary sleight of hand.

The grand Gramm-Rudman scheme has allowed Congress and the President to simply avoid making hard decisions necessary to reduce the deficit. In spite of the promise of dramatically declining deficits and eventual surpluses, over a trillion dollars of debt has been added since the enactment of the Gramm-Rudman law.

Rather than a road map to economic prosperity, over the last several years the budget has come to resemble a maniac's drawings—disconnected from the truth or reality. The cost of massive programs such as the savings and loan bailout are taken off budget, wild assumptions are made about interest rates and inflation and once sacred trust funds are being used to run the day-to-day operations of the Government.

Mr. President, let us start the decade with honesty. According to the Congressional Budget Office, the 1991 deficit is at least $38 billion more than claimed by the Bush administration. The reliability of the President's OMB and Gramm-Rudman law is brought into question even by the President's own budget. A bare 3 months after OMB determined that the Gramm-Rudman target of $100 billion had been met, the President's budget shows the 1990 budget deficit to be $122 billion. Where did the $22 billion come from? The CBO calculates the 1990 deficit to be $138 billion. The Senate should not again play this game of hide the deficit that we have done all too often.

Now is the time to take stock of America's delicate economic and near bankrupt fiscal condition and set out on a sustainable and successful plan to reduce deficit spending.

Over the years, Senator HOLLINGS and I have been advocates of a freeze budget. I am hopeful that our time has finally come. A modified freeze budget would be a good first step on a long road toward fiscal soundness.

Mr. President, in spite of the disappointments with the President's budget—and it certainly is a disappointment—the decade did not open with a refreshing breeze at all of honesty. But it did gain some sort of respectability when Senator MOYNIHAN captured America's attention with a plan to somewhat reduce Social Security payroll collections, while more than adequately, amply, and fully protecting current recipients and those to be added to the Social Security system for many years to come.

At the present time, including the big Social Security tax increase that went into effect on January 1, 1990, the Government is collecting $1 billion a week—$1 billion a week, Mr. President—in excess of what it needs to meet required Social Security payouts.

Where do those extra billions go? Some think it goes safely into a trust fund to pay increased Social Security payouts in the 21st century. The totally false assumption here is the word "safely." The extra billions do go

through the so-called trust fund as a bookkeeping entry, but are at once confiscated by the Government and replaced with an IOU. These billions of dollars are then spent on general Government operations like any other tax collected moneys.

What would be an employee's reaction? What would an employee think if the employer were using the company's pension fund to pay the company's bills, and when asked about the foolhardy practice, simply reply, do not worry, do not worry, even though the guardian of the pension fund has not balanced the books for over 5 years and had in the past 4 years alone plunged from the world's largest creditor to the world's largest debtor nation? What is the maximum sentence for misappropriation of funds?

As a long-time advocate of taking Social Security and other trust funds out of the deficit calculations, I support the Moynihan plan. It would be one thing if Social Security taxes were being saved for future generations. The fact is that these funds are simply being spent. Unless we can fashion a better trap to keep Uncle Sam's fingers out of the Social Security cookie jar, we had best, in all honesty, regain some semblance of credibility by passing the Moynihan bill.

I would agree that we should not pass the Moynihan bill if—and I emphasize "if"—we could find a way to guarantee the Social Security funds were separated and conserved as was intended rather than converted to other uses as is clearly the case today.

Under the current law younger workers between the ages of 18 and 40 years are the ones being most directly defrauded. They essentially are being asked to pay the same tax twice, first today when payroll taxes are the highest in history and second in 20 to 30 years again at even a higher rate when current borrowing from the trust fund must be paid back, indeed, Mr. President, if it is ever paid back. Recent policy has all but locked in forever the commitment of weekly $1 billion excesses in the Social Security trust fund supposedly for soundness of the Social Security system but instead it goes to finance general government.

It is not unlike paying your pledge to the church on Sunday and then stopping payment on the check on Monday morning. At the end of the year your records would indicate definitely that you had kept your faith with your promise and your pledge, but the church would be broke.

It is time for trust to be restored in the Social Security system and the Moynihan plan is at least a first step in that direction if we can do no better.

Mr. President, our burden is heavy, and our will must be very strong. This Senate can make a meaningful difference in America's economic future. I have faith in the Senate Budget Committee and in the full Senate. With the spirit of goodwill, full understanding, and honesty of the true size of the economic problems that face us, I believe that Congress can work together, not as Democrats or Republicans, but as Americans to tackle this crisis.

ESSAY BY PROF. WALLY PETERSON

Mr. EXON. Mr. President, I direct the Senate's attention to a very, very interesting article entitled "Money in America" that I recently received from a colleague and friend of mine from Nebraska, Mr. Wally Peterson, a professor in economics at the University of Nebraska.

Professor Peterson recently sent me this article and asked that I look at it and give him my reaction. The essence of his paper is that America needs to adopt a truth in budgeting law. I could not agree more.

The use of America's trust funds to run the day-to-day operations of the Federal Government borders on the edge of a major scandal. It is long past time that the American people be given the whole truth about the budget.

To address the problems of phony budgeting, last year I introduced legislation known as the Debt Ceiling Reform Act which ties debt ceiling legislation to the congressional budget process. This legislation would take the utility out of accounting gimmicks and measure progress on the deficit in terms of total debt. Such a mechanism would give a true picture of the Nation's fiscal condition and give us a chance to begin to work on it.

While the politicians in Washington tell the American people that the deficit is declining, I am delighted that educators such as Professor Peterson are telling the American people the truth.

Mr. President, I recommend Professor Peterson's essay to my colleagues and ask unanimous consent that it be printed in the RECORD as if read.

Mr. President, I recommend Professor Peterson's essay to my colleagues, which is as follows:

MONEY IN AMERICA

(By Wallace C. Peterson)

How about a "Truth in Budgeting" Law? Perhaps it is time to write your Senators and Representatives in Washington about this.

We have a "Truth in Lending" law, one which is supposed to tell the consumer how much he or she is really paying in interest.

Just as the "Truth in Lending" Act was designed to keep lenders honest in dealing with borrowers, so a "Truth in Budgeting" Act could keep the government honest in telling Americans what the government spends, what it collects in taxes, and the real difference between the two.

But doesn't the government do this now? Doesn't the Gramm-Rudman-Hollings Act force the government to do this?

To both of the above, the answer is No!

The government is not "cooking the books," using phony figures to describe what is going on. But it is being deceptive, using "creative" accounting to tell American citizens something less than the whole truth about the real size of the deficit.

There are basically two ways in which this is done. One is by the growing use of the so-called "Trust Funds," and the other is through "on budget" and "off budget" accounting techniques.

Let us look at the Trust Funds. There are at least 17 such funds, of which the best-known are those for Social Security and Medicare, highway building, and airport and airway development.

If we strip away the fancy rhetoric, we find that these "funds" are simply a device to enable the government to earmark money for particular purposes, such as pension, highways, or airports.

Usually the activities to be financed in connection with a particular fund are paid for by a special tax, such as the payroll tax for Social Security, gasoline taxes for highways, or taxes on airplane tickets or aviation fuel for airport construction.

Most of the time in the not-too-distant past, the income and outgo from such funds was roughly in balance. Not now. In recent years the "biggies" among such funds—Social Security and Medicare, highways, and airports—have been running sizeable surpluses.

And what happens so such surpluses? By law the government is required to "invest" such surpluses in federal securities, so money flowing into the funds but not spent immediately for the earmarked purpose winds up in the Treasury, available for spending in any way the government sees fit.

Here is where the "on-budget, off-budget" concepts enter the picture. If a fund, like the Social Security "Trust Fund," is generating a sizeable surplus, then, by all means, bring it into the overall budget. This makes the deficit look better.

On the other hand, if the trust fund happens to be running a deficit, then leave it "off-budget." Once again the deficit will look better.

To illustrate how this works, let's look at the numbers for 1989. The publicized deficit, the one that is supposed to be meeting the Gramm-Rudman-Hollings targets, was $152.1 billion, down $69.1 billion from the peak deficit in 1986. That's real progress, isn't it?

But hold on. If we take away the Social Security surplus ($41.9 billion), the real, "truth in budgeting deficit" jumps to $194.0 billion. Add in the surpluses on all the other trust funds, and the real budget climbs even higher to $204.5 billion.

The smallest "real" deficit the government has had since 1983 was $169.3 billion in 1987. Since then the "real" deficit has increased, not fallen. It is suppoed to fall in 1990, but that remains to be seen. Don't bet on it.

Whether or not Americans want to do anything about the deficit is another matter. But at the very least we ought to have straight-forward figures, not manipulated ones that make the folk in Washington look better.

Isn't it time for a "Truth in Budgeting" bill?

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

The PRESIDING OFFICER (Mr. REID). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRASSLEY. 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. GRASSLEY. Mr. President, are we in morning business?

The PRESIDING OFFICER. We are in morning business.

MOSCOW'S REJECTION OF FLIGHTS TO ISRAEL

Mr. GRASSLEY. Mr. President, I rise today to call my colleagues' attention to an article in Tuesday's New York Times. The headline reads "Moscow Rejects U.S. Pleas to Allow Flights to Israel."

Apparently, despite appeals from President Bush and the entire U.S. Senate to permit direct flights of emigrants, yet another door has been closed on the Soviet Jews.

This latest announcement throws cold water on what had been improvements in Soviet emigration policies. It also points up deficiencies in our own refugee policies, and the flawed premises on which they were based.

As I am pained to recall, this country put a limit on the number of Soviet refugees to be admitted in fiscal year 1990. We based this action on the premise that Soviet society was a safer place in which to live. As we heard our State Department say at the time that limit was put on: "Jews could always stay in the Soviet Union or go to Israel." Most of us never bought the line that staying in the Soviet Union was a real option. Now that the Soviets have said a very loud "No" to direct flights to Israel, this may become a nonoption.

Further, we took away the presumptive refugee status for Jews and other religious minorities based on only tentative changes in Soviet society. Well, today we know that anti-Semitism is growing. Threats of pogroms are circulating throughout the Soviet Union. Who among us really believes that deep-rooted religious persecution has gone away with "glasnost?"

In another major policy change, under the leadership of our State Department, we closed the Vienna-Rome pipeline for refugee processing. This shift was based on the false premise that processing would be more efficient in Moscow and that more Jews should go to Israel as opposed to the United States.

Now, unfortunately—but predictably—lines in Moscow for applications are longer than ever, backlogs for interviews are deeper than ever, and denial rates are higher than ever.

Then, even if an applicant is lucky enough to get refugee status, he will wait months before he is able to leave the Soviet Union.

As an advocate for freedom of choice, I may have differences with some of the advocacy groups that believe Soviet Jews should be resettled in Israel. But the bottom line is that today, Soviet Jews are not going anywhere due to a combination of United States and Soviet policies. And this bottom line means that Soviet Jews are trapped in the Soviet Union.

The New York Times article should raise concerns about our own policies. It is time to reexamine the premises on which these policies were based. Frankly, this latest development only confirms the doubts that I have expressed from the day our policies were announced.

We must also take this opportunity to inform the Soviet Union that this latest move operates as yet an additional obstacle standing in the way of waiving Jackson-Vanik.

Our work is not complete in zealously pursuing the issue of human rights and emigration with the Soviets. Now, more than ever before, we must open our doors to Soviet refugees while we still have a chance to do so.

Mr. President, I ask unanimous consent that a copy of the article from Tuesday's New York Times be printed in the RECORD.

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

[From the New York Times, Feb. 20, 1990]

MOSCOW REJECTS U.S. PLEA TO ALLOW FLIGHTS TO ISRAEL

(By Robert Pear)

WASHINGTON, February 19.—The Soviet Union, under heavy pressure from Arab countries, has rejected an appeal from the Bush Administration to allow direct flights for Soviet Jews from Moscow to Israel, Administration officials said today.

American and Israeli officials said that in the absence of such flights, thousands of Soviet Jews were in effect trapped in the Soviet Union at a time of rising anti-Semitism.

About 4,600 Soviet Jews emigrated to Israel last month, mostly through Budapest. Officials say there are not enough flights from Moscow to Budapest for all who want to leave. Emigration would total 10,000 to 12,000 a month, they add, if direct flights were available to Israel.

CHAGRIN IN WASHINGTON

The Soviet position against direct flights is somewhat embarrassing to the United States. Washington restricted the admission of Soviet Jews and shut down a migration route known as the Vienna-Rome pipeline in October on the assumption that Jews would be able to leave the Soviet Union with little difficulty.

Aeroflot and El Al signed a commercial agreement in early December providing for direct flights from Moscow to Tel Aviv, but the Soviet Union has withheld the political approval needed to carry out the agreement.

In remarks to the Commonwealth Club in San Francisco on Feb. 6, President Bush said Moscow could play a useful role as "a catalyst for peace in the Middle East" if it allowed "direct flights for Soviet Jews wishing to leave the Soviet Union to go to Israel."

MOSCOW GIVES NO TIMETABLE

Secretary of State James A. Baker 3d told Soviet officials later that they should comply with the airline agreement and allow direct flights, but Moscow says it is unable to do so now, a State Department official said. He said that Soviet officials gave no indication of when, if ever, they might permit such flights.

In the last two weeks, the Soviet Ambassadors to Syria and several other Arab countries have said there were no plans for direct flight.

Moscow's refusal to permit direct flight slows but does not stop the migration of Soviet Jews, whom Israel is counting upon to bolster its strength.

Arab Governments, including those in moderate countries like Egypt and Morocco, have denounced the Soviet Union for relaxing emigration rules. The Arabs assert that Soviet Jews who settle in the West Bank and the Gaza Strip would tip the demographic balance and trample on the rights of Palestinians already living there.

The Bush Administration believes that further settlement of the occupied territories represent an obstacle to peace. But Israel says that few Soviet Jews have settled in the territories.

"While the United States advocates the right of Soviet Jews to leave the Soviet Union, it is not able to take all those who want to come to this country," said David A. Harris, a Washington representative of the American Jewish Committee. "Consequently, the U.S. feels an obligation to facilitate their movement to Israel, which actively welcomes them. There is a greater sense of urgency to get Jews out of the Soviet Union as quickly as possible because of the growing specter of anti-Semitism."

Phillip A. Saperia, assistant executive vice president of the Hebrew Immigrant Aid Society, said that "with instability in the Soviet Union, the need for direct flights is greater than ever."

For years, the United States automatically granted refugee status to Soviet Jewish applicants on the assumption that they had "a well-founded fear of persecution" in their homeland. In late 1988, the United States began to deny such status to some Soviet Jews.

In the past, many Soviet émigrés with Israeli visas traveled to Vienna or Rome, then changed their destination to the United States. On Oct. 1, the United States moved to end the use of way stations in Vienna and Rome. After that date, it said, "those who wish to take up permanent residence in the United States must apply at the American Embassy in Moscow."

U.S. CEILING OF 50,000

President Bush has set a ceiling of 50,000 on the number of Soviet citizens who can come to the United States as refugees in the current fiscal year, which began Oct. 1. But at least 100,000 would seek admission to this country if they felt they could succeed, American officials estimate.

Confidential State Department documents show that the new policy was based on the premise that there would be "direct charter flights to Israel" from Moscow. Such flights have not materialized.

All 100 members of the United States Senate have signed a letter appealing to the Soviet President, Mikhail S. Gorbachev, to allow direct flights to Israel. "We are ad-

vised that two, or perhaps even more, 747 flight per day can be arranged once this signed agreement between Aeroflot and El Al is implemented," the letter said.

The bottleneck appears to be the result of logistical problems and Moscow's political sensitivity to Arab complaints. Yuli M. Vorontsov, a Soviet First Deputy Foreign Minister, declared on Jan. 29 that people leaving the Soviet Union should not be used "to push Palestinians off land belonging to them."

It appears that Moscow wants to retain some control over the flow of Soviet Jews, even as it gets credit from the United States for permitting freer emigration. Israeli officials and Soviet refugee groups say that it takes up to a year for Soviet Jews to get seats on flights leaving the Soviet Union.

MONTHS TO GET AN APPOINTMENT

In addition, they said, it takes several months for Soviet citizens to get appointments at the Soviet office that issues exit permits, and it takes six or seven months for them to arrange for the shipment of their baggage and personal property out of the Soviet Union.

Israel says that 71,196 Soviet Jews left the Soviet Union last year, far more than the previous high of 51,320 in 1979. Of the 12,056 who went to Israel last year, less than 1 percent settled in the occupied territories. But Prime Minister Yitzhak Shamir of Israel set off a torrent of criticism when he suggested on Jan. 14 that he wanted to hold onto the West Bank and the Gaza Strip as homes for new Soviet émigrés.

Senators Bob W. Kasten, Republican of Wisconsin, and Patrick J. Leahy, Democrat of Vermont, recently introduced a bill to provide $400 million in loan guarantees to finance construction of housing in Israel for Soviet émigrés. Israel requested such aid in September.

Mr. Leahy said that American aid agreements with Israel routinely prohibit the use of American funds to establish settlements in the occupied territories. But White House officials say that Israel can use money from other sources to build housing for settlers in the territories.

King Hassan II of Morocco declared in a recent speech that "the nightmare of Soviet Jews' emigration to the occupied territories, haunting the Arab nations, is considered a catastrophe."

In a debate in the Israeli Parliament last week, Mr. Shamir said: "The Government has no specific policy of directing immigrants to Judea, Samaria, and the Gaza Strip, just as it is both incapable of preventing immigrants from opting for living in those places and is unwilling to do so. Every immigrant is free to choose his place of residence as he pleases."

THE AVENUE OF THE SAINTS PROJECT

Mr. GRASSLEY. Mr. President, I rise again today to discuss one of the most important transportation projects for the Midwest United States that has come on the maps of highway planners in many, many years. Moreover, this project will enhance the transportation needs not only of the Midwest, but also of the entire United States.

The project I refer to is called the Avenue of the Saints. This highway project is referred to as the Avenue of the Saints because it will connect St. Paul, MN, and St. Louis, MO.

There are existing interstate links going from St. Louis to Chicago and Kansas City, from the Twin Cities to Chicago and Kansas City, from Chicago to Omaha, and from Chicago to Kansas City. But there is a missing link in this Midwest transportation network and that missing link is this projected Avenue of the Saints.

At the present time, a study committee that involves the States of Missouri, Minnesota, Iowa, Illinois, and Wisconsin is determining the location of the route. There are now, after considering probably dozens of routes, four potential routes to choose from.

These routes, No. 1, would be St. Louis, up the Illinois side of the Mississippi River, to the Quad Cities through Illinois, parts of Wisconsin, and northwesterly to St. Paul.

The second route from St. Louis to the Quad Cities, and then westward on Interstate 80 to Cedar Rapids, IA, and north at that point to St. Paul.

And then two other routes that are exactly the same in the southern portion, from St. Louis through Missouri, southeastern Iowa, and then north at the end of Interstate 380 to St. Paul. Or another link from the end of Interstate 380 to Interstate 35, and then north to St. Paul.

These four routes were determined out of all the routes that were considered after a very exhaustive study. Numerous considerations were factored into these determinations: The impact on national, regional, and State economic development; funding feasibility; the status of existing highway routes; traffic demand; and of course environmental concerns.

The Avenue of the Saints study committee will be making a decision on a final route. In other words, they are going to pick one of these four routes still in the running on or near March 1. The study committee will submit its decision to the Federal Highway Administration, and the Federal Highway Administration in turn will report to Congress by May 1 of this year concerning funding options for this project.

I want to take this opportunity to urge the Federal Highway Administration to move expeditiously and positively toward an early completion of the Avenue of the Saints. I would also like to take this opportunity to urge my colleagues here in the Senate as well as in the other body, specifically those on the appropriate authorization and appropriation committees, to take a serious look at the Avenue of the Saints project, because I believe that it will be a vital part of our Nation's transportation future, or at least for now I believe that it ought to be a very important part of our Nation's transportation future.

A lot of people in the Midwest have worked for many years for this highway, the Avenue of the Saints. They have worked very hard for it to become a reality. I would like to salute their efforts. I am cautiously optimistic that the Avenue of the Saints will soon be more than just a dream.

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. WILSON. 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 INTIFADA

Mr. WILSON. Mr. President, I rise to share with my colleagues a very revealing article that appeared in the Wall Street Journal of February 21, 1990; yesterday. It was written by Steven Emerson. Mr. Emerson was formerly an editor of U.S. News & World Report.

It is entitled, "The Intifada You Don't See on Television." As that title would imply, the thrust of the article is that the television coverage to which American audiences have been exposed on the subject of the Intifada, or the so-called uprising against the occupation of the West Bank in Israel, has been something less than the total coverage which the author thinks should have taken place. The subhead, I think, perhaps makes the point. It reads, "In the 150 stories filed by U.S. networks from the West Bank last year, only half a dozen focused on Palestinians killing other Palestinians."

Mr. President, this is truly fascinating and, frankly, a deeply disturbing article. Let me read just selected portions.

Nearly one-third of all Palestinians killed last year in the West Bank and Gaza were murdered by fellow-Palestinians. Palestinian death squads roam the West Bank and Gaza, torturing and executing not only "collaborators," but also political rivals, moderates, criminals and women they consider promiscuous. The annual human rights report the State Department scheduled for release today might be expected to mention these facts. It does not. While the report devotes some 13 detailed pages to Israeli human rights abuses, it can spare just four paragraphs for Palestinian human rights abuses.

Perhaps the State Department has been watching too much television. It is from television that most Americans get their image of the intifada. And the U.S. networks have been complicit in a massive deception about the West Bank conflict.

Mr. President, that is strong language. Everything that I have read is a quote from Mr. Emerson's article. Some would say that it is a harsh judgment, not only of American televi-

sion but of the State Department's report. I submit that Mr. Emerson knew what he was saying and said what he intended to say because he thought that it was long overdue, that it was necessary for the American people to more fully become acquainted with the truth, as he was observed. So in order to make his point he continues:

U.S. reporters have acquiesced in Palestinian control over what gets filmed.

I repeat:

U.S. reporters have acquiesced in Palestinian control over what gets filmed.

And then he quotes Amos Aynor, an Israeli crewman who has worked for CBS. Mr. Emerson attributes this statement to Mr. Aynor:

Fundamentalist groups never allowed us in certain areas in Gaza.

Referring to another Israeli cameraman who has worked for United States networks, Tali Godor, Emerson cites this quotation which he describes accurately as being "even more blunt."

Every time a crew came to film the Palestinians, the rule was "Once you are here, you will cover what we want. You will not dig too much."

Mr. Goder went on to say:

We know that if we aim the camera at the wrong scene, we'll be dead.

According to Mr. Emerson:

These apprehensions are not unrealistic. A November CBS story about death squads in the Arab town of Nablus was one of the few television pieces to show the reign of terror imposed by Palestinian gangs.

This is an additional excerpt from this article:

If reports of threats by Palestinian gangs against a network's own crew are not newsworthy, it is perhaps unsurprising that other sorts of Palestinian violence have been ignored. Since the beginning of the uprising in December 1987, more than 175 Palestinians have been killed by fellow Palestinians. More than 25 have been burnt to death; another 20 have been strangled, lynched or suffocated; and others have been decapitated, dismembered and otherwise mutilated. More recently, the ears of "collaborators" have been cut off. Israeli soldiers have killed 25 Palestinians in Gaza since September.

While Palestinian gangs have killed almost double that number, 47.

Mr. President, in a further indication of the seriousness of the omissions in U.S. television coverage, Mr. Emerson cites the concern of Amnesty International:

Amnesty International found the killing of Palestinians by other Palestinians so disturbing that in November it issued a strong condemnation of the "killing of alleged collaborators," noting that many had been interrogated and tortured—

That is the language of the Amnesty International—

"interrogated and tortured" by "special squads of Palestinians." Furthermore, Amnesty said, "Palestinians leaders have endorsed or failed to condemn the killing of collaborators."

Documents intercepted by Israeli intelligence—and whose authenticity has been confirmed by Palestinians themselves—indicate that the Palestine Liberation Organization approves and directs the killings of other Palestinians.

I simply say by way of a side comment that it is no wonder that the Israeli Government, the coalition Government is insistent that they not negotiate directly with the PLO.

But I think it is not just interesting, but it should be a point of considerable focus of attention by American policymakers and by the American public in general that documents whose authenticity have been approved by Palestinians themselves make it clear that it is the PLO that has been behind this directed killing of Palestinians by Palestinians and their purpose, it seems, is quite obvious: They do not wish collaboration, as they term it, or cooperation in the kind of elections that would bring about new Palestinian leaders, those elected by those who are residents in the West Bank, to engage them in negotiations for what would be full autonomy, saving only the reservation by the Government of Israel of the right to have a sufficient military presence in outposts to guarantee the safety of the entirety of the State of Israel.

Let me continue briefly with Mr. Emerson's article:

While Palestinian political terror on the West Bank fails to make the news, utter fabrications about Israeli brutality are reported uncritically. At the beginning of the intifida, for instance, the U.S. networks were called to el-Mokkasad hospital in Jerusalem to film a dying 15-year old Palestinian boy named Ramiel Aluk. His Palestinian doctor showed the boy hooked up to life-support tubes, and claimed that he had been savagely beaten by Israeli troops.

The networks gave the story wide publicity. On Feb. 8, 1988, Peter Jennings introduced ABC's piece by announcing, "In the Middle East today, United Nations officials say that the Israelis have beaten another Palestinian to death in the occupied territories." CBS said the boy had "received a blow to his head," and then quoted his doctor: "I think he will die soon." NBC reported on a "doctor's helplessness and a father's despair as his 15-year-old dies of head injuries received in a riot."

But the story wasn't true.

According to the pathology records of Rami's autopsy and other medical records, the boy died of a cerebal hemorrhage caused by high blood pressure. He had been sick for more than a year.

Another example is the story of Amjad Hissein Jabril, a 14-year-old Palestinian-American. He was found shot to death in El-Bireh on the West Bank last August. CNN quoted Palestinians charging that the boy had been lost with Israeli soldiers. When his body was found, it showed signs of torture and mutilation.

Despite the army's denials, the State Department pressured the Israeli government into a formal investigation. The family refused to turn over the corpse, so the army exhumed the body. An independent Scottish pathologist selected by the boy's family performed an autospy. No evidence was found of any torture whatsoever. Amjad had died of a single gunshot wound in the back—from a low-calibre, low velocity gun. The Israeli Army regularly uses military high-velocity rifle bullets and high-calibre pistols.

The autopsy records for these and other Palestinian killings are kept in the Institute for Forensic Medicine, in Jaffa. After reviewing a number of reports, I asked its director Dr. Yehuda Hiss whether any American reporters had ever come to interview him. "None." Even human rights organizations have not bothered to ask for his files. The International League for Human Rights sent two lawyers to interview him on an investigation into Israeli brutality. But, Dr. Hiss said, "they came without any lists or names and left after an hour."

The networks prefer to get at truth by more dubious means. In the past year they have handed out at least 15, and perhaps as many as 25, Super-8 video cameras to Palestinians. These "cameramen" make their videos on their own and provide the networks with footage of riots, strikes and funerals. The cameras, according to a senior American television newsmen "were distributed to the Palestinians on the basis that they bring us action. But I would be lying to you if I didn't admit that the whole thing makes me feel uneasy."

Asked about the practice of providing videocameras to Palestinians, ABC spokesman Scott Richardson said, "ABC will not confirm or deny that we give our cameras to Palestinians. However our general policy in the world is that from time to time, we have given out equipment to local citizens for safety, legal or political considerations."

Mr. President, the fact is that except for Eastern Europe, where fewer than five such cameras were given out and each for only a limited period, the networks have distributed cameras nowhere else in the world.

Because few if any American television journalists speak Arabic, it is only natural that the networks seek out Palestinians who speak the language and who can help supply stories. But according to Israeli court records, many of the Palestinian journalists on staff or consultants to the American networks are active participants in the Intifada. There is absolutely no way to insure the authenticity of what is filmed nor is there any way to stop the cameras from being used as a tool to mobilize a demonstration.

Now, strict guidelines have in fact been laid down by some of the networks. CBS in their Production Standards is one that has laid down such guidelines, but from the testimony of eyewitnesses it seems that these guidelines are observed in the breach.

Mr. President, I think it is worth the time of my colleagues to read in its entirety this article by Steven Emerson, former editor of U.S. News & World Report, because it casts in a very different light the actual facts and certainly the coverage given to those facts by U.S. television networks on the subject of the Intifada. The Intifada that we have not seen on television is the Intifada that has been directed and orchestrated by the Palestine Liberation Organization. I think

that when 150 stories are filed by U.S. networks in a single year from the West Bank, there is something terribly wrong when less than half a dozen focused on the killing, the rampant killing of Palestinians by other Palestinians under the direction of the PLO.

So I hope, Mr. President, that my colleagues will give the kind of attention to this story, which is abundantly documented, that it deserves. I also hope, Mr. President, that hereafter the networks will observe the kind of stringent standards on news reporting that will assure objectivity and fairness.

They are not perfect. They are required to operate under duress in difficult circumstances but, candidly, there is no excuse for a record of this kind—150 stories filed, half a dozen focused upon Palestinians killing other Palestinians. Mr. President, that is not balance. It is not good journalism. It is not fair and accurate coverage, and it will inevitably lead to a distorted view on the part of the American people as to what has actually been going on for these past several months of the Intifada.

Mr. President, I thank the Chair for its courtesy.

HUMAN RIGHTS VIOLATIONS IN CUBA

Mr. MACK. Mr. President, I want to take just a moment to raise in essence another human rights issue, the violation of human rights on the island of Cuba. I had intended to offer an amendment today, or propose a free standing resolution, but it appears I will not be able to get that to the floor today. It is possible we may be able to work out some of the parliamentary procedure before the day is concluded.

But I wanted to mention two points. One, the resolution that I am going to offer asks the United Nations to take a more aggressive stand in investigating human rights violations in Cuba. If we do not get that finished in today's business, I am hopeful that I can bring it up next week before the U.N. Human Rights Commission votes on this issue, which is, I believe, on March 7.

Borrowing on an idea that developed last year in the Baltic States, the concept of a chain of democracy, people standing hand-to-hand stretching many miles to bring to the attention of the world the need for people to enjoy individual freedom, an organizing committee in Miami has developed a similar chain that will run from Miami down to Key West, and that will take place this Saturday. Once again, you might say free Cuban Americans are trying to raise the issue of the need for liberty on the island of Cuba and as a result have sent me a letter which I ask unanimous consent to have printed in the RECORD.

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

CHAIN OF DEMOCRACY

To the People of Cuba:

The Cuban exile community wishes to convey to the Cuban people on the island their solidarity with their struggle to obtain liberty for Cuba and their support of the individual and collective efforts of all those who struggle daily while trying to attain this goal, as was done by the father of our country during the wars for independence.

At this historic moment when people living under dictatorships evidence their desire for freedom while trying to democratize their governments and institutions, we demand that the Cuban people join the assembly of the free nations of the world.

We dedicate the chain for democracy, made up of thousands of Cubans and brothers from other lands, to those on the island of Cuba who suffer under the Communist tyranny.

For a free, democratic and sovereign Cuba!

The Organizing Committee of the Chain for Democracy.

Mr. MACK. I will just make a comment or two from the letter:

The Cuban exile community wishes to convey to the Cuban people on the island their Solidarity with their struggle to obtain liberty for Cuba and their support of the individual and collective efforts of all those who struggle daily while trying to attain this goal.

I think it is appropriate to conclude my remarks by saying I think all of us were impacted yesterday by the message of President Havel of Czechoslovakia when he talked about the significant point of the spirit of man, the realization that maybe we have focused too much and too often on the side of scientific and economic expansion but not enough attention is paid to the spirit of man. When he referred to Abraham Lincoln's words about the family of man—and frankly the words we heard today on the Senate floor, whether that be on the resolution brought up earlier or whether it has to do with the comments of the Senator from California or whether it has to do with the comments that I raise now with respect to human rights violations in Cuba—I think the world is beginning to understand that we are in fact a family of man and that we should be working together to protect the basic rights of all individuals in all countries throughout the world.

Thank you, Mr. President.

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

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

COMMENDING MILITARY AND CIVILIAN PERSONNEL IN CALIFORNIA FOR THEIR ASSISTANCE FOLLOWING THE LOMA PRIETA EARTHQUAKE

Mr. WILSON. Mr. President, I rise today with heartfelt gratitude to publicly commend and record the extraordinary efforts of our military and civilian personnel stationed at California's Moffett Field, Onizuka Air Force Base, and California's Air National Guard at Moffett Field, in the aftermath of the Loma Prieta earthquake which, on October 17, 1989, inflicted devastating destruction over a large portion of northern California.

On February 24, 1990, over 800 courageous and valiant men and women of America's military forces, and civilians serving aboard military bases, will be honored by a grateful civilian community in Santa Clara County, CA, for their individual and collective contributions to the earthquake relief effort and for their exceedingly generous assistance to the people of California.

Our military personnel aboard Moffett Field and Onizuka Air Force Base and the National Guard Unit at Moffett Field mobilized instantaneously following the earthquake and with dedication beyond the call of duty, began rescue and relief assistance throughout San Francisco and the surrounding communities.

Aiding local fire and police departments, the California Highway Patrol, the Salvation Army, and the American Red Cross, these men and women worked around the clock to help reestablish communications, evacuate the injured, fight fires, control crowds, establish food and clothing banks, erect temporary housing, man emergency kitchens, and act as translators for non-English-speaking residents. Moffett Field personnel became central to the relief efforts, coordinating the visits of President Bush, Vice President QUAYLE, and the host of congressional and official dignitaries who visited the earthquake site in the days following this disaster, as well as coordinating the airlift of vital supplies to the disaster areas.

Beyond such invaluable contributions, the families of these military personnel donated food and clothing, coordinated distribution of these items, opened their own homes to those whose homes were destroyed by the earthquake, and demonstrated a remarkable personal commitment to their California community.

We Californians are privileged to have such splendid and caring military personnel in residency in our State. Our military families have traditionally been exemplary neighbors who have enriched our communities with their sense of civic responsibility and commitment. In the case of the Loma Prieta earthquake, they demonstrated

the best of this tradition of community service, and extended a compassionate helping hand to their fellow man in acts of courage and selflessness which will long be remembered and deeply appreciated by all the people of California.

I am privileged to honor these sons and daughters of America in this Chamber of the U.S. Senate and to submit their names to the CONGRESSIONAL RECORD to forever preserve the sterling assistance they freely gave to my fellow Californians during a time of great crisis and need.

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

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AC2 Dawn M. Anderson
AC2 John P. Armenta
ETC Felipe M. Bagkus, Jr.
ABE2 Tyrell Baker
ET2 Lori K. Bessette
AC2 Kimberly A. Brunyansky
AMS3 Elizabeth C. Campbell
LCDR William A. Carpenter
ABHCS Ivan G. Colbert
ABH2 James M. Carter
CWO4 William F. DeBerg
AC2 Katherine E. Driggers
AOAA Rachel A. Durst
ET1 George H. Emerson
AC2 Vicki D. Eck
ACAN Steven C. Eastlick
ABH2 Byron Forslund
ACCS Theil B. Fowler
ACAA Jeffrey A. Friesner
AOC George G. Gange
ABH1 Thomas C. Gatlin
AC2 Reginald P. Graf
ET2 Bruce G. Giddings
AC3 William R. Garlinger
LT James Q. Henderson
ETC William J. Horan
AC1 Robert M. Haas
AC2 Phil A. Howard
ABH2 Carlton B. Heard
ABE2 Jimmy L. Hoggatt
ABE2 Eddithorn K. Jacobs
ET2 Vicki L. Johnson
AC3 Christopher E. Khan
AC3 Charles E. Koch
AC3 William T. Keyser
ABHC Ernest M. Linayao
AC2 Hidee R. Larson

ET2 Christopher J. Laporte
AC2 Brian T. Lund
ET2 William H. Lysinger
AC3 Trieu Q. Luu
ABH2 John L. Marcella
ET2 Dale A. McCrary
ACAA Angela M. McClure
ACAA David A. Michaud
ET1 Vance S. Nixon
ET3 Debbie L. Norman
AC2 Brian M. Palay
AC1 Iain G. Palmer
AC3 Celeste R. Parks
AC3 Dawn M. Pedone
WTSN Robert W. Pegg
ETC Gordon R. Perry
ACC Robin J. Rose
AE3 Kathleen G. Rapley
ACAN Christopher A. Roberts
OS1 Alberto B. Silvas
ABH2 Robert L. Scholl
AC2 Robert W. Staats
ACAN Cameron A. Seferovich
AOAN Olga L. Sierravalentine
ABE1 David Stringham
ACAA Nicholas M. Sulkowski
AO3 Ronald E. Teague, Jr.
AO1 Kevin E. Taylor
AC1 Kenneth R. Thompson
AN Deberah J. Tedesco
ABH2 Delaine E. Virtucio
ET1 Kimberly J. Walter
ETC Desi D. Ward
CWO2 Michael W. Wasmund
ABH1 David G. Watson
AC1 Denise A. Williams
ET3 Michael A. Williams
ET1 Sheila K. Williams
ET2 Gregory S. Wilson
AC2 Shawn L. Woodward
AC3 Cynthia A. Werner

PATROL SQUADRON FIFTY, FPO SAN FRANCISCO 96601-5923

AR Laura N. Achowicz
AA Mager L. Anthony
AR Sheila J. Cannady
PC3 Susan L. Fibberson
AT2 Curtis W. Keely
AN Manal M. Lewis
MSSA Jerry E. Mask

PATROL SQUADRON THIRTY-ONE, NAS MOFFETT FIELD 94035-5000

AE3 Stephen Azaroff
AME3 Cory H. Carlson
AT3 Nicholas J. Cromwell
AXAA Robert C. Enstrom
AT3 Dennis G. Farquhar, Jr.
AOAA Teresa D. Groover
AT3 Kimberly G. Haxton
AEAA Jeffrey G. Hilliard
AO2 Keith A. Hutchinson
AT3 Judith L. Kennedy
AX3 Michael J. McBurney
ATAA Jonathan R. McCullough
AWAA Scott C. McDonald
AX3 Salvador Morales
AR John P. Murray
ATAN Michael D. Panos
AOAR George L. Pevarnik, Jr.
AOAA Michael A. Polanco
AWAA Michael W. Rutt
AMSAR Tracy J. Seaman
AO3 Frederic P. Swiridoff
AOAA Mark A. Taormina
DP3 Dennis D. Thimsen
AE1 Sharon L. Vail
AOAA Rita M. Vallesillo
AWAA David M. Vanleuven
AOAN Scott A. White
AMHAN Carol R. Wolfe

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PNCS Faia P. Aliifua
AG1 Belino C. Guzman
AMHC Dimee V. Santos

PATROL SQUADRON NINETEEN, FPO SAN FRANCISCO 96601-5911

AO1 Frank Thomas
AT1 Donald Warriner
PNC Carlos Murillo
LCDR Michael Hansell

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MSGT Joseph Bersack
MAJ Steve Borochoff
CAPT Larry Bouchard
SSGT Doreen Brewer
SMSGT Robet Busch
SSGT Russel Cagle
SGT Richard Deschaine
CAPT Richard Dimmel
LTCOL Robin Ericson
CAPT Karolen Fahrni
MS. Nancy Grube
SRA Tim Heckathon
LT Tim Hogan
TSGT Daniel Johll
CADET Gregory Lynch
CAPT Joseph Martel
SSGT Jeffery McAlister
SGT Edwin Medina
CADET Daniel Potas
CAPT Beau Pottorff
MAJ James Puhek
CAPT Linda Puhek
SGT Francisca Reardon
TSGT Roger Renner
SGT Sherri Rupley
MAJ William Savey
A1C Eric Scherer
SSGT Floyd Shokely
A1C John Stark
A1C Michael Stewart
SSGT Armando Suarez
SRA Douglas Sweeney
COL Lars Vedvick
SRA Thomas W. Miller

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Mr. Bob Barrett
Ms. Carolyn Batwinis
Mr. Edmund Beauchamp
Mr. Pedro J. Betancourt
Ms. Gwendolyn D. Brantley
Ms. C.Ann Broomes
Mr. Ted Brown
Mr. Benjamin R. Bryant
Mr. Charles H. Cardwell
Mr. Rocci T. Caringello
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Mr. Dominic J. Civiletti
Mr. Larry G. Clark
Ms. Melissa A. Clyne
Mr. John J. Cox
Ms. Elise C. Craugh
Mr. Salvador V. Cruz
Mr. Earl Daniels
Mr. Bill R. Dawson
Mr. Roberto R. Delacruz
Mr. Charles F. Derrossett
Ms. Suzanne M. Doherty
Ms. Janet M. Etheridge
Mr. Matthew G. Fairbairn
Mr. Darryl K. Fields
Mr. Richard J. Geiser
Ms. Karen Gershanov
Mr. Collen G. Granero
Mr. Jesus D. Guerrero
Ms. Sandra Harrell
Mr. Milton Heimlich
Ms. Della Ivey
Mr. John E. Johnson
Mr. Johnnie L. Johnson
Mr. Richard H. Jones
Mr. Walter K. Laidler
Mr. Lloyd T. Losinger
Ms. Anne McMillin
Mr. Rodolfo S. Panelo
Mr. Donald E. Payne
Mr. Benjamin J. Pleasant
Mr. Albert Putney
Ms. Mary Quigley
Mr. Pedro D. Santos
Ms. Mary Scheibley
Mr. Larry D. Schmidt
Mr. John R. Shackleton
Mr. Dennis Sorci
Mr. Ronald Summers
Mr. Alonzo Toles
Mr. Elvin Tyler
Mr. Peter H. Wasserburger
Mr. Keith Williams

MEMBERS OF THE 129 AIR RESCUE GROUP WHO PARTICIPATED IN THE EARTHQUAKE EFFORT

ARG—Air Rescue Group
ARS—Air Rescue Squadron
CAMS—Consolidated Aircraft Maintenance Squadron
RMS—Resources Management Squadron
MSF—Mission Support Flight
MSS—Mission Support Squadron
CES—Civil Engineer Squadron
SVF—Services Flight
HOSP—Hospital
AFRES—Air Force Reserves
TNANG—Tennessee Air National Guard

AIR RESCUE SQUADRON

TSGT Don M. Allie
CAPT Bruce A. Apkarian
SSGT Troy Arce
CAPT Douglas K. Bawden
MAJ Gregory A. Bose
MSGT Gregory M. Caeton
TSGT Timothy J. Carazo
1ST LT Archie C. Carrico
SSGT Sean G. Casey
SSGT David W. Cruz
TSGT Ernest Delli Gatti
TSGT Rodrigo Dezubiria
MAJ John W. Duncan, Jr.
SMSG David M. Dunlap
CAPT Catherine Ederington
TSGT Victor J. Ferrera
SSGT Sandra M. Fish
MSGT Dale B. Fitzgerald
1ST LT Darwin K. Foote
A1C Frederick R. Foote
MAJ Brian E. Foss
MAJ Donald M. Graham
SSGT Daniel Greenawalt
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TSGT Philip T. Harris
LT COL Philip N. Henry
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SRA Lance T. Hinkley
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LT COL John E. Iffland
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MSGT Lee A. James
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SSGT Daniel A. Lapostole
LT COL Thomas J. Laut
AB Michael E. Lecy
MSGT Stuart H. Loux
MAJ Kenneth M. Lowen
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MAJ Michael J. Martini
SSGT Richard Martinsen
MSGT Mark S. McGlaughlin
CAPT Jeffrey Michelsen
SSGT James Mills

LT COL John E. Molloy
TSGT Halina D. Monczyn
MSGT David L. Morrison
CAPT James J. Mullins
LT COL James M. Newton
SSGT Christopher Nordby
CAPT John P. O'Neil
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MAJ Claude F. Roberts
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MSGT Melvin T. Schafer
LT COL Theodore Schindler
MSGT Donald L. Shanks
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SRA Keith M. Shukait
TSGT Scott R. Simpson
2D LT Michael Stasio
CAPT Glen H. Stoddard
MSGT Curtis A. Welle
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CMSGT Steven D. Wofford
A1C Christopher Young
TSG Timothy V. Young

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LT COL William P. Hagopian
CMSGT Dennis W. McKiver
LT COL Russell Padula
CMSGT David J. Rhoads
COL John L. Ruppel, Jr.

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MAJ Carlos Briones
SGT Susan Chapple
A1C Michael R. Drake
SSG Diana Marroquin
TSGT James Sullivan
MSGT Richard Ybarra
SRA Michael McMillan

MISSION SUPPORT SQUADRON

SSGT Joseph Amaro
TSGT Edward Avilla
SGT Edmond Chicoine
SGT Eric Eaton
MSGT Gilbert Gonsalves
SSGT Jon Ingalls
MSGT Mark Leyba
SSGT Richard Loomis
CAPT Kevin J. Stetson

HOSPITAL

MAJ Victoria V. King
LT COL Danilo V. Lucila

SERVICES FLIGHT

TSGT Victor A. Kottinger
MSGT George Meyerhuber
TSGT Cindy L. Miller
CAPT Marylyn A. Rios

AIR FORCE RESERVES

CMSGT Fred T. Elliott
CAPT Robert Letschin

TENNESSEE AIR NATIONAL GUARD

MSGT Douglas R. Maxsen

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TSGT Joaquin E. Aquilar
TSGT Mario Almenanza
SGT Alan Alvarez
SSGT Prem Antwine
SGT Kevin T. Baker
SSGT Ernest Belnap
AMN Andy Bentley
SGT Kathleen A. Bray
CMSGT Richard J. Butow
TSGT Randall Comstock
SRA Christopher Delaossa
LT COL Frederick Francisco
SSGT Gloria Gonzalez
SSGT Charles D.G. Grant
A1C Humberto S. Guadian
TSGT John H. Harris, Jr.
MSGT Larry K. Humpal
SSGT James C. Jarrett
SSGT Christian Jensen
SMSGT Dennis J. Korbel
MSGT Terrence L. Kuschel
1ST LT Daniel Lawrence
SSGT Johann P. Lotscher
TSGT Joe A. Love
SSGT Robyn McDaniels
TSGT Sandra A. Mishima
TSGT Tommy Montoya, Jr.
SGT Dennis Naguria
SRA Kenneth R. Orgill
SSG Daniel Perez
1ST LT Thomas Pinkerton
AMN Amando Pinpin
TSGT Joe R. Reyes
CAPT William H. Rutledge
MSGT William L. Schuppel
SGT Harold R. Smith
TSGT Gregory P. Tatro
MSGT David T. Tong
TSGT Brian Toomey
SSGT Philip D. Walton
SGT Terry Wilson
TSGT Jerome Wray

CONSOLIDATED AIRCRAFT MAINTENANCE SQUADRON

TSGT Miguel Alvarez
TSGT Walter Badertscher
MSGT Steven Beanan
CMSGT James Black
SSGT Paul Bryant
MSGT Michael Butler
TSGT David Cantrell
SSGT Timmy Chapple
SSGT Mark Collison
SGT Timothy Coppin
SSGT Wesley Craven
MSGT Alfred Curtez
SGT Shawn Daliposon
TSGT Thomas Detar
SRA Vicky Doering
SSGT Daniel Dufty
MAJ Alan Erskine
TSGT Ray Estrella
TSGT Gary Fendley
SSGT Gary Ginestra
SRA Joe Ging
TSGT Roger Godt
MSGT Edward Golmitz
MSGT James Graves
TSGT Danilo Guerrero
TSGT Gary Hallock
TSGT Ridgley Haslam
TSGT Carl Hay
SGT Claudine Herbelin
CMSGT Gerald Hitesman
SSGT Fred Hoehn
SSGT Donald Houskeeper
TSGT Hugh Howard
TSGT John Hunter
SRA Craig Ingles
TSGT Norman Jacobs
SSGT Donald W. Jefferies
TSGT Anthony Jeffrey
SSGT William Jennings
SSGT Brian Joyce
SGT Malcolm Knox
SSGT Michael Kuehl
MSGT Alfred Lagrimas
SGT Thomas Lynn
SSGT Armando Martinez
A1C John Martinez
SRA Thomas Massey
CMSGT Bobby McClure
SSGT Shawn McGrath
TSGT Javier Mendoza
TSGT Horace Mingo
SGT Luis Miranda
SGT Mark Moraes
TSGT Donna Moyer
MSGT Robert Nichols
TSGT Debbie Nordstrom
SRA Arturo Paramo
TSGT Kimberly Paul
TSGT Thomas Paul
SSGT Jack Pemberton
MSGT Uwanna Perras
SRA William Phelps
SGT Jamie Powers
TSGT Richard Pruneda
SSGT Andrew Reuther
TSGT Herman Rijfkogel
A1C Paul Rodrigues
MAJ James Rommelfanger
SSGT Jesse Rosete
COL John Ruppel
TSGT Scott Santos
A1C Steven Scaglione
SSGT Christine Schab
MSGT Michael Schmoll
TSGT Andrew Simon
SGT Kirk Skeeland
TSGT Timothy Smerdon
TSGT Johnny Smith
SSGT Charles Smutko
TSGT John Spooner
SSGT Joseph Starcher
A1C David Straughn
TSGT Rommel Struckus
MSGT James Terry
SSGT Raul Valenzuela
TSGT Vernon Vanerwegen
SSGT Mark Vanvliete
TSGT Charles Vonhofen
MSGT Bobby Walker
TSGT Wayne Watt
SSGT John Wilson
TSGT Chew Yuen

AIR RESCUE GROUP

LTC Robert B. Koenig
MAJ George W. Edmonds, Jr.
MSG Mary G. Mattox

RESOURCE MANAGEMENT SQUADRON

LTC Stephen P. Straw
MAJ Marvin G.L. Lum
CPT Arthur M. Hardee
SMS Douglas B. Sale
MSG Michael S. Bailado
MSG John D. Betz
MSG Everett E. Cooper, Jr.
MSG Charles D. Faherty
MSG Henry B. Gardey, Jr.
MSG Alex T. Mendoza
MSG Paul F. Wilkins
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TSG Dennis L. Powell
TSG David L. Ross
TSG William C. Sarow
TSG Rebecca J. Sunda
TSG Harold T. Traynor
SSG Mark E. Biernacki
SSG Steven A. Bowman
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SSG James C. Burt
SSG Weldon Coker
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SSG Earl E. Foster
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SSG Robert K. Hitomi
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SSG Jose M.R. Sinay
SSG Daniel J. Wallace
SGT Andres C. Malinao, Jr.
SGT Enrico P. Risano
SRA Henry L. Brum

SRA Kevin R. Johnson

TERRY ANDERSON

PONTIAC, MI, DESIGNATES DAY OF RECOGNITION FOR HOSTAGES IN LEBANON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 1,804th day that Terry Anderson has been held in captivity in Beirut.

I would also like to acknowledge that the city of Pontiac, MI, is designating today as a "day of recognition for the hostages in Lebanon and their families." I know that the families of the hostages are most appreciative of Pontiac's efforts to bring continued attention to the plight of the hostages, and I do hope that the city's pleas for justice do not fall on deaf ears.

SAMMY DAVIS, JR.

Mr. WILSON. Mr. President, it's my great privilege to honor Sammy Davis, Jr., in this Chamber of the U.S. Senate on behalf of all Californians.

For over six decades, the extraordinary Sammy Davis, Jr., has been an entertainer without equal. His swanlike dancing is a purely rhapsodic expression of grace, and as a singer, his richness of voice and unparalled euphony have made Sammy Davis, Jr., a national treasure. Such classics as, "Mr. Bojangles," "That Old Black Magic," and "Candy Man," have become standards of American music.

His long career contains such highlights as a Royal Command performance in London, stardom in Las Vegas, best-selling author, a multitude of recording smashes and a "lifetime achievement in the performing arts" honor from the Kennedy Center. Sammy Davis, Jr., will be bestowed another well-deserved accolade when the Professional Dancers Society fetes him for his "extraordinary contributions to dance" on April 1, 1990.

It is with pleasure that I submit this tribute to Sammy Davis, Jr., a man who continues to entertain millions of people around the world and whose legacy will remain in the hearts and minds of many generations to follow.

ONE HONEST PERSON

Mr. PRESSLER. Mr. President, rarely does a day go by when we are not confronted with another news report chronicling the flaws of the human character. Most reported news is bad news, and unfortunately, reporters do not have to look long to find it. Greed, corruption, larcency, and scandal too often provide plenty of grist for the news mill.

However, every so often, a story does come down the pike which gives one hope. Recently, while traveling my State, I read one such story in the Brookings Daily Register. Written by a fine reporter, Ms. Molly Miron, the story tells how Mr. Kermit Torgerson of Astoria, SD, reacted to receiving a check from his health insurance company for $87,729.60. Kermit had submitted a claim to the insurance company, but it was for $175 to cover the cost of some medicine he had purchased. You can imagine his surprise when he opened the envelope and found a check payable to him for a sum of money greater than any he had ever possessed in his life.

Well, Mr. President, Kermit could have cashed the check, kept the money, lived lavishly, and fulfilled a lifelong dream to travel to his Norwegian ancestral home. Kermit could have lived as a king. Such temptation could test anyone's mettle. Many would have pocketed the windfall.

But Kermit did no such thing. Rather, he immediately telephoned the insurance company and reported the error. As the company representative remarked, "There's one honest person left in the world."

Mr. President, there is probably more than one such person left in the world. However, if you were to take the views of my constituents at face value, not too many of them reside in Washington, DC. But, I can attest to there being many such persons in my great State of South Dakota. Kermit Orgerson is a typical example of the hardworking, dedicated, devoted, dutiful and honest people in my State who I have the great privilege to represent here in the U.S. Senate. I'm very proud of Kermit. His single act says a great deal about the way of life we enjoy in South Dakota.

Mr. President, so that the rest of my colleagues may enjoy the benefit of this uplifting account of the temptation of Kermit Torgerson, I ask unanimous consent that Ms. Miron's story be printed in the RECORD following my remarks.

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

THERE'S ONE HONEST PERSON LEFT IN THE WORLD—ASTORIA MAN RETURNS CHECK WITH BIG ERROR

(By Molly Miron)

ASTORIA.—When Kermit Torgerson of Astoria routinely sent his insurance company a bill for $175 for some medicine, he expected payment as usual, not an $87,729 bonanza.

"If I could have put this in savings, it would have been between $600 and $700 a month," he said. "I'd have retired tomorrow."

Torgerson, a part-time postal clerk who has worked at the Astoria Post Office for 32 years, said he has been a satisfied member of the American Postal Workers Union insurance company since 1971. On Saturday, as he was sorting the mail at the post office, he set aside his own letters and then opened the check from the APWU.

"I couldn't believe it," he said. "I thought my eye was going bad again."

His next thought was how to remedy the error. He called the insurance company and talked to the representative at APWU headquarters in Silver Spring, Md. They seemed as surprised as Torgerson to hear of the mistake. When the company finally was convinced the computer had spit out a string of wrong numbers, he said, the representatives expressed gratitude that they did not have to spend months searching for the glitch.

"They said there's one honest person left in the world," Torgerson recalled.

However, a person cannot be the victim of such a stupendous computer error without trying to get some fun out of it and dreaming a little about what it would be like to spend such an unexpected sum.

Torgerson lives with his 93-year-old father and an ancient dog named Boomer in an old house across Main Street from the Astoria Post Office. Thinking of a real five-figure windfall check, he did not immediately imagine a new big house, or even a colored television to replace his old black-and-white set. Torgerson, who has lived in the Astoria area all his life, dreams of traveling to the country of his ancestors.

"I wish I could have kept it (money)," he said. "I would have been in Norway yet this year. If I get another one like this, I'll be in Norway for damn sure, but it could only happen once in a lifetime."

IRANIAN BAHA'IS PERSECUTED

Mr. PRESSLER. Mr. President, a few years ago we heard chilling reports of the Iranian Government's execution of Iranian Baha'is, including women and teenagers, whose only crime was their religious belief.

According to representatives of the American Baha'i community, more than 200 Baha'is have been executed in Iran since the Islamic regime took over in 1979.

I have supported previous congressional appeals for the religious rights of Iranian Baha'is, and am pleased to cosponsor Senate Concurrent Resolution 53, which calls for the emancipation of the Baha'i community.

American Baha'is tell us that the resolutions which we have adopted, together with other international appeals, have helped persuade the Iranian Government to moderate the worst aspects of its religious persecution. It is encouraging to know that our actions have been helpful, and that no Baha'is have been executed for the past 2 years.

But the 110,000 American Baha'is believe it is not enough to stop murdering innocent people. Though the killing has stopped, the persecution has not.

The Baha'is are denied rights that you and I take for granted. The Baha'i faith is not recognized as a religion in Iran, and individual Baha'is have no protection under Iranian law. The Baha'i community cannot choose its own leaders or hold property. Iranian Baha'is are not permitted to operate religious schools or carry on any of the normal activities of a peaceful, law-abiding religious community.

The Iranian Government has responded previously to negative publicity about its actions. It is critical that we maintain pressure on Iran. I urge our colleagues to say "yes" to religious liberty. Help the peace-loving Baha'is live in peace in Iran.

SELECTION OF DEWAYNE COOK AS THE TOP NAVY RECRUITER

Mr. GRASSLEY. Mr. President, I want to bring to your attention the achievements of a member of the U.S. Navy, Mr. DeWayne Cook. DeWayne was born and raised in Waterloo, IA, and now resides in Omaha, NE.

DeWayne was recently selected by the Navy as its top recruiter. Recruiters earn credit for each person they sign up. However, additional credit is awarded for certain extraordinary recruits, such as those who score highly on military aptitude tests. DeWayne was named the best recruiter in the Omaha recruiting district, then was named best in the entire Navy upon further review.

DeWayne Cook's achievements are even more notable when you consider, Mr. President, that 4,200 Navy recruiters nationwide were reportedly eligible for the selection as the top Navy enlisted recruiter. DeWayne, who is married and has three children, was awarded a rather large trophy from Vice Admiral Jeremy Boorda at the Navy Recruiting Command's banquet in Altanta recently.

Superiors and friends in Omaha say DeWayne has excelled at recruiting young people from Omaha's black community. Frank Peak, a coordinator of outreach services at the North Omaha Alcoholism Counseling Program, described DeWayne in the December 10, 1989 Omaha World-Herald as being "more than just a recruiter. He's like a parent to them. * * * He's a positive role model."

This country needs more role models like DeWayne Cook for young people, Mr. President. This is the case whether it concerns inner city kids, such as those in Omaha, kids living in small towns, such as Carroll, IA, or kids residing on farms across the country. I hope my remarks today on the Senate floor will further encourage others to go beyond the point of merely fulfilling the requirements of a job or of being a citizen by reaching out to young people on an individual level.

THE RISE OF ANTI-SEMITISM IN RUSSIA

Mr. WIRTH. Mr. President, I believe there are increasingly disturbing signs throughout the news media, both the United States and in the Soviet Union, about a rising tide of anti-Semitism in the Soviet Union. The economic difficulties and ethnic turmoil wrought by Mr. Gorbachev's policies are, inadvertently forming a breeding ground for resurgence of right-wing, nationalistic anti-Semitism. "Pamyat" and other organizations have vented their frustration with perestroika by blaming Jews for all the past and present problems facing the Soviet Union.

Anti-Semitic views are increasingly taking on violent forms. Members of Pamyat broke into a January meeting of Soviet writers, beat many of the participants and threatened to return with guns. Rumors are circulating that May 5, St. George's Day, has been designated for a pogrom against Jews.

While the rise of Russian anti-Semitism is not well appreciated in the West, Soviet Jews are keenly aware of this frightful trend. Many of the 70,000 Jews who emigrated from the Soviet Union last year did so to escape virulent anti-Semitism. Growing numbers of Soviet Jews will quite understandably continue to flee in fear of a pogrom inspired by Russian right-wing nationalists seeking to "de-Zionize" the Soviet Union.

Just today it was reported that Moscow prosecutors have begun criminal proceedings against Pamyat for "inciting national and racial hatred and strife." This action is a start, but we must continue to keep our attention focused on this very disturbing and quite ugly trend.

Mr. President, while visiting Moscow last month, I had the honor of meeting again with Vitalii Goldanskii, an extraordinary human being who serves as Director of the Semenov Institute of Chemical Physics of the Soviet Academy of Sciences. Over a meal in his apartment, Vitalii outlined the scope and nature of the rise of anti-Semitism in Russia. With the help of John Holdren at the University of California at Berkeley, Dr. Goldanski has written a truly frightening account of the rise of anti-Semitism which appeared in last Sunday's Washington Post "Outlook" section.

Vitalii sketches the rising tide of hatred among Russian nationalists as they try to cope with changes in their country by blaming the Jews for the October Revolution, collectivization, purges, and genocide. In spite of repeated appeals from members of the Congress of People's Deputies and distinguished Soviet scientists, the Gorbachev government has not acted to condemn or curtail anti-Semitic activities. I have joined Senator SIMON and other colleagues in writing to President Gorbachev urging him to publicly condemn anti-Semitic activities. While welcome, the reported government prosecution against Pamyat cannot substitute for political leadership on this issue.

Mr. President, the positive changes which Mr. Gorbachev's policies promise to bring to the Soviet Union are regrettably accompanied by the rise of rightwing nationalists who can only make sense out of the changing times by blaming and threatening Jews.

Let me read a couple of quotes from Dr. Goldanskii's article.

He says:

> But too little attention has been given, until now, to the special dangers posed by the growing aggressiveness in the Soviet Union of extreme right-wing, virulently anti-semitic groups that seek to subvert perestroika, to blame the country's past and present problems on the Jews, and (as some of their propaganda states explicitly) to "finish what Hitler started."
>
> These extremists are flourishing in the climate of spite, envy, scapegoating and hatred associated with the increasingly severe difficulties in the Soviet economy and growing ethnic tensions."

Dr. Goldanskii goes on later in the article to say:

> Yet the monarcho-Nazis seem to be meeting no serious opposition—indeed, more often sympathy and connivance—from important party and government leaders of the U.S.S.R. It is instructive, for example, that in the platform of the Soviet Communist Party on ethnic problems published in August 1989, not a single word was said about the anti-semitic campaign against so-called cosmopolites (1949), the shooting of leading Jewish writers and artists (1952), or the disgraceful "Doctor's plot" (1953), while many other Stalin-era crimes against various nationalities of the Soviet people were scrupulously mentioned.
>
> Similarly, an appeal by more than 200 people's deputies of the U.S.S.R. to the Presidium of the First Session of the Congress of People's Deputies in June 1989, expressing concern about the "growing wave of anti-semitic activities, including open calls for violence that could lead to irretrievable consequences," went unanswered. That was also the fate of a letter written to Gorbachev on this subject by 10 distinguished scientists and writers in September 1989.

Dr. Goldanskii closes by stating:

> The stakes are high. If the monarcho-Nazis prevail and perestroika collapses in an orgy of chauvinism and racism, the results are likely to include not only a rapidly growing degree of anarchy in the Soviet Union but even the outbreak of civil war. In a country still laden with tremendous stockpiles of nuclear and chemical weapons, as well as a widespread network of nuclear power plants, such a chain of events could quickly become not just a national but an international catastrophe.

The stakes in this, for all of us, are extraodinarily great.

This afternoon we have heard a number of very eloquent appeals on behalf of human rights. The Style section of this morning's Washington Post has a long article on former President Carter and his commitment to efforts relating to human rights around the world. Like former President Carter's efforts, the efforts that we in the United States make on behalf of human rights in the Soviet Union are directly in keeping with our own fine tradition of respect for human dignity. In addition, it is also in our own basic self-interest to promote these rights, especially at a time when it would appear that centrifugal

forces are trying to tear apart the Soviet Union. Mr. President, there are 25,000 nuclear warheads in the Soviet Union. Given this fact, it is clearly in our own best interests to do everything that we can to help dampen any kind of rightwing nationalism reflected in Pamyat and virulent antisemitism.

Mr. President, I ask unanimous consent that Dr. Goldanskii's piece be printed in the RECORD.

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

[From the Washington Post, Feb. 19, 1990]

ANTI-SEMITISM: THE RETURN OF A RUSSIAN NIGHTMARE

(By Vitalii I. Goldanskii)

(The following essay represents the sharpest public criticism to date by a senior Soviet official of the growing anti-semitism in the Soviet Union. It was written by Vitalii Goldanskii, a prominent Soviet scientist and director of the Semenov Institute of Chemical Physics of the Soviet Academy of Sciences. Goldanskii is a member of the Council of People's Deputies and the foreign relations committee of the Supreme Soviet. He wrote the following essay in English, with editing assistance from John P. Holdren, a professor of energy and resources at the University of California at Berkeley.)

Supporters of President Gorbachev's perestroika are increasingly alarmed by the possibility that this program of restructuring and reforms may collapse. Should this occur—and it cannot be ruled out even in the near future—it would be a disaster not only for the Soviet Union but for all humankind.

Many of the difficulties being encountered by perestroika are well known outside the Soviet Union, as are some of the potential consequences if perestroika fails. But too little attention has been given, until now, to the special dangers posed by the growing aggressiveness in the Soviet Union of extreme right-wing, virulently anti-semitic groups that seek to subvert perestroika, to blame the country's past and present problems on the Jews, and (as some of their propaganda states explicitly) to "finish what Hitler started."

These extremists are flourishing in the climate of spite, envy, scapegoating and hatred associated with the increasingly severe difficulties in the Soviet economy and growing ethnic tensions. They are perhaps already the strongest, and certainly the fastest growing, of the divisive forces pushing the country toward bloodshed and civil war.

The extremist groups go by a variety of innocuous-sounding names, of which the best known outside the Soviet Union is the "National Patriotic Front Pamyat" (pamyat means "memory"). A number of them recently entered into a confederation under the title of "Bloc of Social-Patriotic Movements in Russia." I prefer to call them Russian monarcho-Nazis (or monarcho-fascists), to reflect their combination of deep reverence for the autocratic csarist Russian empire and ferocious hatred of Jews.

Incredibly, the Russian monarcho-Nazis openly and widely condemn the Jews as the main culprits in all of the troubles of Russia from the October Revolution of 1917 up until the present—including genocide against the Russian people in the form of the millions of Russian deaths in civil war, collectivization and various purges; destruction of tens of thousands of Russian churches and historical monuments; and spiritual poisoning of the people through the introduction of decadent and corrupt Western culture alien to Russian tradition. They even accuse the Jews of ritual murders and a worldwide conspiracy against humankind, making reference to the disgraceful hoax, "The Protocols of the Elders of Zion."

There is striking simiarity, in fact, between the views, programs and intentions of the Russian monarcho-Nazis and the original Nazi platform as laid out in Hitler's "Mein Kampf" and other infamous documents of the German Nazi period. This similarity, and the resemblance of the general situation in the Soviet Union in 1988-90 to that in Germany in 1931-33, have been publicized by progressive Soviet mass media. The newspaper Soviet Circus, for example, has printed a point-by-point comparison of Pamyat's manifesto with the program of the Nazi Party of the 1930s.

The main organization serving as a coordinator of the monarcho-Nazi forces is the Union of Writers of the Russian Federation (RSFSR). As outlets for their propaganda they have at their disposal such newspapers and journals as "Literaturnaya Rossiya" (Literary Russia), "Nash Sovremenik" (Our Contemporary), "Molodaya Gvardija" (Young Guards) and "Moscow." The leaders of this movement include many notorious writers, some scientists, some artists and others.

The Nazi-type speeches and publications of these groups are becoming routine features of everyday life in the Soviet Union. Their form and content were analyzed by Prof. Herman Andreyev from Mainz University in West German in a recent issue of the weekly magazine Ogonyok. He concluded that in Western European countries such statements would be treated as unconstitutional, the person propagating them would be called to account and the organizations supporting them would be dissolved.

Yet the monarcho-Nazis seem to be meeting no serious opposition—indeed, more often sympathy and connivance—from important party and government leaders of the U.S.S.R. It is instructive, for example, that in the platform of the Soviet Communist Party on ethnic problems published in August 1989, not a single word was said about the anti-semitic campaign against so-called cosmopolities (1949), the shooting of leading Jewish writers and artists (1952), or the disgraceful "Doctor's plot" (1953), while many other Stalin-era crimes against various nationalities of the Soviet people were scrupulously mentioned.

Similarly, an appeal by more than 200 people's deputies of the U.S.S.R. to the Presidium of the First Session of the Congress of People's Deputies in June 1989, expressing concern about the "growing wave of anti-semitic activities, including open calls for violence that could lead to irretrievable consequences," went unanswered. That was also the fate of a letter written to Gorbachev on this subject by 10 distinguished scientists and writers in September 1989.

The explanation of such passivity on the part of authorities seems quite simple. In addition to the evident sympathy of many authorities on different levels to the views of the monarcho-Nazis, others who do not sympathize nonetheless hesitate to act because of the way the growing aggressiveness of the monarcho-Nazis is linked to the bloody ethnic conflicts and intensifying separaist movements in nearly all of the outlying districts of the Soviet Union.

Specifically, this situation offers the monarcho-Nazis considerable opportunities for blackmail and intimidation of Gorbachev and his closest advisers, through the claim that, in conditions of the "decline of empire," the Russian heartland and her "genuine sons" constitute the only reliable basis for the preservation of Gorbachev's power. Such arguments are being used to push Gorbachev toward the right and to divide him from his true supporters on the left—the liberal intelligentsia. The result could be a repetition of the circumstances that produced the downfall of Khrushchev in 1964.

In parallel with their attempts to intimidate Gorbachev, the monarcho-Nazis have been openly attacking his foreign policy. They even have accused Gorbachev of being an agent in the service of the CIA and the Israeli intelligence service, the Mossad. With this two-pronged strategy of intimidation and direct attack, the Russian monarcho-Nazis hope to attain either a decisive influence over Gorbachev's policies or his removal and replacement at the seat of power by supporters of their movement.

What would that mean for Soviet Jews? The answer is all too clear from the similarity of the monarcho-Nazis' program to that of Hitler. The Russian monarcho-Nazis already possess their eqivalent to Hitler's SA and SS, in the form of the Pamyat movement. This movement does not disguise its intentions to carry out pogroms against the Jews, to whom it refers using the insulting word "ahidy" (yids). In fact, members of Pamyat have been organizing well-attended meetings all over the country to call for pogroms—even in Moscow's Red Square on Nov. 12, 1989—and no one has stood in their way.

Hitler treated as Jews those who have more than one-quarter Jewish blood. Pamyat goes further. It has announced its intention to search for Jewish progenitors back to the 10th generation. New recruits to Pamyat are required to prove their "racial purity" and to provide to the organization the home addresses of five Jews—no doubt for the purposes of the pogroms to come. Opponents of the monarcho-Nazi movement who happen to be "racially pure" or "Aryan" are characterized, along with all liberal intelligentsia, as "masons" (or "zhiho-masons," i.e., supporters of Jews); and these are also the targets of pogrom propaganda.

The brazenness of monarcho-Nazi threats against Soviet Jewry has been increasing. In addition to anti-semitic rallies and the desecration of Jewish cemetries around the country, which have been going on for some time, it now seems that meetings of liberal intellectuals are no longer safe from disruption by Pamyat thugs.

On the evening of Jan. 18 of this year, for example, a meeting of the progressive "April" group of writers at the Central House of Writers in Moscow was invaded by some dozens of Pamyat monarcho-Nazis with megaphones. They roughed up some of the writers, forcibly ejected others from the hall, shouted anti-semitic slogans and announced that their next visit will be with automatic weapons. They also designated St. George's Day, at the beginning of May, for a pogrom. The police were called but took their time in arriving, and there were no arrests.

Further increases in anti-semitic activities (especially, of course, actual violence) surely will lead to a mass exodus of Jews, people of partly Jewish extraction and "racially pure"

liberal intelligentsia. This new wave of emigrants—refugees from monarcho-Nazi power—could reach several millions and would represent a serious brain-drain from the U.S.S.R.

As for the possibility of another Holocaust, it certainly could not reach the scale of earlier Nazi crimes: The world has changed too drastically in the last half century for that. But a wave of pogroms more or less along the lines of the infamous "Kristallnacht" cannot be ruled out—weaker if a government like the present one tries to oppose them, stronger if a successor government of the monarcho-Nazi stripe sympathizes with the pogrom lust.

What should be done? As a start, the world public should be informed of the activities and intentions of the new followers of Hitler in the Soviet Union and should be told their names. The famous "Brown Book" published by anti-fascists in 1933, after all, was the first important step in the exposure of the Nazi crimes of that era. Clearly, the publishers of newspapers, journals and books, and producers of electronic media, have an important role to play.

The stakes are high. If the monarcho-Nazis prevail and perestroika collapses in an orgy of chauvinism and racism, the results are likely to include not only a rapidly growing degree of anarchy in the Soviet Union but even the outbreak of civil war. In a country still laden with tremendous stockpiles of nuclear and chemical weapons, as well as a widespread network of nuclear power plants, such a chain of events could quickly become not just a national but an international catastrophe.

SOVIET ANTISEMITES PROSECUTED

Moscow, February 21—Prosecutors have begun criminal proceedings against Pamyat, a Russian nationalist group accused of antisemitism, a newspaper reported today.

Jewish groups have been demanding for years that Pamyat, a loosely knit organization with affiliates nationwide, be prosecuted for provocations against Jews.

The weekly Literaturnaya Gazeta said Moscow prosecutors are pursuing charges against Pamyat of "inciting national and racial hatred and strife." It said Pamyat was charged because of a statement published in a newspaper calling for a campaign to "de-Zionize" the country.

The Pamyat statement said: "Jews and their relatives must not be allowed to defend dissertations, to acquire knowledge and get academic titles, to join the Soviet Communist Party * * * to be elected to local governing councils [and] must not be appointed to leading party, government and other posts."

Literaturnaya Gazeta praised the prosecutor's office, saying it "realized the danger and unlawfulness of such extremist actions."

Many of the thousands of Soviet Jews emigrating to the West say they are doing so in part because of a reported rise in antisemitism. The Soviet press has carried statements from government agencies condemning people who fan ethnic strife and promising to investigate.

Mr. WIRTH. Mr. President, I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

CONTINUED OPERATION OF THE D&H RAILROAD

Mr. D'AMATO. I rise to address a critical transportation issue throughout the Northeast, that is the continued operation of the Delaware and Hudson Railroad, known as the D&H. If the Consolidated Rail Corporation, known as Conrail, has its way, the D&H will soon be just a memory, and Conrail will have a monopoly stranglehold on shippers in the region. I do not think that is right, and I do not believe that that is what Congress intended when it rescued Conrail with taxpayers' money.

As a matter of fact, the areas in New York that would be adversely affected are Albany, Voorheesville, Rouses Point, Plattsburg, Glens Falls, Corinth/Crown Point, Buffalo, and Binghamton, just to mention several.

There are more than 50 major shippers in New York State who depend on D&H service. Eleven thousand jobs are tied to these shippers, and seven captive shippers, employing several thousands of people, would close down without the D&H. Many of these firms ship hazardous materials that cannot be safely transported by truck, or materials that trucks cannot carry. About 700 railroad jobs depend on the D&H.

D&H has filed for bankruptcy, and its trustee is now trying to sell it. A bid was accepted from the Canadian Pacific Railroad subject to Conrail negotiating certain trackage rights in Hagerstown, MD. Without these rights, D&H can never be profitable. Conrail has refused, and the Canadian Pacific deal has fallen through. The Governors of New York and Pennsylvania have appealed to Conrail chairman, James Hagen, to negotiate a trackage rights agreement. I, along with other elected officials, have done the same thing. I wrote to Mr. Hagen that Congress intended Conrail to have competition and that without the needed trackage rights D&H would be broken up in liquidation. Mr. Hagen wrote back, and I quote, "If there are public policy reasons for subsidizing the D&H, it would seem appropriate for that subsidy to come from public sources."

Mr. President, I agree with Mr. Hagen. After all, Congress gave Conrail about $7 billion and exempted it from strict Federal laws, including environmental and antitrust laws, to enable it to become a strong freight railroad. Unfortunately, the Federal well for such projects has been plumbed dry.

Private transportation companies may not be responsible for safeguarding the public weal. However, the D&H's imminent demise will create a Conrail monopoly in the Northeast. Monopolies are just not good public policy, and are not good business for shippers and employees.

Conrail should be very concerned that monopoly status invites prompt Federal reregulation of rail freight rates and services provided by railroads which have attempted to limit competition, and that is what Conrail is doing right now.

With Congress' massive help, Conrail has become a multibillion dollar transportation "Goliath." Conrail should be sensitive to public policy concerns. It was created for public policy reasons. In 1976, the final system plan mapped out Conrail's system and designated the D&H as its competitor in the Northeast. The small D&H was given trackage rights over Conrail. Despite the trackage rights and financial aid, the D&H has not been profitable and has been on its knees over the last few years. A final push from Conrail will soon see it end flat on its face.

At this point, I ask unanimous consent to insert into the RECORD a copy of an article by Mr. Lamkin, Jr., which appeared in the February 20, 1990 issue of the Journal of Commerce.

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

A RAILROAD DESIGNED

(By J.T. Lamkin, Jr.)

The plight of the Delaware & Hudson Railway comes before Congress and a bankruptcy court as the result of a flawed federal attempt in the 1970s to maintain competitive rail access to the Philadelphia and New York City Metropolitan areas.

The Regional Rail Reorganization Act of 1973 created the Consolidated Rail Corp., or Conrail, as a for-profit corporation to acquire and operate rail properties pursuant to a plan of the United States Railway Association, a federal oversight agency also established by the act. Congress charged the USRA with preparing the plan for the reorganization of the Penn Central, Erie-Lackawanna and five other bankruptcy Northeast rail lines. The agency was freed by statute from Interstate Commerce Commission review, antitrust statutes, bankruptcy laws and the National Environmental Policy Act. Congress did require, however, that a competitive structure be maintained.

The Final System Plan of 1975, in addition to designating the property to be conveyed to Conrail, provided for the expansion of Chessie System (now CSX Corp.) into both metropolitan areas via the Erie-Lackawanna and two other railroads. However, in late January 1976, Chessie declined the properties it was offered. USRA officials, many of whom became senior officers with Conrail, were allowed to develop and implement a new competitive strategy while preparing for Conrail's operational start-up in April of that year.

The USRA's solution aggressively advanced by its chief executive officer, James

A. Hagen, who subsequently assumed the same function at Conrail, was to grant trackage rights over Conrail property to the Delaware & Hudson, a small railroad then operating between Scranton, PA, and Montreal, Quebec. The rights extended the Delaware & Hudson's territory to Buffalo, Philadelphia, Washington and Newark, NJ.

The USRA saddled the new "competitor" was high track rental charges, expensive operating rules and limits on traffic into New York. Most damaging, however, was the route structure over which the rights were conferred. The USRA managed to select the slowest and most circuitous routes for the Delaware & Hudson into New York and Philadelphia. In 1976 these lines may have seemed reasonable, but they condemned the railroad to failure from the start. In its 14 years, it has never shown an operating profit.

All of the groups that looked at purchasing the Delaware & Hudson out of its present bankruptcy concluded that the infusion of over $100 million by the State of New York and the Federal Railroad Administration over the past 14 years did little to improve the basic competitiveness of the railroad. Indeed, Canadian Pacific, the bankruptcy trustee's recommended purchaser, made its offer contingent upon the correction of one of the route flaws. Without such action, Canadian Pacific withdrew. One wonders what the offers might have been if a truly competitive structure were in place.

Based on figures announced by Conrail officials, Conrail controlled about 99 percent of the rail freight business in New Jersey and 95 percent of the traffic in Philadelphia in the middle of the 1980s. The gross value of the Conrail franchise in these two areas alone amounted to more than $1.5 billion in 1984 and accounted for more than 45% of the company's gross revenue that year. It is not surprising that the individuals who perpetrated this competitive sham so long ago now oppose its revamping.

Despite the Delaware & Hudson's tarnished record, the efforts of the bankruptcy trustee to maintain and correct its flawed route structure merit Congress's full support. It is long-established federal policy that competition is the best regulator. This basic precept has been the stated public policy of every recent piece of federal rail legislation. During the Conrail sale, numerous public and private officials voiced their concern that the Northeast not be deprived of competitive rail service. In fact, all demanded more and stronger competition than existed.

Following Conrail's purchase by management, the D&H embargoed its only New York-area terminal. Conrail's competition in the area, such as exists, has been provided by the New York Susquehanna and Western Railroad, a short line dependent upon its interchange with the Delaware & Hudson for non-Conrail connections to the west and north. Despite that railroad's cramped New Jersey facilities, several major international shippers, including Sea-Land, Hanjin and NYK Lines, have "voted with their feet" and left Conrail for the Delaware & Hudson-NYS&W service.

Nothing can more clearly demonstrate the market's desire for more of the competitive balance envisioned by Congress.

The market value of any railroad is tied to the size and share of the markets served. Certainly one could argue that Conrail's stock price is quite favorably affected by its large share of the New York and Philadelphia markets. A truly competitive Delaware & Hudson route structure, unfettered by Conrail-imposed operating constraints, cannot fail to increase the going-concern value of the estate.

At the time of the Conrail sale it was not in the government's economic interest to address this freak of fate. But if the Federal Railroad Administration and Congress are intent upon recovering the public money invested in the Delaware & Hudson, they should solve the basic route problems and let the market decide the worth of Conrail's "competitor."

Mr. D'AMATO. This article points out that the final system plan design for the D&H system was defective and doomed to fail. Interestingly, Conrail's current chairman was then head of the U.S. Railway Association which created this plan.

I am working with my colleagues from New York and Pennsylvania to write legislation to bring Conrail back to the bargaining table. This legislation is being drafted out of utter frustration with Conrail's intransigence.

Our constituents deserve better treatment than to be held captive to one railroad freight company without being able to bargain for rates and service. Conrail may be waiting to pick up all the marbles if the D&H is broken apart in liquidation. However, Congress should not allow "Monopoly" to become the only game in the rail freight industry. If reregulation is necessary in certain instances to protect the public interest, then this Senator will push for it to protect rail service in the Northeast.

Now, Mr. President, let me point out to you some of the major shipments that we are talking about. We are talking about coal, grain, paper products, newsprint, automobiles, chemicals, clay, salt, and food products. Also, D&H provides access into New England. It services the Port of Albany and then south into Harrisburg, PA and Potomac Yard, VA. To put this into perspective, we are talking about certain trackage rights, about 30–40 miles, which would give the Canadian Pacific an opportunity to operate a competitive railroad that would not need subsidies from the Federal Government and that would provide an opportunity for these shippers and these businesses to continue.

Let me quote to you part of a conversation that I had with Mr. William Newman, vice president of Conrail, and its Washington counsel. I told him that it had come to my attention that Conrail was not bargaining in good faith, that indeed they did not want there to be competition, that they were setting an arbitrarily high figure for the purchase of these trackage rights; I believe it was something like $90 million. In other words, Conrail is making it so expensive that no one would undertake this kind of cost.

Let me tell you what Mr. Newman's attitude was. I said that I understand the need for corporate profits, that you have to be concerned about it, but that there is also a public responsibility as well as to your corporation—particularly a corporation that was born with 7 billion dollars worth of taxpayers' money.

As an aside, let me mention that the Chairman of the Board of Conrail, Mr. Hagen, was impossible to contact. During critical periods leading up to court imposed deadlines on this matter.

Going back to Mr. Newman, this is what he said to me: "This is Conrail's railroad, and we have to do what is in the best interest of shareholders, employees and our shippers."

I told him, "Now, look, I have been misquoted many times. I want to read back to you what you just said, because I am going to go down to the Senate floor and put this into the RECORD." He said, "Yes, that is right." We went over this again. As a matter of fact, the first time he said "This is Conrail's railroad; we have to do what is in the best interest of the railroad," and expanded and said "shareholders and employees and our shippers."

It is not in the best interests of Conrail simply to force the D&H out of business. If they do, and the intended fallout is loss of jobs and productivity, and we are talking about American companies that are making it, our American citizens, brothers and sisters who are working, who are producing, then what will happen is Senators like myself and the Senators from Pennsylvania will sponsor legislation to reregulate those monopolistic railroads. Railroads which seek to dominate an entire region and have no competition and who do not give a darn about public responsibility, particularly those that have been financed by the taxpayers of this country, need special attention by Congress.

I told Mr. Newman that we are working on legislation that would do exactly that. I also told him that this Senator, along with Congressman LENT in the House and the Senators from Pennsylvania would not be adverse to introduce that legislation if left with simply no alternative but to have a monopoly.

I hope that Mr. Newman conveys the strength of my feelings and those of my colleagues in the Congress, as well as our determination to see that the people of this region are not left without proper and adequate rail freight service and do not suffer the unnecessary loss of thousands of jobs. It is one thing to lose jobs through competition when a company cannot compete, but it is another thing to lose productivity capacity simply because a railroad says, well, I can do better without any real competition. I can pick up additional business, and I will not even have any competition for rail

freight in significant parts of the northeast. It is wrong.

Mr. President, I hope that the Conrail people begin to listen to the message that I am attempting to send to them. I believe that it will be a tragedy for us to have to consider legislation reregulating railroads simply because they are looking to make an extra buck on the backs of the American taxpayer.

I yield the floor.

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. 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, the distinguished Republican leader is here on the floor with me, and I have had the opportunity to consult with him. And following that consultation, I will announce now that there will be no further rollcall votes today or tomorrow, and as under the previous schedule there will be none on Monday. So the next rollcall vote will be at or about 2:15 p.m. on Tuesday. It is possible there may be some Tuesday morning.

Mr. President, let me amend my comments to say that there will be no further rollcall votes today; there will be none tomorrow. There will be a pro forma session tomorrow. The Senate will be in session on Monday on legislative business, but any votes that are ordered that day will be scheduled for Tuesday.

Senators should be aware there will be votes on Tuesday. I will have to discuss with the distinguished Republican leader and the President pro tempore the schedule for the next cloture vote on the Armenian resolution previously anticipated to occur on Tuesday after the caucus.

But in any event, Senators should be aware there will be no further rollcall votes today, no rollcall votes tomorrow, and although the Senate will be in for legislative business on Monday, there will be no rollcall votes on that day.

I thank my colleagues for their cooperation. I will have a further announcement about the subjects that we will be taking up on Monday and Tuesday and the time schedule for tomorrow, Monday, and Tuesday as soon as I have had a chance to consult in more detail with the Republican leader.

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

The Senator from Illinois is recognized.

Mr. SIMON. I thank the Chair.

(The remarks of Mr. SIMON pertaining to the submission of Senate Concurrent Resolution 95 are located in today's RECORD under "Submission of Concurrent and Senate Resolutions.")

EXTENSION OF MORNING BUSINESS

Mr. SIMON. Madam President, I ask unanimous consent that morning business be extended for 30 minutes under the same terms and conditions.

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

APPOINTMENT BY THE MAJORITY LEADER

The PRESIDING OFFICER. The Chair announces, on behalf of the majority leader, pursuant to Public Law 96-114, as amended by Public Laws 98-33, 99-161, and 100-674, his appointments of the Senator from Virginia [Mr. ROBB] and Mr. John Mansfield Falk, of Virginia, to be members of the Congressional Award Board.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER [Mr. LAUTENBERG]. Without objection, it is so ordered.

THE SCOURGE OF ILLICIT DRUGS

Mr. HATCH. Mr. President, I rise today to speak on issues of fundamental importance to all Americans. I refer to the scourge of illicit drugs which is properly viewed by the American public as one of the gravest threats to our national well-being. I need not remind my colleagues of my unwavering support for the strongest possible legislation to fight narcotics trafficking. I also expect and demand the effective enforcement of those laws by the Department of Justice.

However, I also believe that we must be careful when we attack those actually in the front lines fighting the "drug war." I personally have been troubled in recent weeks by the severe criticism of attacking the Justice Department's recent settlement of money laundering charges against the Bank of Credit and Commerce International.

As a member of the Senate Judiciary Committee, I have personally reviewed this matter in some detail. I have talked directly to representatives of the Justice Department. And with this perspective, I have concluded that those who have condemned the Justice Department's handling of the matter may not be aware of or appreciate the salient facts in the case.

The case against BCCI, a foreign banking operation owned by prominent individuals in the Middle East, involved alleged money laundering activities by a handful of BCCI's employees. Those individuals are on trial right now in the Federal district court in Tampa, FL, and I, therefore, will refrain from comment on that phase of the proceedings. It has, however, been widely reported that two subsidiaries of BCCI, charged under U.S. principles of corporate criminal responsibility, settled the case with the Justice Department. Those subsidiaries entered pleas of guilty to money laundering offenses and agreed to a $15 million civil forfeiture to the U.S. Government, among other conditions.

Strongly worded complaints against the Justice Department have been made by those who consider this settlement of the case to be too lenient or a slap on the wrist. I am completely mystified by that criticism. I believe the Department of Justice, under the leadership of Attorney General Thornburgh, is doing an exemplary job in fighting the war on drugs, and resolved this particular case in a thoroughly professional and fitting manner.

Significantly, the Federal district court in Tampa independently studied this settlement agreement for several weeks, and concluded after a careful review—including the view of opponents to the settlement—that this resolution was just and appropriate. The penalty imposed on BCCI was the largest ever imposed upon a bank for money laundering offenses in the United States.

The payment, it is noted, was made with bank assets—not drug money or drug profits as has been erroneously reported. In addition, the bank has been placed under 5 years of regulatory probation with the Federal Reserve and has volunteered to cooperate with the Government in important ways. So I just do not see how one could plausibly say that this is a lenient disposition.

To be sure, the BCCI case in Tampa was a very serious matter—but the charges ought to be viewed in their proper perspective. The case arose from the conduct of a small number of BCCI's more than 14,000 employees.

No member of the bank's senior management or its board of directors was alleged in the indictment even to have been aware of any of the laundering transactions—much less to have approved them. The transactions, in fact, violated express bank policies.

Furthermore, unlike other money laundering cases, none of the 14 transactions charged in the indictment involved the handling or receipt of cash—the most common form of laundering; rather, the funds came as wire transfers from reputable U.S. banks. The transactions involved a total of $14 million, spread out over the span of a year, a rather small fraction of the billions of dollars in wire transfers that large banks like BCCI transact every year. Only normal banking fees were charged for these transactions—not the large fees typically charged by professional money launderers for their crimes. The transactions were documented with the forms and records required by the bank, and, thus, there was no apparent reason for senior BCCI management to have identified or questioned these transactions. Contrary to press reports, the U.S. attorney advised the court that the total fees to BCCI from all the indicted transactions was no more than $250,000, a sum which the bank has paid back many times over in the penalties provided for in the settlement.

Do not misunderstand me. Money laundering is a serious crime and the BCCI case was an important prosecution. But let us also fairly recognize there was no systemic money laundering uncovered in the BCCI case after intensive investigation. Rather, BCCI appears to be a large international corporation, some of whose employees may have committed serious misdeeds in violation of the bank's own written rules. And BCCI is legally responsible for the conduct of those employees under U.S. law.

It thus seems evident to me that Monday morning critiques of the Justice Department for its handling of this case are premised on a fundamental misunderstanding of the facts of the case and the terms of the settlement. Nobody knows these facts better than the Justice Department officials themselves. I have spoken with them about this case and I can find no reason whatsoever to second-guess their judgment. Importantly, the Justice Department clearly understands, better than any of us can, that an international bank in 73 countries could provide important cooperation and assistant in the global drug war. They know what cooperation this bank has offered and can provide.

In this regard, I am aware that BCCI has sometimes been referred to as "Noriega's bank" as though this factor somehow validates or justifies the criticism of the settlement. The Noriega reference, however, serves to obscure the actual charges and evidence in the case—a point the prosecution clearly understood. Moreover, a guilt by association approach overlooks the fact that various respected, major banks worldwide have held substantial Noriega assets. Based on public United States Government estimates that Mr. Noriega deposited some $200 to $300 million in foreign bank accounts, BCCI appears to have held but a fraction of that money, most in an account of the Panamanian Defense Forces. So it would be unfair to exaggerate this aspect of the case, and most importantly, shortsighted, because information the bank does possess with regard to Mr. Noriega will undoubtedly be made available to the United States on a cooperative basis in connection with that ongoing prosecution in Miami.

It is, perhaps, noteworthy that the U.S. attorney's office advised the district court that BCCI's conduct during the past year should be considered in evaluating any settlement of the case. I agree and note that after this case was announced in late 1988, the senior management and board of directors of BCCI reacted responsibly and properly. The bank engaged new management for its American operations; it retained outside auditors and well-regarded counsel to advise the bank and to formulate and implement new compliance procedures and controls. Customer accounts in the United States and certain other countries were reviewed and accounts that did not satisfy high standards of the review team were closed. In addition, BCCI voluntarily closed certain of its agencies in Florida to ensure tighter control over its overall operations; it has instituted a major worldwide compliance effort and cooperated with American and other international law enforcement authorities. And it entered into appropriate agreements with bank regulatory authorities to alleviate their concerns. This is the kind of reaction one might hope to see from a responsible corporate citizen.

Given these circumstances, I regret there have been some calls to put BCCI out of business in this country, and even legislative proposals to require the revocation of the license of any bank that is convicted of a money laundering offense. Such suggestions may have political appeal, but I believe we should consider the ramifications of this idea. I wonder what the face of corporate America would look like if the death penalty were imposed on every bank—or, by analogy, every defense contractor—that found itself in a situation similar to BCCI's. Under our principles of law, a corporation can be held criminally accountable for the conduct of any of its agents or employees, no matter how lowly. I cannot believe that we would seriously want to put the very survival of our greatest and most venerable financial institutions at the mercy of every teller or low-level officer who happens to work for them, and whose actions cannot possibly be controlled, as a practical matter, by any large company. Let us remember that if we did that, then a lot of U.S. banks—the Bank of New England, Great American Bank, Bank of Boston, and others—would have been put out of business. All those banks and various others have been convicted of money laundering or fined for Bank Secrecy Act violations.

I believe these calls for license revocation are a dangerous precedent and would, if implemented, unfairly harm innocent depositors, customers, employees, and shareholders. At a time when we are trying to attract capital into the banking industry to enhance the stability and soundness of our financial institutions, we must resist ill-conceived notions that will seriously undermine capital formation efforts by wrongly threatening the continued existence of respected banks.

As a final comment, we must be aware that efforts to make an example of this foreign bank—by imposing unprecedented penalties for offenses which other banks have committed—could be seen by some as discriminatory. It will not be lost on the international community—including our friends in the Middle East—that BCCI's critics seem to be singling out this foreign bank for unusually harsh, punitive treatment. I, for one, do not think that approach serves the national interest.

I congratulate the Justice Department for its handling and proper resolution of the BCCI case. I also compliment our Federal banking authorities for their restrained, professional approach in addressing regulatory concerns. And I commend the senior management, directors, and shareholders of BCCI for the responsible way the company has responded to the charges in these proceedings.

I ask my colleagues to join me in continuing our aggressive, allout war on drugs. We must be careful, however, not to let passion overwhelm fact or common sense.

CLEAN AIR LEGISLATION

Mr. HATCH. Mr. President, the ongoing efforts to reach a compromise on a stronger Clean Air Program are going to present each of us with some very difficult and important decisions. Those decisions will have long-lasting impacts on every segment of our society. While there is no question that all of us want clean air, I believe that it would be a terrible mistake to forget to take into consideration some very important factors such as the availability of technology, the true costs of compliance, the amount of environ-

mental benefit derived by certain requirements, and the overall economic impact of a new program.

I am very concerned about the impacts of the residual risk title of S. 1630 and worry that passage of the bill might codify standards that are unrealistic and unscientific and would ultimately force the shutdown of vital components of our economy.

Traditionally, public health policy has been concerned with the number of people exposed to or at risk from particular conditions. However, in the Senate bill the standard for regulating pollutant sources is driven by the health risk imposed on the maximum exposed individual.

The risk to the maximum exposed individual is determined by using standard risk assessment methodology in which the highest exposure is presumed to occur to a hypothetical individual residing at the fenceline of a source for 70 years, never once leaving it.

According to Dr. Bernard Goldstein:

If adopted into law, the maximum exposed individual standards will severely hinder appropriate decisions to protect the public by producing a misleading emphasis on the individual rather than on the population. Such an approach is contrary to public health policy and to the history of public health decisionmaking.

I believe we need more realistic science-based standards for the regulation of toxic air pollutants. No one resides for 70 years at the fenceline of a source, never going indoors. To focus exclusively on the maximum exposed individual is an inappropriate and ineffective attempt to solve a public health problem.

While the maximum exposed individual approach stems from a laudable desire for equity, it does not, according to Dr. Goldstein, "fit into the tradition of public health that strives to achieve the optimal health for all people. The emphasis on the maximum exposed individual in current legislation is an example of the problems imposed by having public health decisions made by individuals trained primarily in law rather than in public health disciplines, where equity—and not health—is the leading principle."

The maximum exposed concept should not be ignored, but we must give the administrator of the EPA the flexibility to consider other factors such as the aggregate population risk, the time needed to research and develop new, feasible technologies, and the strength of the evidence of human health risk. In addition, the maximum exposed individual concept should not act as an automatic shutdown number. The methodology is just too uncertain and capricious to support closing much of our industry.

I would like to include in the RECORD a copy of Dr. Bernard Goldstein's article from the Environmental Forum on "The Maximally Exposed Individual." I believe it will be very helpful in assisting each of us in understanding the problems associated with setting standards based on the risk to the maximum exposed individual, and I would encourage my colleagues to read the article.

I ask unanimous consent that the article by Dr. Goldstein be printed in the RECORD.

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

[From the Environmental Forum, November/December 1989]

THE MAXIMALLY EXPOSED INDIVIDUAL

AN INAPPROPRIATE BASIS FOR PUBLIC HEALTH DECISIONMAKING

(By Bernard D. Goldstein)*

*Bernard Goldstein, M.D., is director of the Environmental and Occupational Health Sciences Institute, and director of the Graduate Program in Public Health, both joint programs of Rutgers University and the University of Medicine and Dentistry of New Jersey-Robert Wood Johnson Medical School. At the latter institution he also chairs the Department of Environmental and Community Medicine. From 1983-85 he served as EPA's Assistant Administrator for Research and Development and previously chaired the Agency's Clean Air Scientific Advisory Committee.

Once again, Congress is considering a revision of the Clean Air Act. And once again, one of the most contentious issues is how to deal with the many air contaminants not now regulated by EPA. Among the many facets to the air toxics issue is one that has broad significance to environmental health laws in general: whether the standard for regulating pollutant sources should be driven by the health risk imposed on an entire exposed population, or alternatively, the risk to the most exposed person, better known as the "maximally exposed individual" (MEI).

The risk to the MEI is determined by using standard risk assessment techniques in which the highest exposure is presumed to occur to the individual residing immediately downwind from the factory. Legislation introduced last April by Senator Dave Durenberger (R-MN) proposes that standard setting for air toxics should focus exclusively on the "individual in the population who is most exposed to emissions of a pollutant (or stream of pollutants) from a source." Under the Durenberger bill, emissions control and reduction decisions are based on whether the risk to the MEI exceeds some predetermined standard, for example 1 in 10,000. Calculation of the risk to the MEI and the resultant control decisions are completely independnet of the surrounding populations. They remain the same whether the MEI lives at the edge of an uninhabited desert or a megalopolis.

If adopted, this law will severely hinder appropriate decisions to protect the public by producing a misleading emphasis on the individual rather than on the population. Such an approach is contrary to sound public health policy and to the history of public health decisionmaking.

Population size and health policy

Public health, by definition, involves populations. Clinical medicine, with its very different standards and approaches, involves the individual patient and his or her unique exposures to specific risks. To focus exclusively on the MEI is to attempt, inappropriately and ineffectively, to solve public health problems with clinical standards. Further, it contradicts the intent of existing public health laws. The Clean Air Act, for example, clearly states the need to protect sensitive populations such as asthmatics, but not the most sensitive individual asthmatic.

The number of people exposed to or at risk from particular disease conditions is an important factor in much of our health policy. For example, our present occupational health standards are based on the number of workers exposed, severity of a hazard, and technologic feasibility. Even our most fundamental public health practices involve population size, such as requirements to test for E coli bacteria in drinking water, one of the oldest public health regulations. Bacteria samples must be taken at intervals and in numbers proportionate to the population.

MEI is an inadequate target for pollution control

Traditional public health methodology is concerned with the "total risk" to the population. If two towns—one of 500 people and one of 50,000—were equidistant from the same toxic air pollutant source, and each individual in both towns faced the same risk of cancer—for instance, 1 in 10,000—the total public health risk would be greater in the larger town. The total risk is calculated as the likelihood of an adverse event occurring in the total population. Hence, the town of 500 people has a total risk factor of .05 ($1/10{,}000 \times 500$). The town of 50,000 people has a much greater total risk factor of 5 ($1/10{,}000 \times 50{,}000$).

Applying this simple methodology to another hypothetical example, as illustrated in Figure 1, illustrates the problems of using the MEI concept. Imagine the situation depicted in Figure 1A. Here, a single individual resides at the fenceline of a pollutant source, and the lifetime risk of an adverse event (for instance, death caused by cancer) to that individual is 1 in 1,000. In a second situation (Figure 1B), 100,000 individuals live roughly equidistant from the source but at a sufficient distance so that the lifetime risk of death to each individual is reduced to 1 in 100,000. In the third possibility (Figure 1C), both of these situations exist simultaneously. According to the regulators in our imaginary scenario, a risk to the MEI of more than 1 in 10,000 would trigger the requirement for pollution control measures.

If regulated on the MEI principle, these regulators would ignore taking action in scenario B, in which the individual's risk is less than the threshold of 1 in 10,000. Scenario A, on the other hand, would lead to regulatory action. When one accounts for the size of the population at risk by using traditional methodologies, however, there is a thousand-fold less total risk in scenario A. The total risk to the community of 100,000 is one adverse event ($1/100{,}000 \times 100{,}000$). This community, then, is likely to suffer one death of cancer over a lifetime (a 70-year period) of exposure. The total risk to the MEI in scenario A remains 1 in 1,000.

Scenario C represents the mix of populations at various exposures. Under the MEI approach, the factory owner in this scenario could simply buy out the property owner at the fenceline in order to meet the regulatory threshold. This would produce a hundred-fold decrease in risk of death to the MEI—now living elsewhere—while at the same time avoiding regulation of the factory and providing an equitable distribution of

risk to the community. In other words, situation C would become situation B.

Again, looking at the situation using traditional public health methodology demonstrates that the purchase of the fenceline property has a miniscule effect on overall public health. Taking the total population into account, one can see that the total number of adverse lifetime events would only decrease from 1.001 to 1.000. This scenario could allow a polluter to avoid regulation despite a significant threat to a large population. It is an example of poor public policy engendered by sole reliance on the risk to the MEI, rather than considering the entire population.

Population size and time

Another way to demonstrate the fallacy of relying on the MEI approach is to translate the above example from numerical risk ratios into the duration of time during which the unwanted adverse event is likely to occur. When one regulates with one life (the MEI's) in mind, the duration in which the adverse event is likely to occur can be orders of magnitude longer. In situation A, the lifetime risk of 1 in 1,000 means that the unwanted adverse event is likely to occur once in 1,000 lifetimes. Using the standard lifetime of 70 years, the time period during which this unwanted event would be expected to occur is 70,000 years.

Remember that this is statistical reasoning. This doesn't mean that an MEI won't suffer the adverse event until the end of the 70,000 years. The event may happen at the beginning or end of that 70,000 years, or it may happen twice in 70,000 years and not again for the next 70,000 years. The point is that—on average—it will happen once every 70,000 years. These statistical averages change drastically when whole populations are considered.

When one regulates with populations in mind, the year "lifetimes" are lived simultaneously by the whole group. Hence, when one adverse event is expected in 100,000 lifetimes as is the case in scenario B, but there are 100,000 lives being regulated, the adverse event is statistically likely to occur within 70 years. The individuals in this scenario are less at risk, but the population is much more severely endangered.

Risk assessment process inappropriate for MEI

The use of the MEI to regulate pollutant sources is also seriously questionable because of the way that risk assessments are currently performed. A relatively high degree of conservatism is already built into the current risk assessment approach based on sound public health principles involving protection of a population. Exposure rates are usually calculated with many conservative simplifying assumptions pertinent only to the total population risk. If the MEI rather than the population were the original target for developing risk assessment procedures, then a different approach would have been used as the data qualilty objectives and policy considerations are significantly different.

For example, assuming a daily tap water intake of 2 liters, or that someone stands outside his or her front door breathing a pollutant for 70 years, is perhaps not an inappropriate overestimate of exposure when dealing with large populations—certain individuals may approximate such exposure scenarios. However, it is highly unlikely that such an indiviudal will also be the one living at the factory fenceline. When considering the specific individual—or at least the very small population living at the factory fenceline—it becomes very misleading to make such assumptions.

Further, as in Figure 1, it is not unreasonable to assume that a single housing site is occupied for 70 years. However, U.S. experience demonstrates that it is highly unreasonable to assume that this location will be occupied by the same individual during this 70-year period. Population mobility does not alter the risk level to public health as long as the total population number remains fairly stable. But failure to take into account population mobility in calculating the risk for one indiviudal living at the fenceline—the MEI results in at least an additional half an order of magnitude degree of conservatism. If we are serious about using the MEI for regulatory purposes, we at least need to have our risk assessors consider an approach that is appropriate for this purpose.

Most sensitive individuals not necessarily protected

It is erroneously believed that if you protect the MEI you protect the most sensitive indiviudal. This is wrong on a number of counts. Equating the MEI with the most sensitive individual is false. Sensitivity is determined by a number of different factors, only one of which is the extent and amount of exposure. For any given level of external exposure there may be more internal uptake among some individuals than others: for example, exercising individuals inhale more than sedentary individuals. For any given level of internal uptake there may be more delivery of a toxic product to a target organ among some individuals, for example, caused by differences in metabolism. For any given level of toxic agent reaching a target organ there may be a greater amount of damage caused, for example, because of differing responses to allergens. And for any given level of target organ damage there may be a greater impact on particular individuals, for example, due to age or a preexisting disease. It is highly unlikely that the indivdual living immediately downwind from the fenceline will also be the most sensitive individual.

Protecting the MEI may not protect public health

Protecting the MEI does not automatically guarantee the protection of those of lower exposure, though this is a common misperception. For example, consider what happens if one requires the factory described in scenario C to achieve a ten-fold reduction in emissions. The risk to MEI decreases from .001 to .0001, while the risk to the population in the town goes from 1.000 to 0.100. Accepting such a regulatory solution permits a residual risk to the town that is a hundred-fold higher (0.100 to 0.001) than the original risk to the MEI that led to the regulation. Hence, a risk-based approach to the MEI, such as a benchmark of 1 in 10,000, does not leave the MEI nor the more distant population without risk.

CONCLUSION

New Jersey is one of the most environmentally active states. Some people believe this is because the Garden State has more environmental problems than others, but that is only part of the reason. The state has the greatest population density in the nation, and large numbers of people live very near pollution sources. Other states may have equal or worse pollution problems, but lack the same population at risk. Both factors have played a major role in forming public concerns, and surely cannot be ignored in developing solutions. There is no basis in public health for regulating a factory in the desert with one hermit living at the fenceline identically to a factory in a populous area of New Jersey.

The MEI approach stems from a laudable desire for equity. Unfortunately, it does not fit into the tradition of public health that strives to achieve optimal health for all people. The emphasis on the MEI in current legislation is an example of the problems imposed by having public health decisions made by individuals trained primarily in law rather than in public health disciplines, where equity—and not health—is the leading principle.

The maximum lifetime risk to the individual should not be ignored. When considered in conjunction with other information, it can be useful. In the final decision on the Vinyl Chloride case, EPA appears to concur. The Agency has decided to include consideration of the MEI, but refused to set any rigid standard, and also required consideration of the exposure of the larger population along with other factors.

Ultimately, however, the risk to the MEI is far less important than the aggregate risk to all individuals potentially affected. It is not clear whether EPA's decision will place undue emphasis on the MEI. To make policy solely or even predominantly on the basis of the MEI is a distortion of classic public health approaches. It is inimical to the health of our citizens to pursue the control of environmental hazards in a way that ignores or belittles the importance of population density.

The Senator from Montana is recognized.

Mr. BURNS. I thank the Chair.

(The remarks of Mr. BURNS, pertaining to the introduction of S. 2162 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. BURNS. 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.

ARMENIAN GENOCIDE DAY OF REMEMBRANCE

MOTION TO PROCEED

Mr. MITCHELL. Mr. President, I ask unanimous consent that there now be 30 minutes equally divided between Senators BYRD and DOLE for debate on the motion to proceed to Senate Joint Resolution 212, the Armenian resolution, during the remainder of today's session.

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

Mr. BYRD. Mr. President, I had not said anything immediately following the vote on cloture today, and so I take this moment to congratulate the Republican leader on the good fight that he made. It was obvious that his heart was in it. He was very conscientious about it. He spoke with great feeling, and I just hope that I have said nothing that hurt his feelings. I

do not believe I have. I have talked with him since, and he was in a perfectly fine mood, as he always is when I talk with him. I just did not want to go home this weekend without saying that I appreciated the position he took. I regret that I had to oppose him.

We all at times have to be a little partisan in this place. There is no partisanship in this instance. There was nothing personal as far as I am concerned. I do not see it as a matter in which I win or I lose, because it is not "I" who would lose in either case. I think we both stood up for what we felt was the right thing to do, and both of us perceived it differently as to the impact that it might have. And so we have gone all through that. I will not go through it here again.

I should, however, say once more that I reluctantly objected to the Republican leader's request to change the Senate joint resolution to a concurrent resolution. I did that for two reasons, and I explained them on the floor. They were genuine reasons for opposing the request. One was that on a matter of this kind, if the Senate and the House are going to take an action, it ought to be something that goes across the President's desk because it could prove to be as fateful as some of us have expressed concern that it would. It might not. But in a matter of this importance to a very strong and faithful and friendly ally, I think the President should have the opportunity to stop it or to sign it. And a concurrent resolution would not go to the President's desk.

Second, as to the change in language itself, I saw that change as reported by the distinguished leader as still being offensive to that friendly country, that ally, and even though there are words that are changed, if they are heard to be the same, if they are interpreted to be the same meaning, then I think it is just as important we not let that language become an act of the Senate in a concurrent resolution as it would be in a Senate joint resolution. A concurrent resolution is still the action of both Houses. It still carries the stamp of the Senate. And so for those two reasons I reluctantly objected.

So we will have another vote on Tuesday next. We will not be discussing this matter at great length, but there will be some little discussion on Tuesday I think. I felt I wanted to say these things on the RECORD before we go home.

There is a personal relationship that exists among and between Senators, and in my 31 years in the Senate I have fought a good many legislative battles. I lost some and won some. I try to go on after the battle is over and think of the next day and the next issue that will come along. I believe that is the way Senator DOLE looks at it. He always has looked at it that way. We always shake hands and walk out of here, put our hands on each other's shoulders, and forget about it.

The book, "The Last Battle," contains a good many of William Jennings Bryant's speeches. We have not fought the last battle. There will always be others. If I am not here to fight them as time comes and goes, someone else will be here.

So I congratulate all those on both sides of the aisle who voted pro and con. I found a long time ago that today's antagonists may be tomorrow's allies. I found in my political contests over the years that people who opposed me in this election or that election or another election, as time went on, if I put it behind me, they became my supporters in many instances.

And it works both ways. Some of those who supported me that day do not support me anymore. That is the way it is. That is the way it runs. That is the way it is here.

Had the position that I took today lost, I would be here saying the same thing that I am saying now.

So, Mr. President, I believe that Senator DOLE will come back into the Chamber later and offer a cloture motion. He may wish to have something more to say, or maybe not. There is some, I believe, some business to be transacted yet.

I believe I will recess the Senate, having been authorized by the majority leader to do so for say 10 minutes, to give the Presiding Officer and the officers of the Senate an opportunity to get a drink of water, and get out of the Chamber if they want, stretch, and get a little air.

RECESS FOR 10 MINUTES

Mr. BYRD. Mr. President, I ask unanimous consent the Senate stand in recess for 10 minutes.

There being no objection, the Senate, at 6:11 p.m., recessed until 6:21 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. HARKIN].

The PRESIDING OFFICER. The Chair in its capacity as the Senator from Iowa suggests the absence of a quorum. 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 (Mr. HARKIN). Without objection, it is so ordered.

SUNDAY'S NICARAGUAN ELECTIONS

Mr. HELMS. Mr. President, on Sunday the Nicaraguan people will go to the polls to elect their new leaders. According to some analysts, Mrs. Violeta Chamorro may come from behind to win. Public opinion surveys in Nicaragua purportedly show that neither Mrs. Chamorro nor Daniel Ortega, the Communist, has a clear majority, although sadly, Ortega is the odds-on favorate to win.

It is absurd to discuss this event as though it were a simple election, and as though the only question is whether the votes will be counted accurately and fairly. The point is that no matter who wins, the Nicaraguan people lose, and the American people lose. Neither candidate has the will or the power to restore freedom in Nicaragua.

Mr. President, democracy does not consist in simply the ability of all citizens to vote in elections and have their vote counted fairly. There are many totalitarian systems in the world that count the votes of all of their citizens. In fact, the more totalitarian a system is, the more likely a high percentage of the people will vote. There is, after all, no freedom when people are forced to vote. The right not to vote is as important as the right to vote.

Nor is it a free election just because more than one candidate is running. Voting is only a part of democracy, and democracy is only a part of freedom. The American concept of freedom goes beyond the democratic process. Freedom requires a whole social infrastructure, which includes the democratic process, but which also demands religious freedom, economic freedom, press freedom, and the freedom to nourish and preserve one's traditional culture. Only in such an atmosphere can candidates freely choose to run; only in such an atmosphere can voters freely choose.

The current election in Nicaragua meets none of those tests. The people of Nicaragua do not have a free choice. Mrs. Chamorro is not the choice of a free opposition. She is an alternative supported by the U.S. Government in a blatant attempt to stage a fake election to legitimize the present Communist regime in Managua. The Congress of the United States, in its wisdom, has chosen to betray the true freedom fighters of Nicaragua, the Nicaraguan Resistance. For the United States, it is a moral tragedy of immense dimensions. Therefore, Congress, and the administration, apparently wish to whitewash the evils of the present regime by pretending that communism has been supported in a so-called free election.

But how can there be a free election, when there is no free choice? The so-called opposition, United Nicaraguan Opposition, is not a free political institution. It was created by the State Department and the CIA to control the electoral process and prevent an effective nationalist opposition. The State Department insisted that the opposition had to include everyone, including the Communist Party of Nicaragua. In

fact, the majority of the parties in UNO are Communist, Marxist, or Socialist philosophies which are associated worldwide with totalitarian regimes. One senior administration official told my office that the inclusion of the Communist Party was essential to the success of the coalition. Another official told us that the United States can control the Communists and Socialists in the coalition. Indeed, most of the State Department's candidates are persons violently opposed to the U.S. system. They would not be elected dog catcher in any jurisdiction in the United States.

The so-called selection of Mrs. Chamorro as UNO candidate is a case in point. She was, after all, an original member of the Sandinista government, part of the popular front organized by Fidel Castro. She is today a critic of the Government, but not its Marxist doctrine. Despite the fact that U.S. Government officials stage-managed the UNO convention—demanding that Mrs. Chamorro be selected as UNO's candidate—she failed to gain a majority even after six or seven ballots. In fact, she never did gain a majority, but was simply proclaimed the candidate by the United States, despite the fact that two of her children are still members of the Sandinista Party. Her son, Carlos Fernando Chamorro, has been Director of Party Propaganda and is currently editor of the Party newspaper, Barricada. And her daughter, Claudia, is Ortega's former Ambassador to Costa Rica. Moreover, Mrs. Chamorro has never demonstrated any power of political organization or any capability to govern. A weaker candidate is harder to imagine. A government led by Mrs. Chamorro would still be a Sandinista-style government, with the same doctrine, and probably much of the same personnel.

Then, as her running mate, the United States insisted that UNO choose the former Sandinista Minister of Labor, Virgilio Godoy. There is little evidence that he ever left the Sandinista Party, and he certainly has never repudiated its Marxist doctrine.

It is so hard to tell UNO candidates from Sandinista candidates. Indeed, scores of UNO candidates actually turned out to be Sandinista infiltrators who ostentatiously withdrew their candidacies in the middle of the campaign, embarrassing UNO when it was too late to file real candidates.

It is not surprising that Mrs. Chamorro and her Sandinista running mate ran a poor campaign. They failed to make fundamental criticisms of the Sandinistas' revolutionary Marxist doctrine. They failed to criticize the enormous corruption and special privileges that are associated with Daniel Ortega and the Communist gang that holds the country in thrall. They failed to attack the lack of fundamental religious freedoms and the persecution of all those who reject the Marxist conclusions of so-called liberation theology.

For this reason, I strongly opposed any U.S. funding of the electoral fraud in Nicaragua. To me it is unconscionable that any U.S. taxpayers' funds would be used to support the candidacy of the Communists and pseudo-Sandinistas who dominate the UNO coalition. Moreover, it was clear that, under Sandinista decrees, half of the U.S. funding would go to the Sandinistas themselves. Nevertheless, State Department representatives solemnly promised that none of the funding would go to the Sandinistas themselves, and that the United States would find ways to circumvent Nicaraguan laws and regulations. But now we see that, for all practical purposes, the U.S. funds went only to the Communist Sandinistas, and that little or none of the money went for its professed purpose of helping Mrs. Chamorro. Not one Member of Congress should have been shocked by a New York Times article on February 4 entitled "U.S. Aid Just Dribbles In to Nicaragua Opposition, but the Sandinistas Profit." That article quotes an A.I.D. official as saying, "The Sandinistas have blocked UNO's access to this money, but the Nicaragua Government has access to its share. That was the worst nightmare of many people."

It is for this reason that I believe the U.S. Government should never be allowed to intervene in any election, in any country, at any time. You cannot jump-start democracy by using undemocratic methods. Every time we have attempted to do that, the result has been a disaster for the country involved. Perhaps the reason is that the State Department, in choosing the candidates it wants to support has consistently selected philosophical leftists congenial to its own way of thinking, despite what the people of the country involved want, and despite what the American people would want.

The people of Nicaragua therefore face an agonizing choice. On the one hand, they can vote for the Sandinista candidates and the continuance of a revolutionary Marxist and totalitarian government, backed by the Soviet Union, that has control over every aspect of their lives—their jobs, their government, the press, the army, the secret police, the neighborhood monitors, the school system.

On the other hand, they can vote for the candidates, backed by the United States, who are former members of the Sandinista government, and who offer only a weak, "me-too" revolutionary philosophy which they have no means of implementing if they should win. If you were an ordinary Nicaragua voter, what would you do? Would you vote against a powerful government that more than likely has the power to find out how you voted, and certainly has the power to make reprisals? Or would you vote for a weak, me-too candidate with no demonstrable power to take office or to govern if she did?

Who speaks for the Nicaraguan nation in this contest of two Sandinistas each backed by rival superpowers? Who stands for freedom? Who stands for the right to overthrow socialism?

A prudent Nicaraguan, offered such a fraudulent choice, would come to the rational conclusion that it is better to support the tyrant who has control of his life than to engage in vain support for an alleged democratic process. But of course men and women do not always act upon superficially rational motives. They sometimes act out of deeper, more powerful motives that are more important to human dignity than superficial rationalism. I hope, indeed, that thousands of Nicaraguans do cast a protest vote against Daniel Ortega, despite the unworthiness of his opponent. Unfortunately, in the circumstances, it is a grand, but empty gesture.

Mr. President, Daniel Ortega will have a lot of company in Managua this weekend. The United Nations and the Organization of American States have sent teams of observers. And a number of Americans, including former President Carter, are traveling to Nicaragua to observe the fairness of the election. President Carter has already expressed his satisfaction with most of the electoral proceedings thus far, and there is litle indication that he will take exception with the result.

The fact is, Nicaragua today is a corpse upon a marble slab, with a dagger in its heart. The handle of that dagger bears the fingerprints of President Carter, for it was he who installed the Sandinista regime. True, the present regime may have departed somewhat from President Carter's former hopes—but if it allegedly returns to the democratic fold through elections proclaimed "free and fair" by President Carter himself, won't that seem to vindicate his original decision? I find that a little too convenient to ring true. The brutal, undemocratic nature of the Sandinista regime was perfectly evident in 1979, and I stood on this floor and said so—and said so again in 1980, 1981, 1982, 1983, and down to this very day.

Mr. President it was evident 5 months ago that the coming elections in Nicaragua would be a fraud—and I, for one, am disappointed that the State Department played a key role in legitimizing this sham. Hardly a week has passed without reports of blatant harassment and Sandinista-sponsored violence. Several opposition campaign workers have been killed. Communist thugs have terrorized opposition rallies and threatened to kill many Nica-

raguans associated with the opposition. Many Nicaraguans are afraid that if Ortega loses, the violence will merely escalate.

One prominent election observer, former Costa Rican President Mario Echandi, travelled to Nicaragua and drafted an important report about his concerns with the elections. He concluded, based on the Sandinistas' election preparation, that it is virtually impossible at this point to have free and fair elections in Nicaragua. He was particularly dubious about the Sandinista claims that they had registered 95 percent of the eligible voters in just 4 days. According to President Echandi, no physical documentation was necessary to register. In fact Mr. President, some Members of this body could have registered to vote in the Nicaraguan elections, given their lax registration policies.

Mr. President, I recently asked the staff of the Senate Foreign Relations Committee to compile a chronology of the Sandinista election abuses that have been reported in the press. This partial list, taken solely from public sources, details a weekly campaign of harassment by Daniel Ortega and his Communist conspirators. The public record of fraud, psychological warfare, and intimidation throughout the election goes to show that it really doesn't matter what happens on election day. The fraud has already been committed.

Mr. President, I ask unanimous consent that the full text be placed in the RECORD at the end of my remarks.

Mr. President, the only sign of hope in Nicaragua today is that the Nicaraguan Resistance—the freedom fighters—who have been cut off from United States aid, have pledged to continue the fight for freedom. They have a new breed of leaders, no longer in the pay of the CIA, who are free to liberate their country without the shackles of U.S. support. They are brave men undertaking an impossible task, but they have the purity of true nationalism and deep patriotism. Perhaps they will succeed. Perhaps they will topple the Sandinista government whether the Sandinista government is led by Daniel Ortega or led by anyone else. I wish them well. I always have. I always will. They are patriots who deserve better than the treatment they have received at the hands of the U.S. Congress.

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

NEWS REPORTS OF CAMPAIGN HARASSMENT
RECORD INSERT

NOVEMBER, 1989

Francisco Mallono, 38, an UNO campaigner is killed by men in military (Sandinista) uniforms.

Source: The Washington Times 1/26/90.

NOVEMBER 14, 1989

Jose Alfonso Valle, 43, arrested for handing out UNO fliers. He is held until December 30, 1989.

Source: The Washington Times 1/26/90.

NOVEMBER 29, 1989

Jose Blen Rosales, 29, an UNO supporter in Kisalaya, is killed.

Source: The Washington Times 1/26/90.

DECEMBER 1, 1989

William Cruz Lazo of Estelil, 22, is kidnapped by six armed men, including two Sandinista officers. He is later found dead.

Source: The Washington Times 1/26/90.

DECEMBER 10, 1989

Center for Democracy releases report claiming an armed Sandinista mob provoked a confrontation at an UNO rally in Masatepe. One man was killed by machete and several were wounded.

Source: Miami Herald 12/15/89.

DECEMBER 14, 1989

The Bush administration accuses Sandinistas of carrying out violent attacks designed to intimidate the political opposition.

The U.S. Ambassador to the OAS Luigi Einaudi blasts a pattern of violence and intimidation designed to prevent opposition candidates from freely expressing their right to participate in the electoral process in Nicaragua.

Source: Miami Herald 12/15/89.

DECEMBER 15, 1989

U.S. Deputy Secretary of State Eagleburger says leftist violence against the Nicaraguan opposition raises "grave doubts" about Sandinista government willingness to hold fair elections.

Source: Miami Herald 12/16/89.

Four UNO officials, including the UNO council candidate in Concepcion, announce that they continue to be harrassed by the Sandinista police. One was asked to resign by state security officials. All stated that they would continue their campaigns.

Source: Managua Radio Corporacion 12/15/89. (FBIS 12/16/89).

DECEMBER 20, 1989

U.S. deposits $1.8 million in a fund designated for UNO and $1.5 million in fund designated for the IPCE (Institute for Electoral Promotion and Training).

Source: The Washington Times 1/17/90

JANUARY 1, 1990

The Sandinistas shell the Miskito indian village of Kisalaya, none are killed. The Miskito political group later endorses UNO.

Source: The Washington Times 1/26/90.

JANUARY 4, 1990

Hernaldo Zuniga, UNO legal representative, officially protests to the CSE about a communique issued by Defense Minister Humberto Ortega on December 27, which threatened UNO leaders if the United States invaded Nicaragua. Zuniga noted that since the communique, UNO leaders Violeta Chamorro, Virgilio Godoy, Emilo Alvarez Montalvan and Augustin Jarquin Araya and Luiz Sanchez Sancho have received numerous death threats.

Source: Managua Radio Sandino 1/3/90. (FBIS 1/4/90).

JANUARY 8, 1990

ONUVEN, the United Nations Mission for Verification of Elections in Nicaragua, criticizes the Nicaraguan media for its lack of objectiveness. The report contains a separate chapter on television, stating "Not only is the state run television coverage [of the UNO], but it usually distorts the truth. It has become worse over the past few weeks, and any mention of the UNO opposition party has been simply insulting." It further criticizes the airing of the Sandinista's political propaganda. It criticizes both pro-government and pro-UNO papers.

Source: ACAN 1/8/90. (FBIS 1/10/90).

JANUARY 10, 1990

Igbal Riza, chairman of ONUVEN, the United Nations Observer Mission for the Verification of Elections in Nicaragua, voiced concerned over threats made by Defense Minister Humberto Ortega to "execute" opposition members if the US invades Nicaragua. He further stated "execution can easily be interpreted as intimidation of the opposition" and the initial effect "was a series of threatening phone calls to UNO presidential candidate Violeta Chamorro."

Source: ACAN 1/10/90. (FBIS 1/11/90).

JANUARY 11, 1990

Antonio Lacayo of UNO accuses the Sandinista government of dragging its feet so UNO cannot train pollwatchers at each of the 4,394 polling cites. UNO says it has not received any money appropriated by the US government in October.

Source: Miami Herald 1/12/90.

JANUARY 12, 1989

Luis Sanchez Sancho announces that UNO has not received any of the funds deposited in the Nicaraguan Central Bank for its use.

Source: Managua Radio Catolica 1/12/90. (FBIS 1/22/90).

JANUARY 15, 1989

After members of the opposition threaten to resign if not paid, the Sandinistas claim they are beginning to pay out some of the $600,000 in funds from the US that had been available since December. The story does not hold up.

Source: Los Angeles Times 1/20/90.

Rep. Peter Goss (R-FL), who just returned from Nicaragua, said "If the poll watchers aren't there, there's a pretty good prima facie case that the elections are not free and fair."

Rep. Cass Ballenger (R-NC), who returned on the same trip, said the Sandinista are using "using a technicality to hold up the process" (not releasing money to IPCE).

Source: The Washington Times 1/17/90.

UN Observer Elliot Richardson predicted fair elections but noted unbalanced coverage by the state owned media, misuse of government property for campaigning and use of violence and intimidation at political rallies. He noted that the government press refers to UNO as GN-UNO (National Guard-UNO), linking the party to Samoza's National Guard.

Source: The Washington Post 1/16/90.

JANUARY 16, 1990

Police use tear gas to break up a small opposition rally in Grenada. Four people, including the political director for the Grenada region, were arrested. The police also seized an opposition station wagon. The police claim that no prior permission was given. However, on August 24, 1989 the Supreme Election Council announced that no prior permission for rallies would be needed.

Source: The Washington Times 1/18/90, Managua Radio Corporacion 8/23/89 (FBIS 8/24/89), Managua Radio Catolica 1/16/90. (FBIS 1/19/90).

Interior Ministry troops attempt to arrest Carlos Brienco, director of the UNO Independiente newscast, on the charge of driving a stolen automobile. When his wife

threatened to go to La Prensa, the police fled. His wife later mentioned that she had been harrassed two weeks ago.

Source: La Prensa 1/16/90. (FBIS 1/19/90.

Sandinistas claim to release $200,000 for the IPCE (Institute for Electoral Promotion and Training), the UNO group responsible for training and paying poll watchers. (Money deposited 12/20)

Source: The Washington Times 1/17/90.

JANUARY 17, 1990

Four opposition activists are arrested for "aggression, offenses and lack of respect" toward Ortega as he leaves a pro-government rally.

The Washington Times quotes State Department Official that the first installment of money to the IPCE that was claimed to be released on January 16 has not been. "We continue to get insurances almost on a daily basis that the money will be released within the hour, but it never is released." Official states that the government objection to the IPCE is unfair because it had certified the IPCE as "grantworthy" on November 11, 1989.

Source: The Washington Times 1/18/90.

JANUARY 18, 1989

The OAS raises doubts about free and fair election, claiming that the source of some violence can be traced to the Sandinistas or to "an armed group of irregulars." OAS also noted that UNO supporters have been threatened with loss of jobs and benefits.

The US State Department says campaign showed a "striking pattern of Saninista intimidation, harrassment of the opposition and violence."

Source: Los Angeles Times, Miami Herald, The Washington Times 1/19/90.

Barricadea, the official party newspaper, claims that UNO has been swindled by the US and has not received its October money because of "the 'Jewish style' with which the US Congress typically manages the contributions of US taxpayers." The paper disassociates itself from the writer's comments the next day.

Source: The Washington Times 1/23/90.

JANUARY 19, 1990

The Sandinista newspaper Barricada announces again that monies due the UNO and the IPCE have been released. The report does not hold up.

Source: Barricada 1/19/90. (FBIS 1/22/90).

National Democratic Confidence Party activist Carlos Alberto Molina is arrested at his home, physically mistreated and charged with being a "Somozist henchman."

Source: Managua Radio Corporacion 1/23/90. (FBIS 2/1/90).

JANUARY 22, 1989

State Department spokeswoman Margaret Tutweiler says, "the Nicaraguan government is doing everything in its power to block monies by Congress to help level the playing field for the opposition."

The Permanent Commission on Human Rights questions whether the government was to quick to blame the contras for the death of the two nuns and the priest on January 1, 1990. "The regime was in a great hurry to close this case."

Source: The Washington Times 1/23/90.

JANUARY 23, 1990

President of the National Democratic Confidence Party, Agustin Jarquin Anaya, complains to the Supreme Electoral Council about members of his party being harrassed.

A group of taxi drivers in Managua claim that they were told by the Transportation and Construction Ministry that if they did not participate in a rally for a Sandinista candidate they would not be allowed to purchase any more cars for use as taxis.

Source: Managua Radio Corpoacion 1/23/90. (FBIS 2/1/90).

JANUARY 25, 1990

A Puebla Institute report claims "civic opposition bears the brunt of the violence" in election campaign.

Source: The Washington Times 1/26/90.

UNO campaign chief Antonio Lacayo charges that members of the UNO vote counting board have been harassed by the state security apparatus.

Source: Managua Radio Catolica 1/25/90. (FBIS 2/1/90).

JANUARY 26, 1990

Former President Carter announces "If the Nicaraguan government does not expedite the delivery of appropriated funds, there will a great uproar in our country, a legitimate condemnation of the process."

Source: The Washington Times 1/29/90.

La Prensa claims that the Sandinistas have been polling public employees and are developing plans to deal with UNO supporters after the election.

Source: La Prensa 1/26/90. (FBIS 1/31/90).

Members of the Reynoso Lanuza family report that they have been threatened by state security and FSLN supporters because of their support of UNO.

Source: La Prensa 1/27/90. (FBIS 2/5/90).

JANUARY 28, 1990

Nicaragua promises to release funds for UNO and IPCE after former President Carter pleads on UNO's behalf.

Keith Schuette, President of the National Republican Institute (NRI), notes that equipment given to UNO by the NRI and the National Democratic Institute (NDI) has been slapped with a $450,000 tarriff.

Source: The Washington Times 1/26/90

UNO activist Leonardo Cajina Monterrey is shot and wounded by Sandinista Defense Committee member Juan Diego Mejia while campaigning for UNO in a Manuga neighborhood.

Source: La Prensa 1/29/90. (FBIS 2/5/90).

JANUARY 29, 1989

The Sandinistas claim to release some 1156 political prisoners that should have been released as per the Sandinista promise of August, 1987

Source: Los Angeles Times 1/30/89

UNO expresses doubt that money intended for it will be released. Luis Sanchez, UNO spokesperson said that although the opposition "is satisfied with the steps taken" by Carter, UNO is still skeptical about getting the money. Furthermore he said "all of this confirms UNO's reports on the obstacles raised by the Sandinist government against the opposition."

Source: ACAN 1/30/90

UNO coordinater for the Roberto Huembes Market region, Jose Miguel Marin Gurdian, claims to have been threatened by state security police for organizing a rally for the UNO candidate in Managua.

UNO leader in Nindiri, Jose Ramos, was threatened with the loss of his land by Rene Membreno, a former Sandinista judge and wife of the town's mayor, for allowing his house to be used for an UNO meeting.

Source: Managua Radio Corporation 1/29/90. (FBIS 2/1/90).

An UNO motorcade on its way to a rally in Rio Blanco is attacked by "Member of the military" with "tomatoes, dirty water, rocks, empty bullet shells and bullets."

Source: La Prensa 1/30/89. (FBIS 2/6/90).

JANUARY 30, 1989

UNO national treasurer, Reynaldo Hernadez, claims that automobiles donated to UNO from overseas are being held up in Customs.

Hernandez also claims that UNO has received no response to a two week old request to the Nicaraguan Telecommunication and Postal Service Institute to receive a radio frequency to communicate with departmental offices.

Source: Managua Radio Corporation 1/30/90. (FBIS 2/1/90).

JANUARY 31, 1990

Radio Corporacion reports that the Sandinistas have been arming members of the Special Brigades with handguns in case the government loses the election.

Source: Managua Radio Corporacion 1/31/89. (FBIS 2/1/90).

Silviano Matamoros, president of the IPCE announces that the Institute received the first monies sent to the UNO by the US Congress.

Source: AFP 2/3/90. (FBIS 2/5/90).

FEBRUARY 5, 1990

A United Nations report criticizes the Sandinistas for preventing the UNO opposition from receiving foreign funds. The report further alleged sporadic police intimidation and use of state property to help the ruling Sandinista party's campaign.

According to Keith Schuette of the National Republican Institute, 54 of 76 automobiles purchased for UNO had not been cleared for release.

Source: The Washington Times, Miami Herald 2/6/90.

FEBRUARY 7, 1990

Nicaraguan government denies visas to members of a bipartisan American congressional delegation sent to observe the February 25 elections. Sen. Richard Lugar stated "This is the first time I have been denied access to a purportedly free and fair election process, and I am disappointed by this turn of events." The government task force is disbanded.

Source: The Washington Times, The Washington Post 2/8/90.

FEBRUARY 8, 1990

UNO convoy carrying vice-presidential candidate Virgilio Godoy is attacked with rocks and sticks.

Source: La Prensa 2/9/90. (FBIS 2/13/90).

FEBRUARY 10, 1990

An UNO activist, Felix Cardenas, is shot after returning from an UNO rally in Buena Vista

Source: La Prensa 2/12/90. (FBIS 2/15/90).

FEBRUARY 11, 1990

Carlos Araica, an UNO campaign worker in Managua, is attacked in his home by five men swinging steel pipes.

Source: The Washington Post 2/17/90.

FEBRUARY 12, 1990

The Miami Herald reports three cases of intimidation:

Silvia Elena Gutierrez, an opposition candidate for town council, is fired without explanation in January from a state owned company.

Francisco Morales Aleman is offered a deal from a government candidate where he would have earned $30,000 for the sale of

livestock, if he drops out of a National Assembly race.

Maritza Rivas, a town council candidate and lawyer has received threatening late-night phone calls, warning her that "opposition heads will roll" after the elections.

Source: Miami Herald 2/12/90.

FEBRUARY 14, 1990

At a campaign rally in Matagalpa, Nicaraguan president Ortega said that if the FMLN wins the elections, it will seize property owned by opposition leaders, including the only opposition newspaper.

If we win, I say we will hand them a complete bill, so they will be left without a newspaper—La Prensa—and the homes of the [presidential] candidate and vice presidential candidate will be converted into children's homes on the day after the elections.

Source: The Washington Times 1/15/90, Managua Radio (FBIS 2/15/90).

Several dozen workers from a state-owned coffee cooperative said they were trucked in to a Sandinista rally in Matagalpa.

Rosalio Perez, a campansino from Muy Muy, said he was seeking a loan from the state bank and that the loan officer recommended that he attend Matagalpa rally.

The town hall and tax office in Masaya was closed because of a Sandinista rally.

Source: Miami Herald 2/18/90.

FEBRUARY 16, 1990

Contra spokesman Alejandro Acevedo said "the Sandinistas never gave us [Nicaraguan refugees and contras in Honduras] real guarantees to register in the electoral census. Only Nicaraguans vacationing or studying in Honduras were given the opportunity to register." This action could deprive the UNO of up to 20,000 votes.

Source: ACAN 2/26/90. (FBIS 2/20/90).

FEBRUARY 18, 1990

Bus and train service between Masaya, Tipitapa and Managua was disrupted as the government diverted trains and buses for use at a pro-government rally in Leon. (UNO was holding its final rally in Managua that day.) Two UN observers said the lack of supporters from these two cities was suspicious because UNO has traditionally drawn large crowds in these cities.

A sound system rented by UNO for the rally was held up at the border by customs officials. The officials later could not be found when their signatures were needed to release the equipment.

A plane scheduled to take aerial pictures of the UNO rally was denied permission to take off.

UNO officials reported that private bus and truck drivers were threatened with the loss of their licenses if they transported UNO supporters to the rally.

UNO also claimed that Sandinista officials also threw nails and tacks on roads leading to Managua from Granada and Masaya.

Sandinista Television aired the Batman movie and the replay of the Tyson-Douglas heavyweight championship fight at the time of the UNO rally.

Source: Miami Herald 2/19/90 The Washington Post 2/22/90, The Washington Times 2/22/90.

FEBRUARY 21, 1990

The annual State Department Country Reports on Human Rights Practices for 1989 criticizes Nicaragua for political and extrajudicial killings, disappearances, torture and other cruel, inhuman or degrading treatment of punishment, arbitrary arrest, detention or exile, invasion of privacy, violations of humanitarian law in internal conflicts and arrests and intimidation of opposition political figures.

According to State Department spokeswoman Margaret Tutweiler, "Sandinista intimidation of the opposition continues in Nicaragua."

Source: CNN 2/21/90, State Department Country Reports on Human Rights—1989. The Washington Times 2/22/90.

The Sandinistas use government buses and trains and army trucks to bring thousands of people from other cities to their final rally in Managua. The Sandinistas also make the day a holiday, giving government workers a half day off, with pay. According to Federico La Cato, a member of the state farming cooperative, "they close it [the state factory or farm] and the people come."

Source: The Washington Times 2/22/90, The Washington Post 2/22/90.

The Washington Times reports that before the Sandinistas cut off water, electricity and bus transportation the day before and the day of UNO rallies in Altagracia and San Carlos.

Source: The Washington Times 2/22/90.

COMMUNIST CHINA FLUNKS EVERY STATE DEPARTMENT'S HUMAN RIGHTS TEST

Mr. HELMS. Mr. President, the State Department Human Rights Report on Communist China was released yesterday, and I hope all Senators will read it carefully.

What does the report say? For openers, it says that in 1989—last year when the world was bedazzled with a "changed" Soviet Union—the Chinese Communists violated every internationally recognized human rights standard: Killings, torture, slave labor camps, religious persecution, arbitrary arrest, denial of due process and/or a fair trial, denial of free speech, a free press, peaceful assembly, suppression of workers' rights. It's all in the State Department's report, released yesterday.

Surprising? Hardly.

Mr. President, two decades ago, in the summer of 1970, Senator Thomas Dodd of Connecticut asked the Senate Judiciary Committee to conduct a study of the "Human Cost of Communism in China." Senator Dodd had deep suspicions but he wanted the facts.

Unfortunately, he did not live to see the results of the study which was published in the summer of 1971 but I suspect he anticipated what the outcome would be. On page 16 of the report is a table entitled "Casualties to Communism in China." Millions were murdered in political persecution campaigns. Up to 30 million people died in slave labor camps. The range of estimates ran between 34 and 64 million victims.

Senator Tom Dodd's report laid down one grim fact after another: Executions, slave labor camps, purge of intellectuals, destruction of China's cultural heritage, insane political and economic schemes, violence and terror—the list of suffering goes on and on.

But that, Mr. President, was 20 years ago. Since then, we have been told, the Communist leadership has reformed. Since then some of our highest appointed and elected leaders have gone to Peking to clink glasses with the Communist leadership and wish them long life. Supposedly those bad old days are behind the Chinese people. But now even the State Department admits the truth.

And now, Mr. President, the 1989 State Department Human Rights Report on Communist China has been released. Again, I do hope that everyone will study that report and compare it with the 1971 report.

What's the bottom line? What does it all mean? If you hold Senator Todd Dodd's 1971 report in one hand and the State Department's official report in the other, it is a clear indictment of our policy toward Communist China. For 20 years our policy has been one of appeasement—and that is the word for it—appeasement, of the Communist butchers of Peking.

That policy has failed and failed spectacularly. The killings are still going on, the secret police still torture ordinary Chinese people for their religious beliefs and the slave labor camps are still a one-way ticket to the grave.

Nor, as some have said, has Communist China made remarkable economic progress in the intervening 20 years. Far from it. The people of mainland China live in the same grinding poverty as they did 20 years ago. Today the average per capita income in mainland China is $300, free China on Taiwan is over $7,500 and free China has a multiparty democracy as well as widespread respect for human rights.

It is time for a new policy toward Communist China. One based not on appeasement but on the historic values that made the United States what it is. It is time for a policy that looks forward to the day liberty will triumph on mainland China, a policy that rejects the tyrants of the present and the past.

Mr. President, I ask unanimous consent that the State Department's Country Report on Human Rights on Communist China and the Committee on the Judiciary's report of July 1971 entitled, "The Human Cost of Communism in China" be printed in the RECORD.

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

THE HUMAN COST OF COMMUNISM IN CHINA

INTRODUCTION

(By Senator James O. Eastland, Chairman, Senate Subcommittee on Internal Security)

Last fall, on the initiative of the late Senator Thomas J. Dodd of Connecticut, the Senate Subcommittee on Internal Security asked Prof. Richard L. Walker, a lifetime

student of Chinese affairs, to prepare a study on "The Human Cost of Communism in China." Professor Walker, who serves as the director of the Institute of International Studies at the University of South Carolina, is widely recognized as one of this country's foremost China scholars—and it was precisely because of his scholarly background and his preeminence in the field that Dr. Walker was selected to do the job of research and writing.

The publication of the study comes at a particularly opportune moment. The announcement that President Nixon will be visiting Red China in the near future, makes it more than probable that the coming period will witness important changes in our relations with Peking. But there can be no disagreement on the central point that, whatever the status of our relations with China, it is imperative that we in America have a realistic appreciation of the nature and objectives of Chinese communism.

For some strange reason, most of the newspapermen who have traveled to China for the American press in the wake of Peking's invitation to the American ping-pong team felt called upon to paint Communist China in the most positive hues and to ignore the massive evidence of inhumanity and aggression that has characterized Communist rule in China.

It was almost as though American reporters in Hitler Germany during the 1930's had limited themselves to reporting that the streets were clean, there was an air of general prosperity, the trains were running on time, unemployment had been eliminated, and the people appeared well fed and contented. All of these things were true about Hitler Germany. But any reporter who focused exclusively on these aspects of Nazi rule and ignored all of the negative aspects, including the massive military buildup, would justly have excoriated as a propagandist. Needless to say, there were such propagandists; and, to the extent to which they were successful, they succeeded in blinding segments of the public, in both Britain and America, to the threat which Nazi Germany posed to their own security.

The great merit of the study which follows is that, while it does not deny to Communists credit for certain important economic and social accomplishments, it paints the picture whole by assessing and bringing to life the terrible human cost at which these accomplishments were achieved.

In an earlier companion study, "The Human Cost of Soviet Communism," Robert Conquest, the famed British Sovietologist, calculated that at least 21,500,000 human beings had been executed or killed in other ways by the Soviet Communist authorities. This, he emphasized, was a minimum estimate and the real figure might very well be 50 percent higher. In addition, he estimated that the Communist revolution and the civil war and famine which followed it cost another 14 million human lives. The total human cost of Soviet communism, therefore, comes to somewhere between 35 million and 45 million lives.

In the case of the Soviet Union, the estimates were based on a massive documentation that had accumulated over the years—including Khrushchev's account of the crimes of the Stalin era. In the case of Red China, the available documentation, while not so extensive, is still substantial enough to permit estimates within wider margins. It is Professor Walker's estimate, after having studied all the evidence, that communism in China, from the time of the first civil war (1927-36) until today has cost a minimum of 34 million lives and that the total may run as high as 64 million lives.

While it may be a matter of the pot calling the kettle black, it is interesting to note that Moscow has charged that "in the course of 10 years, more than 25 million people in China were exterminated. . . . During 1960 alone, Mao Tse-tung's government exterminated more Chinese than were killed in the entire war against Japan."

As Professor Walker so aptly sums up the matter:

"The Communist movement in China, despite its proclaimed high ideals, must be judged on performance, and, as regards the human equation, there is little to commend it. Those who wish to rationalize public assassinations, purges of classes and groups or slave labor as a necessary expedient for China's progress are resorting to the same logic which justified a Hitler and his methods for dealing with economic depression in the Third Reich.

"It is important that we in America remember some of the basic facts of human values lest we be beguiled into forgetting that those who succeeded in inducing an artificial American euphoria in the wake of ping-pong diplomacy from Peking in the spring of 1971, are the same leaders who have extracted such a great human cost from their own people, in the name of a doctrine long since discredited in the world, both in terms of performance and intellectual respectability."

In World War II, the fact that we were locked in struggle with common enemies brought us together with the Soviet Union in an alliance of convenience. Because it was widely felt that we must speak no evil of our Soviet allies, the American and British press submitted to a kind of self-imposed censorship on all criticism of the Soviet regime. It proved to be only one short step from this self-censorship to the euphoric belief that if we continued to see no evil and speak no evil where our Soviet allies were concerned, we would win the trust and good will of the Soviet Government and pave the way to our peaceful cooperation in the postwar period.

And so we closed our eyes to the historic record; and we closed our eyes to the massacre in the Katyn Forest, where the Soviets in cold blood murdered 10,000 POW Polish officers; and we closed our eyes to the Soviet betrayal of the Warsaw uprising. Fearful of a deep Soviet penetration of Europe, and convinced that the Red Army would not simply liberate the countries it entered and then withdraw, Churchill strongly urged that the Allies invade Europe via the soft Balkan underbelly rather than via France, in order to meet the Russians as far to the East as possible. But we resisted Churchill's urging, in part because we wished to avoid anything which might arouse Soviet suspicions, in part because our military leaders thought in purely military terms and not in terms of ultimate political consequences. During the final days of the War in Europe it was in our power to take both Prague and Berlin—but we abstained from doing so because it was feared that this would give offense to the Russians. It was these military failures, compounded by our diplomatic failures at Yalta and Potsdam, which turned the whole of Central Europe over to Communist rule. They also left Berlin an isolated and beleaguered island—which may, conceivably, lead to a major war because there is no way, short of abject surrender, in which we can withdraw from our commitment to the freedom of West Berlin, and no way in which Berlin can be defended.

This is the high price we have had to pay in Europe for failing to remember certain essential things about Soviet communism during the euphoria that characterized our World War II military alliance.

In the Far East, we have paid back just as high a price for closing our eyes to the truth about the Soviet regime and Soviet intentions. Because we looked upon the Soviet Union only as an ally and not as a potential antagonist, we made concessions at the expense of our Chinese allies to get Stalin into the war against Japan in the closing days—to be exact, on August 8, 1945. In retrospect, it is clear that we should have done everything in our power to let Moscow know that we considered her assistance unnecessary in this area and to dissuade her from moving against the Japanese in the Far East. The immediate result of our innocence was that the Soviets, with virtually no fighting, were able to take the surrender of the 1,000,000-man Japanese Kwantung Army, with all of its arms and ammunition. History will record that the Soviet occupation of Manchuria and the massive quantities of arms and ammunition which were turned over to the Chinese Communists by the Soviets, played a determining role in bringing the Communists to power in mainland China. And it is clear beyond dispute that if the Soviets had not occupied Northern Korea and imposed a puppet regime there, we would have had no Korean war. Finally, it is more than probable that there would have been no Vietnam war.

The validity of these assertions is confirmed to the hilt in a remarkably frank article which appeared in a recent issue of World Marxist Review, international theoretical organ of Communist and Workers parties. This is what the article had to say on the decisive role played by the Soviet occupation of Manchuria in the Chinese Communist revolution:

"The Soviet victory in Manchuria had a direct bearing on the progress of the Chinese revolution. Kwangtung Army weapons and Manchuria's military-industrial facilities were turned over to the Chinese revolutionary forces. No less important for the victory of the national liberation movement in China was that Soviet political and diplomatic actions frustrated U.S. imperialist and Kuomintang intentions of crushing the revolution.

"In autumm 1945 the Soviet Command in Manchuria denied Kuomintang troops landing facilities in Dairen (Port Dalny). Neither was the Koumintang allowed to violate Point 4 of the agreement on Port Arthur, according to which defense of that naval fortress was entrusted to the USSR. This precluded U.S. and Kuomintang designs of using the Liaotung Peninsula for hitting the revolutionary forces in Manchuria in the back. Dairen and Port Arthur, controlled by the Soviet Command, were support bases for the Chinese revolutionary forces. So much so that U.S. Admiral F. Sherman said in August 1945 that if the two ports had been open for American and Chiang Kai-shek troops, developments in post-war China would have taken an entirely different course.

"Manchuria and China's northern regions were the strategic area from which People's Liberation Army regulars ultimately mounted their swift offensive south, liberating the country, forcing the Kuomintang regime to flee, and compelling its imperialist patrons

to withdraw. And none but a regular army could have crushed the Kuomintang troops, for the militia was no more than auxiliary in this effort, a reserve force that secured the PLA rear.

"The alliance of China's revolutionary forces with the Soviet Union and the world Communist movement contributed decisively to the victory of the Chinese revolution." [1]

The article was equally frank in dealing with the Soviet role in fostering and establishing the North Korean Communist regime. This is what it said:

"A mass movement unfolded for the democratic restoration of Korean statehood. People's Committees, which were new democratic bodies of power, sprang up all over the country, consisting of workers, peasants, petty and middle bourgeois, and intellectuals. Democratic organizations were formed in the South, as well as the North.

"In October 1945 an Organizational Bureau of the Central Committee of the Communist Party of North Korea was formed in Pyongyang to found a mass party, which became the leader of the country's democratic forces, its swift expansion testifying to its popularity and prestige. There were only 6,000 Communists in North Korea in December 1945, with membership climbing to 134,000 by August 1946. Subsequently, the Communist Party amalgamated with the New People's Party to form the Korean Party of Labor.

"The Japanese colonial administration was at once removed from power in the northern part of the country, where Soviet troops were stationed. The Soviet Command recognized and cooperated with the people's committees factories and other possessions of Japanese capitalists were turned over to the people.

"The Korean People's Democratic Republic (KPDR) was constituted in September 1948. Comrade Kim Il Sung, General Secretary of the Korean Party of Labor and Chairman of the KPDR Council of Ministers, said: 'If there had been no Soviet Union, the great offspring of the October Revolution, and if the Soviet Union had not achieved its historic victory over German fascism and Japanese militarism, Korea would still be languishing under the Japanese colonial yoke; we would have no independent state, the Korean People's Democratic Republic.'" [2]

Finally, the article made it clear, in the paragraphs which follow, that the Soviet invasion of Manchuria was the opening wedge in a coordinated continental offensive that reached as far as South Vietnam and facilitated the success of Ho Chi Minh's revolution.

"For the peoples of Southeast Asia, too, the Soviet entry into the war against Japan was a call to the final battle. In Vietnam the Communist Party of Indochina planned an armed rising early in August, which the All-Vietnam Congress of People's Representatives, convening on August 16, fully endorsed. A National Liberation Committee was elected, and on August 19 the popular revolution triumphed in Hanoi; and on August 25 it triumphed in Hué, and with Emperor Bao Dai, the Japanese puppet, abdicating, in Saigon as well.

"On September 2, 1945, at a mass meeting in Hanoi, Ho Chi Minh announced the constitution of the Democratic Republic of Vietnam (DRV), the first People's Democracy in Asia, born on the last day of the Second World War.

"The victory of the August revolution in Vietnam ended the more than 80-year-old rule of foreign imperialism and centuries of feudal oppression.

"Twenty-eight years after the October Revolution," Ho Chi Minh wrote later, "the victory of the Soviet Army over the Japanese imperialists considerably facilitated the success of the August 1945 revolution, which liberated Vietnam." [3]

Had our leaders better understood the nature of Soviet communism, they would have more clearly foreseen all the catastrophic consequences that would flow from the Soviet entry into the war against Japan in its dying days. And had they foreseen these consequences, they might have moved to avoid them by discouraging, or, if need be, preempting, the Soviet occupation of Manchuria and Korea.

There is nothing new historically about accommodations or alliances of convenience between basically hostile powers. In certain situations, such arrangements are not only desirable but well-nigh unavoidable. Since it was considered in the national interest, prior to our involvement in World War II, to continue trading with Nazi Germany and to maintain relations with it, certainly it is a defensible proposition that we should seek to trade with Communist China and to enlarge our relations with it.

But if we are to have relations with Red China, let us do so with our eyes open. Let us not close our eyes to all the unpleasant truths about Communist China. Above all, let us not close our eyes to the unpleasant fact that the fundamental hostility of Red China to the United States is spelled out, with undeviating vehemence and consistency, in thousands of doctrinal pronouncements and propaganda statements over the years.

For, as our experience after World War II demonstrated so tragically, history exacts a high price of nations that indulge in euphoria over arrangements of convenience with basically antagonistic powers.

Assessments may differ, within Congress and within the Administration, on the question of our policy towards Red China. But the facts presented in this study deserve the most careful consideration in the context of any assessment.

It is the hope of the undersigned Senator that at least some of our alienated students who cannot identify with their own country and who, instead, brandish the banner of Mao Tse-tung, will show themselves open-minded enough to read this study and weigh its implications for themselves as students. Here they clamorously insist on their right to "do their own thing"—from smoking pot to throwing bombs. But in Red China no student is permitted to do his own thing. Instead, as this study points out, more than 25,000,000 young people have been sent to the countryside as common laborers, against their will—sometimes for a year, sometimes for several years, sometimes for life.

It is also to be hoped that those intellectuals who are disposed to sympathize with Communist China because they look upon it as some kind of brave new world, will be induced to reassess their sympathy in the light of some of the facts here set forth. They should ask themselves, among other things, how such sympathy can be reconciled with the following passage from the letter written by Professor Yang Shihchan to the Yangstze Daily during the brief period of intellectual freedom that characterized the "Hundred Flowers" episode.

". . . During the social reforms campaign, unable to endure the spiritual torture and humiliation imposed by the struggle . . . the intellectuals who chose to die by jumping from tall buildings, drowning in rivers, swallowing poison, cutting their throats, or by other methods, were innumerable. If we say that comrade Stalin has not escaped from condemnation in history for his cruel massacre of comrades, then our Party, in my opinion, will also be condemned for our massacre of intellectuals who had already "surrendered" themselves to us. Our Party's massacre of intellectuals and the mass burying alive of the literati by tyrant Ch'in Shih-huang, will go down in China's history as two ineradicable stigma. This cannot but make us utterly heartbroken."

The Subcommittee on Internal Security is indebted to Professor Walker for a study which painstakingly details the many aspects of Chinese Communist inhumanity and amorality. It is a study of outstanding quality which should be read by everyone who seeks a balanced understanding of Chinese communism.

JAMES O. EASTLAND.

JULY 30, 1970.

Re commissioning of special studies on (1) the human cost of communism in the Soviet Union and (2) the human cost of communism in Red China.

Hon. JAMES O. EASTLAND,
Chairman, Subcommittee on Internal Security, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Over the years the Senate Subcommittee on Internal Security, by way of establishing certain essential background facts on communism and the implication of Communist activities in this country, has held hearings and published studies dealing broadly with the crimes perpetrated by the Communist governments in those countries they control, and the record of perfidy and aggression of these governments in their relations with other countries. The quality of some of the publications issued by the subcommittee has resulted in praise from component authorities and has made them standard reference texts of permanent value.

It has occurred to me that it would be extremely useful and it would fill a gap in the existing literature if the subcommitee could commission studies by the most competent available authorities setting forth in comprehensive manner the human costs of communism (1) in the Soviet Union, and (2) in Red China. The story of Communist terror in the Soviet Union and Red China has been told in bits and pieces, but to my knowledge, there is so far no comprehensive study that attempts to assess the entire cost of the Communist system, in terms of human life, in the two major Communist countries. The nearest thing to such a study is Robert Conquest's book, "The Great Terror," But this is confined to the 20 years of the Stalin terror rather than covering the entire 50 years of Soviet communism.

Specifically, I would like to propose that the subcommittee commission Mr. Conquest, who is recognized as one of the West's foremost Sovietologists and perhaps its leading expert on Soviet terror, to prepare a study, approximately 10,000 words in length, on the subject of "The Human Cost of Communism in the Soviet Union."

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[1] World Marxist Review, October, 1979, page 86.
[2] Ibid, pps. 86-87.
[3] Ibid, page 87.

I would also like to propose that, as a companion volume, the subcommittee commission Dr. Richard L. Walker, director of the Institute of International Studies at the University of South Carolina, to prepare a study of comparable length on "The Human Cost of Communism in Red China." Professor Walker, as you know, is generally recognized as one of our country's foremost China experts.

Prior to writing this letter, I established contact with both Mr. Conquest and Dr. Walker to find out if they would be able to prepare the studies in question. I am happy to inform you that they have both answered in the affirmative, subject to the understanding that there would be some arrangement for compensation.

If you approve of this proposal and if the approval of the Rules Committee is obtained, I will notify Mr. Conquest and Dr. Walker immediately so that they can get to work on their studies.

I feel that the publication of these studies would reflect credit on the subcommittee and that they would be particularly timely in view of the current debate over the human cost of a Communist victory in Vietnam and Southeast Asia.

With my thanks for your consideration and with every best wish,

Sincerely yours,

THOMAS J. DODD.

FOREWORD

Of the many characteristics which make us human, two stand out. The first is our ability to train and use our intellectual powers—to reason, to create, to learn, to communicate, to transmit. The second is man's possession of a moral and spiritual nature which teaches him to value human life. In the truly civilized man, these two characteristics operate in tandem—one depends upon the other. They in turn are related to the finest achievements of man in art, in literature, in music and other forms of creative self-expression.

Man's ability to develop intellectually, morally, spiritually and creatively—his ability, in short, to realize his human potential—demands a condition of individual and cultural freedom. Those who persecute men for the free use of their intellect or for the views they hold on any subject, or for their artistic creativity are the true barbarians of any age.

The quality of being human is also related to the institutions created and carried on by successive generations of men. These include the great cultural traditions with their varied styles of social, clan or family life from which the individual can never completely divorce himself and which change relatively slowly. Man is, after all, locked into his own life style by the very language—itself a cultural institution—with which he communicates with his fellow humans. Those who persecute their fellow men because they are a part of human institutions—a clan, a class, an occupation, or a faith—are also barbarians in the truest sense of the term. This is why so much of the religious bigotry in Western history is so reprehensible. Equally reprehensible is the persecution of political dissidents under the modern totalitarian regimes of fascism and communism.

The Communist movement in China, despite its proclaimed high ideals, must be judged on performance, and, as regards the human equation, there is little to commend it. Those who wish to rationalize public assassinations, purges of classes and groups or slave labor as a necessary expedient for China's progress are resorting to the same logic which justified a Hitler and his methods for dealing with economic depression in the Third Reich.

It is important that we in America remember some of the basic facts of human values lest we be beguiled into forgetting that those who created an almost artificial euphoria in the wake of the ping-pong diplomacy from Peking in the spring of 1971 are the same leaders who have extracted such a great human cost from their own people in the name of a doctrine long since discredited in the world, both in terms of performance and intellectual respectability.

RICHARD L. WALKER.

JULY 1971.

THE HUMAN COST OF COMMUNISM IN CHINA

(By Richard L. Walker)

If the rains of Communism flood the world, humanity will drown. Would you understand me, dear friend, if I told you I saw an old woman weep because the sun had died in China? [1]

STALINIST CHINA?

On July 1, 1971, the Chinese Communist Party celebrated half a century of existence. These five turbulent decades have been filled with prodigious changes but also with weighty tragedy for great numbers of the inhabitants of the Middle Kingdom. It can be doubted whether the twelve young revolutionary idealists who gathered in a girls' school in Shanghai in 1921 to set their Party in motion could have foreseen the impact which their actions would have upon China. One of the twelve, Mao Tse-tung, was to occupy the center of the stage in the Chinese Communist movement for more than thirty-five years. During the period of protracted conflict which led the Communists to power, Mao was, in many respects the Lenin of China. Shortly after accession as Chairman of the People's Republic of China in 1949, Mao's role seemed to take on more of the characteristics of a Stalin.

This parallel with the Stalin era deserves our sober attention. Aspects of its are uncomfortably precise. There has been the same monumental inhumanity and the same commitment to political terror as a means of crushing the opposition. There is an aura of mystery surrounding the activities and whereabouts of the "great supreme commander;" the cult of personality has at times reached ridiculous extremes; his whims and arbitrary decisions have made his associates tremble and have caused untold suffering for his people.

There has been the intellectual isolationism of his country, now a great bulwark and fortress for the spreading of his truth. And, above all, there has been distrust and suspicion focused against the very people who could help to gain support for the leader and aid the progress of the country: the intellectuals and students.

There is yet another aspect of the parallel between the Mao and Stalin periods deserving of attention—the treatment of their rule among the scholars and journalists in the outside world. It is difficult for many to remember the praise heaped upon Stalin in the 1930's, but we are made acutely aware of the fascination with Chairman Mao, through a surfeit of scholarly and journalistic attention which helps to build his cult and his image as a sort of superman. It is not surprising that Stalin is still a great hero in Communist China. (His picture was prominently displayed in Peking on October 1, 1970, the 21st anniversary of the People's Republic of China.) [1]

For more than two decades, those few voices in the West who attempted to call attention to the realities of Stalin's terror were drowned out by the strident chords of praise sung by the "intellectuals" in the outside world who were fascinated with the grandiose experiments in the "land of Socialism." Those who called attention to the mass executions or to the facts of slave labor or to the incredible cost of collectivization were frequently ridiculed or demeaned; it was asserted they did not seem to understand that some sacrifices have to be made for revolutionary progress. Even the show trials of the great purges were pronounced as signs of growing democracy. Such myopia seems almost incredible to us today in the wake of subsequent revelations from the USSR itself, the outpourings of works like those of Solzhenitsyn, and the wealth of refugee testimony which became available after World War II.

But it was the Khrushchev "Secret Speech" of February 1956, which really jolted those who had for decades apologized ritualistically for crimes against humanity in the Soviet state. The American Stalin Prize winner, Howard Fast, was moved to deep soul-searching:

"It is a strange and awful document, perhaps without parallel in history; and one must face the fact that it itemizes a record of barbarism and paranoic blood-lust that will be a lasting and shameful memory to civilized man. . . .

"Where I failed miserably and where I swear by all that is holy that I will not fail again, was. . . [in failing] to see that. . . to abandon the holy right of man to his own conscience, his own dignity, his right to say what he pleases, to speak freely and boldly for the truth as he sees the truth—and fearing no man, whether right or wrong—is no victory at all. . . . I knew that writers and artists and scientists were intimidated, but I accepted this as a necessity for socialism. . .

"This I can never accept again—and never again can I accept as a just practice under socialism that which I know to be unjust. . . . Never again will I remain silent when I can recognize injustice—regardless of how that injustice may be wrapped in the dirty linen of expediency or necessity. Never again will I accept the 'clever' rationale, which appears to make sense but under scrutiny does not." [2]

Howard Fast's statements in 1956 make an eloquent point of departure and a warning for those who might still be tempted to hold up double standards—those who are prone to excuse the crimes and terror practiced against humans in the name of socialism and yet are in the forefront in fighting other injustices.

Fast also centered in on some of the very items which tend to set humans apart from other living creatures—the independence of the human intellect, the striving for freedom, and the standards of decency and individuality which dare not be sacrificed.

The China scholars in the West have not yet had the equivalent of a Khrushchev "Secret Speech" detailing Mao's many crimes against his fellow Chinese and Communist comrades. Perhaps for this reason many still harbor those same sentiments which caused the Howard Fasts to ignore Soviet realities in Stalin's name; but surely the accumulated evidence as well as the example from the Soviet experience should give pause.[3]

Footnote at end of article.

For the sake of the socialist "higher goals" many of these scholars have been prone to excuse massive injustices on the questionable assumption that these injustices were only temporary. Since the founding of the People's Republic of China, not a few American "China-watchers" have hastened into print to denounce Chiang Kai-shek's government for this or that injustice, such as the imprisonment of Lai Chen, the editor of *Free China* in September, 1960 (the author joined in protesting what seemed to be a clear case of political persecution). But those same "China-watchers" have turned admiring eyes on the Chinese Communists and have either remained silent about some of the human costs described in the pages which follow, or have rationalized that these are a necessary part of some vague "inevitable" Chinese revolution.

With good reason the People's Republic of China (PRC) has been called "the largest enterprise in the history of mankind." [4] The problems of adjusting the world's longest lived, richest, and most traditional culture to the demands of the age of the computer, atomic energy or jet aircraft are indeed unprecedented for any regime. These, too, are factors that have weighed heavily in the minds of intellectual sympathizers. Further, there is the factor of the guilt complex of the Western world toward China because of the period of imperialism in China. This has tended to make many Western observers more inclined to suspend judgment of the Chinese Communists and to hold those double standards which for so long blinded the outside world to the realities of the Soviet system. And yet, can the world ignore the monumental human cost of Mao's China or its Stalinoid features, especially since the "Great Leap Forward" of 1958?

CHINESE COMMUNIST ACHIEVEMENTS—AND THE COST

Those young zealots who pledged their lives to the Communist cause in China during the early years of the Chinese Communist Party (CCP) joined in expounding a series of high-sounding general goals which Chinese from all walks of life could support. They promised unity for their long-divided country, equality with and expulsion of the foreigners with their hated "special privileges," industrialization and modernization, respect and standing in the world, and an end to oppression and tyranny at home. Many Chinese, especially students and intellectuals, knew that these goals would have to be achieved if China were to take its place as a respected equal in the councils of the world. The hope for fulfillment of these goals evoked enthusiasm and support for the PRC—on nationalist rather than on communist ideological grounds—from many sectors of the population during the early years.[5]

There can be no gain saying that under the rule of Mao Tse-tung some of these goals are in sight for the People's Republic of China. China is a thermonuclear power which has already given clear indications with its own "sputnik" in April 1970 that it is well on the way to becoming an ICBM power. During the first decade of Communist rule, the PRC made dramatic achievements in industrialization and modernization—steel production, for instance, reaching in excess of 12,000,000 tons.

The two decades of Communist rule in mainland China have also witnessed some remarkable progress in other areas. Especially important was the early work in the fields of education and public health. The government made strenuous efforts to bring literacy to a vast population which, over earlier decades of warfare and division, had been offered little opportunity for education. Well-organization public health teams carried the message of elementary basic habits in sanitation and hygiene to the remote rural areas of China. Then, too, there was an improvement in communications which, in combination with some formidable projects for water control and irrigation, helped to prevent those appalling losses of human life which had periodically occurred in China in the wake of past natural disasters.

The initial achievements of the "New China" were owed in large part to a combination of factors such as the large-scale Soviet support, an early unity of disparate factions, and especially the enthusiasm and energies of the many students, intellectuals, and specialists—"bourgeois elements" Mao called them—who gave their all for the "people's government," out of simple patriotic motives.

In fairness, it should be pointed out that many of the projects implemented by the Communist government were originally conceived and planned and, in some cases, initiated, under the Nationalist government which preceded it. In fairness, too, it must be observed that it is an oversimplification to compare the progress achieved during the 20 years of Communist rule with the relative lack of progress during approximately 20 years of Nationalist rule. The Chinese communists since coming to power, have not had to contend with any foreign or domestic threat. The Nationalist government, on the other hand, during most of its rule had to contend with the Japanese invasion and occupation of much of its territory, and, simultaneously, with a massive Communist insurrection.

But the main question at issue is not whether progress has been achieved in various areas under Communist rule, but how high a price has been paid for this progress. What would a balanced picture include? Could comparable progress have been achieved with less drastic and more humane methods? At the close of World War II and when the Communist movement in China was driving to power, there might have been reason to wonder what methods would be most efficacious for the achievement of those standards of development and life which seemed to be the universal goal of the leaders of the third world. In the 1970's there can no longer be any question that the Chinese Communist "model" cannot begin to offer the progress for its people which a free system can; there are too many alternative examples. The wonder of the "risen sun" of Japan or the measured progress of a non-totalitarian India, both cooperating with an interdependent world in relative harmony, stand in stark contrast to the price which the Chinese people have paid for Marxism-Leninism and the Thought of Mao Tse-tung.

It is my considered judgment, after following Communist China closely for more than two decades, that the cost of progress achieved under Communist rule is too high for the conscience of the world to absolve its perpetrators. In terms of human life and human suffering and in terms of destruction of moral and cultural values this cost cannot be condoned by any rationalization. The high Chinese Communist Party leaders who sit down at convivial banquets with visiting Americans may be guilty of as great crimes against humanity and their own people as were Hitler and Stalin and their followers. In the case of Chou and Mao, their commitment to their Communist faith has been one of more than half a century, and in its name they have not hesitated to commit any act.[6] They consider themselves to have been vindicated by history and their success; thus those who would deal with them can hardly expect that they have "softened" or have changed their goals or perspectives.

I have included in this summary history of the Human Costs of Communism in China some individual accounts which help to bring this human element for the Chinese into better focus. Whether it is the experience of an escaped slave laborer, the eye-witness to the terror of the campaign against counterrevolutionaries in 1951, or the pitiful letter of a Chinese caught up in the madness of the "Great Leap Forward" of 1958, each of these accounts helps to remind us of that critical factor: the individual human. When one begins to multiply such individual sorrows and agonies by the millions, then perhaps it is possible to understand when a Chinese refugee says that the Yellow River is at flood tide, swollen with the tears of the Chinese people.

THE FIFTY YEARS

On the eve of the final Communist victory in China in 1949, Mao Tse-tung paused on the twenty-eighth anniversary of the founding of the CCP to survey the past and plot the future. The first twenty-eight years had seen the Party single-mindedly, through reverses and successes, pursue its one overriding goal—the capture of state power. In his commemorative work *On the People's Democratic Dictatorship*, Mao promised to continue in the path which had brought success. He warned that the "people's army, people's police, and people's courts" would be used to defend the dictatorship which was being established and to aid with the completion of the revolution. In this work Mao defined "the people" who were to be exercising the dictatorship as consisting of four classes; the peasants, the proletariat, the national bourgeoisie, and the petty bourgeoisie—all under the leadership of the "working class and the Communist Party." All others were, in an Orwellian sense, "unpeople." And he warned that the latter, whom he termed "reactionaries," were to have no rights and that if "they speak or act in an unruly way they will be promptly stopped and punished." [6]

The Chinese bourgeoisie, including the minor and front parties, who joined in support of the People's Republic of China, nursed hope for a mellowing of the Communists' attitude. Mao had, after all, promised that this first stage in his two-stage revolution "will be a considerably long one." Private businessmen knew that they would eventually be doomed in China under the Communists, but many anticipated a period of thirty to fifty years before Mao's brand of socialism would spell their doom.[7] Many would have been wise to do as Mao did and survey the first twenty-eight years of the CCP, for the experiences of those years were to set the tone and the pattern of Chinese Communist revolutionary rule. They would have learned there was little hope for a liberal treatment from their new rulers.

In one of his earliest published works in March 1927, Mao had warned: "a revolution is not a dinner party, or writing an essay, or painting a picture, or doing embroidery; it cannot be so refined, so leisurely and gentle, so temperate, kind, courteous, restrained

and magnanimous."[8] He continued that for the revolution to succeed. "To put it bluntly, it is necessary to create terror for a while in every rural area . . ."[9] The leader of the Communist Party of China was a good Stalinist who believed in the efficacy of terror for the sake of the ultimate goal.[10]

Other aspects of the period of the drive to power which were to set the tone for the CPR included the subordination to Marxist-Leninist dogma—an attempt to fit the Chinese people and civilization within the framework of an artificial intellectual construct developed in Europe. Mao himself, in a statement which indicated his contempt for his native culture, asserted that the Chinese people were "poor and blank." Thus, they could be molded into a pattern which he perceived. Part of that pattern include those aspects which have come to characterize his rule: mass mobilization for various projects and undertakings; a preponderance of military style including the viewing of practically every state policy or action in military terms, with, for example, "shock troops" for the literacy campaigns, "brigades" as a basic organization in the people's communes, or Red Guard "armies" storming the citadels of power of China's "Khrushchev"; the dualism of the love-hate, friend-enemy, who-whom, relationships of the Marxist-Leninist class struggle interpretation of the world in which there can be no neutrals.[11]

The Chinese Communist path to power included an initial "united front" with the Nationalists (1924-27) during which a military and political campaign was launched to wrest the country from the hands of the warloads; the breakdown of the front and resultant civil war (1927-36) which included the Nationalist military campaigns against Mao's headquarters in Southeast China; and finally the "Long March" of 1934-35 to the Communist headquarters in Northwest where, from 1936 throughout World War II, Mao directed his separate forces which were once again nominally in a second "united front" with the Nationalists (1936-45). Then came the second civil war of the Chinese Communist drive for power (1945-49). Through the course of this quarter century of unremitting struggle the costs to the Chinese people were staggering. It is well nigh impossible to make an accurate assessment. But assessments are possible within certain limits.

Some writers have estimated the number of casualities occasioned by the Communists in their drive to power. One common figure given is twenty million.[12] For more than two decades, The Nationalist government under Chiang Kai-shek fought back against the Communist insurgents. Sometimes it fought defensively, sometimes it took the offensive. Certainly the five "annihilation campaigns" which Chiang Kai-shek waged against the Chinese Communists in Kiangsi before they broke out of encirclement and embarked on their Long March (1934-35) were costly to both sides and also to the surrounding innocent peasants caught in the crossfire. The March itself was costly to Communist forces as well as to the local forces of the countryside through which they moved. The second civil war (1945-49) involved the use of modern military equipment which had been developed during the Second World War, and was doubtless much more costly. It was also a period when the Communists were generally on the offensive.

THE EARLY YEARS

In 1949 the Chinese people were indeed deserving of peace and an opportunity to unify and reconstruct their ravaged country. The more than two decades of Communist power, however, have brought no surcease to struggle, violence, warfare, or misery for China. There have been external wars such as in Korea (1950-53), with India (1962), and along the Soviet borders (1969); there have been formidable conflicts with areas where minority nationalities are situated, particularly in Tibet where hostilities assumed major proportions in 1959 and have been continuing sporadically since; there have been the struggles waged in the wake of the Cultural Revolution, such as that in Kwangsi in the summer of 1968 where an estimated 50,000 were killed in the city of Wuchow alone.[13]

But perhaps even more tragic has been the pattern of rule which Mao and his fellow Communists have used to bring about political control of the Chinese people and the development of power for the Chinese state. Since 1949 China has been subjected to a pattern of wave after wave of mass campaigns breaking upon the countryside and only gradually receding. These campaigns, sometimes overlapping, have followed each other in such a way as to allow few moments of calm. Mao has indeed been a proponent of permanent revolution. Each of these campaigns has claimed millions of victims; all have been infused with the Maoist belief in the desirability of struggle and the necessity for violence; some have resulted in large-scale purges or the elimination of whole groupings within the society.

The naming of some of these campaigns is enough to evoke apprehension among refugees in Hong Kong, where a minimum of two million Chinese have moved to escape from Chinese Communist rule.

There was the Agrarian Reform of 1949-52 which brought about the execution of several million landlords.[14]

Then came the campaign against counterrevolutionaries of 1951-52 during the first twelve months of which it was estimated that one and one-half million were executed.[15]

The 3-anti and 5-anti campaigns of 1951-53 purged the business, finance and industrial circles with executions and a wave of suicides. All of these were linked to bandit suppression campaigns from 1949 to 1956.

In connection with the purge of Kao Kang and Jao Shu-shih in 1955, Mao launched yet another campaign against "hidden counterrevolutionaries" in 1955. Following this, he moved on yet another front with a drive for collectivization of the peasants in "agricultural producers' cooperatives" which he demanded be completed by the end of the First Stalin-type Five-Year Plan (1953-57). It was the end of this period that he finally persuaded the intellectuals and others who had joined in the united front of 1949 to speak up and voice criticisms in the spring of 1957. Their vehemence against the Communist Party and Mao's leadership resulted in an Anti-rightist campaign which terrorized China during the ninth and tenth years of Communist rule, and fused into the "Great Leap" of 1958-1959.

The first decade of Communist rule in China may be forgotten in the West—after all, we have short memories, a fact on which Communist leaders have frequently traded—but the Chinese people have not forgotten their leaders' capacity to carry through the combination purge-drive which can infuse the population with that terror which Mao had early on decided was a prerequisite for effective rule. Perhaps the following three excerpts—three of thousands available but possibly forgotten—can help explain why this is the case.

MASS EXECUTIONS OF THE EARLY PERIOD

Millions were executed in the immediate post-power seizure period in Communist China. Many of the executions took place after mass public trials, in which the assembled crowds, whipped up to a frenzy by planted agitators, called invariably for the death penalty and for no mercy for the accused. During this early period, Mao and his colleagues made no effort to conceal the violent course being followed. On the contrary, the most gruesome and detailed accounts were printed in the Communist press and broadcast over the official radio for the purpose of amplifying the condition of mass terror the trials were clearly intended to induce.

The first example below is of public trials which took place in Peking (as, indeed, in all major cities in mainland China) during the spring of 1951. It is taken from the *China Missionary Bulletin*, a Hong Kong monthly, of May, 1951, and quotes extensively from the official Chinese Communist sources:

"MASS MURDERS IN PEKING

"The bloody terrorism erupted in Peking on March 24 and 25, and was imitated immediately by other large cities. A terrifying mass display was staged on the 24th of March under the slumbering trees of the Central Park in Peking. According to the Communist report, more than 5,000 people were present, representatives of political parties, of factories, commercial firms, religions, schools, etc. The band of 'anti-revolutionaries', those to be executed, were led to the meeting to be charged publicly. Thus the typical K'ung su hui, so widespread in the countryside, appeared in a slightly different guise in the large cities.

"Here, instead of accusations arising from the masses, they were made by the Mayor of Peking and the various department heads of the city government. With each speech the bitter hatred was blown more white hot. In all, the meeting lasted almost five hours. At the end the Mayor of Peking, P'ang Cheu, again stood before the emotionally worked up audience and in a dramatic speech asked them to pass sentence: 'Comrades, what should we do with all these criminals, bandits, secret agents, evil landlords, heads of reactionary Taoist sect organisers?'

"The crowd unanimously roared 'Shoot them'.

"The Mayor continued: 'Should we have mercy on them?'

" 'No Mercy'—the crowd shouted back.

"The Mayor commented: 'Truly, no mercy for them. If we would pardon them, that would be a sin on the part of the Government.'

"The next question was: 'Is it cruelty to execute all these criminals?'

"The answer came back: 'It is not cruelty.'

"The Mayor commented: 'Truly it is not cruelty. It is mercy. We are protecting the lives of the people whom they harm.'

"The last question was put: 'Comrades, are they right or are we right?'

"And the last answer: 'We are right', started the cheering for the Mayor and Mao Tse-tung.

"The Mayor concluded: 'We are here representing the people. It is our duty to do the will of the people. We suppress the anti-revoluntionaries. This act we perform according to the law. Those who have to be killed, we kill. In cases where we could kill or not,

we do not kill. But when it has to be killing, we kill. . . . No you all want them to be suppressed. Tomorrow the Court will pronounce the judgment and they will be executed". (*Jen Min Daily*, March 25, 1951).

"The next day a big meeting was held outside the city walls (although it is not clear who were present) and the executions took place and were broadcast over the radio. (*Jen Min Daily*, April 3)."

The second example comes from an official Chinese Communist book distributed in English to the outside world in 1951. It is Peking's version of one of the trials of the "landlords" whom Mao had decreed should be eliminated as a class. The executions of many innocents in the countryside were also accomplished through mass meetings and demonstrations.

"With raised fists, the audience below shouted in one voice 'Down with reactionary landlords!' 'We demand that Peng Ehr-hu be shot!' . . .

"The masses again shouted in unison. 'Down with criminal landlords who hide and disperse their properties!' 'Long live the unity of the peasants!'

"It had started raining. But the tense atmosphere did not in any way lessen. . . .

"By four o'clock over 20 peasants had poured out their grievances from the platform. Mass sentiment had surged to the boiling point. Over and above there was a curious hush of expectancy. Not one person left or took shelter in spite of the terrific downpour.

"(Then the people's tribunal met to deliberate.)

" 'Peasant comrades!' The judge's voice was grave. 'We have just heard some of the accusations made by local peasants. From these accusations, it ought to be clear to everyone how the landlord class has always worked hand in glove with the enemy of the peasants—whether it was Japanese imperialism or the KMT (Koumintang)—to oppress the peasants themselves. The same motive has prompted them to act as fawning lackeys to American imperialism, since American imperialism is directly opposite to the people's interests too.'

"'Our verdicts on the three criminal landlords are as follows: . . . Pen Yinting, age 40, native of Hsinlu Village, has caused the deaths of patriotic youths during the Resistance War. After liberation he oranized superstitious societies and spread rumors to delude the public. Also he has hidden firearms with the intent to plan for an uprising. The sentence for him is—death. do you all agree?'

"The sound of applause that came from below was deafening. . . .

"With one arm sheltering his tear-stained face, Pen Yin-ting was hurried along. . . . When Grandma Li, with her bony fist clenched, edged her way through the crowds and tried to hit him on the shoulder, the guards immediately stopped her. A cordon was quickly formed by them around the prisoners as more blows were about to shower from all directions. . . .

"The prisoners were escorted to the graveyard south of the temple. From the back of the graveyard came the sound of several shots.

"The sound shrilly pierced through the thick, moist atmosphere enveloping Huiling hsiang. Sighs of relief were heard as justice was meted out to the convicted.

" 'Down with the reactionary landlords!'

" 'Long live the emancipation of the peasants!'

" 'Long live the Communist Party!'

" 'Long live Chairman Mao Tse-tung!'

"The masses, for the first time freed from their dread and restraints, let out these slogans with a voice stronger than ever."[15a]

The third account of the mass executions which have characterized communists rule is of particular significance because it was written by one of the leaders who initially participated in Mao's coalition government and after several years escaped to Hong Kong.

"The gates of the Bureau of Public Security opened, and out came a police truck with about twenty policemen standing on it, guns in hand, followed by twenty-odd trucks carrying prisoners and four police guards each. The trucks went slowly past our hostel, and I saw that every prisoner had been stripped to his pants and had his wrists tied behind his back. They were crouching on the trucks, still and lifeless, and at first glance, gave one the impression of so many pigs going to slaughter. The loudspeakers began to boom, 'Shoot the counterrevolutionaries' and the crowd shouted and clapped. All around me, people were calmly chatting and laughing. After the trucks went by, the huge crowd closed in after them and followed them to the execution ground.

"That day, more than four hundred so-called counterrevolutionaries were shot. I did not go to the execution ground, but I was told that the place was packed, and that after each execution, the crowd, under direction, applauded.

"That night, I borrowed a copy of Dickens' *A Tale of Two Cities* from another member of the Mission who happened to be a writer. As I read, I could understand why it was possible for the French to derive pleasure from killing. They hated the French aristocracy. But what I had seen that day was different. The masses had no quarrel with those who were executed, yet they shouted and applauded the Government-sponsored massacre. I think in their hearts they must have been frightened."[16]

THE CAMPAIGNS OF THE SECOND DECADE

The second decade of Chinese Communist rule began in the midst of the most grandiose of all Mao Tse-tung's campaigns, the "Great Leap Forward" of 1958-60. This mobilized tens of millions of the Chinese to smelt iron in primitive and ineffective backyard furnaces (a testament of the Chairman's ignorance of the modern scientific world) and sought to push the Chinese peasants into communal-type militarized living, replete with, in some cases, separation of sexes and families, communal dining halls, and abandonment of all personal and family items. The human cost of this grandiose Maoist scheme in terms of wasted energy and resources, suffering, and death can probably never be reckoned. Not surprisingly, even this found apologists in the West, including Edgar Snow, who claimed that the movement was spontaneous and voluntary on the part of the Chinese peasantry and people and that it was a success in terms of teaching modernization as well as productivity.

The "Great Leap Forward" met with stern Soviet disapproval, and, as the Sino-Soviet dispute subsequently developed, the Kremlin was to level many charges against the Maoists concerning their brutality. Some of these charges seemed to approach in dimensions the figures on casualties and oppression which have been leveled against the CPR by the rival government in Taiwan.[17]

In 1969, for example, Moscow charged:

"In the course of 10 years, more than 25 million people in China were exterminated. More than 25 million people! And to be more precise: 2.8 million from 1949 to 1952; 3.6 million from 1953 to 1957; 6.7 million from 1958 to 1960; and 13.3 million Chinese were savagely assassinated from 1961 to 1965."[18]

The Soviets have not been noted for the reliability of their figures in such propaganda barrages, and it is interesting to note that they lay the greatest number of casualties at Mao's door in the period following the serious outbreak of the dispute. According to Moscow,

"during 1960 alone, Mao Tse-tung's government exterminated more Chinese than were killed during the entire war against Japan."

We can wonder, too, given the nature of the Soviet system, how sincere are their denunciations of forced labor in China. According to the Soviets, for instance, the Peking authorities had to resort to serious measures in 1959 to deal with popular resistence occasioned by the "Great Leap." In the words of Radio Moscow—

"Mass repressions were designed, it seems, to reeducate by force labor. The discontented were dumped by the millions in enormous concentration camps. These camps were situated in the most deserted and remote areas of China, and the prisoners were subjected to physical labor which was almost always beyond their strength. Of course, it has been impossible thus far to obtain any precise details of those who were tortured to death in the famous reeducation camps."[18a]

The aftermath of the failure of the Great Leap led to numerous campaigns from 1960 to 1964 during which the Party sought to restore order and discipline by making "everyone a soldier." Numerous soldier heroes, willing to brave hardships to "serve the people," were extolled for the benefit of young people from the towns and cities who were dispatched to the countryside or out to the frontier areas. This latter program, which was once again in full swing beginning in 1968, has seen millions of youth sent from their homes to areas which can barely sustain the present population.

In 1965-66 Mao launched yet another great campaign, the Great Proletarian Cultural Revolution, which lasted until 1969. This too, brought in its wake executions, purges, and terror.

This brief recounting of the Maoist "rule by drives" is enough to make one marvel at the resilience of the Chinese people. Already in 1959 there were estimates that the first decade of the People's Republic of China had brought the extermination of thirty million people.[19] The additional cost in casualties and suffering since the Great Leap Forward and the Cultural Revolution have yet to be measured.

SOME RESERVATIONS

Such figures as those cited above, even though some of them are based upon official statements by leaders in Peking, can only be rough guesses at best. In his report to the National People's Congress on June 26, 1957, for example, Chou En-lai stated that since 1949, of the counterrevolutionaries captured, only 16 percent had been executed, 42 percent were sent to labor camps, and 32 percent had been placed under surveillance.[20] Official estimates of the number of counterrevolutionaries "deactivated" before that time ranged in millions, but, except for a brief period in 1951, Peking has refrained from giving figures. Four of the six regional leaders of the Great Administrative Areas into which the PRC was ini-

tially divided stated that, in the early period of the campaign against "native bandits" and counterrevolutionaries in the areas, 1,176,000 has been liquidated.[21] But one can wonder even at these figures.

As the foregoing indicates, the past half century has been one of almost continuous warfare, and the costs of war are hard to measure—squandered energies and resources can never be fully accounted for; postponement of necessary social and economic measures can cause undue burdens for future generations. Heartache and separation come at a high price. In the case of casualty figures in China, they are generally imprecise, and contending sides have not avoided the usual practice of inflating when it suits a purpose at hand.

China tends to be so vast a subject and the numbers of people involved so overwhelming that we all too frequently forget the human equation. When figures are in the millions, there can be a tendency to forget that the subject is humanity rather than the latest figure on steel production. The millions of Jews exterminated by the Nazis were thinking, loving, emoting, creative beings. The millions who died at the hands of Stalin partook of the same characteristics—they, too, were human. So also have been the victims of Mao's and his comrades' attempt to mould Chinese civilization into the framework of his dogma.

An attempt to assess the cost in casualties of the Communist movement in China is obviously fraught with uncertainty. With regard to China there is just so much that we do not know and can never know. Not only is there an inconsistency in Communist figures,[22] but estimates from the outside world vary greatly. Then, too, there are a number of other imponderables: How many Allied troops died in World War II, for example, because Chinese Nationalists and Communists had committed troops against each other or because Mao's policy was to use only ten percent of his forces and emergy against the Japanese?[23] Or, how many of the 34,000 U.S. war dead in Korea are a direct or indirect cost of communism in China?

The following table offers in extremely rough form possible parameters of the estimates of the direct cost in human lives occasioned by the movement which Mao and eleven others started in 1921 to "liberate" the Chinese people. It is entirely possible that a reasonable estimate would be that the figure approaches fifty million Chinese—also members of the human race.

The question which must concern us also is not whether this or that figure is exaggerated, but the extent to which mass unstructured killings have been and continue to be a part of the mode of rule in Communist China. The table should at the very least give some pause to those who would wrap this kind of injustice in the dirty linen of expediency, of necessity, to use Howard Fast's language.

CASUALTIES TO COMMUNISM IN CHINA

	Range of estimates	Range of estimates
1. First Civil War (1927–36)	250,000	[1] 500,000
2. Fighting during Sino Japanese War (1937–45)	50,000	[2] 50,000
3. Second Civil War (1945–49)	1,250,000	[3] 1,250,000
4. Land reform prior to "Liberation"	500,000	[3] 1,000,000
5. Political Liquidation Campaigns (1949–58)	[4] 15,000,000	[5] 30,000,000
6. Korean war	[1] 500,000	[6] 1,234,000
7. The "Great Leap Forward" and the Communes	1,000,000	[7] 2,000,000
8. Struggles with minority nationalities, including Tibet	500,000	[8] 1,000,000
9. The "Great Proletarian Cultural Revolution" and its aftermath	250,000	[9] 500,000
10. Deaths in forced labor camps and frontier development	15,000,000	[10] 25,000,000
Total	34,300,000	63,784,000

[1] John S. Aird, "Population Growth" in Eckstein and Galenson, eds., Economic Trends in Communist China (Chicago: Aldine, 1968), p. 265. There are wide ranging figures regarding the "Long March" (1934–1935). Hugo Portisch, Red China Today (Chicago: Quadrangle, 1966), p. 131 offers the usual estimate of 100,000.

[2] This figure would include, for example, the New Fourth Army incident of January 1941 and numerous minor skirmishes during the war. See Peter S.H. Tang and Joan M. Maloney, Communist China: The Domestic Scene, 1949–1967 (South Orange: Seton Hall, 1967), pp. 60–69.

[3] One official statement lists half a million "feudal bullies" eliminated in the north by June 1949; this would not include Manchuria or other areas under Communist control. The figure of one million is probably closer given the intensity of the early part of the "land reform" in this early period. Cf. Problems of Communism No. 2, 1952, p. 2.

[4] This figure, drawn from a Department of State estimate is given in several places: Franz H. Michael and George E. Taylor, The Far East in the Modern World (New York: Holt, 1956) p. 457 use the figure for the first four years of Communist rule. George M. Beckmann, The Modernization of China and Japan (New York: Harper and Row, 1962), p. 520 cities the same figure from a later government estimate. As noted above, the Soviets give a figure of 25+ million for the period 1949 to 1965.

[5] New York Times, June 2, 1959.

[6] The larger figure is the official U.N. command estimate of Chinese Communist casualties. Aird prefers a more modest assessment of U.N. performance against the Chinese "People's Volunteers." The Chinese Nationalists guess 1,540,000.

[7] On some of the background for the range of estimates, based on discussions in Hong Kong and subsequent studies, see two speical supplements which the author did for the New Leader: "Letter from the Communes," June 15, 1959 and "Hunger in China," May 30, 1960. Valentin Chu, in another New Leader supplement entitled "The Famine Makers," June 11, 1962 places the deaths of peasants owing to the "leap" at a minimum of one million.

[8] The figures on Tibet are also uncertain, but the International Commission of Jurists found clear evidence of genocide. Stanely Ghosh, Embers in Cathay (New York: Doubleday, 1961), p. 190, notes that the number of people immediately killed in the revolt of 1959 was 65,000 according to reliable sources. Troubles with other minority groupings have also led to casualty figures. See, for example, the interview by Hugo Portisch with the former Sinkiang "Culture Minister" in the Vienna Kurier of May 8, 1967. The Uighur leader, probably with very little urging from his Soviet hosts, discussed Chinese policies which had resulted in the deaths of thousands of Uighurs. He cited, for example, the case of the village of Kutcha, where he claimed that 10,000 people died in 1959 alone, all Uighurs.

[9] These figures are surely conservative estimates. As noted in the text more than 50,000 are reported to have perished in Wuchow, Kwangsi alone. On May 30, 1967, Radio Moscow (obviously not the most reliable of sources) estimated that more than 100,000 had already been executed in the course of the Cultural Revolution. These figures would also include the casualties of the hsia-fang or "rustication" movement which sent Red Guards to the countryside and frontiers when the army started to put the lid on the Cultural Revolution and bring it to a halt. They also include the wave of public executions which were part of the move to restore order and started in 1969 and continued through 1970. James Yeh, writing in the Mainichi Daily News in Tokyo on September 4, 1969, reported on the executions in some detail and also quoted the official Peking figure that by that time more than 25 million young people had been sent to the countryside.

[10] Robert Conquest in The Great Terror (New York: Macmillan, 1968), p. 533, estimates an annual casualty rate of 10 per cent in Soviet slave labor camps. It can be doubted whether conditions in China are any more humane—stories heard from former inmates in Hong Kong can be hair raising indeed. Granting a 10 per cent annual death rate in Chinese Communist Labor Reform Camps over 20 years of their formal existence, the figures given are obviously conservative.

What sort of rule is this which occasions the execution of untold numbers of young people, such as those whose bodies floated into Hong Kong in 1968 and again in 1970? Where is the consistency of apologists who maintain that the rule of Mao has brought new spirit to China, and then argue about the disfigured, tortured and bound bodies floating into Hong Kong, that the Chinese have always been that way?

It is worth remembering that at the very moment in June 1971, when reporters were commenting on Mao Tse-tung's creation of the new Chinese man (see, for example, Seymour Topping's dispatches in the New York *Times*), troops of the People's Liberation Army were machine-gunning scores of their fellow Chinese who were attempting to escape to Hong Kong from Mao's new paradise. Many of the youths drowned in the attempt, and others—the few—who made it told stories which were reported in the Hong Kong press, but were omitted in the euphoria that surrounded the first American direct access to Communist China for journalists and a few specialists in more than two decades. The number of casualties occasioned by attempts to flee China, though not included in the preceding table, cannot be considered insignificant.

FORCED LABOR

Surely one of the high human costs which the Chinese people have paid for rule by the Communist Party has been the system of "Reform Through Labor Service," a euphemism for forced labor or slave labor. This has been a part of the Chinese Communist political system from the outset, though the formal 77 regulations—worked out with the aid of Soviet "experts" sent by Stalin—were not drawn up until June 27, 1952 and not officially promulgated until August 26, 1954.

During the early years Peking talked quite openly about this system, which it was confident would help to remould the class character of those former enemies whom it hoped to "save." It is an interesting commentary on Western wishful thinking about Mao's China that although forced labor is an organic and essential element of the Communist economy, it has received practically no attention for more than a decade.[24] One can search the pages of the China Quarterly (the most important scholarly journal devoted to Communist China, now in its eleventh year of publication) in vain for a treatment of forced labor.

Part of the difficulty may lie in the curtailment of overt references to the system following the presentation of the Economic and Social Council of the United Nations in December 1955 of a report on forced labor which had a major section devoted to revelations about the conditions in China. Nevertheless, at the time of the celebration of the tenth anniversary of the PRC in 1959, there was an exhibition in Peking of the achievements of the corrective labor camps, and a subsequent one in Huhehot in April, 1960.[25] Further, there have been many refugees who have found their way out of mainland China, who have testified to the continued importance of forced labor in the Chinese Communist economy. At the time of the Cultural Revolution outsiders were reminded once again of the importance of the labor reform camps. In the contending between factions in Canton in 1967, for example, one Red Guard publication reported on the disorders that Canton was "faced with a huge decisive battle," and noted that even "Labor reform camp prisoners are being set free."[26]

There has been little attempt, since the early days of the Chinese Communist rule to carry through systematic study of forced labor and the conditions in forced labor camps. Following the airing of some of the details before United Nations bodies with much of the evidence gathered from Communist publications, Peking played down its own discussions of "reform through labor service".

It is ironic that some of the more recent discussions of forced labor in Communist China have come from the Soviet Union. For example, Radio Moscow, on May 30, 1967, claimed that more than 18 million political prisoners were languishing in some 10,000 camps in mainland China, and it quoted a recently escaped Chinese as saying that in the labor camps the people were being treated like animals. Surely there is need for a more thorough scrutiny of this part of Mao's China, which is related to construction schemes and to the whole social

and economic system, and we need more reliable information than the Soviets are likely to furnish if we are to understand the extent to which forced labor colors the whole of Communist China.

On the score of forced labor, as with casualties, figures are imprecise. The United Nation's report of 1955 listed some 20 to 25 million in regular labor camps and another 12.5 million in corrective labor camps. One scholar in the West estimated the number at about 14 million in 1954.[27] Certainly, as the years have passed, this institution, with its high human costs, has tended to be surrounded by ever denser fog. Most authors must, in the absence of adequate piecing together of hard evidence (and few seem inclined to that task), resort to imprecise phrases, but even the most cautious have commented on the "staggering number of persons involved." [28]

No estimate of the number of Chinese in forced labor camps for reform through labor service is less than ten million. But once again, the issue is not one of precise numbers but of the high cost in human terms of this degradation for political reasons or because of class origin or background. Those who have escaped and testified in the outside world allow no doubt about the sub-human and oppressive conditions in the labor camps, the hardships of separation from families, and the high mortality rates.[29]

It is probable that the Chinese forced labor camps have exacted a higher toll in human life than the mass executions—as Robert Conquest has shown to be demonstrably the case in the Soviet Union. Food supplies and the precarious nature of life in China anyway hardly offered hope for decent treatment for slave laborers. Reporters who visited the Chinese mainland from the United States in the spring and summer of 1971 and were entertained at sumptuous banquets by an affable Chou En-lai were hardly likely to raise the impolite question of slave labor or the arbitrary movement of personnel to forced labor brigades. But escapees give an almost constant stream of gruesome details about the system, for those who are inclined to listen.

There is another high human cost in a system which, because terror is an essential ingredient, bebases the very people who must perforce carry it through: the concentration and labor camp guards, as the following excerpt makes plain. It is drawn from the testimony of Yuan Mei, an escaped prisoner from a labor reform camp, presented to the International Commission Against Concentration Camp Practices in Brussels in November, 1956.[29a]

"One wintry morning, as a chill wind swept in from the north, 170 labourers were marched to work as usual. On arrival at the work site, the supervisor on duty, a fellow named Fang Yu, nicknamed "The Star of Pestilence", ordered the men to wade into the cold water. He blew his whistle three times, but the workers were reluctant to move. He then fired into the air threatening to shoot to kill if the men dared ignore his order. My two friends and I had luckily been assigned to fell trees on the slope. But the shot scared both of them, and they took shelter under a dense cluster of bushes. I didn't follow them but hid behind a sizeable tree-trunk and observed what happened subsequently.

"Workers in threes and fives began to strip off their clothes and were driven into the icy water like cattle. But a few of them failed to get into the water fast enough. This enraged the supervisor who grabbed a submachinegun from the nearest guard and let loose a barrage of fire which instantly killed several of them. A number of other leapt into the water with their clothes on. But the shooting was too much for them and they all stampeded, breaking away in all directions and running for cover.

"The situation threatened to get out of control and the armed guards joined in the shooting. A short while later, the whole company of the border defense troops was rushed to the spot and deployed around the whole area. Order was quickly restored, at the price of more innocent lives.

"The day's work was suspended. Those taking refuge behind the trees were then summoned and ordered to return to the camp. My friends, Liu and Tseng, were so scared that when they emerged from their hideout they looked more dead than alive. They asked me whether they had been wounded by the gunfire. I checked them over carefully and reassured them that there was nothing wrong with them. But their legs were too weak to move, so I had to drag them up to the top of the embankment along a path still slippery with blood.

"The group was assembled for roll-call. Some were plastered with mud, others were drenched. Everyone, was ashen-white and shaking with fear. "Over 21 labourers were missing, killed, wounded, or perhaps, escaped. No one could tell. But the would-be 'escapees' were grouped together and one after the other were beaten up in front of the lucky ones whose assignment kept them from being directly involved." [30]

DRAFT LABOR

Related to the forced labor reform program is the system of draft labor. At the time of the "Great Leap Forward" of 1958-59 this involved more than 100 million people in vast schemes for irrigation or back-yard iron smelting. Mao Tse-tung was eminently successful in getting his people to "volunteer" their services for his grandiose attempt to modernize his country by massed human energy. It was claimed, for example, that more than 400,000 volunteers from around the Peking area had contributed their labor to the building of the Ming Tombs Reservoir. This aspect of mobilizing the Chinese populace to help tackle their problems has excited a fair amount of admiration abroad. But it is legitimate to wonder to what degree this type of activity partakes of the character of forced labor. Letters which poured out from China during the Great Leap allowed for little doubt that the "volunteering" was far from voluntary.[31]

Here, for example, is a letter from South China to an overseas Chinese relative.

"KWANGTUNG PROVINCE, *August 27, 1959.*

"DEAR ELDEST UNCLE: I haven't written you for a long time. It's hoped that all of you are fine there. We are all right. Don't worry about us. My elder brother has been transferred from the Paisha Mine to the Haiyen Salt Mine for several days. His hardship as revealed in his letters is really worthy of our great sympathy. The trouble is that I don't have any power myself, nor do I possess enough abilities to help him. I have often written him and advised him to come back to join the family so that I might feel relieved of the strong sense of obligation for him. He answered, 'What you've said is perfectly right. But my superior will not approve my request and I have to stay. I want to escape, but on the consideration of food, I dare not. I'm now held at bay.' What can we do about that?

"Furthermore, our papers have not been approved; we have to endure all the hardships. There's an old saying, 'Man proposes and God disposes.' I still cherish hope. This month I was transferred, too. I'm working for the poultry raising yard at Lungch'uan Temple, very close to eldest aunt's house. Just for the work, I have left my lovely family again. You didn't personally see our life at the mine near Canton. So miserable! We lived under a thatched roof; the inside and outside of the hut were flooded when it rained. We had to sit up till dawn. Now I am suffering the same, so I always feel miserable. When I think about our present condition, I cannot help crying.

"While working for the sulphur mine, we people worked in the water even during freezing weather with heavy snow. Autumn will be over soon and winter will come. How can my elder brother bear the cold? It's impossible for us to carry on like this. Please write to aunt's husband for some letters that might help us apply for an exit permit. I hope approval will be given as early as possible. Otherwise, the best years of our life will be gone forever.

"For almost one year I've heard nothing from aunt's husband. Maybe he's afraid I'll bother him too much. A Chinese proverb says, 'Money is flying overhead; the wise men will have it while the fools have none.' So all the poor are fools and good for nothing. That's true. They further say, 'All fools are spineless.' But there are some fools who have spines.

"Uncle, please write me and help us get out. Ask aunt to add a letter to her husband's. Also, please write to the Overseas Chinese Affairs Committee to speed up the approval. I would like to die after we meet. When we become older, everything is gone. Regret does not help at all. I haven't invited you and aunt to have dinner once. Very sorry. But if my application is approved and I can thereby work out my future, I must reward all my benefactors.

"I'm now young and strong and able to bear any heavy work. To toil till death in our Fatherland does not pay off at all. I cannot pour out all the words by which I want to appeal to you. My tears come down with words. Please write to aunt's husband immediately and mail some photos of your whole family, or send them to me. Take good care of your health.

"Best wishes,

YOUR NEPHEW." [32]

OTHER ASPECTS OF HUMAN COSTS

In their propaganda at home and to the outside world the Chinese Communists frequently assert that their opponents are accumulating "blood debts" which will have to be paid. This may in part reflect their pattern of thinking, but it is not impossible that it is a reflection of concern over their own behavior toward their fellow Chinese.

There are many other aspects of Communist rule in China, in addition to those discussed above which are related to that human equation which *must* be a vital part of any assessment of Maoist rule and a half century of the Chinese Communist Party. Many of these aspects are related to the arbitrary or totalitarian manner of the rule and especially to the personality cult of Chairman Mao. The human costs in the seven subdivisions which follow are not easily quantifiable but they may in the long run prove to be higher than the seemingly incredible casualty and forced labor figures given above. Those, too, are factors which the Chinese people, whose memories and

sense of history count generations rather than years, are not likely to forget.

1. The arbitrary movement of people.—The Chinese Communists have resorted to numerous campaigns which have separated members of families or arbitrarily sent individuals off either to the countryside or out to the frontier areas. One example of this has been the almost continual campaign to send young intellectuals to the countryside since 1955. The young people have disliked the rural manual labor for which they find themselves unprepared, and the peasants have resented their presence because they represent extra feeding problems and are unable to carry through assigned tasks.

The climax of this drive has come in the wake of Mao's attempts to restore order after the Red Guard extremes of 1966 and 1967. Between December 1968 and December 1969 it was estimated that more than 26 million youth's were "rusticated," or sent down to the countryside. These included practically all of the middle school and college graduates as well as college students whose schools were at that time closed. According to one close observer of the Chinese scene, "Mao has indeed sold Chinese youth down the river." [33] In many cases the youth were sent to become the serfs on land controlled by the People's Liberation Army, and the Maoists made it quite clear that the move was to be for life. Little wonder that for fifteen years the government has had to cope with the "blind influx" of the youth back to the cities. But in the most recent case the rustification of intelligent and qualified youth represents a really long-range loss of talents to a country which most needs them—"half a million students of schools of higher education . . . the hope of a developing country, thrown on the rubbish heap. If things do not change quickly, hundreds of thousands of jobs will be filled by men who have not learnt the elements of their profession." [34]

2. Purging of the Intellectuals.—The intellectuals also have been "rusticated," and many more have been consigned to oblivion. Mao's contempt for China's intellectuals is well-known; it parallels that of Stalin. From the founding of the PRC, a major Maoist goal has been the "remolding" of China's "intellectuals," a rather loosely-defined group of people in China and generally meaning anyone who is fairly literate or thinks for himself. This has involved campaigns, denunciations, forced confessions, and subjection to reform through labor. The distrust for the intellectuals or for anyone who did not accept the current Maoist writ has extended to Party leaders too. There was the campaign against Hu Feng in 1955; Mao's old colleague and the suspected ghost writer of *On New Democracy*, Liang Shu-ming fell from grace as did Ting Ling, Communist China's foremost woman novelist who has disappeared from sight and is rumored to be a latrine orderly.

During the Hundred Flowers episode in the spring of 1957, a great number of intellectuals and even Party leaders spoke out against Communist Party oppression of human qualities and against the utilization of terror. The following extract is from a 10,000-word letter to Chairman Mao written by Professor Yang Shih-chan in Hankow and subsequently published in the *Yangtze Daily*. It was publications such as this, intended by the Communist leaders to prove the malevolence of the "rightists", which gave the outside world some insight into the degree of discontent in Communist China, even at a point (1957) when the first Five-Year Economic Plan and other aspects of the Communist system seemed to be the most successful.

"Our Constitution provides that citizens 'enjoy freedom of residence and freedom to change residence.' In fact, we have not given any of the 500 million peasants the freedom to change their residence to a city. . . .

"Again, our Constitution provides that 'freedom of the person of citizens is inviolable.' During the campaign for the suppression of counter-revolutionaries in 1955, an untold number of citizens throughout the country were detained by the units where they were working (this did not happen to myself). A great many of them died because they could not endure the struggle. No matter how strong the 'reasons' were for detaining their citizens to conduct struggles against them, this was, after all, a serious violation of human rights. . . .

"This is tyranny! This is malevolence!

"Possibly, these acts were considered 'necessary' at a certain time and in a certain place, but just because of this alleged 'necessity,' the articles of the Constitution on human rights have become a sort of window-dressing to deceive the people. . . . Today, we do not even know the height or size of a person we elect, let alone his character or ability. We have simply become ballot-casting machines. . . .

"At different times, intellectuals may be thrown into the fire or pushed into the water, sent down to hell, or lifted up to heaven. Going down to hell, intellectuals have a great many grievances and regret that, considering themselves wise at the time of liberation, they 'did not listen to their friends' advice to go abroad to observe the conditions there.' (*Ch'ang Chiang Daily* Editor's note: 'To go abroad to observe the conditions there' was 'go to Formosa' in the original text, and the change was made by the writer himself.) . . . In the last seven years, they have lived like a girl being brought up under her future mother-in-law in the home of her fiancé, constantly trembling with fear. . . .

"We have applied to intellectuals methods of punishment which peasants would not apply to landlords and workers would not apply to capitalists. During the social reform campaigns, unable to endure the spiritual torture and humiliation imposed by the struggle . . . the intellectuals who chose to die by jumping from tall buildings, drowning in rivers, swallowing poison, cutting their throats or by other methods, were innumerable. The aged had no escape, and pregnant women were given no pardon. . . . Comparing our method of massacre with that adopted by the fascists at Auschwitz, the latter appeared more clumsy and childish (at any rate, they hired executioners), but more prompt and 'benevolent.' If we say that Comrade Stalin has not escaped from condemnation in history for his cruel massacre of comrades, then our Party, in my opinion, will also be condemned for our massacre of intellectuals who had already 'surrendered' themselves to us. Our Party's massacre of intellectuals, and the mass burying alive of the *literati* by the tyrant, Ch'in Shih-huang, will go down in China's history as two ineradicable stigma. This cannot but make us feel utterly heartbroken." [35]

But the Great Proletarian Cultural Revolution of 1966 to 1969 and its aftermath have constituted the ultimate in the purging of China's intellectuals. In the midst of the attack against the intellectuals which got into full swing under the army in 1969 one observer noted:

"In fact, Mao is embarked on one of his recurrent anti-intellectual campaigns; it bodes ill not only for those at the middle or end of their education but those who are just reaching school age. The press carries an unending stream of articles to illustrate Mao's statement that 'the lowly are the most intelligent, the elite are the most ignorant.' " [11 36]

The following is an extract from an account of Red Guard terror by Ma Sitson, China's leading violinist. Such human experiences are all too frequently forgotten in some of the bland accounts of Communist rule in China by Western Scholars.

". . . then a day or two later a major struggle meeting outdoors at the school, a platform was set up at one side of large courtyard for the department head and his accusers. Many people came forward out of the crowd to level accusations. The rest of us were ordered to squat in the sun and watch. It was ugly. Red Guards dragged four or five men and women—friends and neighbors who had in the past defended the man—up the platform and swore at them. Then a Guard took a real whip and began beating them. The department head was beaten most savagely of all. Somebody screamed, 'You see! Look what happens to those who oppose.' The poor man lay there in the sun for at least an hour. I don't know how he got to his cell. Later on during this same meeting the Red Guards were invited to beat us too, on the pretext that we were not bowing low enough. I was cut around the head with a metal belt buckle.

"This took place during the second or third week of August, when the Red Guard frenzy was at its height in Peking. Physical violence slacked off after that. Elsewhere in the city there were many terrible incidents during this period. Students at one high school actually beat to death every one of their teachers. The woman who lived next door to us in the west city was accused of having a radio transmitter and sending messages to Chaing Kai-shek. Red Guards pulled her from her house into the street and killed her. People spoke of heaps of unburied bodies rotting in the mortuaries.

"Fear of this same irrational violence caused my family to run away from Peking." [37]

Sending professors and scientists to be "educated" by the illiterate soldiers, peasants, and workers may have a leveling influence, and it may fulfill Mao's dream of teaching them of the hardships of Chinese life. On the other hand it hardly offers opportunity for China to meet some of the highly complicated problems which the sophistication of modern industry requires.

3. Cultural destruction.—Linked to Mao's contempt for the intellectual is his negative view toward the traditional Chinese culture. Despite the fact that he fancies himself a fairly good poet in the traditional style, he alone seems to have the privilege of writing poetry that way. As Mu Fu-sheng has noted, "Poets cannot admire today the beauty of the moon or the fragrance of wine without having to confess to 'bourgeois sentiments' in disgrace." [39] Under the Communist rule, systematic destruction has frequently been practiced against traditional Chinese culture. Libraries have been burned, shrines destroyed, and art works defaced. During the Cultural Revolution, the regime pushed the destruction of the "four-olds"—culture, ideas, customs, habits—and even in some places ancestral shrines which have meant so much to the Chinese.

Certainly one of the major features of Chinese civilization has been the rich literary and artistic heritage. This is intimately related to every aspect of Chinese life—even for the poor peasants. On this score too, the Maoist rule has exacted a great human cost. Perhaps this is best symbolized by the disappearance of publications of the cultural tradition in the past five years in favor of the billions of copies of Mao's "little red book." Again, in 1966 the New China News Agency reported from Peking:

"In the afternoon of 24 August, revolutionary fire was ignited in the Central Institute of Arts to destroy the sculptures of emperors, kings, generals, ministers, scholars, and beauties, images of Buddha, and the niches for the Buddha sculptures. The revolutionary students and teachers said: 'What we have destroyed and crushed are not only a few sculptures, but the whole old world.'" [40]

The carrying on of a cultural tradition is perhaps more meaningful to the Chinese view of humanity than for any other culture. Little wonder a Chinese who was sympathetic to Mao's initial impetus for the "new China" left with the feeling, "The Communist regime is no overall solution to China's problem; if it were, culture would occupy a place beside economics." [41] The most telling commentary of the cultural cost of Communism in China lies in the fact that it has not produced a single first class work of literature or art in twenty years.

4. *Rash and grandiose schemes.*—Linked to the leader cult of Mao have been the campaigns, amazingly inspired but unfortunately based on Maoist ignorance of the modern world, which he has directed against the traditional culture and in favor of his own solutions for China's problems—schemes which have not proven to be solutions to anything but have only escalated yet higher the human cost of his rule. The collectivization in 1955, in the Stalinist model, wrought great havoc in the countryside, though not nearly as great as caused three years later by the people's communes, Mao's deep plowing schemes, and the militarization of the peasants. Again, Mao's scheme for becoming an industrial power through the back-yard iron furnaces caused untold agony and waste in 1958 and 1959. In 1959 "the government decided to lead the water of the great rivers of the south to the arid north. Tens of millions of people were set to work, without a scientific blueprint. The result was disastrous alkalization of the most useful wheat growing land of the north. China began to import wheat." [42] The Cultural Revolution with its treatment of the schools and intellectuals partakes of the same paranoic character. The human cost of having China's middle schools and institutions of higher learning closed for four years is incalculable.

Meanwhile, some of Chairman Mao's schemes, for which he has mobilized tens of millions of his fellow Chinese time and again have prevented those very projects which ought to have had attention in a developing country. As one of the most astute China-watchers in Hong Kong, L. La Dany has observed:

"Perhaps the most important objects of economic development should be transport and regulation of major rivers. For the past ten years both seem to have been shelved. The sixties did not witness a major development of transport, whether by rail or water. No modern engineering operations for the regulation of the major rivers were undertaken. China has not yet reached a state of development at which she could undertake such works by herself, and foreign capital and expertise are not being accepted. When future generations come to pass judgment on the present regime, they will certainly blame it for having neglected the development of the basic infrastructure, transport and the rivers." [43]

The extreme to which the subordination of the cult of personality and the interpretations of Chairman Mao can go is perhaps reflected in a *People's Daily* article which criticized the Huai River project of the 1950's for relying on the theory that specialists are needed instead of proletarian masses for planning. The purged Chairman Liu Shaochi and his associates were blamed for alleging that "specialists play the real role," and that steel, timber, and cement were of paramount importance. The article asserted that the "mass line and . . . vigorous mass movements" lie at the heart of bringing the Huai River under control.[44]

5. *Violence and Terror.*—We have already referred to the fact that Mao is a believer in the efficacy of terror. During the Hundred Flowers movement in 1957, those who dared to speak up repeatedly referred to the terror which had driven the people to silence and into a dull, drab uniformity. In the wake of Maoist terror has come the loss of the traditional Chinese sense of humor—and how human it is to be able to laugh! Campaigns of using show trials and summary executions before mobs have stunned many people from all over the world. The executions at mass rallies, a technique associated with the early years of Communist rule, were revived in full vigor in 1969 and 1970.

In July 1969, for example, two students in Peking were executed for "defying Chairman Mao's latest instructions." Posters in the city warned everyone who had not been present for the mass gathering at which the students were dispatched that "all the enemies of Chairman Mao had not yet been destroyed indicating that more executions were to be expected." [45] Radio Moscow commented on the trials in 1969:

"Public trials attended by tens of thousands of persons were carried out almost everywhere in the country. In the case of the 28 January rally in the Peking stadium, where a hundred thousand persons were present, 11 innocent people were put on trial. The television station gave coverage to the public trials at which two of the accused were executed on the spot. Similar public trials were held in the large cities of the country. They were held in Shanghai on 24 January and 14 May, Taiyuan on 31 January, Nanchang on 13 February, Canton on 9 April and 24 October, and Chengtu on 17 May. Those who were put on trial on these occasions were all accused of one offense, that is, for opposition to Chairman Mao, attacks against him, or for being his enemies. Even students were tried and slaughtered. These were ones who obviously could not have posed any direct threat against Mao Tse-tung's safety or position. Then why were they slain? It was not accidental that the masses were present at these trials. The aim of these trials was by no means to cure and save the sick as Mao Tse-tung would so much like to refer to them. The trials were "to frighten the snake out of cover" and "kill one to warn a hundred." In other words, it was a method of intimidating the majority by killing a small group." [46]

The correspondent of the Baltimore *Sun* reported from Hong Kong on September 19, 1970 that yet a new wave of public executions and show trials were in progress again in mainland China. There were a few futile signs of resistance to the high cost that the Chinese people were paying for Communist rule. One of the most interesting was the arrival in Hong Kong in the spring of 1970 of some bamboo flutes for sale in the British Crown Colony. The workmen who made the flutes in Kweichow had carved some traditional verses in classical calligraphy on them. As Stanley Karnow noted, the flutes reflect "the feeling of quiet desperation that must grip sensitive, educated Chinese striving to survive amid the turmoil convulsing Communist China." One of the poems reflected a reaction to Communist violence and terror:

"That I was born into this world is too foolish.

"Turning my head towards my motherland, I am overcome with grief and despair,

"I came to this world to create but am stifled.

"I seek to become a monk and cannot

"Who can see my silent weeping in the darkness." [47]

6. *The Refugees.*—Yet another high human cost in China stemming from the subordination of that great civilization to Communism has been the massive displacement of people. The story of people forced to leave their homes has always been a human tragedy, and those who have fled and continue to attempt to flee from mainland China and its Communist rulers number in the millions. Two million fled to Taiwan and at least another two million have escaped into Hong Kong which had a population of only 650,000 when the Japanese left at the end of World War II, but now boasts a population of more than four million.

7. *Other Items.*—There are yet other aspects of the human cost of Communism in China, but like so many of those listed, they are difficult to quantify. One, for example, would be the replacement of the traditional language of courtesy and respect between humans—so characteristically Chinese—with the language of violence, struggle, "blood debts," and desirability of war.

As one scholar points out:

"The Communist regime has also systematically discredited the old Confucian social principles and Western values, especially among the youth of the country. The pages of Young China, the organ of the Communist Youth League, are replete with examples of 'progressive' advice. For example, in answer to an inquiry from a boy regarding his duty to denounce his father, a former landlord, who was hiding with his family, the editor stated:

"Yes! Liquidate blood relations in the cause of justice. But wait, liquidation is only a figure of speech. The regime kills only the worst criminals. It reforms the rest by hard labor. Once his thoughts are reformed, your father will be returned. Your father will be grateful, and you will be the instrument of his salvation. If he has not reformed, you can denounce him again'" [48]

All this, and the stifling of creativity, added to all the other factors in this dismal catalog, are far too high a price to pay for an outmoded doctrine and panacea which has not worked elsewhere.

THE ALTERNATIVES

Obviously solving the problems of China is a formidable and vexing task, and as has been indicated, the temptation to go for the grandiose scheme as a solution is great. But there are other paths, far more peaceful

and far less destructive through which the Chinese civilization can find its proper role in the modern world, maybe even in a piecemeal manner. Three specifically Chinese alternatives come to mind.

There is, first of all, the wonder of Hong Kong which has in large part been made possible by the talents of the Chinese people, and which is far more a Chinese phenomenon than it is a British phenomenon. The rule of the British Crown may be deemed "undemocratic" by some, but under standards of British law and justice and normalized expectation in stability and commerce the Chinese have shown a remarkable capacity for democratic community, social and professional organizations, and they have shown how to handle one of the greatest refugee problems in the world and to raise living standards in Asia in a meaningful sense.

Singapore is yet another basically Chinese example which indicates that problems of poverty, development, and education are better solved without violence, class struggle or subordination to totalitarian dogma.

Taiwan, too, is another dramatically successful Chinese alternative to the Communist approach to the problems of the Asian peoples. Though one may criticise the Nationalist government for certain authoritarian aspects of its rule, it is a very long way from the most rigid authoritarianism to the merciless and all-pervasive totalitarianism of a Stalin or a Mao Tse-tung. Certainly, it would be impossible to argue that there has been in the past two decades the kind of human cost which China's Leninist-Stalinist, Mao Tse-tung, has deemed necessary, indeed desirable.

The time is at hand to break away from the kind of double entry moral bookkeeping which has characterized the approach of all too many Western intellectuals to the facts of the rule in mainland China under Mao Tse-tung. The cost in human terms—whether related to social improvements which communist insurgency prevented during Mao's drive for power or to the grandiose schemes of the "Great Helmsman" during his first twenty-one years of rule—stands as a formidable indictment of a half century of communist experience in China. There can be no rationalization for the attack upon those qualities which have made the Chinese among the world's most civilized humans. Their civilization has a long memory, and this is a period which will be remembered as a blot on their approach to the human condition.

There is general agreement that in our quest for peace and security we must, perforce, deal with the Chinese Communists. But in doing so, it is important that we not allow a temporary tactic or a Chou En-lai smile obscure our understanding that the top leaders of the Chinese Communist Party remain committed to their faith and to their past record.

In a dinner party with American correspondents in Peking on June 21, 1971, Chou argued that the American protective shield should be withdrawn from Taiwan so that the Taiwan problem could be solved as a strictly internal manner. He assured his guests that no revenge would be inflicted on the mainlanders in Taiwan who would be permitted to return to their homes, and he was quoted as saying, "Far from exacting revenge on them, we will reward them." [49]

Such words sound convincing to those Americans who are anxious to disengage from responsibilities in the Western Pacific and who have short memories. But these were just the terms which Chou En-lai and Mao Tse-tung promised to the former Nationalists and third-party intellectuals who joined the Communists on their accession to power in 1949; yet they were among first victims who are now statistics in the sobering table of casualties given above. These too, were the terms which Mao offered in the "Hundred Flowers" period of 1957; yet in the anti-rightist campaign which followed, a vindictive revenge was exacted. Would this same Chinese Communist leadership whose record has been detailed above be likely to behave in any different manner once they had, by their current soft line, won the very concession from the United States which they have sought for two decades by a hard line? It seems well nigh incredible that certain leaders of the American scholarly community should urge that we accept Chou En-lai's word and abandon the firm commitment of the United States government to the security of the people in Taiwan.

If the outside world cannot learn that the Chinese Communist leaders are indeed a remarkable group of "true believers" in their doctrines, if we are prone to forget or ignore their history and their past actions, if we do not exercise the wisdom which can point toward the day when the Chinese people can abondon class struggle and revolutionary would violence as the path to their modernization, then the human cost of Communism in China, detailed in the pages above, will, in all probability, mount very much higher.

FOOTNOTES

[1] Liu Shaw-tong, *Out of Red China* (New York: Duell, Sloan, 1952), p. 269. These are the concluding words of a book written during the last days of the Stalinist era.

[1a] It is probably not inaccurate to say that a great number of China specialists in the West have been almost as instrumental to building up the image of Mao the superman as were the Soviet specialists who analyzed Stalin's supposed brilliance in the 1930's. The Stalin-like features of Mao Tse-tung have been brilliantly analyzed by Arthur H. Cohen. See *Problems of Communism*, 15.5 (Sept.-Oct., 1966), pp. 8-16 and 16.2 (Mar.-Apr., 1967), pp. 97-9. Cohen clearly has the better logical and academic position in an exchange with Stuart R. Schram, a Mao biographer and contributor to the image of the all-wise leader. The Western "analysts" of Chairman Mao frequently devote page after page to explorations of the workings of his mind in such a way as to indicate that he thinks in all fields and solidly at least 72 hours per day. The frequent visitor to Communist China and a semi-official biographer of Mao, Edgar Snow, has through his writings and reporting been probably the chief contributor to the romanticized view of Mao as a humanist revolutionary concerned about the fate of mankind. Snow hardly deigns to mention the almost constant persecution of creative intellectuals by a Mao who has been grasped up into the vortex of his own infallibility. As Cohen has noted in the second of the pieces cited: "Most totalitarian rulers (including Hitler, Stalin, and Mao) have justified their actions—to others, and no doubt to themselves—in terms of some greater good which their actions would supposedly bring to their subjects. What Mao shares with Hitler, however, is the frank and explicit rejection of 'humanism' as a motive or goal for his policies." Surely an eloquent example of the extremes to which outsiders can go in helping to build the Mao cult was an article which appeared in the *Far Eastern Economic Review*, January 15, 1970, in which the author, Jack Gray, the Secretary of Glasgow University's Chinese Studies Department, found in Mao the most sophisticated modern economics and opined that "Mao's economic ideas are far closer to those of many Western economists dealing with the problems of underdevelopment (Hirschmann, Nurkse, Myrdal) than are the Liebermanist idea associated with Liu Shao-chi." There were also apologist analysts who maintained that Stalin was as great an economist in the modern world as John Maynard Keynes!

[2] Reprinted from the New York *Daily Worker* of June 12, 1956 in *Problems of Communism*, 5.4, Jul.-Aug. 1956, p. 4.

[3] Western observers of the China scene have had, however, adequate reasons to question the nature of Maoist rule and its parallels with that of Stalin. There were, for example, the revelations during the "Hundred Flowers" movement of 1957. See Roderick MacFarquhar, *The Hundred Flowers* (London: Stevens, 1960). Then came the revelations from refugees from the Great Leap Forward in 1958 and 1959, and the flight and plight of the Tibetans, beginning in 1959. The revelations during the Cultural Revolution of 1966-1969 were also eloquent in detailing some of what had been going on in China.

[4] Tibor Mende, *China and Her Shadow* (London: Thames and Hudson, 1960), p. 31.

[5] For a discussion of how the initial support was squandered, see the author's "The Elusive Elan: Problems of Political Control in Communist China," in R. F. Staar, ed., *Aspects of Modern Communism* (Columbia: University of South Carolina, 1968), pp. 195-222.

[5a] The same Chou En-lai, for example, who is so frequently accepted as the "pragmatist" and the more reasonable of Peking's leaders, did not hesitate to supervise personally the extermination of the family of Ku Shun-chang in Shanghai after Ku had confessed to the Nationalists. This is just one of many incidents detailing in the autobiographical series published in *Ming Pao* (Hong Kong) No. 41, May, 1969, p. 94 by the former top Chinese Communist colleague of Chou, Chang Kuo-t'ao.

[6] Mao Tse-tung, *Selected Works*, Vo. IV (Peking: Foreign Languages Press, 1965), p. 418. By 1967 it was clear that "the people" were those who supported Mao, his cult, and his thoughts, and (as was the case in the USSR under Stalin) many of his comrades were being purged for doubting his ominiscience.

[7] Mao's view of the two-stage revolution and the long period of coexistence which would mark the first stage was spelled out in his *On New Democracy* (January, 1940), *Selected Works*, Vol. II, pp. 339-384.

[8] Mao, "Report on an Investigation of the Peasant Movement in Hunan," *Selected Works*, Vol. I, p. 28. Interestingly enough, the footnote to this passage in the official edition calls attention to the fact that these virtues enumerated are virtues attributed to Confucius, a clear indication of where Mao would stand on some of those very humanistic qualities which has made Chinese civilization loved and respected.

[9] *Ibid*, p. 29.

[10] Mao repeatedly called upon his Party and his people to learn from Stalin and to follow Stalin. See, for example, *Selected Works*, Vol. II, "Stalin , Friend of the Chinese People," pp. 335-336.

[11] Mao had said in his *On New Democracy* that in the world from now on "neutrality" is only a term for deceiving people, *Selected Works*, Vol. II, p. 364.

[12] This figure is given, for example, by D.G. Stewart-Smith in his *The Defeat of Communism* (London: Ludgate Press, 1964), p. 223.

[13] See Tillman Durdin's dispatch in the New York *Times*, September 22, 1968.

[14] J. Clement Lapp, *Tensions in Communist China* (a study prepared by the Legislative Reference Service for Senator Alexander Wiley), GPO, 1960, p. 4.

[15] New York *Times*, November 13, 1951.

[15a] Hsiao Ch'ien, *How the Tillers Win Back Their Soil* (Peking: Foreign Languages Press, 1951), pp. 74-80. In view of the subsequent collectivization the irony of the title can be appreciated. One of the few good novels resulting from the literature of protest which followed Mao's violence and betrayal of the peasants, and which captures the mood in the rural areas, is Eileen Chang's *Naked Earth* (Hong Kong: Union Press, 1956—original in Chinese published 1954). The English version is worthy of a rereading, especially by those who are disposed to report in euphoric terms—before they venture into Communist China's communes.

[16] Chow Ching-wen, *Ten Years of Storm* (New York: Holt, 1960), pp. 112-113.

[17] The Government Information Office in Taipei charged that over 47 million Chinese were liquidated between 1949 and 1963. (Released from Taipei, Sept. 3, 1970.)

[18] Radio Moscow, April 17, 1969.

[18a] *Ibid.*

[19] See the New York *Times* "Editorial" of June 2, 1959.

[20] Lapp, *Tensions in Communist China*, p. 61.

[21] See R. L. Walker, *China Under Communism; the First Five Years* (New Haven: Yale University Press, 1955). p. 219.

[22] Mao, for example, in his "Hundred Flowers" speech estimated that a mere 800,000 had been killed, but this was in conflict with previous statements by Chou En-lai, Lo Jul-ching and others.

[23] Peter S. H. Tang and Joan Maloney, *Communist China: The Domestic Scene, 1949-1967* (South Orange: Seton Hall, 1967), p. 65.

[24] The contribution of the Labor Camps was dealt with in W. W. Hollister, *China's Gross National Product and Social Accounts, 1950-1957* (Glencoe: Free Press, 1958), pp. 102-103. But little work on its role in the economy has been done since, largely due to the absence of Chinese Communist statistics.

[25] See *China News Analysis*, Hong Kong, No. 377, November 16, 1961, p. 2.

[26] Survey of the China Mainland Press, U.S. Consulate General, Hong Kong, No. 4019, p. 18.

[27] Karl A. Wittfogel, "Forced Labor in Communist China," *Problems of Communism, 5.4 Jul-Aug., 1956, p. 40. This is one of the very few scholarly articles dealing with this important subject. Wittfogel notes that his figure means that one out of every forty people people in Communist China would be a slave laborer.*

[28] Y. L. Wu, *An Economic Survey of Communist China* (New York: Bookman, 1956), p. 322. A. D. Barnett in his *Communist China: The Early Years, 1949-1955* (New York: Praeger, 1964), p. 65 is more cautious and says that the Figure is "probably in the millions." He notes, however, the point being made here that the human element is undisclosed in the "dry, bureaucratic and lifeless prose" of Chinese Communist publications. (p. 67).

[29] Some compelling stories are related in *Forced Labor*, UNESCO, Document E/2815, December 15, 1955, pp. 92ff. One personal tale is reproduced in an Appendix.

[29a] It is legitimate to wonder whether there are those so anxious to have the "privilege" of a guided tour in Mao-land that, as journalists or scholars, they are unwilling to report the many similar stories of violence available in Hong Kong on an almost daily basis.

[30] Reprinted in *The New Men* (Hong Kong: China Viewpoints, 1957), pp. 52-53.

[31] See R. L. Walker, "Letters from the Communes," *The New Leader*, June 15, 1959, esp. pp. 23ff.

[32] R. L. Walker, "Hunger in China," *The New Leader* (Special Supplement), May 30, 1960, pp. 27-28.

[33] Peggy Durdin, "The Bitter Tea of Mao's Red Guards," *New York Times Magazine*, January 19, 1969.

[34] L. LaDany, *China News Analysis* (Hong Kong), No. 772, September 5, 1969.

[35] Quoted from Roderick MacFarquhar, *The Hundred Flowers* (London: Stevens, 1960), pp. 94-95.

[36] Peggy Durdin, "The Bitter Tea of Mao's Red Guards," p. 35.

[37] Ma Sitson, "Terror at the Hands of the Red Guard," *Life* (June 2, 1967), p. 29.

[39] Mu Fu-sheng, *The Wilting of the Hundred Flowers*, p. 257.

[40] New China Agency release, Peking, August 25, 1966.

[41] Mu Fu-sheng, p. 258.

[42] *China News Analysis*, No. 774, September 19, 1969.

[43] China News Analysis, No. 870, July 10, 1970.

[44] New China News Agency, Peking, September 25, 1970.

[45] Dispatch of James Yeh in the *Mainichi Daily News*, Tokoyo, September 4, 1969.

[46] Radio Moscow, May 31, 1969. Stalin's executions were not so public, but then, everyone knew of the terror.

[47] Washington *Post*, April 16, 1970.

[48] George M. Beckmann, "The Modernization of China and Japan" (Harper and Row, 1962), page 520.

[49] Seymour Topping in the New York *Times*, June 23, 1971, pp. 1, 4.

COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES FOR 1989

(Report submitted to the Committee on Foreign Affairs, House of Representatives and the Committee on Foreign Relations, U.S. Senate by the Department of State in Accordance With Sections 116(d) and 502(b) of the Foreign Assistance Act of 1961, as Amended, February 1990)

CHINA

The People's Republic of China (PRC) is an authoritarian one-party state ruled by the Chinese Communist Party (CCP). Following the Beijing massacre in early June, the Government reinforced totalitarian measures to control political views. A closed inner circle of a few senior leaders exercises ultimate power over the nation, with Deng Xiaoping the first among equals. Some of these party elders hold positions within the Politburo, the Central Military Commission, or other organs. Others hold no formal positions of authority but still wield considerable influence.

The Government maintains control through a nationwide security network which includes the Ministry of State Security; the Ministry of Public Security; the Ministry of National Defense; state judicial, procuratorial, and penal systems; and through traditional societal pressure. In 1989 the security network was responsible for widespread human rights abuses, especially in Beijing and Xizang (Tibet).

Despite 10 years of economic reforms intended to expand the role of market forces, China's centrally planned economy still retains price controls and allocations of some key goods by administrative directive. The Government has decentralized some economic decisionmaking authority and endorsed the development of a small private sector, particularly in retail sales and services. As part of a comprehensive economic austerity and restructuring program initiated in 1988, the Government took a more aggressive approach in scrutinizing private firms, punishing tax evaders, and attempting to limit the incomes of private entrepreneurs. The central authorities also withdrew some of the economic decisionmaking power delegated to lower levels.

The human rights climate in China deteriorated dramatically in 1989. On March 5-7, People's Armed Police (PAP) used indiscriminate and excessive force in suppressing demonstrations in Lhasa, Tibet, killing scores of persons. These killings and other serious human rights abuses, however, were dwarfed when the leadership ordered the People's Liberation Army (PLA) and other security forces to suppress forcefully a peaceful, student-led movement seeking greater freedom for China's people. At least several hundred, and possibly thousands, of people were killed in Beijing on June 3-4. The Beijing massacre was followed by a drastic country-wide crackdown on participants, supporters, and sympathizers. Thousands were arrested and about a score are known to have been executed, following trials which fell far short of international standards, for alleged crimes committed during the arrest. There have been persistent but unconfirmed reports of numerous unannounced executions. At year's end the crackdown was still continuing. The Government attempted to defend its actions by a massive disinformation campaign, expulsion and harassment of foreign journalists, a ban on the sale of books by dissidents, and the jamming of the Voice of America and some other foreign radio stations. Virtually all internationally recognized human rights discussed in this report are restricted, many of them severely.

RESPECT FOR HUMAN RIGHTS

Section 1: Respect for the Integrity of the Person, Including Freedom from:

a. Political and Other Extrajudicial Killing

By far the most serious instance of extrajudicial killing in China in 1989 was the June 3-4 massacre in Beijing. Credible evidence indicates that the leadership deliberately ordered the use of lethal force to suppress peaceful demonstrations. The excessive force employed resulted in the deaths of many unarmed civilians. As noted above, estimates of the number killed vary widely, and an exact accounting may never be possible.

In early March, the PAP shot and killed scores of Tibetan monks and their supporters during demonstrations in Lhasa. Hundreds more were injured as police used indiscriminate and excessive force to quell protests in support of Tibetan independence.

Many independent observers believe that the number of persons actually executed in connection with the 1989 demonstrations throughout the country is far higher than those officially announced to date. Confirmation of such executions is not available, and Chinese officials have refused to respond to diplomatic requests for information.

According to reliable sources, 2 persons were killed and 150 injured, 10 seriously, during an April police raid on an underground Catholic church service in Shijiazhuang, Hebei Province.

b. Disappearance

The Government, as a matter of course, does not publicly announce the names of those detained or arrested. In view of the large number detained after the Beijing massacre, concerns have arisen over the fate of those detainees whose status has not been clarified.

There were credible reports of numerous raids on university campuses, private residences, workers' dormitories, think tanks, and hotels in the weeks following the June 3-4 massacre by both the PLA and various security bureaus. Large numbers of persons who participated in or supported the spring demonstrations were detained. While most of these detentions occurred soon after the June massacre, the crackdown continued months later. When universities reopened, returning students were investigated, and some students were detained by security forces. The Government acknowledges that some students, such as Liu Gang, Zhou Fengsuo, Ma Shaofang, and others on the list of 21 most wanted, have been arrested; however, it has not publicly charged, or acknowledged holding, the majority of students reportedly detained whose whereabouts are unknown. Some workers at a computer firm that supported deposed CCP General Secretary Zhao Ziyang, journalists from Beijing-based newspapers, and intellectuals also remain unaccounted for. Since announcing a total of about 2,500 detentions by the end of June, the Government has refused to comment on the number of additional detentions since that time or to provide any information on those detained.

Detention of leaders of unofficial religious groups continued in 1989, often with no notification to followers or family members. At least two dozen bishops, priests, and laymen of the underground Catholic church were detained during the year, and the

status of several of them remained unknown at year's end.

The whereabouts and status of many Tibetans detained during demonstrations in Lhasa are also unknown. A security official told a Western journalist in October that 400 had been arrested after the March demonstrations and that 323 were subsequently released. Other reports from Tibet cite significantly higher figures.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

Reports of torture and degrading treatment of persons detained for committing so-called counterrevolutionary crimes have been persistent and consistent. Many Chinese citizens who participated in the demonstrations suffered beatings and other forms of ill-treatment in police efforts to extract information about others who may have been involved in the demonstrations. A person involved in erecting the Goddess of Democracy statue in Tiananmen Square was repeatedly detained, beaten, and forced to implicate others. He remains under detention, and it is not known if he has been officially charged. As of year's end, there were continuing reliable reports of beatings of political detainees in the Beijing area by security forces.

In Tibet officials have rebuffed diplomatic requests to visit prisons and to discuss individual human rights cases. Since the suppression of the March 5-7 demonstrations in Lhasa, there have been persistent and convincing reports of torture of those detained or arrested. A March 1989 report by U.S. Congressional staff related accounts, based on interviews with refugees from Tibet, of cruel and unusual punishment of Tibetans.

Conditions in Chinese prisons are invariably harsh and frequently degrading. According to press reports, more than 200 students and intellectuals are being held in the Qincheng maximum-security prison north of Beijing. Prisoners are reportedly packed eight to a cell. A person imprisoned prior to the June massacre reported beatings in prisons in western China. Prisoners, both criminal and political, are subjected to severe psychological pressure to confess their "errors." Those who resist are sometimes beaten and denied family contact. According to an official of the Supreme People's Procuratorate, cases under investigation concerning illegal arrests and the extraction of confessions by torture rose 57.7 percent during the first 6 months of 1989 as compared with the same period in 1988. The People's Procuratorates agreed to hear 21,838 cases involving charges of torture. Of these, 838 were major criminal cases.

d. Arbitrary Arrest, Detention, or Exile

China's Criminal Procedure Law proscribes arbitrary arrest or detention. According to the law, interrogation should take place within 24 hours of detention, and the detainee's family or work unit should be informed of the reasons for it and the place of detention. Articles 43-52 of the Criminal Procedure Law, however, permit the police to delay notifying the family and work unit "in circumstances where notification would hinder the investigation." Frequently family members are not informed when individuals are detained for political reasons. A detainee may be held legally for up to 10 days prior to formal arrest. In some cases, however, detainees have been held for months without charge.

Under Article 19 of "The Regulations of the PRC on Administrative Penalties for Public Security," police have the authority to assign persons accused of disturbing the peace, fabricating rumors, hindering government officials from performing their official duties, and other minor public order offenses to "labor education" camps for up to 3 years. According to an article in the official press in October, some 2 million Chinese citizens have been sent to these camps in the past 10 years.

Sentences imposed by criminal courts may be served in prisons or in "reform through labor" camps, whose function is not fully explained in the legal code. Many of these are in remote areas such as Xinjiang or Qinghai. Upon release from these camps, many prisoners reportedly have been denied permission to return to their homes and forced to remain in these underpopulated regions. This amounts to a form of internal exile.

Some of those detained since the June massacre may be charged with "crimes of counterrevolution," under Articles 90-104 of the Criminal Law. These articles are cast in such broad terms that they empower the State to detain people for a wide range of activities considered in violation of the law. Those detained for committing "crimes of counterrevolution" are treated in theory the same as those detained for other crimes, and their cases are supposed to be handled in accordance with the Criminal Procedure Law. The imposition of martial law in parts of Beijing in late May permitted martial law authorities to issue orders and detain people independent of the authority of the local Beijing government. Large numbers of people may be detained for long periods of time without any public notification while the PLA and police conduct their investigations.

In 1989 the number of persons accused of political offenses rose dramatically as a result of the spring demonstrations. The number of people initially detained and the number who remain under detention has not been released. Estimates of the number of detainees after June 4 vary from the 2,500 officially announced in late June to over 100,000 according to some journalists and human rights groups. Western press reports in December quoted "well-informed" government sources as putting the figure at 10,000.

Most of those detained appear to be manual workers. A number of prominent intellectuals were also detained, including journalist Dai Qing, former Democracy Wall prisoner Ren Wanding, reformist Party official Bao Tong, and several student leaders.

Some applicants for foreign visas have reportedly been detained and interrogated for at least several days.

Several hundred people connected with the March 5-7 proindependence demonstrations in Lhasa were subsequently detained. The Tibet Daily published on September 14 and 25 the names of 14 Tibetan Buddhist nuns who were detained and sentenced to 2 to 3 years of "labor education" for demonstrating in Lhasa on September 2 and 22. The nuns were detained for shouting in a public area slogans demanding independence for Tibet and were accused by the police of engaging in "separatist activity." The police detained the nuns and immediately adjudicated their cases under their own authority. Because of the secrecy surrounding these matters and the Government's refusal to discuss them, reliable estimates of the total number of political prisoners in Tibet, as in the rest of China, are not obtainable.

With regard to forced or compulsory labor, see Section 6.c.

e. Denial of Fair Public Trial

China's judiciary is not independent but is controlled by the CCP. The highest court is the Supreme People's Court. The next level is the High Provincial People's Court, followed by the Intermediate Local People's Court, and then the Basic Local County People's Court. Separate and special military, maritime, and railway courts function directly under the Supreme People's Court.

In recent years the CCP and the Government have moved toward establishment of a more independent legal system. There have been efforts to define broadly stated laws more narrowly, including the provisions of the law on "crimes of counterrevolution," to make clear what are criminally indictable offenses. Programs have been set up to provide professional training for judges through overseas training courses to acquaint them with legal procedures in the West. Since June, however, the impetus for legal reform has waned.

Due process rights are stipulated under the Constitution but are often ignored in practice. The law requires that all trials be held in public, except those involving state secrets, juveniles, and "personal secrets." It also states that a defendant may be held in custody during investigation prior to the trial for a maximum of 2 months, although a 1-month extension may be requested from the next highest procuratorate. The procuratorate then has 1½ months to decide whether or not to prosecute the case. An additional month is permitted if "supplementary investigation" is needed. Any further delay requires approval of the Standing Committee of the NPC. In practice, the period of pretrial detention can be much longer. Two American citizens arrested for alleged fraud and forgery were held for 7 months before a decision was made not to prosecute.

The procuratorate sends to trial only those persons it determines are guilty. Persons appearing before the court are presumed guilty, and trials are thus, in effect, sentencing hearings. Defense lawyers almost never contest their client's guilt; their function is generally confined to requesting clemency. There is an appeal process, but initial decisions are rarely overturned, and sentences can actually be increased. Defendants are expected to "show the right attitude" by confessing their crime, and, because they are presumed guilty, those who fail to confess are treated more harshly.

The Government has publicly announced the executions of a score of persons who were tried and found guilty of crimes directly linked to the spring demonstrations. For example, three were executed in Shanghai on June 22 allegedly for burning a train, seven in Beijing on June 22 allegedly for "setting fire to military trucks, stealing military goods, and assaulting soldiers," and two in Chengdu in July allegedly for arson. A factory worker in Jinan was sentenced to death in late October for allegedly setting fire to a car, three in Chengdu in November for burning a cinema, and two in Beijing in December for beating a policeman to death.

The Government has repeatedly argued that those executed were "legally" found guilty of destroying government property or other internationally recognized crimes, and not of political offenses. The executions in Shanghai at least tend to belie the Government's assertion. On June 6, during demon-

strations protesting the massacre of civilians in Beijing, a train ran over a group of demonstrators in the Shanghai suburbs, killing six. Angered by this, hundreds of people reportedly stormed that train or the next train nearing the station and burned it. A railway court convicted and sentenced to death three people for burning the train. No one was detained in connection with the death of the six demonstrators. The Government contended that the defendants were accorded their full rights. Serious doubts about the fairness of the trial remain, however, including the excessive sentences, the selection of these three persons for prosecution from among the hundreds involved, the hurried nature of the trial, and the mental competence of at least one of the defendants. Given the near total lack of procedural safeguards in these trials, government claims that the accused received "due process" are not credible.

Those arrested for crimes of counterrevolution frequently are tried in secret and family members are not informed of the charges or details of the case. Credible reports suggest that even years after the conviction and imprisonment of a person considered a dissident, family members still do not know the details of the alleged crime.

A number of political prisoners jailed in previous cycles of repression, notably "Democracy Wall" dissident Wei Jingsheng, remain in prison. Yang Wei, a former student in the United States who was jailed for 2 years for activities during the 1986 demonstrations, was released in January but detained again in July for involvement in the spring protests. Among those who have been tried and convicted for clearly political offenses during 1989 are Xiao Bin, who received a 10-year sentence for "spreading rumors" about the demonstrations to the American Broadcasting Corporation (ABC) television; Zhang Weiping, sentenced to 9 years' imprisonment for telephoning information on Hangzhou protests to the Voice of America (VOA); and Chen Zhixiang, a teacher in Guangzhou who was given 10 years for painting a "counterrevolutionary" slogan. Persistent reports claim that many others, perhaps several hundred, have been secretly convicted of similar political offenses.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The law requires that search warrants be issued before authorities may search premises, but it is often ignored. It is unlikely the army and the security forces obtained warrants prior to their raids on homes and businesses to arrest "counterrevolutionaries" for their role in the democracy demonstrations.

Personal and family life are extensively monitored and regulated by authorities. Most persons depend on their work unit for employment, housing, ration coupons, permission to marry or have a child, and other aspects of ordinary life. The work unit, along with the neighborhood watch committee, monitors activities and attitudes. In the wake of the demonstrations, authorities have redefined the function of the neighborhood watch committees, requiring them to work more closely with the Public Security Bureau. Mail is often opened and read, telephones monitored, and television cameras located at some key intersections, in luxury hotels, and in some buildings. After the post-Tiananmen crackdown began, the authorities produced television footage from clandestine cameras showing alleged Taiwan spies observings the Tiananmen Square demonstrations, and student leader Wuer Kaixi and other demonstrators eating at the Beijing Hotel.

The Government strictly regulates dealings between Chinese citizens and foreigners. Virtually all foreigners are forced to live separately in designated residential compounds, and all Chinese entering the foreign areas are closely monitored by guards and video cameras on roofs and in elevators. Residences of foreign diplomats, journalists, and businessmen are assumed to be electronically and physically monitored.

The Chinese Government maintains a comprehensive and highly intrusive family planning program. Individual and family decisions about bearing children are controlled by the State, with severe sanctions against those who deviate from official guidelines. The Central Government sets an annual nationwide goal for the number of births to be authorized. This is then apportioned among provinces, and further down through prefecture, county, town, and district levels. Ultimately, each work unit (village, factory, or government office) receives a target figure for births over the next few years. As the allotments are quite small, couples wishing to have a second child often must wait many years before receiving permission. In some areas, newly married couples have also been required to wait years before having their first child.

While strongly encouraging all couples to have only one child, Chinese policy allows two or more children for many rural families. Members of ethnic minorities, particularly in remote areas, are also generally not subject to the same strict limitations imposed on the Han majority.

Implementation of the policy varies widely from place to place and from year to year. In many areas, couples apparently are able to have several children without incurring any penalty, while in other areas enforcement has been excessively harsh. Periodic campaigns exhort all Chinese to have fewer children, to have them later in life, and to space them more widely. When national targets are not met, officials call for stricter implementation, and some have advocated more coercive methods than central government policy currently authorizes. Local officials have great discretion in how, and how severely, the policy is implemented.

Under China's national Marriage Law, women may not legally marry before age 20; men before age 22. In practice, early marriages are discouraged, and the press frequently extols the virtues of later marriage. Lack of available housing and other social concerns are often cited as additional reasons to delay marriage.

Couples are not allowed free choice about whether to practice family planning, how many children they may have, or when they may have them. In practice, most couples have little choice concerning the form of birth control to use.

The population control policy relies primarily on heavy doses of education and propaganda, augmented by sever psychological pressure on those who resist. Disciplinary measures against couples who violate the policy include stiff fines (often as high as a year's salary), withholding of social services, demotion, and other administrative punishments. If a unit exceeds its allocation, punishment may be meted out to the offending couples, to unit officials, and to the unit as a whole. Some local officials have reportedly destroyed or confiscated the private property of families with unauthorized children if fines are not paid. In 1988 a Chinese couple studying in the United States, Dr. Li Quanbang and Ms. Ping Hong, were threatened with severe punishment if Ms Ping refused to abort her second child before returning to China. Ms. Ping's employer warned her that, if she returned, she would have to have an abortion even in the third trimester of pregnancy. If she insisted on having the child, she would be placed on probation and the entire factory would be punished. Eventually the authorities relented, but the U.S. Government determined that the Li family and a few other Chinese couples who faced similar situations had demonstrated a well-founded fear of persecution and granted them asylum in the United States.

Physical compulsion to submit to abortion or sterilization is not authorized, but continues to occur as officials strive to meet population targets. Reports of forced abortions and sterilizations continue, though well below the levels of the early 1980's. In early 1989, a U.S. Congressional staff delegation interviewed Tibetan refugees in Nepal. They, and some previous news stories, reported harrowing accounts of abuses in Tibet.

Chinese officials have consistently maintained that China does not condone forced abortion and sterilization and that officials who commit such abuses are punished. They admit, however, that such punishment is rare and have refused to provide documentation of any punishments.

Female infanticide also persists in some rural areas. Insistence that local oficials meet population goals has contributed to the reemergence of this traditional practice, generally by parents who hope to have more sons without incurring official punishment. There are allegations that some Chinese officials and doctors have participated in infanticide or in abortions so late in pregnancy as to be tantamount to infanticide. The Chinese Government strongly opposes infanticide, to the point of prosecuting offenders, but has been unable to eradicate it.

One recent development in China's population control policy was the passage in November 1988 of a set of eugenic regulations in Gansu province prohibiting people with severe mental handicaps from having children. Provincial official estimate the rules will affect some 26,000 persons whose intelligence quotient is judged to be 49 or lower. Should any of these persons decide to marry, one spouse must undergo sterilization. For those already married, one partner must be sterilized and any pregnancies compulsorily aborted. Officials claim that permission for any operation requires the consent of a mentally competent relative but acknowledge that heavy psychological pressure may be employed to obtain consent. As of December 1989, provincial officials said that 1,714 persons had been identified as requiring sterilization, and 731 operations had been performed. According to a Health Ministry official, the Government is drafting a new law to extend the ban nationwide.

Despite a decade of efforts, officials acknowledge that population growth has significantly exceeded the national targets and that the goal of holding China's population to 1.2 billion by the end of the century will not be met. This realization, together with a recent escalation of official rhetoric, have led some observers to suggest that China may be entering a new cycle of strict enforcement of family planning policies, after a period of relative relaxation.

g. Use of Excessive Force and Violations of Humanitarian Law in Internal Conflicts

On June 3-4, in order to clear peaceful demonstrators who had occupied Tiananmen Square for several weeks, PLA troops fired heavily and indiscriminately at crowds in the approaches to and around Tiananmen Square, resulting in at least hundreds of deaths and thousands of injuries. Some were crushed by military vehicles driven into the crowd. The PLA also suffered scores of casualties as enraged citizens fought back. According to Western diplomats, some PLA casualties also resulted from soldiers accidentally shooting or injuring other soldiers. While it is difficult to know precisely how many civilians died or were injured, the numbers are certainly far greater than those cited by authorities. Mayor Chen Xitong, in a speech before the National People's Congress Standing Committee on June 30, said over 200 civilians were killed, including 36 students, and 3,000 injured, with "dozens of soldiers and police killed and 6,000 injured." Hospitals and human rights groups, however, provided much higher estimates. Visiting several hospitals in Beijing after the June 3-4 massacre, diplomats and other observers viewed scores of dead civilians, including women and children, with bullet wounds and other injuries, and heard from medical personnel the hardships the hospitals faced in treating the dead and injured. At one hospital, doctors said that on June 3, 50 civilians had died from bullet wounds in their hospital alone.

The authorities clearly used excessive deadly force against the demonstrators. While they used tear gas and rubber bullets briefly in some areas of Beijing, the PLA and security forces relied primarily on lethal force rather than traditional riot control techniques to clear demonstrators from the roads leading to Tiananmen Square. Foreign diplomats and their families did not escape the heavy-handed actions of the PLA. On June 7, PLA soldiers, allegedly returning fire from a sniper, shot at a diplomatic housing complex, spraying scores of apartments with gunfire but causing no casualties. Chinese authorities have produced no evidence that a sniper was actually present in the compound and firing at the PLA.

Security forces used excessive force in breaking up a religious ceremony and demonstration by members of the underground Catholic Church near Shijiazhuang, Hebei Province in April, leaving 2 civilians dead and at least 150 injured. In another major incident involving the use of excessive force during demonstrations in Lhasa on March 5-7, police shot and killed scores of Tibetan monks and their supporters.

Section 2: Respect for Civil Rights, Including:

a. Freedom of Speech and Press

Freedom of speech and self-expression are severely restricted. Limited criticism of government policies and officials is tolerated and had increased in recent years. However, the limits were tightened again after June 4. Citizens are not permitted to criticize senior leaders or to express opinions contrary to the "Four Cardinal Principles": Marxism/Leninism/Mao Zedong Thought as the theoretical foundation of the State, socialism as its goal, Communist Party leadership, and the "people's democratic dictatorship" (which includes the right to use force against "counter-revolutionaries").

Those who violate these guidelines frequently are severely punished. Xiao Bin, a worker in Dalian, was sentenced to 10 years' imprisonment for expressing personal views on the Beijing massacre to an ABC news crew, and Zhang Weiping, a student, was sentenced to 9 years' imprisonment for informing VOA about antigovernment demonstrations.

Renowned scientist and dissident Fang Lizhi sent senior leader Deng Xiaoping an open letter on January 6 appealing for amnesty for political prisoners. On February 16, 33 prominent intellectuals signed an open letter to the national leadership supporting Fang's call for amnesty. The Government attacked the letter in the official press on February 23 and later characterized it as an act of "counterrevolution." Some signatories have since fled China while others have been detained. Security forces stepped up surveillance of Fang and restricted his movements. He and his wife Li Shuxian were physically prevented from attending a banquet in Beijing hosted by President and Mrs. Bush. In June Fang and Li took refuge in the U.S. Embassy, after which the Government charged them with criminal "counterrevolutionary" activity and named them as key "conspirators" in the student demonstrations.

Television and radio are strictly controlled by the Government and used to propagate the party's version of events. In the wake of the June 3-4 events, the authorities began a massive disinformation campaign, asserting that the spring demonstrations had evolved into a counterrevolutionary rebellion led by a few conspirators. State Council spokesman Yuan Mu claimed on June 16 that only 300 had died on June 3-4, half of them PLA soldiers. Regular programming was replaced by special programs giving the CCP's version of events. These programs were broadcast several times a day for weeks. In July China Central Television (CCTV) broadcast a four-part program conveying the official version of the massacre. Events were altered to suggest that the troops had been called in to "quell a riot" rather than that troops fired on peaceful demonstrators who then reacted in a rage. Again on September 23, CCTV televised a special program countering charges by activists in the United States and featuring comments by Liu Xiaobo, detained since June, denying that anyone had died in Tiananmen Square. In the wake of the massacre, television news constantly replayed assertions of government officials such as Yuan Mu and selected remarks by the handful of foreign observers supportive of the Government position.

Following the imposition of martial law in Beijing, the Chinese cut off the satellite feed for the U.S. network news services. Security authorities and PLA soldiers on the night of June 3-4 detained two U.S. reporters along with a number of other foreign journalists. In the aftermath, authorities severely restricted the movements of foreign journalists, harassing and expelling several of them.

After an 11-year moratorium, the Government resumed jamming VOA Chinese-language broadcasts on May 21. The official press has harshly attacked VOA reports, claiming that they were part of a Western conspiracy to subvert China. Chinese authorities confiscated film from foreigners leaving the country and insisted on developing it for review and censorship.

Restrictions on the publication of books and other printed material, which had generally eased during the 1980's, have become much more stringent since June. Print media, like the broadcast media, have been used to disseminate disinformation about the spring demonstrations and the Government's crackdown.

A number of journalists were detained or otherwise officially harassed in 1989. During the demonstrations, then Shanghai Party Secretary Jiang Zemin sacked the editor of the World Economic Herald, Qin Benli, and closed the newspaper, silencing one of the country's few independent journalistic voices. Since June, Qin has been under investigation. His Beijing bureau chief was arrested and several staff writers are still detained. Other journalists apparently still under detention include personnel from the government mouthpiece People's Daily, the official English-language China Daily, Guangming Daily, and Radio Beijing. Others have been dismissed from their jobs for printing material at variance with the party line, including editor Tan Wenrui and director Qian Liren of People's Daily, publisher Zhang Li and editor Li Jiawei of the Sichuan Provincial Social Science Academy Publishing House, Editor-in-Chief Yao Xihua of the Guangming Daily, Editor-in-Chief Li Xiaoshi and Deputy Editor-in-Chief Sun Changjiang of the Science and Technology Daily.

On July 17 the Government temporarily removed from the newsstands foreign language newspapers, magazines, and publications in order to limit access by Chinese citizens to foreign news and to consolidate government control over the importation and distribution of foreign printed material. While the ban was lifted at the end of August, tighter control on distribution has enabled authorities to censor foreign language material more effectively. For example, several issues of the Far Eastern Economic Review were withheld from newsstands or had offending articles removed. More recently, foreign media reports on the overthrow of Romanian dictator Ceaucescu have been barred from distribution.

The Government reportedly has also banned publications by activists and other authors considered unacceptable. Writings by astrophysicist Fang Lizhi and his wife Li Shuxian, investigative journalist Liu Binyan, playwright Su Xiaokang, intellectuals such as Su Shaozhi, Bao Tong, Jin Guantao, Ge Yang, Cao Siyuan, Li Honglin, Zhang Xianyang, Dai Qing, Liu Xiaobo, Yan Jiaqi, and dozens of others have reportedly been banned. Li Ruihuan, member of the Standing Committee of the Politburo, on August 24 announced a campaign to "clean up and rectify" the publishing and audiovisual industries. Li said the campaign was aimed at curbing publications advocating "bourgeois liberalization" (Western social, political, and cultural ideas) and pornography.

In the wake of the student demonstrations, the Government has worked to reimpose more rigid ideological control over the school system. The State Education Commission ordered that 30,000 fewer first-year students be admitted to universities for the fall 1989 semester. The cuts were primarily among those seeking to study the social sciences. The number of students studying Western philosophy, political science, and management were reduced. The entire first-year class at Beijing University, a main center for the demonstrations, was sent to an isolated camp for a year of military training and ideological indoctrination. (The Government said this program might be expanded to include additional universities in the future). Some recent college graduates are being sent from Beijing to the country-

side or to factories for ideological training. On July 1, a State Education Commission official told the Chinese press that "students' level of patriotism and willingness to serve their country should be major criteria" in decisions on who should be permitted to study overseas. Required study of the writings of Communist theoreticians has been sharply increased.

Investigations into press activities have led to intimidation of journalists and broadcasters, stronger press control, and a complete halt, for now, of press reform. The Government has made it clear that the press must support the party line and cannot question the "Four Cardinal Principles." The detention of journalists and broadcasters described in earlier sections reinforced the Government's message.

b. Freedom of Peaceful Assembly and Association

Article 35 of the Constitution guarantees the right "of assembly, of association, of procession, and of demonstration," but such activities may not infringe "upon the interests of the State" (Article 51). In an effort to prevent students from again demonstrating or occupying Tiananmen Square, the National People's Congress Standing Committee on October 31 adopted a law governing assemblies, parades, and demonstrations that significantly limits the right of individuals or groups to organize mass political activities.

The law, in theory, guarantees the right to assemble and demonstrate but stipulates that parades and demonstrations must abide by the Constitution and laws and may not "infringe on the interests of the State, society, and collectives or the legitimate freedoms and rights of other citizens." In practice, this proscribes any protests against socialism or the leadership. Moreover, this stipulation could be used to ban protests that disrupt traffic, interfere with business, or occupy public places, and all acts that could be interpreted as "infringing" on the freedoms of other citizens. Also banned are demonstrations that advocate national separatism or jeopardize national unity.

The law does not apply to "traditional cultural, recreational, or sports activities; normal religious activities; nor traditional, nongovernmental activities among the people." Also exempt are celebrations held by the State and assemblies held by "state organs, political parties, social groups, enterprises, or institutions in accordance with the law or their organic charters." Presumably, local authorities retain the power to determine what are "normal" religious activities; unapproved gatherings, such as evangelical revivals, religious retreats, and outdoor masses could be restricted or banned. Similarly, local officials would decide when "traditional" cultural activities carry unacceptable political overtones related to such sensitive issues as national separatism.

Procedures for obtaining a permit are extremely restrictive and constructed in such a way as to discourage exercise of the right of assembly. Demonstration organizers must apply for a permit at least 5 days before the event, specifying the purpose, type of demonstration, slogans to be used, the number of participants and vehicles, the routes and times of the march, the number and type of audio equipment, and the names, addresses, and occupations of sponsors. Marches are generally to be confined to the hours of 6 a.m. to 10 p.m. except with special permission. The law reserves to local officals the right to change the time, location, and route of a demonstration, even after giving approval, requiring only that they "promptly notify" the sponsors. Citizens cannot organize or participate in demonstrations outside their own locality, nor can government employees organize or participate in protests that "go against their responsibilities and obligations prescribed in relevant laws and regulations."

Professional and other mass associations are for the most part organized and controlled by the Communist Party. Other new regulations require all organizations to be officially registered and approved, including societies, research units, foundations, and chambers of commerce. Ostensibly aimed at secret societies and criminal gangs, the regulations are also used to prevent the formation of unauthorized political or labor organizations, such as the student and worker groups that emerged before and during the spring prodemocracy protests. The regulations can also be used to close down unregistered house churches or discussion groups that local leaders deem potentially subversive.

In parts of Beijing, martial law was imposed on May 20 and remained in effect until lifted in January 1990. Under martial law, groups of people were not permitted to gather and demonstrations were strictly forbidden. Martial law has also been in effect in Lhasa since demonstrations broke out there in early March. In areas where martial law is not in effect, authorities also have adopted a stricter policy toward allowing groups of people to assemble. Information and security forces maintain a close watch on groups formed outside the Party establishment, particularly unauthorized religious groups and other associations. Associations recognized by the State are permitted to maintain relations with recognized international bodies, but these contacts are monitored and limited by the Government.

For a discussion of freedom of association as it applies to labor unions, see Section 6.a.

C. Freedom of Religion

Religious freedom is subject to tight constraints. While the Constitution affirms toleration of religious beliefs, the Government severely restricts religious practice outside the officially recognized and government-controlled religious institutions. Religious proselytizing is restricted to officially sanctioned places of worship or to the homes of persons properly registered with an officially recognized religious institution. Religious conversion is tolerated (though generally not for Communist Party members).

By far the largest group of religious believers in China are Buddhists who belong to the dominant Han ethnic group. Han Buddhist leaders generally cooperate with the Government and have experienced few reported difficulties. Daoism, widely practiced in southern coastal provinces, is officially respected as an important part of traditional Chinese culture, but many of its practices conflict with government strictures against superstition and waste of arable land and have been heavily criticized. China permits Muslim citizens to make the hajj to Mecca, and over 2,000 Chinese, most subsidized by the Chinese Government or by overseas Muslims, make the journey annually.

The Government insists that no religious institutions may be subject to foreign domination or influence. In order to eliminate perceived foreign domination of Christian groups in the past, the Government in the 1950's established the Catholic Patriotic Association (CPA) and the Protestant Three Self Movement (TSM). The CPA ordains its own bishops and priests, generally follows pre-Vatican II practices, and rejects papal authority. Proselytizing by foreign groups is forbidden. Americans and other foreigners have been expelled for distributing Bibles or proselytizing. Twelve Americans were detained in Kunming on June 23 and were later expelled for having imported religious materials. Officially sanctioned religious organizations are permitted to maintain international contacts as long as these do not entail foreign control. The TSM and its Buddhist and Muslim counterparts have established extensive networks of international support. The CPA has no official ties to Catholic churches outside China, but its leaders frequently visit Catholic and other religious leaders abroad.

Tibetan Buddism is also tightly controlled. Religious activity is thriving with some government support, though the number of monasteries and monks remains far below the pre-1949 level. The Government does not tolerate religious manifestations that advocate Tibetan independence. The Government recognizes the Dalai Lama as a major religious figure, but condemns his political activities and his leadership of a "government in exile." As with other religious, Tibetan Buddhist activities are subject to government monitoring and control. The Government exercised a considerable degree of control over the late Tibetan Buddhist Panchen Lama, the second most revered religious figure in Tibetan Buddhism. Following his death early in 1989, the State Council approved procedures for selecting the "reincarnated" Panchen Lama which will give the Government a prominent role.

After forcefully suppressing all religious observance during the 1966-76 Cultural Revolution, the Government began in the late 1970's to restore or replace confiscated churches, temples, mosques, and monasteries. The official religious organizations administer more than a dozen Catholic and Protestant seminaries, nine institutes to train imams and Islamic scholars, and institutes to train Buddhist monks. The Government supervises the publications of religious material for distribution, to ensure that it conforms to religious beliefs and philosophical positions sanctioned by the Government.

There are active underground religious movements which pose an alternative to the state-regulated churches and temples. The Catholic underground church claims a membership far larger than the 3.5 million officially registered with the CPA, though actual figures are unknown. It has its own bishops and priests and conducts its own services. Protestants also conduct private services independent of government control; some of these groups are apparently quite dynamic. The Christian underground movement imports religious materials, including Bibles, from abroad. Underground church officials reject legally published material because it does not conform to their beliefs. The Government generally tolerates but sometimes actively suppresses nonsanctioned religious groups. Security forces have raided illegal underground services, resulting in arrests, injuries, and even deaths, as in the raid on an underground Catholic service in Hebei in April in which 2 persons were reportedly killed and 150 were injured.

A large number of Catholic leaders and somewhat fewer Protestants have spent long periods in prison. Most long-term Catholic prisoners had been released by late 1987, but detentions continue. Bishops Julius Jia Guozhi, Joseph Fan Xueyan,

Pietro Liu Guandong, Giuseppe Li Side, Jiang Liren, Mattia Lu Zhensheng, Filippo Yang Lipo, Paolo Li Zhenrong, Bartolomeo Yu Chengdi, and other priests in the underground Catholic Church as well as underground Protestant leaders were reportedly detained during 1989 for varying periods of time. Underground Catholic Bishop Casimir Wang Milu has not been seen since his arrest in 1986 and is presumed to be in prison. As of year's end, no information was available on at least 20 Catholic priests detained by security forces in Hebei, Gansu, Sichuan, and Fujian provinces. International human rights groups report that at least 30 underground Protestant leaders may also be in detention.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

The Government uses an identification (ID) card system to restrict the movement of Chinese citizens within the country. Citizens are registered as residents of a particular jurisdiction and assigned to a specific work unit. Movement within the country or change of workplace can, in most cases, be done only with government permission and agreement by the work unit. Those workers on short-term work contracts with a work unit have more leeway in movement. On expiration of a contract, the worker may be able to negotiate a position in another area or continue his contract. Significant numbers of farmers have moved from the countryside to cities in search of employment. Authorities are trying to limit the migration but they estimate there are at least a million unregistered persons in Shanghai and Guangzhou and 700,000 in Beijing. Measures undertaken in connection with the Government's current austerity program will result in large-scale unemployment and authorities reportedly intend to enforce their return to the countryside.

After the June disorders, the Ministry of Public Security ordered full national implementation of regulations on carrying and checking residents' identification cards as of September 15. The cards have been under partial and experimental use for several years.

Under the new procedures, citizens are required to carry their ID cards at all times when out of doors and must present them on demand to authorities. They must also present ID cards when registering for voting, residence, military service, marriage, or school entrance; applying for employment, licenses, loans, notarization of documents, social insurance or relief, travel to restricted areas or to leave the country; participating in lawsuits; picking up mail or claiming remittances; boarding an airplane; or registering in a hotel.

More stringent scrutiny of ID cards will close loopholes through which many Chinese have slipped in recent years. Some have used the relative freedom of travel to act as business middlemen and fixers, often involved in quasi-legal or illegal cash-and-carry deals, money changing, and black market activity. Also likely to be caught in the tighter net are itinerant preachers and evangelists, many of whom lack a permanent residence. Recent Chinese press reports decry incidents in which people caught without their ID card were subjected to extortion by police or shaken down by criminals posing as police.

Existing restrictions on foreign travel were tightened in 1989. In the wake of the Beijing massacre, the Government has implemented more restrictive criteria for passport issuance. Procedures reportedly include obtaining a political "bill of good health" from the work unit and its party committee and submitting to background checks by the Public Security Bureau (and, in Beijing, the martial law command). Passport applicants are screened to determine the applicant's political loyalty and his role in the spring demonstrations. The double exit permit system implemented on June 20 was designed to support this objective. In Shanghai, dissident Zhang Cai was detained at the airport when trying to board a flight out of China. There are also reports that some Chinese who marry foreigners and wish to emigrate have had to repay the cost of their education in order to obtain a passport.

The Government has imposed restrictions on overseas studies. New regulations reportedly require tighter ideological screening, and perhaps several years' war experience, as prereguisities for permission to study overseas. Furthermore, lower limits will be set on the number of publicly funded students sent abroad to study humanities, with the emphasis instead going to more practical studies such as the sciences and specialized training.

China has continued to relax restrictions on internal travel by foreigners. Since last year it has increased the number of cities open to foreign visitors from 504 to 626. Tibet, the capital of which remains under martial law, has begun again to allow tourism. Tourists, however, must travel in groups of at least three, obtain prior permission, and travel with officially designated travel agencies. Most requests by foreign diplomats for travel to Tibet since March have been denied.

China encourages its citizens who are legally overseas studying or doing research to return to assist the China's development. Some 35,000 Chinese citizens are currently studying or conducting research in the United States. The State Education Commission declared on December 8 that scholars returning from overseas would not be held accountable for participation in prodemocracy activities while abroad. However, many of these scholars claim that they or their families have been subject to threats of reprisals by Chinese officials.

The Chinese Government accepts repatriation of PRC citizens who have entered other countries or territories illegally. The Hong Kong Government says it returned to the PRC 11,392 illegal immigrants in the first 9 months of 1989, compared to 21,000 in 1988. None of those returned were believed to be considered by the PRC Government to have been participants in or supporters of the spring demonstrations. To retaliate against the Hong Kong Government for having allowed dissident swimmer Yang Yang to depart for the United States, the PRC temporarily suspended repatriation for 2 weeks in October. Japanese authorities have decided to proceed with repatriation of illegal immigrants from China who entered Japan by sea during the summer of 1989. It remains unclear what punishment, if any, these PRC citizens will face once they have been repatriated.

China accepted more than 280,000 refugees and displaced persons from Vietnam and Laos between 1978 and 1982. These refugees were predominantly ethnic Han Chinese or married to ethnic Chinese. In recent years, the Government has adopted a stricter policy of "no new admissions." Thus, Chinese authorities currently discourage Vietnamese refugees from settling in China. There have been persistent reports that local authorities along China's southern coast help to provide food, water, and fuel to Vietnamese migrants so they may proceed to Hong Kong, and in some cases, to Japan and Korea. There also have been credible reports that Vietnamese refugees reaching China's interior provinces have been forcibly repatriated. Other credible reports suggest that the PRC has also repatriated persons of other nationalities seeking refugee status. Although China signed the Comprehensive Plan of Action (CPA) negotiated at the International Conference on Indochinese Refugees in Geneva in June 1989, it is unclear whether China considers itself a CPA "participating state." China has yet to create formal mechanisms to enforce CPA provisions, and its policy on the principle of first asylum remains ambiguous.

Section 3: Respect for Political Rights: The Right of Citizens to Change their Govenment

The people of China do not have the right or the ability peacefully and legally to change their government. Chinese citizens can neither freely choose nor change the laws and officials which govern them. China is ruled by the CCP, the paramount source of political authority. Within the party, a closed inner circle of a few senior leaders exercise ultimate power over the nation. Most hold key positions within the six-member Standing Committee of the Politburo, the Central Military Commission, or other organs. Former senior leaders continue to influence government policy. Deng Xiaoping remains first among equals in this group despite his formal retirement in October. The senior party leadership determines policy, which is then implemented by the Government. According to the 1982 Constitution, the National People's Congress (NPC) is the highest organ of state power. It nominally selects the President and Vice President, decides on the choice of the Premier, and elects the Chairman of the Central Military Commission. It had been granted, and had begun to exercise, increasing independence and influence during the late 1980's. Debates had become much more open, and several important government proposals were sent back for further study. During the May-June crisis, some NPC members attempted to convene an extraordinary meeting of the body to revoke the Government's declaration of martial law in Beijing, but were unable to do so. Since that time, the NPC has generally resumed its previous role of ratifying decisions already made by the senior leadership.

The Government neither tolerates dissent nor accepts challenges to its authority. The authorities denounce as "counterrevolutionary" proposals to limit the power of the Party or to alter the nation's ideology. The Government's handling of the spring demonstrations, the killing of its citizens, its subsequent crackdown on dissent, and its massive disinformation campaign aimed at rewriting history demonstrate the senior leadership's determination to retain power.

Section 4: Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

China rejects the concept of universal human rights despite its adherence to the United Nations Charter, which mandates respect for and promotion of human rights. Chinese official commentators in recent months have increasingly argued that each nation has the right to define human rights

as it pertains to the human conditions existing within that country. No nation or international organization, they say, has the "legal right" to apply its definition of human rights to conditions in other countries. Officials strongly reject any criticism of China's rights situation by international human rights organizations and other nations, and they assert that international groups and foreign nations use human rights as a means to interfere in China's internal affairs.

A resolution passed by the U.N. Human Rights Commission's (UNHRC) Subcommission on Prevention of Discrimination and Protection of Minorities in August, calling on the Secretary General to collect information on the human rights situation in China, was denounced by the Chinese Government as brazen interference in its internal affairs. China defended its use of force in suppressing the demonstrations in June legalistically, citing the legitmate right of the Chinese authorities "to maintain law and order." It has also rejected Amnesty International's August 1989 report condemning the June massacre, and it has harshly and aggressively attacked the VOA for its coverage of and commentary on the June events.

In October the Government denounced the awarding of the Nobel Peace Prize to the Dalai Lama, who has been an outspoken critic of human rights violations in Tibet, as "gross interference in China's internal affairs" and as "hurting the feeling of the Chinese people." A Ministry of Foreign Affairs spokesman on October 7 said that awarding the Nobel Peace Prize to the Dalai Lama "constitutes open support to the Dalai Lama and the Tibetan separatists in their activities to undermine and split China."

There are no organizations within China which specifically monitor or comment on human rights conditions. The Government crushed an incipient human rights monitoring group—Amnesty 89—following the June crackdown and has made it clear that it will not tolerate the existence of such a group. It has reacted with equal defensiveness to international accusations of human rights violations in Tibet. Authorities have refused to respond to charges of human rights violations in connection with the killing of demonstrators in Lhasa on March 5-7. They have generally not permitted reporters or human rights workers to visit Tibet, have refused diplomatic requests to discuss human rights issues, and have generally denied diplomats access to Tibet.

Section 5: Discrimination Based on Race, Sex, Religion, Language, or Social Status

While laws designed to protect women and minorities exist, in practice discrimination persists in housing, jobs, education, and other aspects of life based on sex, religion, race, and class. The 1982 Constitution states that "women in the People's Republic of China enjoy equal rights with men in all spheres of life," and it promises, among other things, equal pay for equal work. In fact, however, the general status of women is not equal to that of men, and there was no signficiant improvement in upholding women's rights or in the working conditions of women in 1989. By many standards, the status of women has regressed in recent years. Within the work force, 83 percent of the 220 million women employed perform physical labor. Seventy-seven percent of employed women work in agriculture, 13 percent in industry, and 4 percent in the service trade. In industry, most women are employed in lower skilled and lower paid occupations. The number of professional women is low. Women who graduate from college are less likely than men to be placed in prestigious positions. There is a significant wage gap between men and women performing the same tasks.

China's recent enterprise and labor reforms have sought to streamline enterprises and give workers greater job mobility. Women apparently bear the brunt of these reforms in terms of job insecurity and cutbacks in welfare programs. Many employers have admitted they prefer to hire men, citing the avoidance of maternity leave and child care provisions as their chief reason. Complaints from women of discrimination, unfair dismissal, demotion, or wage cuts when they needed maternity leave have risen signficantly. There has been an increasing number of reports of young women in the special economic zones being fired when they become pregnant or reach childbearing age. The New China News Agency reported that during factory efficiency drives in the second half of 1987, over 60 percent of "redundancies" were women. To combat the problem, on July 25, 1988, the State Council issued a regulation on female employees' legal rights, stating that work units will not be allowed to discriminate against women or reduce their maternity benefits, but there is no evidence that the regulation has been implemented effectively.

While the gap in the education levels of men and women is narrowing, the majority of the educated, particularly the highly educated, are men. Women now make up 37.4 percent of high school students and 25.7 percent of university students. Similarly, a disproportionate number of government-funded scholarships for overseas study go to men. Women also reportedly need higher scores than men to gain admission to select universities.

There are reports of violence against women, particularly wife beating, selling of women for wives, abuse of female children, and female infanticide in some rural areas—practices the Government condemns and attempts to curb. The Chinese have admitted that there is very little legal recourse to curb what is a traditional tolerance for abuse of women. Selling women for wives is a growing problem; in December the Government began a campaign against the practice, labeling it one of "six evils" to be eradicated. Official statistics are lacking but unofficial estimates are in the tens of thousands. A New York Times article quoted a confidential government document in September that cited the rising cost of traditional rural weddings (more than $2,500) versus the cost of buying a wife ($500 to $800) as one reason for the practice. Female children are seen, particularly in the countryside, as unproductive. They will leave the family and not provide assistance for the parents' retirement (as sons are expected to do). Some provincial and local authorities have attempted to ease this traditional bias by facilitating establishment of retirement homes. Many female children are forced to work long hours at an early age and are sometimes beaten if chores are not completed. Numerous reports tell of young girls being removed from school at the age of 8 or 9 to work in rural enterprises or the fields so that their families can "make some money from them before they leave home."

Chinese authorities have not succeeded in stopping abductions and the trading of women and children. People's Daily reported on November 15 that between 1981 and 1988 some 16,000 women and 900 children who are abducted in Shandong Province were saved by authorities. Of the more than 14,000 arrested for abducting women and children, 22 percent or 3,100 were sentenced to prison. The number of abductions nationwide is not known, but the statistics from Shandong would indicate that the number is high.

The economic progress of minorities is viewed by the Government as one of its significant achievements. Ethnic minorities benefit from special treatment in marriage and family planning, employment, and university admission. Nevertheless, discrimination based on ethnic origin persists. The concept of a largely homogeneous ethnic race of the Han people pervades the general thinking of the majority Han Chinese. Less than 7 percent of the population belong to one of the 55 designated ethnic minorities. Most reside in areas they have traditionally inhabited. Their standards of living remain far below the national average. Despite the CCP's avowed policy of increasing minority representation in the Government and in the CCP, ethnic minorities are effectively shut out of all but a few leadership positions and play a minor role in decisionmaking. Some minorities resent Han officials holding key positions in minority areas. Tibetans in Tibet and Uighurs in Xinjiang have demonstrated against Han Chinese authority. PLA troops are stationed in these areas, and marital law remains in place in Lhasa. During an inspection tour of Xinjiang August 26, Minister for Public Security Wang Fang accused Uighur separatists of fomenting local instability.

Section 6: Worker Rights

a. The Right of Association

The PRC's 1982 Constitution guarantees "freedom of association," but the guarantee is heavily qualified by referrences to the interest of the State and the leadership of the CCP, and, in fact, workers do not have the right to form or join independent unions of their own choosing. Union membership is theoretically voluntary for individual employees, but each enterprise must have a union and each union must join the All-China Federation of Trade Unions (ACFTU), nominally an independent organization, but in fact closely controlled by the CCP and the only legal national federation. Virtually all state-sector workers and nearly 90 percent of all urban sector workers belong to ACFTU chapters.

The right to strike, which had been included in China's 1975 and 1978 Constitutions, was removed from the 1982 Constitution on the grounds that the political system had eradicated class contradictions between the proletariat and capitalists. However, in 1983 the ACFTU Chairman stated that if a trade union and its labor protection safety officers found that a workplace was too dangerous, the union should organize the workers to leave the hazardous areas. Thus, authorities usually view strikes as justified only when they respond to problems such as a sudden deterioration in safety conditions. Nevertheless, strikes and, more commonly, work slowdowns do occur. In the first half of 1988, 49 strikes were reported officially. The number for 1989 is unknown, but reports of job actions in support of prodemocracy demonstrations in the spring of 1989 were widespread. Strikes and slowdowns generally occur over distribution of benefits of safety concerns at individual enterprises. They are usually resolved with-

out the need for intervention from outside the enterprise. The usual role of the trade union in such strikes is to persuade the workers to return to their jobs.

During the countrywide political demonstrations in the spring of 1989, "Workers' Autonomous Federations" (WAF) were formed in major cities. The Beijing WAF claimed to represent over 100,000 workers from 40 industries in the capital. WAF leaders insisted they wanted to organize legally and did not oppose the rule of the CCP. The concerns of the WAF included bureaucratic corruption, wage disparities between workers and plant managers, the absence of workplace democracy, the lack of genuine workers' representation in the policymaking process, and poor safety and working conditions. Established primarily to mobilize and express workers' sympathy for the demands of student demonstrators, the WAF did not have time to build organizations at the enterprise level. Thus, although there are workers who purport to carry on the work of the WAF, the June crackdown apparently destroyed the federations. Many observers believe concern over growing worker support for students' demands prompted the Government to order troops into Tiananmen Square on June 3-4. According to international eyewitnesses, most of the Beijing WAF leaders were killed during the massacre.

After June 4, workers became a primary target of government reprisals. The Hong Kong Trade Union Education Center (HKTUEC) complied a list of 211 workers arrested in connection with the demonstrations. According to the HKTUEC, 89 were held on charges related only to their participation in the autonomous federations. All of those known to have been executed for offenses linked to the demonstrations were manual workers.

At the ACFTU annual conference in December, its appointed president declared that "trade unions must implement resolutely the party's line and general and specific policies." A senior party official, addressing the conference, demanded that party committees at all levels "exercise centralized leadership" over the union movement. He explicitly ruled out the formation of independent unions: organizations that contravene the "Four Cardinal Principles," put forward proposals contrary to party policy, or threaten state stability, would be dealt with according to the law immediately."

The ACFTU claims to have contacts with trade unions in over 120 countries or regions and has stated that it will establish links with foreign unions regardless of whether they are affiliated with Western, Communist, or other federations. However, its relations with the International Labor Organization (ILO) and the International Confederation of Free Trade Unions (ICFTU) have been strained. China has ratified neither ILO Convention 87 regarding Freedom of Association nor Convention 98 on Collective Bargaining. The ICFTU vigorously protested Chinese violation of worker rights at the ILO Conference in Geneva shortly after the Beijing massacre. In November, the ILO's Governing Body approved stiff detailed questions on the death of workers during the massacre, arrests, death sentences, and executions, and government allegations against the WAF.

b. The Right to Organize and Bargain Collectively

The Government does not permit collective bargaining. The terms and conditions of employment, including wages, are unilaterally determined through administrative regulations which are treated as confidential material and are not publicly available. Without legal status as a collective bargaining body, the ACFTU's role has been restricted to consultation in decisionmaking on wages and wage reforms. Trade unions have limited themselves to channeling workers' complaints to the management of individual enterprises or municipal labor bureaus.

Clause 33 of the "Provisional Directive on Private Enterprises in the PRC" issued on June 3, 1988 states that trade unions in private enterprises have the right to represent employees and to sign collective agreements with the enterprise. Depending on how it is implemented, this could form a basis for important new trade union rights in China.

Under the labor contract system, which now covers approximately 10 percent of the work force, individual workers may negotiate with management over contract terms. In practice, however, very few are able to negotiate effectively on salary and fringe benefits. At its October 1988 National Congress, the ACFTU leadership recognized that it would need to be more responsive to worker demands for benefits and improved safety conditions or face worker demands for a more independent union. In reaction to the creation of the WAF, the party began efforts to reassert control at every level of the union structure. Thus, unions enjoy less freedom of action than they have had for the last several years.

Labor practices in the Special Economic Zones do not vary substantially from national practice. Although there are reports of child laborers working in the Special Economic Zones, the practice appears more prevalent in small enterprises in the rural areas. Wages in the Special Economic Zones, like those in other Chinese enterprises, are set by the factory management in consultation with the factory Worker Congress. In general, wages in foreign-invested joint ventures tend to be higher than in Chinese enterprises.

Although Chinese workers still do not have complete mobility, foreign-invested joint ventures are given greater freedom to recruit workers than their Chinese counterparts are allowed. Like Chinese state-run and collective enterprises, joint ventures are required to have unions and to provide office space and facilities for union activities.

c. Prohibition of Forced or Compulsory Labor

China is still considering ratification of ILO Convention 105 on Forced Labor. Assignment of minor offenders to punitive "education through labor" camps without benefit of trial would appear to violate the Convention. Prisons and labor reform camps are expected to be partially self-supporting and thus require productive and profitable labor, with little compensation, from their inmates. Some observers consider the recent directives requiring students to perform manual labor during the school year and university graduates to work for a year or more in "grassroots units" before pursuing careers or graduate study as another form of compulsory labor. More broadly, the longstanding practice of unilaterally assigning school graduates at all levels to specific jobs and effectively trapping them in those jobs through the worker's dependence on the work unit deprives workers of any significant degree of choice in employment.

d. Minimum Age for Employment of Children

Regulations promulgated in 1987 prohibit the employment of school-age minors who have not completed the compulsory 9 years of education. The employment of child labor is pervasive, however, particularly in the rural areas and reportedly in the special economic zones. In addition, many private enterprises regularly employ children, often falsely representing them as the children of the enterprise owner. The problem is most serious in Guangdong Province, where a recent State Statistical Bureau survey found that only 71 percent of the province's school-age children were attending school. As noted (Section 5), there have also been increasing reports of children, particularly girls, being removed from school at the age of 8 or 9 to work in the fields. In September 1988, the Ministry of Labor issued a circular designed to curb pervasive child labor problems. It imposes severe fines, withdrawal of business licenses, or jail for employers who hire child laborers under 16 years of age. According to Ministry of Labor officials, however, the circular cannot be fully implemented until a national conference is convened sometime in 1990 to discuss the problem of child labor. Guangdong has not yet promulgated any regulations to enforce the 1987 directive.

e. Acceptable Conditions of Work

China has not yet adopted a labor code, and deliberations on a draft labor law appear to have been derailed by the post-June crackdown. There is no minimum wage in China, although administrative regulations apparently fix the minimum at between $9 and $13 per month. A large proportion of a worker's income comes in the form of bonuses or subsidies added to a basic wage rate. For example, many foreign investors have found that basic salary costs may make up as little as 20 to 30 percent of overall costs per employee. As part of a comprehensive economic austerity program initiated in late 1988, the Government is attempting to reduce the amount of bonuses paid to workers.

The maximum and normal workweek is 48 hours, of which 3 to 12 hours are generally spent in political study or "education" on current social issues. The time spent in political study increased sharply in the second half of 1989, particularly in work units whose members had been active in the spring demonstrations.

At factories and construction sites, occupational health and safety are constant themes of posters and compaigns. Every work unit of any size must designate a health and safety officer; the ILO has established a training program for these officials. Even so, general health and safety conditions in the workplace are extemely poor. The safety consciousness of both workers and managers is generally very low. State procurators deal annually with thousands of negligence and accident cases involving criminal or civil liability. The absence of a national labor code, however, makes enforcement of safety regulations extremely difficult.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

ARMENIAN GENOCIDE DAY OF REMEMBRANCE

MOTION TO PROCEED

The PRESIDING OFFICER. The pending business is the motion to proceed to Senate Joint Resolution 212.

CLOTURE MOTION

Mr. DOLE. Mr. President, I have a cloture motion at the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to proceed to the consideration of S.J. Res. 212, a joint resolution designating April 24, 1990, as "National Day of Remembrance of the Seventy-Fifth Anniversary of the Armenian Genocide of 1915-1923.

Bob Dole, Edward Kennedy, Pete Wilson, James M. Jeffords, Paul Sarbanes, Jake Garn, Arlen Specter, Pete Domenici, Alfonse D'Amato, Larry Pressler, Bill Bradley, John Heinz, John F. Kerry, Nancy L. Kassebaum, Carl Levin, Strom Thurmond.

Mr. DOLE. Mr. President, under the previous order the Senator from Kansas and the Senator from West Virginia are each permitted 15 minutes to speak further on the so-called Armenian resolution.

I am going to yield back my time except to say that I again thank the distinguished President pro tempore for his many courtesies during the debate. We are on opposite sides on this particular issue, but I thank the Senator from West Virginia for what I thought was a very constructive debate. I am sure we will have additional debates between now and the vote on Tuesday.

But I yield back my time.

The PRESIDING OFFICER. The Senator's time is yielded back.

The time controlled by the Senator from West Virginia will now begin to run.

Mr. BYRD. Mr. President, if I have any time remaining under the order, I yield it back.

The PRESIDING OFFICER. All time is yielded back.

Mr. BYRD. Mr. President, the majority leader has asked me to take care of the wrapup on this side, if my distinguished friend the Republican leader is ready to proceed.

Mr. DOLE. Mr. President, I am ready.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations: Calendar Order No. 602; the nomination of Robert H. Gentile to be an Assistant Secretary of Energy, and all nominations placed on the Secretary's desk in the Coast Guard.

I ask unanimous consent that the nominees be confirmed en bloc, that any statements appear at the appropriate place in the RECORD as if read, that the motion to reconsider en bloc be laid upon the table, that the President be immediately notified of the Senate's action, and that the Senate return to legislative session.

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

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF ENERGY

Robert H. Gentile, of Ohio, to be an Assistant Secretary of Energy (Fossil Energy).

NOMINATIONS PLACED ON THE SECRETARY'S DESK IN THE COAST GUARD

Coast Guard nominations beginning David M. Bernstein, and ending Michael L. Woolard, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of January 24, 1990.

Coast Guard nominations beginning Robert L. Deyoung, and ending John J. Fagan, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of January 24, 1990.

Coast Guard nominations beginning David L. Powell, and ending Barry L. Higgins, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of February 5, 1990.

STATEMENT ON THE NOMINATION OF ROBERT H. GENTILE

Mr. McCLURE. Mr. President, on February 21, 1990, the Committee on Energy and Natural Resources favorably reported the nomination of Robert H. Gentile to be an Assistant Secretary of Energy for Fossil Energy by a vote of 19 to 0.

Mr. Gentile has had a long career in the fossil energy field. His industry background as chief executive officer of two different coal mining companies followed by his experience with the Federal Government, particularly as Director of the Department of the Interior's Office of Surface Mining Reclamation and Enforcement, qualify him for the position of Assistant Secretary for Fossil Energy. Five years as a Federal Government manager with the Peace Corps have added to his management experience.

Mr. President, I urge my colleagues to join me in supporting Mr. Gentile's confirmation as Assistant Secretary for Fossil Energy.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now resume legislative session.

STUDENT ATHLETE RIGHT-TO-KNOW ACT

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar Order No. 392, S. 580.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 580) to require institutions of higher education receiving Federal financial assistance to provide certain information with respect to the graduation rates of student-athletes at such institutions.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Labor and Human Resources, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Student Athlete Right-to-Know Act".

SEC. 2. FINDINGS.

The Congress finds that—

(1) education is fundamental to the development of individual citizens and the progress of the Nation as a whole;

(2) there is increasing concern among citizens, educators, and public officials regarding the academic performance of student-athletes at institutions of higher education;

(3) an overwhelming majority of college presidents (86 percent) in a 1989 survey said that the pressure for success and financial rewards in intercollegiate athletics interferes with the educational mission of the United States' colleges and universities;

(4) every year more than 10,000 students are awarded athletically related student aid by institutions of higher education;

(5) prospective student athletes and their families should be aware of the educational commitments prospective colleges make to athletes; and

(6) knowledge of the graduation rates of student-athletes would assist prospective students and their families in making an informed judgment about the educational benefits available at a given institution of higher education.

SEC. 3. REPORTING REQUIREMENTS FOR INSTITUTIONS OF HIGHER EDUCATION.

(a) REPORTS TO THE SECRETARY.—Each institution of higher education which receives Federal financial assistance and is attended by students receiving athletically related student aid shall annually submit a report to the Secretary of Education (hereinafter referred to as the "Secretary") which contains—

(1) the number of students at the institution of higher education who received athletically related student aid for football, basketball, and all other sports combined, broken down by race and sex;

(2) the number of students at the institution of higher education, broken down by race and sex;

(3) the average graduation rate for the 4 most recent graduating classes of students at the institution of higher education who received athletically related student aid for football, basketball, and all other sports combined, broken down by race and sex;

(4) the average graduation rate for the 4 most recent first-time, full-time graduating classes of all students, broken down by race and sex; and

(5) the number and percentage of students receiving athletically related student aid who earned a bachelor's degree or its equivalent within 10 years of entering the school.

(b) STUDENT NOTIFICATION.—When an institution described in subsection (a) offers a potential student-athlete athletically related student aid, such institution shall provide to the student and his parents, his guidance counselor, and high school coach the information contained in the report submitted by such institution pursuant to subsection (a).

(c) SPECIAL CIRCUMSTANCES.—If an institution of higher education described in subsection (a) finds that the information collected pursuant to subsection (a), because of extenuating circumstances, does not provide an accurate representation of the school's graduation rate, the school may provide additional information to the student and the Secretary.

(d) COMPARABLE INFORMATION.—Each institution of higher education described in subsection (a) may provide supplemental information to students and the Secretary showing the graduation rate when such graduation rate includes students and student-athletes in good academic standing who transferred into, out of, or otherwise left, such institution. The Secretary shall ensure that the date presented to the student and the data submitted to the Secretary are comparable.

SEC. 4. REPORT BY SECRETARY.

(a) IN GENERAL.—The Secretary shall, using the data required under section 3, shall compile and publish a report containing the information submitted under section 3, broken down by——

(1) individual institutions of higher education, and

(2) athletic conferences recognized by the National Collegiate Athletic Association and the National Association of Intercollegiate Athletics.

(b) REPORT AVAILABILITY.—The Secretary shall make available copies of the report required under subsection (a) to any individual or secondary school requesting a copy of such report.

SEC. 5. INFORMATION.

The Secretary may, at his discretion, obtain the information required by section 3 from a private, not-for-profit organization when, in the Secretary's opinion, such collection will reduce the paperwork burden imposed on higher education institutions.

SEC. 6. TWO-YEAR COLLEGE DATA.

The Secretary shall, in conjunction with the national Junior College Athletic Association, develop and obtain data on graduation rates from two-year colleges that award athletically related student aid. Such data shall, to the extent practicable, be consistent with the reporting requirements set forth in section 3 of this Act.

SEC. 7. DEFINITIONS.

For the purpose of this Act—

(1) The term "athletically related student aid" means any scholarship, grant, or other form of financial assistance whose terms require the recipient to participate in an institution of higher education's program of intercollegiate athletics in order to be eligible to receive such assistance.

(2) The term "institution of higher education" has the same meaning given such term by section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)).

(3) The term "Secretary" means the Secretary of Education.

(4) The term "graduation rate" means the percentage of students with no previous collegiate participation who enter an institution of higher education as full time, regularly meticulated, degree seeking student in a specific year and graduate with a bachelor's degree, or the equivalent, within 5 years.

AMENDMENT NO. 1259

(Purpose: To establish the Student Athlete Right-to-Know Act)

Mr. BYRD. Mr. President, on behalf of Senators BRADLEY, KENNEDY, and COCHRAN, I send a substitute amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD], for Mr. BRADLEY (for himself, Mr. KENNEDY, and Mr. COCHRAN), proposes an amendment numbered 1259.

Mr. BYRD. I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Student Athlete Right-to-Know Act".

SEC. 2 FINDINGS.

The Congress finds that—

(1) education is fundamental to the development of individual citizens and the progress of the Nation as a whole;

(2) there is increasing concern among citizens, educators, and public officials regarding the academic performance of student-athletes at institutions of higher education;

(3) an overwhelming majority of college presidents (86 percent) in a survey by the U.S. News and World Report believe that the pressure for success and financial rewards in intercollegiate athletics interferes with the educational mission of the United States' colleges and universities;

(4) more than 10,000 athletic scholarships are provided annually by institutions of higher education;

(5) prospective student athletes and their families should be aware of the educational commitments prospective colleges make to athletes; and

(6) knowledge of the graduation rates of student-athletes would assist prospective students and their families in making an informed judgment about the educational benefits available at a given institution of higher education.

SEC. 3. REPORTING REQUIREMENTS FOR INSTITUTIONS OF HIGHER EDUCATION.

(a) REPORTS TO THE SECRETARY.—Each institution of higher education which receives Federal financial assistance and is attended by students receiving athletic scholarships shall annually submit a report to the Secretary which contains—

(1) the number of students at the institution of higher education who received athletically related student aid for football, basketball, and all other sports, broken down by race and sex;

(2) the number of students at the institution of higher education, broken down by race and sex;

(3) the graduation rate for students at the institution of higher education who received athletic scholarships for football, basketball, and all other sports, broken down by race and sex;

(4) the graduation rate for first-time full-time students, broken down by race and sex;

(5) the average graduation rate for the 4 most recent graduating classes of students at the institution of higher education who received athletically related student aid for football, basketball, and all other sports, broken down by race and sex;

(6) the average graduation rate for the 4 most recent graduating classes of all students, broken down by race and sex; and

(7) the average graduation rate for the 10 most recent graduating classes of students at the institution of higher education who received athletically related student aid for football, basketball and all other sports, broken down by race and sex.

(b) STUDENT NOTIFICATION.—When an institution described in subsection (a) offers a potential student-athlete athletically related student aid, such institution shall provide to the student and his parents, his guidance counselor, and coach the information contained in the report submitted by such institution pursuant to subsection (a).

(c) SPECIAL CIRCUMSTANCES.—If an institution of higher education described in subsection (a) finds that the information collected pursuant to subsection (a), because of extenuating circumstances, does not provide an accurate representation of the school's graduation rate, the school may provide additional information to the student and the Secretary.

(d) COMPARABLE INFORMATION.—Each institution of higher education described in subsection (a) may provide supplemental information to students and the Secretary showing the graduation rate when such graduation rate does not include students transferring into, and out of, such institution. The Secretary shall ensure that the data presented to the student and the data submitted to the Secretary are comparable.

SEC. 4 REPORT BY SECRETARY.

(a) IN GENERAL.—The Secretary shall, using the data required under section 3, shall compile and publish a report containing the information required under section 3, broken down by—

(1) individual institutions of higher education, and

(2) athletic conferences recognized by the National Collegiate Athletic Association and the National Association of Intercollegiate Athletics.

(b) REPORT AVAILABILITY.—The Secretary shall make available copies of the report required under subsection (a) to any individual or secondary school requesting a copy of such report.

SEC. 5. INFORMATION.

The Secretary may, at his discretion, obtain the information required by section 3 from a private, not-for-profit organization when, in the Secretary's opinion, such collection will reduce the paperwork burden imposed on higher education institutions.

SEC. 6. WAIVER.

The Secretary shall waive the requirements of this Act for any institution of higher education which is a member of an athletic association or athletic conference that voluntarily publishes graduation rate data (or has already agreed to publish the data) that, in the opinion of the Secretary, is substantially comparable to the information required under this Act.

SEC. 7. DEFINITIONS.

For the purpose of this Act—

(1) The term "athletically related student aid" means any scholarship, grant, or other form of financial assistance whose terms require the recipient to participate in an institution of higher education's program of intercollegiate athletics in order to be eligible to receive such assistance;

(2) The term "institution of higher education" has the same meaning given such term by section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a));

(3) The term "Secretary" means the Secretary of Education; and

(4) The term "graduation rate" means the percentage of students who enter an institution in a specific year and receive a bachelor's degree within 5 years.

SEC. 8. EFFECTIVE DATE.

The amendments made by this Act shall take effect October 1, 1991.

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

The amendment (No. 1259) was agreed to.

Mr. BYRD. Mr. President, I know of no further amendments.

The PRESIDING OFFICER. The question is on agreeing to the amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and the third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed as follows:

S. 580

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Student Athlete Right-to-Know Act".

SEC. 2. FINDINGS.

The Congress finds that—

(1) education is fundamental to the development of individual citizens and the progress of the Nation as a whole;

(2) there is increasing concern among citizens, educators, and public officials regarding the academic performance of student-athletes at institutions of higher education;

(3) an overwhelming majority of college presidents (86 percent) in a survey by the U.S. News and World Report believe that the pressure for success and financial rewards in intercollegiate athletics interferes with the educational mission of the United States' colleges and universities;

(4) more than 10,000 athletic scholarships are provided annually by institutions of higher education;

(5) prospective student athletes and their families should be aware of the educational commitments prospective colleges make to athletes; and

(6) knowledge of the graduation rates of student-athletes would assist prospective students and their families in making an informed judgment about the educational benefits available at a given institution of higher education.

SEC. 3. REPORTING REQUIREMENTS FOR INSTITUTIONS OF HIGHER EDUCATION.

(a) REPORTS TO THE SECRETARY.—Each institution of higher education which receives Federal financial assistance and is attended by students receiving athletic scholarships shall annually submit a report to the Secretary which contains—

(1) the number of students at the institution of higher education who received athletically related student aid for football, basketball, and all other sports, broken down by race and sex;

(2) the number of students at the institution of higher education, broken down by race and sex;

(3) the graduation rate for students at the institution of higher education who received athletic scholarships for football, basketball, and all other sports, broken down by race and sex;

(4) the graduation rate for first-time, full-time students broken down by race and sex;

(5) the average graduation rate for the 4 most recent graduating classes of students at the institution of higher education who received athletically related student aid for football, basketball, and all other sports, broken down by race and sex;

(6) the average graduation rate for the 4 most recent graduating classes of all students, broken down by race and sex; and

(7) the average graduation rate for the 10 most recent graduating classes of students at the institution of higher education who received athletically related student aid for football, basketball, and all other sports, broken down by race and sex.

(b) STUDENT NOTIFICATION.—When an institution described in subsection (a) offers a potential student-athlete athletically related student aid, such institution shall provide to the student and his parents, his guidance counselor, and coach the information contained in the report submitted by such institution pursuant to subsection (a).

(c) SPECIAL CIRCUMSTANCES.—If an institution of higher education described in subsection (a) finds that the information collected pursuant to subsection (a), because of extenuating circumstances, does not provide an accurate representation of the school's graduation rate, the school may provide additional information to the student and the Secretary.

(d) COMPARABLE INFORMATION.—Each institution of higher education described in subsection (a) may provide supplemental information to students and the Secretary showing the graduation rate when such graduation rate does not include students transferring into, and out of, such institution. The Secretary shall ensure that the data presented to the student and the data submitted to the Secretary are comparable.

SEC. 4. REPORT BY SECRETARY.

(a) IN GENERAL.—The Secretary shall, using the data required under section 3, shall compile and publish a report containing the information required under section 3, broken down by—

(1) individual institutions of higher education, and

(2) athletic conferences recognized by the National Collegiate Athletic Association and the National Association of Intercollegiate Athletics.

(b) REPORT AVAILABILITY.—The Secretary shall make available copies of the report required under subsection (a) to any individual or secondary school requesting a copy of such report.

SEC. 5. INFORMATION.

The Secretary may, at his discretion, obtain the information required by section 3 from a private, not-for-profit organization when, in the Secretary's opinion, such collection will reduce the paperwork burden imposed on higher education institutions.

SEC. 6. WAIVER.

The Secretary shall waive the requirements of this Act for any institution of higher education which is a member of an athletic association or athletic conference that voluntarily publishes graduation rate data (or has already agreed to publish the data) that, in the opinion of the Secretary, is substantially comparable to the information required under this Act.

SEC. 7. DEFINITIONS.

For the purpose of this Act—

(1) The term "athletically related student aid" means any scholarship, grant, or other form of financial assistance whose terms require the recipient to participate in an institution of higher education's program of intercollegiate athletics in order to be eligible to receive such assistance;

(2) The term "institution of higher education" has the same meaning given such term by section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a));

(3) The term "Secretary" means the Secretary of Education; and

(4) The term "graduation rate" means the percentage of students who enter an institution in a specific year and receive a bachelor's degree within 5 years.

SEC. 8. EFFECTIVE DATE.

The amendments made by this Act shall take effect October 1, 1991.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill, as amended, was passed.

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

The motion to lay on the table was agreed to.

FEDERAL CIVIL PENALTIES INFLATION ADJUSTMENT ACT

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar Order No. 437, S. 535.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 535) to increase civil monetary penalties based on the effect of inflation.

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 1260

(Purpose: To make a technical amendment concerning the date of the short title of the Act)

Mr. BYRD. Mr. President, on behalf of Mr. GLENN, I send a technical amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD] for Mr. GLENN, proposes an amendment numbered 1260.

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

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

The amendment is as follows:

On page 1, line 5, strike out "1989" and insert in lieu thereof "1990".

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

The amendment (No. 1260) was agreed to.

Mr. GLENN. Mr. President, I rise in support of S. 535, the Federal Civil Penalties Inflation Adjustment Act, which was introduced by Senator LAUTENBERG on March 8, 1989, and referred to the Subcommittee on Oversight of Government Management of the Governmental Affairs Committee. On October 13, Subcommittee Chairman CARL LEVIN notified the committee that the subcommittee had unanimously voted to report S. 535 to the committee for its consideration. On November 17, 1989, the Governmental Affairs Committee favorably reported S. 535 to the full Senate by voice vote.

The bill's intent is simple and straightforward—to increase the deterrent effect of civil monetary penalties assessed by Federal agencies by establishing a formula to adjust those penalties to keep pace with inflation. In 1988, the Subcommittee on Oversight of Government Management held a hearing on Senator LAUTENBERG's predecessor bill to S. 535. That hearing pointed out that the deterrent effect of civil monetary penalties has been significantly weakened by years of inflation. For example, statistics show that inflation has eroded penalties set as recently as 1976 by over 100 percent and penalties set prior to 1970 by more than 200 percent. Moreover, 60 percent of all penalties were last adjusted before 1981 and 30 percent were last adjusted before 1961.

In addition to providing a formula for inflation adjustments using the Consumer Price Index, this bill requires the administration to provide Congress with:

First, a complete list of all statutorily authorized civil monetary penalties;

Second, a calculation of the adjustment that would be required for each penalty to keep pace with inflation; and

Third, a list of the statutory changes that would be necessary to make these adjustments.

S. 535 has incorporated changes to the prior legislation suggested by the Justice Department, and this bill meets with their approval as well as the approval of the Treasury Department. S. 535 represents good common sense and I urge my colleagues to give it their full support.

Mr. LEVIN. Mr. President, I am pleased that the Senate is considering S. 535, the Federal Civil Monetary Penalties Adjustment Act of 1990. This bill, which Senator LAUTENBERG and I introduced a year ago, has been unanimously approved by the Senate Governmental Affairs Committee and its Subcommittee on Oversight of Government Management.

Civil monetary penalties [CMP's] are fines assessed by Federal agencies to deter violations of Federal laws and regulations. Thanks to Senator LAUTENBERG's efforts, we have learned that many of these penalties have not been adjusted for years—in some cases a decade, and in some cases even a century. The result is that the deterrent effect of many CMP's has been weakened by years of inflation.

The Subcommittee on Oversight of Government Management, which I chair, held hearings on civil monetary penalties in February 1988. We learned that CMP's are so numerous that it is difficult even to list them all. It appears that many CMP's are redundant or obsolete. Others have been so eroded by inflation that they no longer have any significant deterrent effect.

This bill would address the problem by requiring the administration to provide Congress with a complete list of all statutorily authorized civil monetary penalties, a calculation of the adjustment required for each penalty to keep pace with inflation, and a list of the statutory changes necessary to make these adjustments.

The bill would not provide for any automatic adjustment of the CMP's covered—separate legislation would be required for each change. However, the bill would provide the Congress with a benchmark against which to measure CMP's and ensure that appropriate adjustments are made. In addition, the listing of CMP's should help facilitate the consolidation and elimination of redundant and obsolete penalties by bringing such problems to our attention.

I commend Senator LAUTENBERG for calling our attention to the failure of many CMP's to keep pace with inflation, and I thank the chairman of the Governmental Affairs Committee, Senator GLENN, for his prompt action in marking up the bill.

The Federal Civil Monetary Penalties Adjustment Act promises to make a significant contribution to good government by ensuring that civil monetary penalties are realistic and continue to serve their purpose of deterring violations of Federal law. I urge my colleagues to join me in supporting this legislation.

Mr. LAUTENBERG. Mr. President, the Federal Civil Penalties Inflation Adjustment Act of 1990 is simple, good government legislation based on common sense. The bill is designed to establish a mechanism for periodically increasing civil penalties to account for inflation.

The legislation would require the President to prepare a comprehensive list of civil penalties and the levels to which each penalty should be increased to account for inflation. These lists would be prepared every 5 years. In addition, the bill calls for improved reporting of the number and amounts of civil penalties assessed and collected.

Mr. President, we in Congress like to talk tough when we set penalties for violating laws. But all too often, once we enact penalties, we forget about them. They get lost in the thick volumes of the United States Code, never to be seen or heard from again.

Many of these penalties are designed to meet important public needs: to protect the environment, to ensure a safe workplace, to provide for transportation safety, and to ensure that consumers are protected from unsafe products.

The problem is that as these penalties sit on the shelf, inflation dramatically erodes their deterrent effect.

Because of inflation, for example, the penalties for violating worker safety and consumer product safety standards have been reduced by about two-thirds since they were last set in the early 1970's.

If it were presented for a vote, would the Senate approve a two-thirds cut in OSHA penalties, when workplace hazards persist? Would the Senate approve a similar cut in consumer product safety penalties, when thousands of children are injured by dangerous products each year? The answer, I think, is no. Yet inaction gives us the same result.

These are not isolated cases. According to a report by the President's Council on Integrity and Efficiency, 60 percent of all civil monetary penalties were last adjusted before 1981. Thirty percent were last adjusted before 1961, and 16 percent were last adjusted before World War II.

In fact, several penalties date back to as early as 1793.

There is no good justification for allowing real penalty values to erode over time. Yet now, while consumers must cope with price hikes in everything from food to medical care, those who violate the law do not.

Maintaining the deterrent value of civil penalties will mean safer products, safer travel, safer workplaces and cleaner environment. It also will ensure that honest businesses will be treated more fairly.

After all, meeting the legal requirements for a safe workplace or for waste control often involves a substantial investment. Honest businesses are making that investment. Sometimes, though, their competitors are not. And with weak sanctions, they're getting away with it.

As a society, we owe an obligation to the honest, law-abiding business. An obligation to make sure that its competitors can't exploit weakened sanctions to gain an unfair competitive advantage. This bill will help us meet that obligation.

The consumer, the worker, and the honest businessperson—all will benefit by this bill. But there's one more major beneficiary: the taxpayer.

Although civil penalties are designed primarily to deter unlawful conduct, they also help reduce the deficit by producing hundreds of millions of dollars for the Government each year. Periodically adjusting penalties would increase receipts. Former OMB Director Joseph Wright testified that the impact on government revenues would be significant.

Unfortunately, the OMB maintains no detailed central account that tracks penalty assessments and collections and matches them with the laws under which they are imposed. There is no accounting of which laws need updating the most. Apparently, hundreds of millions of dollars is seen as small change that is not worth watching more closely.

This bill requires the administration to maintain a central accounting of agencies' performance and collections. That way, Congress and the public would know whether the laws are being enforced and how much money is being raised from each penalty.

Mr. President, when I introduced similar legislation in the 100th Congress, the bill called for automatic annual increases in penalty levels through notices in the Federal Register. In response to concerns raised by the administration, the bill was significantly revised. As modified, the legislation requires periodic reports designed to enable Congress to pass separate legislation enacting the needed penalty increases. Congress will have to act quickly to ensure the maximum effectiveness of this procedure.

Mr. President, when this bill was the subject of hearings in the Governmental Affairs Committee last year, it attracted support from a variety of groups representing consumers, environmentalists, and organized labor, among others. The Department of Justice has also stated that it has no objections to the bill.

I want to take this opportunity to thank Senators LEVIN and GLENN for their help with this bill. I also want to thank the staff of the Government Affairs Committee for their assistance, particularly Peter Levine, Linda Gustitus, and Lorraine Lewis. Finally, I want to express my appreciation to U.S. PIRG, the Consumer Federation of America, Congress Watch, and the AFL-CIO for their testimony in support of the legislation and their help in moving the bill forward.

I urge my colleagues to support the bill.

The PRESIDING OFFICER. If there are no further amendments to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for third reading, was read the third time, and passed, as follows:

S. 535

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Federal Civil Penalties Inflation Adjustment Act of 1990".

FINDINGS AND PURPOSE

SEC. 2. (a) Findings.—The Congress finds that—

(1) the power of Federal agencies to impose civil monetary penalties for violations of Federal law and regulations plays an important role in deterring violations and furthering the policy goals embodied in such laws and regulations;

(2) the impact of many civil monetary penalties has been and is diminished due to the effect of inflation;

(3) by reducing the impact of civil monetary penalties, inflation has weakened the deterrent effect of such penalties; and

(4) the Federal Government does not maintain comprehensive, detailed accounting of the efforts of Federal agencies to assess and collect civil monetary penalties.

(b) PURPOSE.—The purpose of this Act is to establish a mechanism that shall—

(1) allow for regular adjustment for inflation of civil monetary penalties;

(2) maintain the deterrent effect of civil monetary penalties and promote compliance with the law; and

(3) improve the collection by the Federal Government of civil monetary penalties.

DEFINITIONS

SEC. 3. For purpose of this Act, the term—

(1) "agency" means an Executive agency as defined under section 105 of title 5, United States Code, and includes the United States Postal Service;

(2) "civil monetary penalty" means any penalty, fine, or other sanction that—

(A)(i) is for a specific monetary amount as provided by Federal law; or

(ii) has a maximum amount provided for by Federal law; and

(B) is assessed or enforced by an agency pursuant to Federal law; and

(C) is assessed or enforced pursuant to an administrative proceeding or a civil action in the Federal courts; and

(3) "Consumer Price Index" means the Consumer Price Index for all-urban consumers published by the Department of Labor.

CIVIL MONETARY PENALTY INFLATION ADJUSTMENT REPORTS

SEC. 4. Within 6 months after the date of the enactment of this Act, and on January 1 of each fifth calendar year thereafter, the President shall submit a report on civil monetary penalty inflation adjustment to the Committee on Governmental Affairs of the Senate and the Committee on Government Operations of the House of Representatives. Such report shall include—

(1) each civil monetary penalty as defined under section 3(2);

(2) the date each civil monetary penalty was most recently set pursuant to law;

(3) the maximum amount of each civil monetary penalty or, if applicable, the range of the minimum and maximum amounts of each civil monetary penalty in effect on the date of the submission of such report;

(4) the amount of each civil monetary penalty described under paragraph (3) other than any such penalty for which inflation adjustment is provided by law, if each such penalty is increased by the adjustment described under section 5; and

(5) a listing of the modifications to Federal law that would be required to—

(A) increase each penalty described in paragraph (1) by the adjustments described under section 5, excluding any penalty for which inflation adjustment is provided by law or that has been increased within the 5-year period immediately preceding the date of the submission of such report; and

(B) provide that any increase in any civil monetary penalty shall apply only to violations which occur after the date any such increase takes effect.

COST-OF-LIVING ADJUSTMENTS OF CIVIL MONETARY PENALTIES

SEC. 5. (a) ADJUSTMENT.—The adjustment described under paragraphs (4) and (5)(A) of section 4 shall be determined by increasing the maximum civil monetary penalty or the range of minimum and maximum civil monetary penalties, as applicable, for each civil monetary penalty by the cost-of-living adjustment. Any increase determined under this subsection shall be rounded to the nearest—

(1) multiple of $10 in the case of penalties less than or equal to $100;

(2) multiple of $100 in the case of penalties greater than $100 but less than or equal to $1,000;

(3) multiple of $1,000 in the case of penalties greater than $1,000 but less than or equal to $10,000;

(4) multiple of $5,000 in the case of penalties greater than $10,000 but less than or equal to $100,000;

(5) multiple of $10,000 in the case of penalties greater than $100,000 but less than or equal to $200,000; and

(6) multiple of $25,000 in the case of penalties greater than $200,000.

(b) DEFINITION.—For purposes of subsection (a), the term "cost-of-living adjustment" means the percentage (if any) for each civil monetary penalty by which—

(1) The Consumer Price Index for the month of June of the calendar year preceding the adjustment exceeds

(2) the Consumer Price Index for the month of June of the calendar year in which the amount of such civil monetary penalty was last set or adjusted pursuant to law.

ANNUAL REPORT

SEC. 6. No later than January 1 of each year, the President shall submit a report on civil monetary penalties to the Congress which shall include—

(1) to the extent possible, the number and amount of civil monetary penalties imposed pursuant to each provision of law providing for such civil monetary penalties, during the

complete fiscal year preceding the submission of such report;

(2) to the extent possible, the number and amount of such civil penalties collected during such fiscal year; and

(3) any recommendations that the President determines appropriate to—

(A) eliminate obsolete civil monetary penalties;

(B) modify the amount of any civil monetary penalty; or

(C) make any other legislative modifications concerning civil monetary penalties.

Mr. BYRD. I move to reconsider the vote by which the bill, as amended, was passed.

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

The motion to lay on the table was agreed to.

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

UNITED NATIONS HUMAN RIGHTS COMMISSION

Mr. DOLE. Mr. President, on behalf of Senators MACK, GRAHAM, MCCAIN, LIEBERMAN, KASTEN, COATS, GRAMM, and GORTON, I send a resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 247) expressing the sense of the Senate that the United Nations Human Rights Commission should continue to report on human rights in Cuba.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate preceeded to consider the resolution.

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

The resolution (S. Res. 247) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 247

Whereas the United Nations Human Rights Commission (UNHRC) sent a delegation to Cuba to investigate violations of human rights in Cuba in September, 1988;

Whereas the UNHRC delegation report found serious abuses of human rights, including "137 complaints of torture, cruel, inhuman or degrading treatment or punishment";

Whereas the Cuban Government gave public guarantees that no reprisals would be taken against Cuban citizens testifying before the UNHRC delegation;

Whereas after the visit of the UNHRC delegation more than twenty Cuban citizens who testified before the delegation were arrested, and the leaders of human rights groups imprisoned;

Whereas 90 United States Senators wrote to the United Nations Secretary General requesting that he intercede on behalf of Alfredo Mustelier Nuevo, Ernesto Diaz Rodriguez, and Mario Chanes de Armas, who have been incarcerated for over 20 years in Cuba;

Whereas on March 9, 1989, the UNHRC called on the Secretary General of the United Nations to "maintain direct contacts on the issues and questions contained in the report" on human rights in Cuba and take up the results of his efforts "in an appropriate manner";

Whereas the Secretary General of the United Nations has not acceded to the requests of the United States and other nations to provide a report on human rights situation in Cuba;

Whereas the UNHRC has appointed Special Rapporteurs to investigate and report on the situation of human rights in such countries as Iran, Afghanistan, El Salvador, and Romania: Now, Therefore, be it

Resolved by the Senate, That the Senate hereby—

Condemns the Government of Cuba for retaliating against citizens who testified before the delegation of the United Nations Human Rights Commission (UNHRC);

Urges the Government of Cuba to release all human rights activists and other political prisoners, particularly those who have suffered over 20 years in prison;

Urges the Secretary General to prepare and make available to the 46th Session of the UNHRC a report on the results of his contacts with the Government of Cuba pursuant to UNHRC Resolution 89-113;

Urges the UNHRC to hold Cuba accountable to the standards embodied in the Universal Declaration of Human Rights;

Urges the UNHRC to appoint a Special Rapporteur to investigate the situation of human rights in Cuba and to submit a report for consideration at the 47th Session of the United Nations Human Rights Commission.

Mr. DOLE. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AUTHORIZING THE MAJORITY AND MINORITY LEADERS TO ESTABLISH AN ADVISORY PANEL ON CAMPAIGN FINANCE REFORM

Mr. BYRD. Mr. President, on behalf of Senator MITCHELL and Senator DOLE, I send a resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 248) to authorize the majority and minority leaders to establish an advisory panel on campaign finance reform.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

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

The resolution (S. Res. 248) was agreed to.

The resolution reads as follows:

S. RES. 248

Resolved, That the majority and minority leaders of the Senate are authorized to assemble an advisory panel (hereinafter referred to as the "Campaign Finance Reform Panel") to assist in the formulation of policy relating to campaign finance reform.

SEC. 2. The Secretary of the Senate is authorized and directed to pay from the contingent fund of the Senate, out of the account for miscellaneous items, the actual and reasonable expenses (including expenses incurred prior to the date this resolution is agreed to) incurred by members of the Campaign Finance Reform Panel for transportation and per diem expenses, in carrying out their functions as members of such Panel. Such expenses shall be paid on vouchers certified by the majority leader (or his designee), or the minority leader (or his designee) of the Senate.

Mr. BYRD. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

RE-REFERRAL OF A BILL—S. 2055

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be discharged from further consideration of S. 2055, a bill to amend the National School Lunch Act, and that it be referred to the Committee on Agriculture, Nutrition, and Forestry.

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

ORDER FOR STAR PRINT—SENATE REPORT 101-243

Mr. BYRD. Mr. President, I ask unanimous consent that there be a star print of Senate Report 101-243 to reflect the changes that I now send to the desk.

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

MESSAGES FROM THE HOUSE

At 11:12 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following joint resolution, without amendment:

S.J. Res. 186. Joint resolution designating the week of March 1 through March 7, 1990, as "National Quarter Horse Week."

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-2386. A communication from the Director of the Office of Management and Budget, transmitting, pursuant to law, a cumulative report on budget rescissions and deferrals dated February 1, 1990; pursuant

to the order of January 30, 1975, as modified by the order of April 11, 1986, referred jointly to the Committee on Appropriations, the Committee on the Budget, the Committee on Agriculture, Nutrition, and Forestry, the Committee on Armed Services, the Committee on Commerce, Science, and Transportation, the Committee on Energy and Natural Resources, the Committee on Finance, and the Committee on Foreign Relations.

EC-2387. A communication from the Secretary of Agriculture, transmitting a draft of proposed legislation to amend the Act of February 28, 1947, to authorize the Secretary of Agriculture to cooperate with the Western Hemisphere countries in animal disease control; to the Committee on Agriculture, Nutrition, and Forestry.

EC-2388. A communication from the Acting Director of the Defense Security Assistance Agency, transmitting, pursuant to law, information concerning the Department of the Navy's proposed letter of Offer to Germany for defense articles estimated to cost in excess of $50 million; to the Committee on Armed Services.

EC-2389. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, a report on the results of the Supportive Housing Demonstration Program; to the Committee on Banking, Housing, and Urban Affairs.

EC-2390. A communication from the Secretary of Commerce, transmitting, pursuant to law, a report on the implementation of the Fish and Seafood Promotion Act of 1986; to the Committee on Commerce, Science, and Transportation.

EC-2391. A communication from the Deputy Assistant Secretary, Land and Minerals Management, Department of the Interior, transmitting, pursuant to law, the 1988 annual report on royalty management and collection activities; to the Committee on Energy and Natural Resources.

EC-2392. A communication from the Secretary of Energy, transmitting, pursuant to law, the annual report on the viability of the domestic uranium mining and milling industry; to the Committee on Energy and Natural Resources.

EC-2393. A communication from the Assistant General Counsel, Department of Energy, transmitting, pursuant to law, notice of a meeting related to the International Energy Program; to the Committee on Energy and Natural Resources.

EC-2394. A communication from the Deputy Chief, Forest Service, Department of Agriculture, transmitting, pursuant to law, a report on the observance of Federal Lands Cleanup Day; to the Committee on Energy and Natural Resources.

EC-2395. A communication from the Assistant Secretary, Policy, Budget & Administration, Department of the Interior, transmitting, pursuant to law, the reports of the Bureau of Land Management and the Fish and Wildlife Service on the implementation of the 1990 Department of the Interior and Related Agencies Appropriations Act through February 1, 1990; to the Committee on Energy and Natural Resources.

EC-2396. A communication from the Secretary of Energy, transmitting, pursuant to law, a report entitled "Proposals Received in Response to the Clean Coal Technology III Program Opportunity Notice"; to the Committee on Energy and Natural Resources.

EC-2397. A communication from the Acting Administrator of the General Services Administration, transmitting an informational copy of a prospectus; to the Committee on Environment and Public Works.

EC-2398. A communication from the United States Trade Representative, transmitting a draft of proposed legislation to provide authorization for appropriations to the Office of the United States Trade Representative for fiscal years 1991 and 1992; to the Committee on Finance.

EC-2399. A communication from the Assistant Legal Advisor for Treaty Affairs, Department of State, transmitting, pursuant to law, a report on international agreements other than treaties entered into by the United States within sixty days after the execution thereof, dated February 15, 1900; to the Committee on Foreign Relations.

EC-2400. A communication from the Chairman of the U.S. Consumer Product Safety Commission, transmitting, pursuant to law, the report of the Commission on the competition advocacy program; to the Committee on Governmental Affairs.

EC-2401. A communication from the Chairman of the National Science Board, transmitting, pursuant to law, a report on implementation of the Inspector General Act of 1978; to the Committee on Governmental Affairs.

EC-2402. A communication from the Controller of Washington Gas, transmitting, pursuant to law, a certified copy of a balance sheet of the company; to the Committee on Governmental Affairs.

EC-2403. A communication from the General Counsel of the National Labor Relations Board, transmitting, pursuant to law, the fiscal year 1989 Federal Managers' Financial Integrity Act Report on Internal Controls and Financial Systems provided to the President of the United States; to the Committee on Governmental Affairs.

EC-2404. A communication from the Acting Chairman of the Federal Maritime Commission, transmitting, pursuant to law, the annual report of the Commission under the Government in the Sunshine Act for calendar year 1989; to the Committee on Governmental Affairs.

EC-2405. A communication from the Chairman of the Board for International Broadcasting, transmitting, pursuant to law, the initial semiannual report on the Inspector General for the period April 1, 1989, through September 30, 1989; to the Committee on Governmental Affairs.

EC-2406. A communication from the Assistant Secretary for Administration, Department of Agriculture, transmitting, pursuant to law, the fifth and final annual report on competition in contracting; to the Committee on Governmental Affairs.

EC-2407. A communication from the Comptroller of the General Services Administration, transmitting, pursuant to law, the annual report on the Presidents Retirement System for the fiscal year ending September 30, 1988; to the Committee on Governmental Affairs.

EC-2408. A communication from the Acting Chairman of the National Transportation Safety Board, transmitting, pursuant to law, the Board's annual report under the Freedom of Information Act for calendar year 1989; to the Committee on the Judiciary.

EC-2409. A communication from the Chairman of the National Endowment for the Humanities, transmitting, pursuant to law, the Endowment's annual report under the Freedom of Information Act for calendar year 1989; to the Committee on the Judiciary.

EC-2410. A communication from the Director of the Office of National Drug Control Policy, transmitting, pursuant to law, a report on the organization of Federal drug control programs; to the Committee on the Judiciary.

EC-2411. A communication from the Acting Secretary of Defense, transmitting, pursuant to law, a report on Department of Defense procurement from small and other business firms for fiscal year 1989; to the Committee on Small Business.

EC-2412. A communication from the Deputy Secretary of Veterans Affairs, transmitting a replacement copy of a draft of proposed legislation to waive the reporting and waiting period requirements of section 210(b)(2) of title 38, U.S. Code, for a planned administrative reorganization of the regional field offices of the Veterans Health Services and Research Administration; to the Committee on Veterans' Affairs.

EC-2413. A communication from the Secretary of Veteran Affairs, transmitting, pursuant to law, the annual report on the activities of the Veterans Administration for the fiscal year ended September 30, 1988; to the Committee on Veterans' Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BIDEN, from the Committee on the Judiciary, without amendment and with a preamble:

S. Res. 245. A resolution designating National Employee Health and Fitness Day.

S.J. Res. 190. A joint resolution designating April 9, 1990 as "National Former Prisoners of War Recognition Day."

S.J. Res. 226. A joint resolution to designate the year 1990 as the "Bicentennial Anniversary of the legacy of Benjamin Franklin."

S.J. Res. 227. A joint resolution to designate March 11, through March 17, 1990, as "Deaf Awareness Week."

S.J. Res. 229. A joint resolution to designate April 1990 as "National Prevent-A-Litter Month."

S.J. Res. 230. A joint resolution to designate the period commencing on May 6, 1990 and ending on May 12, 1990 as "National Drinking Water Week."

S.J. Res. 231. A joint resolution to designate the week of June 10, 1990, through June 16, 1990, as "State-Supported Homes for Veterans Week."

S.J. Res. 236. A joint resolution designating May 6, through 12, 1990, as "Be kind to Amimals and National Pet Week."

By Mr. BIDEN, from the Committee on the Judiciary, with an amendment and an amendment to the title and with a preamble:

S.J. Res. 241. A joint resolution to designate the week of April 29, 1990, through May 5, 1990, as "Jewish Heritage Week."

By Mr. BIDEN, from the Committee on the Judiciary, without amendment and with a preamble:

S.J. Res. 243. A joint resolution to designate March 25, 1990, as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy."

S.J. Res. 245. A joint resolution designating July 2, 1990, as "Idaho Centennial Day."

S.J. Res. 250. A joint resolution designating April 1990 as "National Recycling Month."

S.J. Res. 251. A joint resolution designating "Baltic Freedom Day."

S.J. Res. 252. A joint resolution designating the week of April 15, 1990, through

April 21, 1990, as "National Minority Cancer Awareness Week."

By Mr. BIDEN, from the Committee on the Judiciary, without amendment:

S.J. Res. 258. A joint resolution to authorize the President to proclaim the last Friday of April 1990 as "National Arbor Day."

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. BIDEN, from the Committee on the Judiciary:

Jack N. Egnor, of Colorado, to be United States Marshal for the District of Colorado for the term of four years;

Donald W. Tucker, of Arizona, to be United States Marshal for the District of Arizona for the term of four years;

Scott Alan Sewell, of Maryland to be United States Marshal for the District of Maryland for the term of four years;

Thomas W. Corbett, Jr., of Pennsylvania, to be United States Attorney for the Western District of Pennsylvania for the term of four years; and

Clarence Thomas, of Virginia, to be United States Circuit Judge for the District of Columbia Circuit.

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. BOSCHWITZ (for himself, Mr. McCAIN, Mr. GORTON, Mr. ARMSTRONG, Mr. LOTT, Mr. COATS, Mr. GRAMM, Mr. KASTEN, Mr. McCONNELL, Mr. NICKLES, Mr. MACK, Mr. SIMPSON, Mr. SYMMS, Mr. McCLURE, Mr. WARNER, Mr. WILSON, and Mr. HATCH):

S. 2159. A bill to amend title II of the Social Security Act to eliminate the earnings test for individuals who have attained retirement age; to the Committee on Finance.

By Mr. SANFORD (for himself, Mr. SASSER, and Mr. FORD):

S. 2160. A bill to amend the Securities Exchange Act of 1934 to promote longer term investment, to provide for more effective disclosure with respect to the conduct of leveraged buy outs and tender offers, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. HATFIELD:

S. 2161. A bill to establish within the Department of Education an Office of Vocational and Adult Education and Community Colleges; to the Committee on Labor and Human Resources.

By Mr. BURNS (for himself and Mr. BAUCUS):

S. 2162. A bill to establish a National Water, Air, and Soil Technologies Evaluation Center; to the Committee on Environment and Public Works.

By Mr. KENNEDY (for himself, Mr. SIMON, and Mr. INOUYE):

S. 2163. A bill to amend the Public Health Service Act to establish a lifecare long-term care program, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. SIMON:

S. 2164. A bill to prevent potential abuses of electronic monitoring in the workplace; to the Committee on Labor and Human Resources.

By Mr. BINGAMAN:

S. 2165. A bill to establish the Glorieta National Battlefield in the State of New Mexico; to the Committee on Energy and Natural Resources.

By Mr. HATCH (for himself, Mr. DOLE, Mr. THURMOND, and Mr. COATS):

S. 2166. A bill to amend 42 U.S.C. 1981 in regard to the formation and implementation of contracts, and Title VII of the Civil Rights Act of 1964 to protect against discrimination in employment, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. McCAIN (for himself, Mr. INOUYE, Mr. DASCHLE, Mr. CONRAD, Mr. BURDICK, Mr. MURKOWSKI, Mr. DECONCINI, and Mr. GORTON):

S. 2167. A bill to reauthorize the Tribally Controlled Community College Assistance Act of 1978 and the Navajo Community College Act; to the Select Committee on Indian Affairs.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DOLE (for himself, Mr. MACK, Mr. GRAHAM, Mr. McCAIN, Mr. LIEBERMAN, Mr. KASTEN, Mr. COATS, and Mr. GRAMM):

S. Res. 247. A resolution expressing the sense of the Senate that the United Nations Human Rights Commission should continue to report on human rights in Cuba; considered and agreed to.

By Mr. BYRD (for Mr. MITCHELL (for himself and Mr. DOLE)):

S. Res. 248. A resolution to authorize the Majority and Minority Leaders to establish an advisory panel on campaign finance reform; considered and agreed to.

By Mr. SIMON (for himself, Mr. CRANSTON, Mrs. KASSEBAUM, Mr. KENNEDY, Mr. BOREN, Mr. GORE, Mr. McCONNELL, Mr. SANFORD, Mr. JEFFORDS, Mr. PELL, Mr. LUGAR, Mr. SPECTER, Mr. LEVIN, and Mr. BOSCHWITZ):

S. Con. Res. 94. A concurrent resolution relating to the release of Nelson Mandela and other positive developments in South Africa; to the Committee on Foreign Relations.

By Mr. SIMON (for himself and Ms. MIKULSKI):

S. Con. Res. 95. A concurrent resolution concerning the consultations of nations at the conference on the reunification of Germany; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BOSCHWITZ (for himself, Mr. McCAIN, Mr. GORTON, Mr. ARMSTRONG, Mr. LOTT, Mr. COATS, Mr. GRAMM, Mr. KASTEN, Mr. McCONNELL, Mr. NICKLES, Mr. MACK, Mr. HATCH, Mr. McCLURE, Mr. SIMPSON, Mr. SYMMS, Mr. WARNER, and Mr. WILSON):

S. 2159. A bill to amend title II of the Social Security Act to eliminate the earnings test for individuals who have retained retirement age; to the Committee on Finance.

OLDER AMERICANS' FREEDOM TO WORK ACT

Mr. BOSCHWITZ. Mr. President, I rise to introduce legislation to provide freedom, opportunity, and fairness for millions of older Americans. Together with my colleagues, Senators McCAIN, GORTON, ARMSTRONG, LOTT, COATS, GRAMM, KASTEN, McCONNELL, NICKLES, MACK, HATCH, McCLURE, SIMPSON, SYMMS, WARNER, and WILSON, I present the Older American's Freedom to Work Act, a bill that would repeal the Social Security earnings test for people 65 and over.

The Social Security earnings test is antiquated provision in the Social Security Act that actually penalizes our Nation's seniors for their productivity. For every $3 earned by retirees over the $9,360 earnings limit, they lose $1 in Social Security benefits. That is a 33-percent effective tax, and together with Federal taxes, State taxes, and Social Security taxes, it will amount to at least 50 percent, and sometimes 70 or even 80 percent or more.

If we add the 33 and then add 28 percent Federal income tax, and then add the Social Ssecurity tax we are already up to 70. And then we have to also add State taxes.

It is a great disincentive to work, and it keeps hundreds of thousands, perhaps millions of retirees out of the labor market.

Mr. President, this is something we cannot afford to let happen, because no American should be discouraged from working.

As a businessman, I believe America's most underutilized resource is our elderly. There are over 40 million American men and women age 60 and over out there with over one billion years of cumulative experience and what we are doing is discouraging them from working. In a sense, we are "putting them out to pasture."

Statistics show that in 1930, before Social Security was adopted, 54 percent of men age 65 and over were in the labor force. Today that number is 16. And this withdrawal is predicted to get worse. The Wall Street Journal reports that 83 percent of all men and 92 percent of all women over 65 are completely out of the work force. Three out of five of these do not have any disability that would preclude them from working. Many would work. With the Department of Labor warning us about impending future labor shortages, why should the Government be stopping them from contributing?

Of course, if you don't like an idea—even a good idea—you can always find obstacles to put in the path of that idea. In the case of earnings limit repeal, the first point raised by opponents is the issue of cost.

How do opponents of earnings test elimination do this? Because congres-

sional analysts use static revenue models in which human nature plays no part. These figures pretend that people are stick figures who will not respond to incentives, and as a businessman, I don't believe that for a minute. Eliminating the earnings limit will increase labor and capital income thereby increasing Federal tax revenues. It will also increase the amount of Social Security benefits paid that are withheld. It will decrease the demand on Medicare as many of the elderly who work will be insured.

Some 400,000 elderly workers earn annual incomes within 10 percent of the earnings limit—a sure sign that workers already are trying to earn all they can without bumping against the penalty-triggering limit.

Mr. President, this repeal will not cost us anything. According to a recent dynamic economic analysis repealing the earnings test will actually net $140 million in extra Federal revenue and I suppose it might be even more than that. I want to emphasize that estimates by the Congressional Budget Office do not, and will not, tell us the whole story. By repealing the earnings limit, our Federal deficit would go down, not up.

The same study found that this policy reducing Social Security benefits for elderly people who work is costing our Nation $15 billion a year in reduced production. The taxes on that alone would go a long way toward minimizing the budget deficit. With the increasing competition from our friends overseas, America cannot afford any legislation which reduces production, especially $15 billion worth; let alone keeping people out of the work force who are experienced and very often want to work. That is all we want to do by this bill: To allow those who work to continue to work without being so heavily penalized.

As a matter of fact, Great Britain recently repealed their earnings limit.

Not only will repeal of the earnings test bring in additional revenue, it will save the American taxpayer over $200 million a year in reduced compliance costs. According to the Social Security Administration, 60 percent of all overpayments and 45 percent of benefit underpayments are attributable to the earnings test. The red tape reporting procedures and bureaucratic paperwork maze often confuse and frighten many older Americans. We can put an end to that by passing this bill.

Frequently, the earnings test is accused of being only for the rich, but in all fairness nothing could be farther from the truth. The highest effective marginal tax rates are not imposed on the wealthiest of elderly taxpayers. The highest effective marginal tax rates are imposed on the middle-income elderly who must work to supplement their income; dividends and interest from savings accounts do not count against the earnings limit, and that, indeed, is an unfairness.

There is a man who phoned yesterday to say he has written many letters to Congress about the earnings limit—even though he does not earn up to the limit of $9,360. He is outraged and bewildered by a law that so discourages productivity by this Nation's elderly. Mr. Payne, being a World War II veteran who fought in the Pacific from 1943 to 1946, said, "I will not defraud my government of one cent!" and emphasized the point that the earnings limit encourages people to work and be paid "under the table."

The Congress has pondered the earnings test long enough—it is not fair; it is outdated; and it has to go. The earnings limit is not in the spirit of what this country is all about. It is blatant age discrimination, and it should be stopped right now. This bill is similar to legislation that has been introduced in the House by Representatives by DENNY HASTERT and has 171 cosponsors. The year 1990 is for action and I urge my colleagues in the Senate many of whom, indeed are going to be affected by this bill, to join me in cosponsoring the "Older Americans' Freedom to Work Act."

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2159

Be it enacted by the Senate and House of Representatives of the United States of America in Congress asembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Older Americans' Freedom to Work Act of 1990".

SEC. 2. ELIMINATION OF EARNINGS TEST FOR INDIVIDUALS WHO HAVE ATTAINED RETIREMENT AGE.

Section 203 of the Social Security Act is amended—

(1) in paragraph (1) of subsection (c) and paragraphs (1)(A) and (2) of subsection (d), by striking "the age of seventy" and inserting "retirement age (as defined in section 216(l))";

(2) in subsection (f)(1)(B), by striking "was age seventy or over" and inserting "was at or above retirement age (as defined in section 216(l))";

(3) in subsection (f)(3), by striking "33⅓ percent" and all that follows through "any other individual," and inserting "50 percent of such individual's earnings for such year in excess of the product of the exempt amount as determined under paragraph (8)," and by striking "age 70" and inserting "retirement age (as defined in section 216(l))";

(4) in subsection (h)(1)(A), by striking "age 70" each place it appears and inserting "retirement age (as defined in section 216(l))"; and

(5) in subsection (j), by striking "Age Seventy" in the heading and inserting "Retirement Age", and by striking "seventy years of age" and inserting "having attained retirement age (as defined in section 216(l))".

SEC. 3. CONFORMING AMENDMENTS ELIMINATING THE SPECIAL EXEMPT AMOUNT FOR INDIVIDUALS WHO HAVE ATTAINED RETIREMENT AGE.

(a) UNIFORM EXEMPT AMOUNT.—Section 203(f)(8)(A) of the Social Security Act is amended by striking "the new exempt amounts (separately stated for individuals described in subparagraph (D) and for other individuals) which are to be applicable" and inserting "a new exempt amount which shall be applicable".

(b) CONFORMING AMENDMENTS.—Section 203(f)(8)(B) of such Act is amended—

(1) in the matter preceding clause (i), by striking "Except" and all that follows through "whichever" and inserting "The exempt amount which is applicable for each month of a particular taxable year shall be whichever";

(2) in clause (i), by striking "corresponding"; and

(3) in the last sentence, by striking "an exempt amount" and inserting "the exempt amount".

(c) REPEAL OF BASIS FOR COMPUTATION OF SPECIAL EXEMPT AMOUNT.—Section 203(f)(8)(D) of such Act is repealed.

SEC. 4. ADDITIONAL CONFORMING AMENDMENTS.

(a) ELIMINATION OF REDUNDANT REFERENCES TO RETIREMENT AGE.—Section 203 of the Social Security Act is amended—

(1) in the last sentence of subsection (c), by striking "nor shall any deduction" and all that follows and inserting "nor shall any deduction be made under this subsection from any widow's or widower's insurance benefit if the widow, surviving divorced wife, widower, or surviving divorced husband involved became entitled to such benefit prior to attaining age 60."; and

(2) in subsection (f)(1), by striking clause (D) and inserting the following: "(D) for which such individual is entitled to widow's or widower's insurance benefits if such individual became so entitled prior to attaining age 60, or".

(b) CONFORMING AMENDMENT TO PROVISIONS FOR DETERMINING AMOUNT OF INCREASE ON ACCOUNT OF DELAYED RETIREMENT.—Section 202(w)(2)(B)(ii) of such Act is amended—

(1) by striking "either"; and

(2) by striking "or suffered deductions under section 203(b) or 203(c) in amounts equal to the amount of such benefit".

(c) CONTINUED APPLICATION OF RULE GOVERNING ENTITLEMENT OF BLIND BENEFICIARIES.—The second sentence of section 223(d)(4) of such Act is amended by inserting after "subparagraph (D) thereof" where it first appears the following: "(or would be applicable to such individuals but for the amendments made by the Older Americans' Freedom to Work Act of 1990)".

SEC. 5. EFFECTIVE DATE.

The amendments made by this Act shall apply only with respect to taxable years ending after December 31, 1990.

Mr. McCAIN. Mr. President, I am pleased to join my distinguished colleague and friend from Minnesota in the introduction of the Older Americans' Freedom to Work Act. This is very important, indeed, in the lives of many senior citizens. It is critical legislation, both to our seniors and to our Nation generally. This legislation, I would like to repeat, will fully repeal the Social Security earnings cap for older Americans between the ages of 65 and 69. Most people do not know

that due to this cap on earnings for older Americans, we find senior Americans the heaviest taxed of our entire population.

Historically, older Americans have been discouraged from staying in the work force. This has been accomplished by placing this cap on the amount of income that a Social Security beneficiary is able to make. If a beneficiary exceeds this cap, they are subject to a 33 percent effective tax. This, coupled with other taxes paid by the working senior, saddles seniors who make as little as $10,000 per year with a shocking effective marginal tax rate of about 70 percent.

No American should be discouraged from working. Unfortunately, one demographic group in our society, our Nation's seniors, is penalized severely for attempting to be productive members of our Nation's work force. Mr. President, this is a quality-of-life issue. Why should we be telling seniors that they can only make a certain amount of money or be subject to an effective tax rate higher than any other age group? Just because one happens to turn age 65 does not mean that one's ability to be a productive member of society and contribute to the economy ceases. In fact, I would argue that in many cases it increases.

One segment of the senior population is particularly hard hit by this policy, Mr. President, and that is low-income seniors. For example, a senior with no private pension income or liquid investments from his or her working years may need to work just to meet basic expenses such as shelter, food, and housing, not to mention health care costs, which are rising at an astronomical rate. If such an individual were to have a job providing merely $5 per hour, once he or she reached the cap, the spending power for an hour's wage would drop dramatically, effective to $2.20 an hour.

Mr. President, this Social Security cap affects more than just individual seniors. It affects our Nation as a whole. The Labor Department is continually warned of shortages in our country's work force. Today, 83 percent of all men and 90 percent of all women age 65 and older are completely retired. The Labor Department reports that compared to 1970, this represents an increase in the retirement rate of 40 percent.

Over the past couple of years, there has been much focus on our Nation's ability to stay competitive in an increasingly competitive world marketplace. While we certainly do not have control over all the factors that play a role in determining our Nation's ability to stay competitive, there are some that we, in fact, do have direct control over.

One factor over which we do have control, and a critical one at that, is encouraging or discouraging older Americans from staying in the workplace. There are a number of myths that are being perpetrated by those who advocate retaining the earnings cap, such myths as the earning cap repeal being too costly; Social Security is a form of socialized insurance to replace lost earnings; repeal of the earnings cap would only favor the rich; and the earnings test is needed to create job opportunities for younger workers. All of these are myths, myths which we will no doubt be addressing as time moves forward.

The bottom line is that we need to empower our Nation's seniors to map out their own lives, limited only by their ambitions to work and save.

We need to cease the policy that reduces the spending power of the low-income elderly worker with a wage of $5 an hour to $2.20. We need to cease the policy that saddles older Americans who, by choice or necessity, work with a marginal tax rate of 70 percent. And we need to cease the policy which is going to impair, rather than enhance, our Nation's ability to compete in a global marketplace that is becoming more and more competitive.

Mr. President, it is about time we eliminate the Social Security earnings limit. I hope our colleagues will join Senator BOSCHWITZ and others in sponsoring this legislation, seeing it through to its passage and putting an end to this policy which places an onerous burden on the least able to defend themselves of our Nation's population and that is our Nation's seniors who can and do contribute so much to our society.

Mr. GORTON. Mr. President, I take this opportunity to commend the distinguished Senator from Minnesota and his eloquent seconder, the Senator from Arizona, on introducing a bill, of which I am a cosponsor, to remove the earnings limitation on Social Security recipients. That seems to me to provide for justice entirely too long denied and to offer real incentives to men and women in our society who have much left to offer our society, who wish to work and to produce and to help us grow, and who are so seriously penalized by the present income rules of the Social Security System.

Mr. LOTT. Mr. President, I would like to join also in commending the Senator from Minnesota for this leadership in introducing this legislation, the Older Americans Freedom to Work Act. I think it is something we sincerely need to do, and I am joining him in cosponsoring that legislation.

As the Social Security Act is currently designed, the Government continues to give little thought to older Americans' ability to contribute to the work force.

As my friends on CNN's "Capital Gang" show might say, the taxes imposed on America's working seniors are an outrage. These workers are subject to the Federal Insurance Contributions Act, even in situations where they are receiving Social Security benefits. They are subject to Federal, State, and local taxes. They are subject to taxes on tax-exempt income. And they are subject to a tax on the Social Security benefits they receive.

That brings me to the biggest outrage, the Social Security retirement earnings limit. Beginning January 1, 1990, this limit reduces benefits to persons between the ages of 65 and 70 who earn more than $9,360 per year. These reductions amount to $1 in reduced benefits for every $3 in earnings above the $9,360 limit.

Because of that limit, senior workers earning $12,000 annually, who should be in the lowest tax bracket, end up keeping only 36.85 cents of every dollar earned, while a young worker making the same wages takes home 77.35 cents from every dollar he earns.

This tax is unheard of in Western democracies. I cannot think of a single reason why our working elderly should be taxed as if they were Swedish millionaires.

But the Social Security retirement earnings limit is an outrage not just because it is unfair; it also poses a serious threat to the work force in this country in the future.

Demographers tell us that between the years 2000 and 2010 the baby boom generation will be in their retirement years. With fewer babies being born to replace them, this Nation is looking at a possible severe labor shortage.

Almost a year ago, the Senate overwhelmingly agreed to an amendment, attached to the Minimum Wage Restoration Act, which would begin to phase out the Social Security earnings limit. At the time is called for raising the monthly limit to $80 and allowing older workers to earn an extra $1,000 in 1990 before they must forfeit Social Security benefits.

This action would have relieved over 1 million older Americans of what I consider to be excessive tax rates in the upcoming year. Unfortunately, it was dropped from the final version of the minimum wage bill.

This was yet another outrage because it seemed only fair that while the Congress was granting a raise to the working poor of this country it should have provided some needed financial benefit and relief to the working older Americans as well.

An earnings limit for Social Security beneficiaries is an ill-conceived idea and I cannot understand from where in the world it ever came. It is an administrative nightmare for the Social Security Administration. The Social Security Administration, as a matter of fact, spends more than $200 million and devotes a full 6 percent of its em-

ployees to police the income levels of retirees.

For beneficiaries the income limit is a frustrating experience of estimating and reporting income levels to the Social Security Administration. So that is why I am joining in sponsoring this legislation.

In the 1930's, when the earned income limit was devised, encouraging the elderly to leave the workplace was seen as a positive act, designed to increase job opportunities for younger workers. Maybe it was a good idea, but times have changed and we should change.

Today, with our shrinking labor force, such a policy is absurd for a number of reasons. We need the skill, the wisdom and the experience of our older workers, and we should not punish them for wanting and being willing to continue to work. I hope that this body this year will set us on a course to totally eliminate this earnings limitation.

By Mr. SANFORD (for himself, Mr. SASSER, and Mr. FORD):

S. 2160. A bill to amend the Securities Exchange Act of 1934 to promote longer term investment, to provide for more effective disclosure with respect to the conduct of leveraged buyouts and tender offers, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

LONG-TERM INVESTMENT, COMPETITIVENESS, AND CORPORATE TAKEOVER REFORM ACT

Mr. SANFORD. Mr. President, today, along with my colleagues Senator SASSER and Senator FORD, I am introducing the Long-Term Investment, Competitiveness and Corporate Takeover Reform Act of 1990.

We have all watched with considerable anxiety this past week as one of America's most powerful financial institutions, Drexel Burnham Lambert, collapsed before our eyes. The speed with which Drexel fell, the impact on its employees, and the implications for our markets, particularly the high-yield bond market, raised both eyebrows and concerns about the results of involvement in the high-yield market. While many will say that Drexel's fall marks the end of the "decade of debt" and the demise of junk-bond financed deals, I believe Drexel's fall is a foreboding of things to come if the financial markets do not move away from the days of highly leveraged deals, done often for the sake of the deal, to a time when our securities laws and the our financial markets place greater emphasis on longer term investment and well-financed transactions.

I am afraid that we have seen a fundamental shift in our financial markets from deals being done for sound financial and business reasons to the age of the eighties, when far too high a percentage of the deals are being done for financial manipulation pure and simple. Their motivation lies all to often in the huge up-front fees for promoters, bankers, and lawyers who have no real stake in the longrun vitality of the firm. While some will argue that the deals are over, I believe now is the time to clean up the abuses while we can, to put in place the mechanisms needed to monitor the debt that is already outstanding and to take steps to encourage a more stable long-term oriented market.

In reflecting on how we approach these issues and the experience we had last Congress in failing to pass S. 1323, the Tender Offer Disclosure and Fairness Act of 1987, I have come to the conclusion that we need to shift the debate from the symptoms of the problem to the causes of the problem. The focus of our legislation must be changed from the old "raiders" versus "entrenched management" fight to the more fundamental problems of encouraging good corporate management to manage for the long term and encouraging sound investors to take a longer term view, at the same time that we curb the abuses that have led to excessive volatility in our markets.

Last fall, the Senate Banking Committee held two hearings on America's competitive position. I was very struck by the testimony that was presented. Daniel Burstein, in reflecting on America's competitiveness challenges noted that he is often asked "What is the No. 1 thing we can do to reverse the current situation?" His response was that the No. 1 priority is that as a nation, "we must bring an end to our malignant focus on short-term interests, short-term rewards and short-term solutions." He went on to state that:

> When you think long term, you begin to realize that however many instant billionaires are created by speculative stock markets, managers focused on quarter-to-quarter profits, highly leveraged corporate takeovers and rapid-fire mergers and acquisitions industry, we are witnessing not the competitive restructuring of American industry but a suicidal dismemberment of the very companies, sectors, and industries in which America now has global competitive strengths.

I agree.

I believe that much of the short-term orientation can be traced to changes that have occurred in the capital markets over the last 20 years, in particular, the growing institutionalization of the markets and the advent of highly leveraged acquisitions. As a result, I have tried to reshape the proposal I have been working on to focus on long-term investment and the integrity of the market.

At a time when the United States has the largest domestic budget deficit in its history, its highest international trade deficit ever, and when we are facing increasingly aggressive competition from abroad to sell our American products and services in the world market, we cannot afford to have our corporate managers concentrating their time, money, and energy looking over their shoulders for the news of a hostile raid, or spending all of their time managing only for the next quarter. While the United States has been building up red ink in our public accounts, our corporate accounts and our consumer accounts, Japan, West Germany, and many of our competitors have been moving aggressively to become huge creditor nations. This red ink has now flooded our corporate boardrooms, due in no small part to the phenomenon of hostile takeovers and leveraged buyouts.

Article after article has appeared on the leveraging of corporate America, with various speculations on just how much debt America and American corporations can afford. The numbers are very disturbing. Since the end of 1983, over $313 billion of net corporate equity has been retired, while corporations have borrowed $613 billion. By the end of 1987, total nonfinancial corporate debt reached nearly $2.5 trillion, or approximately $10,000 for every man, woman, and child in the United States. Much of this debt load is a direct result of hostile takeovers or leveraged buyouts and, equally important, efforts to thwart such takeovers. But the question should not be how much debt can corporate America afford, but should we have this type of debt at all. Corporate leveraging must now be taken every bit as seriously as our domestic and international trade deficits.

After listening to the testimony of hundreds of witnesses appearing before the Banking Committee, and watching the wave of hostile takeovers and leveraged buyouts sweep over my home State of North Carolina, from the "deal of the century" for RJR, to the hostile bid for Burlington Industries, I have become convinced that the Congress must act to curb the worst of the abuses we have seen in the corporate takeover and leveraged buyout area. At the same time, Congress must act to encourage long-term investment and well-financed deals. Before the next wave of restructurings to correct all the bad deals done in the eighties begin, we ought to have the appropriate rules in place to ensure that these new deals are done with fuller and more effective disclosure and are based on sounder financing.

I believe that there are two basic ways to curb highly leveraged hostile takeovers and leveraged buyouts. First, we could end the tax subsidies for such corporate mergers by restricting the deduction for interest payments on the debt incurred to finance the transactions or by reducing the double taxation of dividends.

The second approach is to amend the Williams Act and the various laws which govern tender offers. While I fully support the first approach, and have introduced legislation to limit the interest deduction for debt incurred in highly leveraged transactions, the bill I am introducing today deals with the Williams Act, the problems of churning by pension funds, and the need to monitor carefully the debt now being held by our financial institutions. Before I discuss the specific elements of this bill, I would like to discuss why I think it is essential that the Congress consider takeover and leveraged buyout reforms during this Congress.

INTEGRITY OF THE MARKETS THREATENED

At the first hearing the Banking Committee conducted on corporate takeovers during the 100th Congress, Nicholas Brady, who was then chairman of Dillon, Read & Co., and is now our Secretary of the Treasury, testified that takeovers have given rise to a number of troubling activities. He referred specifically to "profits on the part of raiders, arbitrageurs, and bankers that appear to be out of proportion" and the sense "that there was something tilted about a game in which the same group of raiders, arbitrageurs, and bankers attack one company after another, reaping profits without ever seeming to take risk or losses." In more recent testimony before the Senate Finance Committee, Secretary Brady has expressed a "gnawing sense of concern" that something is just not right.

Felix G. Rohatyn, senior partner at Lazard Freres & Co., expressed similar concerns in his testimony before the Banking Committee, noting "the basic concept of our securities laws has been full disclosure, nonmanipulation, and equal treatment of all shareholders." He went on to state that "current [takeover] techniques and legal trends undercut these concepts." With respect to the financing of these transactions, Mr. Rohatyn noted that:

> Very large pools of money are managed by arbitrageurs looking for rapid returns; some of these pools are financed by junk bonds. Equally large pools are in the hands of raiders, similarly financed. This creates a potentially interlocking set of relationships which has as its basic purpose the destabilization of a large corporation and its subsequent sale or breakup. It creates, at the very least, the appearance, if not the reality, of professional traders with insider information, in collaboration with raiders and junk bond buyers, deliberately driving companies to merge or liquidate.

While I am particularly concerned about allegations of manipulation in the takeover process, this legislation is also motivated by concerns about the impact of corporate takeovers and leveraged buyouts on corporate debt, employment, communities, and bondholders.

THE LEVERAGING OF CORPORATE AMERICA

As the press, financial analysts, and the markets examined the "deal of the century," the $25 billion leveraged buyout of RJR Nabisco, a host of articles appeared on the leveraging of corporate America, and the implications not only for corporate America but also for the general economic health of the Nation. For many years, many Wall Street analysts have expressed concerns about this leveraging. Chairman Shad of the Securities and Exchange Commission described the problem as follows:

> Corporate takeovers and buyouts are financed through large loans. The net effect is that debt is being used to retire equity, which is known as leveraging up a company's capitalization. The greater the leverage, the greater the risks to the company, its shareholders, creditors, officers, employees, suppliers, customers, and others * * *. The more leveraged takeovers and buyouts today, the more bankruptcies tomorrow. During the past few years, the multibillion dollar premiums shareholders have received in leveraged takeovers and buyouts have been a multiple of their losses from acquisition related bankruptcies. The premiums come first, the consequences later. The leveraging-up of American enterprise will magnify the consequences of the next recession or significant rise in interest rates.

I must agree. As the Chairman of the Federal Reserve, Alan Greenspan, noted, more than $500 billion in equity has been retired since 1983. The concerns over the amount of debt must be compounded by concerns over the use of the debt, since it is used to buy back equity or pay takeover expenses, not pay for capital improvements or research and development, or a host of other activities necessary to keep our corporations competitive.

Now that we have seen the collapse of Drexel, the fall of Campeau and concerns throughout the junk bond market, my concern has shifted to those institutions holding this debt. We must be careful that our banking institutions are not damaged by the fallout from the excessive leverage of these deals.

THE SHORT-TERM FOCUS OF BUSINESS

My concerns also relate to the short-term focus that results from the constant threat of corporate takeovers. Prof. Peter Drucker observed that:

> The fear of the raider is undoubtedly the largest single cause for the increasing tendency of American companies to manage for the short term and let the future go hang.

Managers feel the need to sacrifice long-term investment strategies conceived to maintain their competitiveness in the marketplace in order to avoid a short-term takeover threat. This short-term focus is enhanced by the pressure of a securities marketplace dominated by institutional investors and pension fund managers whose performance is measured on a quarterly basis and who seek immediate results in order to retain their portfolio accounts.

In statement after statement, we have heard that while the best defense a corporate raid is a high stock price, the company investing in a long-term strategy is likely to suffer a short-term decrease in its stock price, thereby opening itself up to an unwanted raid. Leon G. Cooperman, a partner at Goldman, Sachs & Co. put it this way:

> I don't think any company can afford a long-term investment unless its managers own 51 percent of it.

Harold Williams, former chairman of the SEC, noted:

> If you ran a company in a way that penalizes short-term earnings, it weakens your stock, and you risk being taken over * * *. So the raiders enhance an already overpowering trend toward the short-term viewpoint.

Lawrence Chimerine, chairman and CEO of Wharton Economics, Inc. observes that:

> (c)orporations have overextended themselves * * *. In the short-run, high debt loads hurt capital spending. Over the long-run, this will result in lower growth and productivity.

As Peter Drucker concluded, fear of takeovers is

> contribut[ing] to the obsession with the short term and the slighting of tomorrow in research, product development, market development and marketing, and in quality of service—all to squeeze out a few more dollars in the next quarter's bottom line.

CUTBACKS IN RESEARCH AND DEVELOPMENT

Indeed, the cutbacks in spending for research and development are particularly troubling, as such expenditures may be essential to keeping America's corporations on the cutting edge of technological developments and to keep them competitive with foreign competition. In a survey released in January of this year, the National Science Foundation reports that—for the first time in 14 years—spending on corporate research and development in the United States has not even kept pace with inflation. Another recent study confirmed what had been predicted by Forbes Magazine, that as a result of worries over corporate takeovers, "one of the first items to go in corporate restructuring is the R&D budget." The study examined 200 companies that account for nearly 90 percent of the industrial research and development spending in the country. Those companies that had not been involved in recent mergers or leveraged buyouts reported a 5.4-percent increase in their research and development spending, while those that had undergone a takeover or buyout reduced their R&D expenditures by 5.3 percent.

EFFECTS ON BONDHOLDERS AND OTHER STOCKHOLDERS

Much of the debate on corporate takeovers and leveraged buyouts has focused on the effect these transac-

tions have on stockholders. Indeed, the main thrust of the Williams Act is to give shareholders sufficient time and information to evaluate takeover bids. The theory seems to be that if the stock price is up, all is right with the world.

I am afraid that is too narrow an approach, as a corporation is much more than its stock price. While stockholders' interests certainly deserve protection, others, including creditors, employees, pensioners, and the corporate community deserve some consideration as well.

Indeed, one of the major constituencies that has clearly suffered through this wave of takeovers are the bondholders of our corporations. In the recent buyout of RJR Nabisco, RJR bonds lost 20 percent of their value nearly overnight. As early as 1985, Business Week observed that:

> The takeover and leveraged buyout craze may be a boon for shareholders, but it is slaughtering owners of high-grade corporation bonds * * * Bondholders are emerging as the victim of takeover mania.

There is a great deal of evidence that many highly leveraged transactions take from the bondholders to give to the stockholders, with no sense of fairness or justification, nor with any protection from the Williams Act.

Employees deserve consideration as well. Firm evidence indicates that hostile takeovers, both successful and unsuccessful, have led directly to the elimination of jobs. These jobs are often lost because companies have slashed operations and sold assets to service massive debts incurred in connection with hostile takeover attempts.

For all of these reasons, concerns about manipulation of our markets, excessive greed on the part of a small group who participate in these deals, overleveraging of our corporations, resulting short-term focus on the part of management, detrimental effects on employees and bondholders, cutbacks in research and development, and a detrimental effect on the communities in which these corporations are located, we are introducing the Long-Term Investment, Competitiveness and Corporate Takeover Reform Act of 1990.

To achieve the goals of more long-term investment and enhanced competitiveness, this bill does the following:

1. ENCOURAGE LONG-TERM PENSION INVESTMENT

In order to promote longer term investment on the part of institutional investors, the bill would provide that fiduciaries of pension funds shall consider the benefits of long-term ownership of stock in deciding whether to tender their shares.

I think this is essential. Current case law virtually requires pension fund managers to tender their shares if the tender offer is even as much as a penny over the current market price, even if that manager fundamentally believes that the tender offer is not good for the long-term health of the corporation. I am afraid that portions of our ERISA laws, as well intentioned and important as they are, have had the unfortunate side effect of encouraging shorter term investment and greater speculation in the market. I think the problem can be corrected without fundamentally changing our pension laws.

The bill would also prohibit the use of the surplus assets of a pension plan to finance a takeover or leveraged buyout. I think this will also help promote longer term investment and sound pension plans, by taking the fear out of having excess investments that could become a magnet for corporate raiders.

In addition, the bill attempts to stop excessive churning by applying the current "short-short" rule to pension funds. This rule currently applies to mutual funds. It prohibits such funds from making more than 30 percent of their income from shares held for less than 3 months. While I anticipate that this provision may raise some concerns, I think the problem of short-term focus and short-term investments is sufficiently serious to warrant discussion about any and all ideas to encourage longer term investment. This is a provision that I invite comment on and will consider all such comments in considering whether changes to the provision are needed. I hope the inclusion of this provision will engender debate on an issue that needs discussion: what to do about excessive turnover in our pension funds.

I was encouraged by my colleague Senator KASSEBAUM's proposal to consider a graduated tax on short-term trades on pension funds, as I think that legislation, like this proposal, focuses attention on the churning problem. A recent editorial in the Pensions and Investment Age magazine noted that with the 70 percent or better annual turnover rate in pension fund portfolios, pension funds were acting more like spectators than investors. A recent study found that the 13 largest institutional investors on the average turned over in excess of 60 percent of all their portfolio assets every year, and that 20 percent of the largest institutional investors turned over their entire portfolio each year. Others have reported turnover rates of over 1,000 percent per year. As studies by the Department of Labor have shown, pension fund returns are clearly reduced as a result of the high transaction costs associated with high turnover rates. We need to find sound ways to address this problem and I hope this proposal is one idea that my colleagues will consider.

2. EMPLOYEE OWNERSHIP

I also think encouraging greater employee ownership of stock will help create more long-term owners, as well as giving employees the opportunity to become owners of capital. This bill does so by giving employee groups more time than the 20 days provided under current law to respond to a takeover. The provision ensures that an employee group is given sufficient time to arrange financing if it wishes to participate in a transaction for the corporation.

3. ANTI-GREENMAIL/SHORT-SWING PROFITS PROVISION

Another cause of the short-term focus and the volatility in the market stems from the huge short-swing profits that can be made simply by putting a company in play. Our proposal to address this is very simple: treat 5 percent shareholders who file a tender offer exactly as we currently treat officers, directors, and 10 percent shareholders of corporations. These individuals are deemed by the law to be insiders and as such, they cannot make profits on stock of their corporation that is bought and sold within a 6-month period. Certainly someone who is about to file a tender offer has the most essential type of inside information and should be restricted from making a profit simply by trading on that inside information.

The provision would not affect those who are truly interested in buying a corporation, as such individuals would be unlikely to sell their shares back in less than 6 months after they bought them. The provision would thus only touch the true speculators, who are adding so much volatility and short-term trading to our markets.

As such, the provision also eliminates greenmail.

4. PROTECTION OF WORKERS

There is no doubt that one of the groups that suffers the most from hostile takeovers and leveraged buyouts are the employees of the corporation. This bill provides some limited protection for such workers by requiring buyers to abide by outstanding collective-bargaining agreements for at least 180 days.

5. ADDITIONAL RESERVES AGAINST HIGHLY LEVERAGED TRANSACTIONS

Because such a large portion of the financing for these transactions is obtained from banks, the bill gives the regulators of these institutions the authority to require greater reserves or capital to support such loans, if the regulators deem such additional capital to be necessary to the safety and soundness of such institutions. The bill also requires the regulators to report to the Congress regarding highly leveraged transactions.

6. INDEPENDENT APPRAISALS AND INDEPENDENT REVIEW OF GOING PRIVATE TRANSACTIONS

The other area that was not addressed in S. 1323 that has clearly been shown in the RJR deal and others to be a problem is the conflict

of interest of management participating in a leveraged buyout. Management has all the cards and can too easily manipulate the fairness opinions that are prepared regarding the offer. As such, to ensure that shareholder interests are fully and effectively protected in corporate restructurings, the bill we are introducing requires that an independent appraisal of the deal be made available to all shareholders at least 20 days prior to the consummation of the transaction. This appraisal would have to be conducted by a firm that has no financial stake in the outcome of the deal.

In addition, the bill prohibits the consummation of any going private transaction until 45 days have elapsed since the public announcement of the transaction. I think it is important to give the markets some time to react to buyout offer, so that other bidders can enter the process and shareholders can be more fully informed about their options.

7. FIRM FINANCING AND FINANCING DISCLOSURE

In order to curb excessive leverage and the ability to put a company in play with virtually no money risk, the bill effectively applies the same 50-percent margin requirement that individual investors face to tender offers. It requires that bidders have at least 50 percent of the financing in place and committed before commencing a tender offer. The bill also calls for disclosure of fees for financing, lawyers, investment bankers, and others.

8. NONCONTROVERSIAL TENDER OFFER REFORMS

The bill picks up on some important items from S. 1323 on which I think there is a great deal of consensus: First, closing the 13(d) window, and second, lengthening the tender offer process.

First, close the 13(d) window.—The bill closes the so-called 10-day window. Under current law, any person who acquires more than 5 percent of a company's stock need not file a disclosure statement until 10 days after the acquisition that exceeds the 5-percent threshold. During this 10-day window, however, such person may acquire additional securities without public disclosure. As a result, by the time the first disclosure is made, a person may have secretly accumulated a controlling interest in the company.

In 1983, the SEC Advisory Committee on Tender Offers found that the 10-day window presented a substantial opportunity for abuse, and recommended that the window be closed to "provide adequate notice of the shareholder's investment and intentions regarding the issuer and [to give] time for the market to assimilate such information." The bill shortens the 10-day window to 5 days and prohibits any additional purchases beyond the 5-percent threshold until the 13(d) filing is made. In order to encourage well-financed offers, however, the bill provides for a shorter time period—30 days—for well-financed deals. Well financed is defined as an offer that would not constitute a highly leveraged transaction as defined by the banking regulators.

Second, lengthen the tender offer time period.—In order to give all shareholders and interested parties the time necessary to evaluate an offer, the bill increases the tender offer time period from 20 business days to 45 business days.

I hope that by including only the less controversial reforms to the Williams Act and focusing on provisions that will encourage a longer term focus, we can move the debate along. We must enact legislation that will allow our corporate managers to get back to managing productive, competitive, job-creating companies that do the research and make the capital investment necessary for future growth and competitiveness in our global economy, instead of looking over their shoulders for the next raider and focusing only at quarterly results, while at the same time curbing some abuses in the market and ensuring the free flow of capital.

I believe that this bill does just that and I urge my colleagues to support it.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2160

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Long-Term Investment, Competitiveness, and Corporate Takeover Reform Act of 1990".

SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) Managers of American corporations have been criticized for their short-term focus, leading to a lack of investment in research and development, and plants and equipment that are necessary to maintain our competitive position worldwide.

(2) The short-term horizon of our corporate managers can be traced, in part, to changes in the capital markets away from ownership by individuals to ownership by large pension funds and institutional investors, and in part to threats of hostile takeovers.

(3) Pension funds, with assets of almost $2 trillion, and institutional investors are playing an ever increasing role in the country's economic system, with estimates that by the year 2000, as much as two-thirds of all corporate equities will be held by pension funds. The pressure on such pension fund managers and other institutional investors to perform better than the market and the high turnover rate in some pension funds has raised concerns that the accumulation of large blocks of stock in fewer hands may be contributing to the number of mergers and acquisitions and to a shorter term focus on the part of management.

(4) On an aggregate basis, corporate takeovers and leveraged buy outs have been a factor in an enormous increase in corporate debt. Debt for nonfinancial businesses rose from $0.5 trillion in 1970 to $3.1 trillion by the end of the third quarter of 1988, a more than sixfold increase. In addition, for the period 1984 through the third quarter of 1988, a total of $794 billion of corporate debt has been added, while a total of $422.3 billion of corporate equity has been withdrawn.

(5) The large amount of debt incurred by corporations either as a result of, or to stave off, takeovers or leveraged buy outs has resulted in a decrease in research and development budgets and needed investments in plant improvements and equipment at a time when United States industry is struggling to maintain its international competitiveness.

(6) Long-term investment and planning are essential to sustained economic growth, yet numerous economic factors are pushing corporate managers and investors to take an increasingly short-term view.

(7) The integrity of our financial markets and the confidence of the public in them have been undermined by the conduct of parties in tender offers and leveraged buy outs.

(8) Therefore, in order to protect the public interest, it is necessary to correct inadequacies in, and curb abuses of, our existing securities laws.

SEC. 3. WILLIAMS ACT REFORMS.

(a) 10-DAY WINDOW.—Section 13(d)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(d)(1)) is amended—

(1) by striking out "shall, within ten days after such acquisition" and inserting in lieu thereof "shall, within 5 days after such acquisition"; and

(2) by inserting after "send to each exchange" the following: "and registered national securities association"; and

(3) by adding at the end thereof the following: "Any person required to send and file such a statement may not acquire or agree to acquire, directly or indirectly, the beneficial ownership of any additional amount of such equity securities after the transaction that required such person to send and file such statement until after such statement has been filed with the Commission.".

(b) TENDER OFFERS.—Section 14(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78n(d)) is amended—

(1) by redesignating paragraphs (2) through (8) as paragraphs (6) through (12), and

(2) by inserting after paragraph (1) the following new paragraphs:

"(2) Any person making a tender offer for or a request or invitation for tender offers of any class of any such equity security shall hold such offer, request, or invitation open for a period of at least 45 business days from the date on which such offer, request, or invitation is first published, sent, or given to security holders, or such longer period as the Commission may, by rule, prescribe.

"(3) In the case of a well-financed offer, the preceding sentence shall be applied by substituting '30' for '45'. For the purpose of the preceding sentence, a well-financed offer is an offer that would not, if consummated, constitute a highly leveraged transaction as defined by the appropriate regulatory agencies (other than the Commission).

"(4)(A) If, during the 45-day period described in paragraph (2), a qualified employee stock ownership plan notifies the offeror, the issuer, or the Commission, of the plan's intent to acquire additional securities of the issuer on terms which are substantially equivalent to other offers, paragraph (2) shall be applied by substituting '95' for '45'.

"(B) For purposes of this subsection, the term 'qualified employee stock ownership plan' means an employee stock ownership plan defined in section 4975(e)(7) of the Internal Revenue Code of 1986 which—

"(i) is sponsored by the issuer (or a member of the controlled group) of the equity securities to which the request or invitation for tenders described in paragraph (1) is made,

"(ii) meets the requirements of section 410(b) of the Internal Revenue Code of 1986, and

"(iii) owns securities of the issuer representing at least 5 percent of the outstanding voting securities (of the issuer) on the day on which the 45-day period begins to run and has held such 5 percent for a period beginning at least 6 months before such 45-day period begins to run.

"(C) The provisions of this paragraph shall not apply to any acquisition or proposed acquisition of a security if—

"(i) the acquisition of such security, together with all other acquisitions by the same person of securities of the same class during the preceding 12 months, would not exceed 2 percent of that class;

"(ii) a block of 10 percent or more of the outstanding shares is acquired and such shares were held by the seller for at least 2 years prior to the sale;

"(iii) such acquisition is from one family member to another;

"(iv) such acquisition is made by a person who owned more than 50 percent of the outstanding shares prior to such purchase; or

"(v) the Commission, by rule or regulation, or by order, has exempted such acquisition from the provisions of this subsection as it determines to be necessary or appropriate and consistent with the public interest, the protection of investors, and the purposes of this paragraph.".

(c) CONFORMING AMENDMENT.—Section 14 of the Securities Exchange Act of 1934 (15 U.S.C. 78n) is amended by striking the heading of such section and inserting the following:

"PROXIES AND TENDER OFFERS".

SEC. 4. ANTI-GREENMAIL/SHORT-SWING PROFITS.

Section 16 of the Securities Exchange Act of 1934 (15 U.S.C. 78p) is amended—

(1) in the caption, by striking "and principal stockholders" and inserting "principal stockholders, and holders of more than 5 percent";

(2) in subsection (b)—

(A) by inserting "(1)(A)" after "(b)"; and

(B) by striking "Suit" and all that follows through the end period and inserting the following:

"(B) For the purpose of discouraging manipulative tender offer practices, any profit realized by any person from any disposition, directly or indirectly, of equity securities described in section 13(d)(1), shall inure to and be recoverable by the issuer of such securities, if such person (i), was the beneficial owner, at the time of such disposition, of more than 5 percent of the class of securities so disposed of, (ii) made a tender offer for such securities within 6 months preceding the disposition, and (iii) had held any or all of such securities for less than 6 months prior to the disposition thereof. The preceding sentence does not apply if (I) such disposition was a purchase by the issuer of the securities and has been approved by the affirmative vote of a majority of the aggregate outstanding voting securities of the issuer, or (II) the same offer to purchase is made available to all shareholders.

"(2) Suit to recover such profit may be instituted at law or in equity in any court of competent jurisdiction by the issuer, or by the owner of any security of the issuer in the name and in behalf of the issuer if the issuer shall fail or refuse to bring such suit within 60 days after request or shall fail diligently to prosecute the same thereafter; but no such suit shall be brought more than 2 years after the date such profit was realized. This subsection shall not be construed to cover any transaction where such beneficial owner was not such both at the time of the purchase and sale, or the sale and purchase, of the security involved, or any transaction or transactions which the Commission by rules and regulations may exempt as not comprehended within the purpose of this subsection.

"(3) The Commission shall, by rule, regulation, or by order upon application, conditionally or unconditionally exempt any person, security, or transaction from any or all of the provisions of paragraph (1)(B) as it determines to be necessary or appropriate and consistent with the public interest, the protection of investors, and the purposes of this subsection.".

SEC. 5. PROTECTION OF WORKERS.

Section 14(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78n(d)), as amended by section 3, is amended by adding at the end the following:

"(13)(A) Any person who acquires ownership or control of any plant, facility, or other property of an issuer, either directly in his own name or indirectly, through a transaction in response, or otherwise related, to the filing of a statement under section 13(d) of this title announcing an intent to seek a change in control of the issuer or a statement under this section announcing a tender offer for the issuer's securities shall have the following minimum statutory obligations to the employees of the plant, facility or property who are, at the time the transaction is consummated, covered by a collective bargaining agreement (the 'preacquisition agreement');

"(i) If the acquiring person uses the plant, facility, or property in a manner which is not fundamentally different from its preacquisition use, the person—

"(I) shall abide by the terms of the preacquisition agreement, regardless of its expiration date, for a period of 180 days after the date the acquirer commences operations at the plant, facility or property; and,

"(II) shall, if the preacquisition agreement was not due to expire within one year of the date of the consummation of the acquisition transaction, negotiate in good faith with the employees' exclusive bargaining representative for a collective bargaining agreement covering the unexpired term of the preacquisition agreement and shall submit to binding arbitration on all unresolved issues if the parties are unable, within 120 days of the acquisition, to negotiate a new agreement.

"(ii) If the acquiring person uses the plant, facility or property in a manner which is fundamentally different from its preacquisition use, the acquirer shall provide to any employee, who was covered by the preacquisition agreement and whose employment is involuntarily terminated by reason of the acquisition transaction, severance pay in an amount equal to six times his monthly compensation at the time of termination.

"(B) In the event of arbitration of unresolved issues pursuant to subparagraph (A)(i)(II), the parties shall select an arbitrator from a special roster of arbitrators prepared by an appropriate agency of the Federal Government which engages in the mediation and conciliation of labor-management disputes in the industry designated by the Secretary of Labor and the arbitrator shall within the 180-day period stated in subparagraph (A)(i)(I) issue a final and binding award on all unresolved issues, based upon the acquiring person's experience under the terms of the preacquisition agreement and on collective bargaining agreements covering comparable plants, facilities and properties.

"(C) For purposes of this paragraph—

"(i) the property of an issuer includes property owned by an entity controlled by the issuer;

"(ii) the obligations created herein apply to each succeeding transferee of the issuer's property in the same manner as to the original acquirer of the property by reason of a transaction covered by subparagraph (A); and

"(iii) any condition, stipulation, or provision in any contract purporting to waive the rights and obligations created in this section shall be void.

"(D) Any person seeking to enforce the rights and obligations created by this section may sue at law or in equity in any court of competent jurisdiction. In any suit under this subsection, the court may, in its discretion, assess reasonable costs, including attorneys' fees in favor of the prevailing party.".

SEC. 6. ADDITIONAL RESERVE REQUIREMENTS.

(a) IN GENERAL.—Each appropriate Federal banking agency shall review the exposure to risk of United States depository institutions arising from the medium- and long-term loans made by such institutions that are outstanding in connection with highly leveraged transactions, as defined by the appropriate Federal banking agency. Each agency shall provide directions to such institutions regarding additions to general reserves, if the agency determines that such additions to general reserves are necessary to protect the safety and soundness of the institution, based on a determination by the agency that such institution's loans with respect to highly leveraged transactions are unduly concentrated.

(b) DETERMINATION OF INSTITUTIONAL EXPOSURE TO RISK.—In determining the exposure of an institution to risk for purposes of subsection (a), the appropriate Federal banking agency—

(1) may exempt, in full or in part, from reserve requirements established pursuant to subsection (a), any loan that is secured, in whole or in part, by appropriate collateral for payment of interest or principal; and

(2) take into account any other factors which bear on such exposure and the particular circumstances of the institution.

(c) TIMING AND REPORT.—

(1) DETERMINED BY AGENCY.—Except as provided in paragraph (3), each appropriate Federal banking agency shall determine the timing of any addition to reserves required by subsection (a).

(2) REPORT.—Each appropriate Federal banking agency shall transmit to the Congress not later than December 1 of each

year a report on the actions taken pursuant to this section.

(3) DEADLINE.—Each Federal agency required to undertake a review described in subsection (a) shall complete the review not later than December 31, 1990.

(d) DEFINITION.—As used in this section, the term "appropriate Federal banking agency" means the Comptroller of the Currency, the Office of Thrift Supervision, the Federal Deposit Insurance Corporation, and the Board of Governors of the Federal Reserve System.

SEC. 7. LONG-TERM INVESTMENTS.

(a) ANTICHURNING RULE.—Section 406(a)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1106(a)(1)) is amended—

(1) by striking "or" at the end of subparagraph (D),

(2) by striking the period at the end of subparagraph (E) and inserting a semicolon, and

(3) by adding at the end the following new subparagraph:

"(F) sale or disposition of—

"(i) stock or securities (as defined in section 2(a)(36) of the Investment Company Act of 1940), or

"(ii) options, futures, or forward contracts, which were held for less than 3 months unless less than 30 percent of such plan's gross income for the fiscal year is derived from such sale or disposition.".

(b) ERISA AMENDMENTS.—

(1) Section 404 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1104) is amended by adding at the end thereof the following:

"(d) In voting on a merger, combination, or sale of substantially all the assets of, or in tendering or refraining from tendering securities in a tender offer for, a publicly owned business the securities of which constitute assets of a plan, a fiduciary shall take into consideration the long-term as well as the short-term interests of the participants and beneficiaries of the plan and shall not be deemed to have violated this part solely because the fiduciary takes such interests into consideration.".

(2) Section 4044 of such Act (29 U.S.C. 1344) is amended by adding at the end thereof the following new subsection:

"(e)(1) Notwithstanding subsection (d)(1) and subject to paragraph (2), a distribution otherwise permitted pursuant to such subsection shall be prohibited if any part of the residual assets of the plan are used to finance, directly or indirectly—

"(A) any acquisition of the securities of the employer pursuant to a tender offer subject to section 14(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78n(d)) by any person, or

"(B) any acquisition of the securities of the employer in a transaction to which section 13(e) of such Act (15 U.S.C. 78m(e)) applies,

including the repayment, redemption, or refinancing of any indebtedness incurred by such person in connection with any such acquisition.

"(2) Paragraph (1) does not apply to a transaction described in section 4980(c)(3) of the Internal Revenue Code of 1986 (as in effect on the date of enactment of this subsection) if—

"(A) the transfer of assets to the plan is approved by a majority vote of all participants of the employer plan;

"(B) prior to the vote, there is disclosure to the participants of all material facts concerning the transfer of assets to the plan and the acquisition of employer securities by the plan, including—

"(i) the terms of the employee stock ownership plan,

"(ii) the terms of the plan from which the assets are being transferred, and

"(iii) whether or not a new plan will be established in place of the plan from which the assets are being transferred; and

"(C) the vote by the participants is confidential, and takes place within a reasonable period of time following the disclosure required under subparagraph (B).

"(3) For purposes of this subsection:

"(A) The term 'person' means a natural person, company, or partnership including an employer, two or more persons who act together pursuant to an express or implied agreement or understanding for the purpose of acquiring, holding, disposing of the securities of the employer, or influencing the management or policies of the employer, such as by acting (i) as a partnership, limited partnership, syndicate, or other group whether or not formally organized, (ii) pursuant to an arrangement or understanding to indemnify against loss or to hold harmless, or (iii) otherwise.

"(B) The term 'employer' includes any person that, directly or indirectly, owns or controls 50 percent or more of the voting power or total value of the outstanding stock of an employer.".

SEC. 8. LEVERAGED BUY OUT AND GOING PRIVATE TRANSACTIONS.

Section 14 of the Securities Exchange Act of 1934 (15 U.S.C. 78n) is amended by adding at the end thereof the following new subsection:

"(h)(1) It shall be unlawful for one or more officers, directors, employees, or affiliates of an issuer of any security which is registered pursuant to section 12 of this title, or which would have been required to be so registered except for the exemption contained in section 12(g)(2)(G) of this title, or of any closed-end investment company registered under the Investment Company Act of 1940, to acquire all or substantially all of the shares of a class of such issuer's or such company's equity securities unless—

"(A) at least 45 days have elapsed between the day on which the proposed acquisition is publicly announced and the day on which the acquisition occurs;

"(B) such issuer or company has obtained a report by an independent appraiser, as provided in paragraph (2), on the proposed acquisition; and

"(C) the report is made available to all shareholders and all members of the board of directors of the issuer in accordance with such rules as the Commission may prescribe, but not later than 20 days before the day on which the acquisition occurs.

"(2) For the purpose of paragraph (1)(B), any officers, directors, employees, or affiliates intending to purchase all or substantially all of the shares of a class of such issuer's or such company's equity securities shall obtain an independent appraisal of such issuer from a nationally accredited accounting firm which has no financial interest in the outcome of such restructuring transaction and whose fees for performing such appraisal are not related to the outcome of such restructuring transaction. Any firm preparing an appraisal pursuant to this subparagraph shall be given access by the issuer to any and all of the issuer's books, records and premises.

"(3) For the purpose of this subsection, the term 'affiliate' means any person who becomes affiliated with one or more of the officers, directors or employees of the issuer in a transaction in which such officer, director or employee will own, in the aggregate, directly or indirectly, within 3 years of such purchase of such equity security, 5 percent or more of the equity of the surviving corporation or continuing business.".

SEC. 9. FIRM FINANCING AND FINANCING DISCLOSURES.

(a) FINANCING OF TAKEOVERS.—Section 14 of the Securities Exchange Act of 1934 (15 U.S.C. 78n), as amended by section 8, is amended by adding at the end thereof the following new subsection:

"(i)(1) It shall be unlawful for any person, directly or indirectly, by use of the mails or by any means or instrumentality of interstate commerce or of any facility of a national securities exchange or otherwise, to make a tender offer for, or a request or invitation for tenders of, any equity security of a class described in subsection (d)(1) of this section unless 50 percent or more of the consideration to be offered consists of cash. For purposes of the preceding sentence, 50 percent or more of the consideration shall qualify as cash, if—

"(A) such cash is at the time of announcement of the tender offer on deposit in an account of the tendering person at a bank or trust company organized under the laws of the United States, a State, or the District of Columbia; or

"(B) the offering person has entered into a legally enforceable, unconditional, and irrevocable commitment (not subject to execution of a further definitive agreement) to provide such cash from such bank or trust company, which commitment is not contingent in any manner upon the success or failure of such tender offer or request or invitation for tenders.

"(2) The provisions of paragraph (1) shall not apply to a tender offer for, or a request or invitation for tenders—

"(A) of equity securities of the tendering person,

"(B) of equity securities of a class the total value of which is less than $100,000,000, or

"(C) in connection with borrowings or the incurrence of debt or the issuance of bonds, notes, debentures, participations, other debt securities, or other obligations to pay money (or money's worth in one or more other forms) to provide for the purchase of 'qualifying employee security' purchased or acquired by an 'employer stock ownership plan' (as defined in section 4975(e)(7) of the Internal Revenue Code of 1986).

"(3) The Board of Governors of the Federal Reserve System, in consultation with the Commission, shall prescribe rules and regulations to effectuate the purpose of this subsection. The Board of Governors is empowered to grant exceptions to the provisions of this subsection by order. In acting on an application for an exception, the Board of Governors shall consider the positive economic aspects of the transaction, the fairness of the transaction to shareholders, debtholders, and creditors of both the acquired and acquiring corporation, and the economic dislocation, including unemployment risks, likely to be caused by consummation of the transaction. The Board of Governors shall respond affirmatively or negatively within 20 business days after receiving an application for an exception. Decisions of the Board of Governors denying such exceptions shall not be reviewable in any court, nor shall they be considered by

any court by reason of any extraordinary writ or remedy.

"(4)(A) Any person that violates or conspires to violate paragraph (1) of this subsection shall be subject to a civil penalty of not less than 5 percent of the borrowings such person has publicly represented it would need to fund the entire proposed transaction.

"(B) On application by any person, any United States district court may issue an injunction or other order to prevent a violation of this subsection.".

(b) FINANCING DISCLOSURES.—Section 13(d)(1)(B) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(d)(1)(B)) is amended by striking out "security, a description of the transaction and the names of the parties thereto, except that where a source of funds is a loan made in the ordinary course of business by a bank, as defined in section 3(a)(6) of this title, if the person filing such statement so requests, the name of the bank shall not be made available to the public" and inserting in lieu thereof the following: "security—

"(i) a summary of each agreement or arrangement relating to the extension of credit, the issuance of securities for cash, or the other acquisition of such funds, including the identity of the parties, the term, the collateral, the stated and effective interest rates, all fees to be paid in connection with the agreement or arrangement to any person providing or arranging for the provision of such funds or other consideration, and all other material terms or conditions relative to such loan agreement or arrangement; and

"(ii) any plans or arrangements to finance or repay any amount of such funds representing indebtedness incurred or to be incurred, or if no such plans or arrangements have been made, a statement to that effect.".

(c) ITEMIZED STATEMENT OF EXPENSES.—Section 13(d)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(d)(1)), as amended by section 3, is amended—

(1) by striking out "and" at the end of subparagraph (D);

(2) by striking out the period at the end of subparagraph (E) and inserting in lieu thereof "; and"; and

(3) by inserting after subparagraph (E) the following:

"(F) a reasonably itemized statement of all expenses incurred or estimated to be incurred in connection with the acquisition of such beneficial ownership, including expenses for legal, accounting, financial, and investment banking services, filing fees, and all other similar fees and expenses, indicating whether or not such person has paid or will be responsible for paying any or all such expenses.".

(d) DISCLOSURE OF EXPENSES.—Section 14(d)(8) of the Securities Exchange Act of 1934 (15 U.S.C. 78n(d)(8)), as redesignated by section 3, is amended by adding at the end thereof the following: "Such rules and regulations shall require appropriate disclosures by officers or directors of the issuer of all expenses incurred or estimated to be incurred in connection with the tender offer or request or invitation for tenders, including expenses for legal, accounting, financial, and investment banking services, filing fees, and all other similar fees and expenses, indicating whether or not such person has paid or will be responsible for paying any or all such expenses".

SEC. 10. ROLE OF STATE LAW.

The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by adding at the end thereof the following:

"ROLE OF STATE LAW

"SEC. 36. The Congress declares that the internal affairs or governance of corporations shall be subject to regulation by the laws of the State under which such corporation is organized. Nothing contained in section 13 or 14 of this title or any rules or regulations thereunder shall be construed to invalidate, impair, or supersede any law enacted by any State regulating the internal affairs or governance or contests for control of any corporation organized under its laws, except where compliance with such law would preclude compliance with the filing, disclosure, procedural, or antifraud requirements of sections 13 and 14 of this title.".

Mr. SASSER. Mr. President, I rise with my friend the Senator from North Carolina to introduce the Long-Term Investment, Competitiveness and Corporate Takeover Reform Act of 1990. If enacted, this bill will go far toward restoring the competitive position of American corporations worldwide.

Much has been said about the preoccupation of American business with short-term results. Because of this short-term view, our corporate managers are reluctant to make needed investmants in research and development, and in plants and equipment.

Mr. President, our short-term focus has been noticed by our competition. Akio Morita, the president of Sony, criticizes American businessmen for rarely thinking beyond the next quarterly earnings statement, when—as he knows all too well—it can take decades to develop new products and technologies.

Much of this corporate short-term orientation can be traced to changes in the securities markets over the past 10 years. Indeed, there have been two major developments. First, ownership of stocks has increasingly shifted from individuals to institutions. And second, pursuit of profits from short-term trading, particularly in highly leveraged transactions, like takeovers and LBO's, has taken precedence.

Mr. President, not long ago most companies were owned by individuals that took a long-term proprietary interest. Today, over half of all stock is owned by institutions who often own it for only a matter of minutes.

Our managers have become reluctant to pursue initiatives that might depress earnings in the short run. This reluctance is not unfounded. Last year, the president of Martin Marrietta testified before the Banking Committee that following an announcement of an R&D Program by his company "one-third of the institutional investors dumped our stock."

When stock is dumped, its price falls, and companies become more vulnerable to the other bane of American management—the corporate raider. The other big reason companies today don't want to make long-term investments, Mr. President, is the fear of a hostile corporate takeover.

Mr. President, hostile takeovers and LBO's have dominated the financial markets for much of the last 10 years. But these huge debt ridden transactions often have returned little of real value to the economy. Some of the best run companies in the country have been subject to hostile raids, and they're rarely in better shape afterwards. The recent bankruptcy of Federated Stores is testimony to the legacy of the corporate raider, as is, I might say, the bankruptcy of Drexel Burnham.

And the takeover LBO craze has contributed significantly to the $800 billion increase in corporate debt that we've seen over the last 5 years. This debt level will make the next recession much more difficult to weather.

So Mr. President, we rise today to introduce legislation that will restore our securities markets as a place where long-term investment is fostered, where shareholders and employees are protected, and where transactions stand on their own merit rather than on a pile of debt.

Our legislation has several major provisions. First, it extends an anti-churning rule to pension funds. Pension funds comprise about half of institutional stock ownership, but pay no taxes on their trades. Rather than tax their short-term gains, as some have proposed, we would require them to play under the same rules as do the other big players in the market—the mutual funds. By law, 70 percent of mutual fund income must be from stocks held for over three months. Our bill requires the same from the pension funds.

A second issue addressed in the legislation is employee ownership and worker protection. Too often, employees of companies have been abused in the takeover process. The bill gives an employee stock option plan [ESOP] additional time to mount a bid for a company that is subject to a hostile takeover. No group of shareholders is more interested in the long-term productivity of the company than its employees. If the employees have an ESOP, our bill gives them the right to buy the company.

The bill also requires that collective-bargaining agreements be abided by for at least 180 days following a takeover. It prohibits the use of residual funds in an employee pension plan to finance a takeover. And it requires that trustees consider the long-term interests of plan participants in determining whether to sell shares to a corporate raider.

Third, the bill addresses bank lending to highly leveraged transactions. It requires the bank regulators to crack down and impose additional reserve re-

quirements on banks that are overexposed to such lending. This is important. The enormous increase in corporate debt that we've seen over the last few years is a threat to the economy overall and the banking system in particular.

Lastly, the bill closes a number of loopholes in the Federal securities laws that have been abused countless times by raiders and others that seek short-term profit at the expense of the long-term health of our corporations and the economy.

Mr. President, I want to compliment the Senator from North Carolina for his leadership on this important issue. I yield the floor.

By Mr. HATFIELD:

S. 2161. A bill to establish within the Department of Education an Office of Vocational and Adult Education and Community Colleges; to the Committee on Labor and Human Resources.

OFFICE OF VOCATIONAL AND ADULT EDUCATION AND COMMUNITY COLLEGES

● Mr. HATFIELD. Mr. President, last November, the American Association of Community and Junior Colleges and the Association of Community College Trustees unanimously adopted a resolution calling for a high-level position within the Department of Education responsible for serving community, technical, and junior college interests. I rise today to introduce legislation which would establish such a position at the Department of Education by broadening the scope of the current Office of Vocational and Adult Education to include community colleges.

Mr. President, the community colleges in this Nation have the largest enrollment of any segment of higher education. Enrollment at community, technical, and junior colleges grew tremendously after World War II—between 1965 and 1975 alone, total enrollment grew by 215 percent. Today, enrollment continues to rise, as rapidly increasing numbers of young and full-time students choose community, technical, and junior colleges for their first college experience.

Many of the community, technical, and junior colleges of the United States are unhappy with the general absence of professionals for 2-year colleges in the Department of Education's executive ranks. This trend began in the early days of the U.S. Office of Education and remains true today. Because of the major contributions these institutions make to higher education, this omission is simply no longer acceptable. We are long overdue in ensuring that representatives of community colleges are identified in the leadership of the Department and serving in an advisory capacity to the Secretary and other Department leaders.

Obviously, there will be some disagreement as to the appropriate place in the Department to establish such a position. Community colleges are involved in many Federal programs including adult and vocational education, education for the handicapped, migrant education, international education, as well as student financial aid, title III, and other postsecondry education programs. Typically these institutions have been viewed as "stepping stones" to 4-year colleges and universities, and have been treated as such under the Office of Postsecondary Education.

Mr. President, this view is increasingly inaccurate. Community colleges have broadened their appeal and are gradually being seen as an end in themselves—training tomorrow's work force for specific vocations. Community colleges have traditionally enrolled students with a wide range of educational objectives. In a national survey conducted for the Carnegie Foundation, 36 percent of the students polled indicated they attend a community college to prepare for transfer to a 4-year institution, but fully 34 percent attend a community college to acquire skills needed for a new occupation. This dramatic change must be recognized and I believe the best representation for the community college is within the Office of Vocational and Adult Education.

Mr. President, in Oregon there are 16 community colleges simply bursting with students; over 300,000 students are expected to attend community college classes this year. Enrollment jumped by 6.8 percent in 1988 to 7.5 percent in 1989. The vocational training programs and basic skills instruction offered by these institutions are attractive to students as an appropriate resource for their postsecondary education. As my colleagues know from the community colleges in their own States, this trend is reflected throughout the Nation.

Congress will soon begin the reauthorization process for the Higher Education Act, and it is my intention to see that the issue of representation for community colleges is addressed in that process. I urge my colleagues to support a leadership role for 2-year institutions at the Department of Education.

I ask that a letter from the American Association of Community and Junior Colleges be inserted in the CONGRESSIONAL RECORD following my remarks.

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

JOINT COMMISSION ON FEDERAL RELATIONS,
Washington, DC, February 22, 1990.

Hon. MARK O. HATFIELD,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR: The AACJC and ACCT applaud your introduction of the bill that adds "community colleges" to the title of an Assistant Secretary of the Department of Education.

Such organizational rank for community colleges is long overdue. Our institutions have long since grown into the largest branch of postsecondary education, enrolling more than half the Americans who start college, and serving some ten million adults in both credit and noncredit programs. Departmental staffing has been characterized by the glaring absence of community college professionals throughout its history.

Our Joint Commission on Federal Relations looks forward to assisting you in the enactment of your bill either in its own right or as part of the Higher Education Act reauthorization.

Our warmest appreciation for your vision and leadership.

Sincerely,

FRANK MENSEL,
Vice President for Federal Relations, AACJC; Director of Federal Relations, ACCT.●

By Mr. BURNS (for himself and Mr. BAUCUS):

S. 2162. A bill to establish a National Water, Air, and Soil Technologies Evaluation Center; to the Committee on Environment and Public Works.

NATIONAL WATER, AIR, AND SOIL TECHNOLOGIES EVALUATION CENTER

Mr. BURNS. Mr. President, I rise today to introduce legislation that will establish within the U.S. Department of Energy a National Water, Air, and Soil Technologies Evaluation Center.

Mr. President, cleaning up our environment has become a top priority in this country in the minds not only of Congress, but in the minds of all the citizens across the country. I think the debate that we have going now on clean air pretty well is an example of that.

Hazardous waste disposal is one of the crippling issues of our generation. We are drowning in waste. The waste we have to deal with ranges from relatively harmless to extremely dangerous.

Currently, our only solution to the problem of waste disposal is to bury it and hope that over time the problem goes away. For some forms of waste, that may be well, and the most cost-effective means of dealing with the problem, but other more dangerous waste is a problem, and it is not going to go away. It has to be dealt with.

Contamination of our ground water is one of the dangerous side effects of waste disposal. If the stuff were simply to lie in the soil, we could put a fence around it and put up signs and warn people that it would be harmful, in order keep them away, but the issue

of ground-water contamination is a much more difficult proposition.

Ground-water contamination may well be the hidden threat that brings waste disposal to a head.

I am pleased that Admiral Watkins of the U.S. Department of Energy has chosen to move aggressively on the issue of hazardous waste disposal and treatment. DOE has a big problem on its hands at countless sites across this country.

Private industry is also beginning to address the problem of waste disposal and treatment. Concerned individuals across the country are beginning to look at the problems associated with hazardous waste disposal and treatment, and are beginning to bring creative ideas to bear on its solution.

What is lacking? I will tell you what is lacking—a clearinghouse, a national testing facility to develop and test new and untried technologies that might be helpful in disposing of harmful waste. This bill addresses that need.

In Montana, the city of Butte has the dubious distinction of being next to the largest Superfund site in the United States.

The Berkeley pit is filling with arsenic and heavy metals at the rate of approximately 7 million gallons per day. The pit already contains approximately 11 billion gallons of water contaiminated with virtually all the complex metallic and inorganic substances common to acid mine drainage.

The Butte site is an ideal location for a national test bed facility to develop and test new and existing technologies for decontaminating contaminated sites.

Such a facility could conduct evaluations of existing technologies for waste disposal; conduct research, development, and demonstration of new technologies for waste disposal; certify the use of equipment, procedures, and other forms of technology; provide training in the use of equipment, procedures and other forms of technology; and promote the transfer of technologies for the removal of contaminants from water, soil, and the air between Government agencies and private industry.

Let me make it clear that I am not advocating that any hazardous waste be transfered to Butte or to any place in Montana. Quite the opposite. This measure would at long last begin the process of coordinating efforts to find a way to decontaminate harmful waste instead of just moving the problem around and watching it get worse.

I urge other Senators to join me in this effort, because if they say legislation drives technology, I think this will.

Mr. President, I ask unanimous consent that a copy of my bill be printed in the RECORD.

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

S. 2162

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

The Congress finds that—

(1) Metallic and inorganic contamination occur in ground water on many Departments of Defense, Energy and other Government sites;

(2) Development of technologies for the removal and recovery of contaiminants from waste water in a safe, effective, and efficient manner is a high priority need;

(3) The exchange of information and transfer of technologies for cleaning of contaminant sites between and among government agencies and private industry is in the national interest;

(4) The Berkeley Pit in Butte, Montana is a non-operating, open copper mine pit containing approximately 11,000,000,000 gallons of water contaminated with virtually all the complex metallic and inorganic substances common to government and private faciliity wastes, and is accompanied by sludge and ground contamination;

(5) The Berkeley Pit is filling at a rate of approximately 7,000,000 gallons of dangerously contaminated water each day, thereby endangering the water and aquifers of the citizens of Butte, Montana, and other residents of the Columbia River System;

(6) The Berkeley Pit offers a unique site for testing equipment developed for removing contaminants from water, air, and soil; while also providing the means (applicable technology) to eliminate a potential health hazard by cleaning the Pit water.

(7) There is a need to coordinate the activities of the many Government agencies now independently applying their resources to the development of technologies for the recovery and removal of these contaminants.

SEC. 2. ESTABLISHMENT OF CENTER.

(a) IN GENERAL.—The Department of Energy's test facility at Butte, Montana, is established as the National Water, Air, Soil Technologies Evaluation Center (referred to as the "Center").

(b) FUNCTIONS.—The center shall—

(1) Provide assistance in the analysis of hazardous waste and other environmental contaminants generated by, or situated on property under the control of, departments and agencies of the United States;

(2) Conduct evaluations of existing technologies for waste disposal;

(3) Conduct research, development, and demonstration test and evaluation of new technologies for waste disposal;

(4) Certify the use of equipment, procedures, and other forms of technology in the removal of contaminants from water, air, and soil;

(5) Provide training in the use of equipment, procedures, and other forms of technology in the removal of contaminants from water, air, and soil; and

(6) Promote the transfer of technologies for the removal of contaminants from water, air, and soil between and among Government agencies and private industry.

(c) REFERRAL AND COORDINATION OF FUNCTIONS.—The heads of departments and agencies of the United States that have responsibilities and capabilities in the field of waste disposal and decontamination of the environment shall cooperate in referral to the Center functions that can most effectively be performed in concert, under the direction of the Secretary of Energy with the advice of the Administrator of the Environmental Protection Agency so as to avoid duplication of effort among the departments and agencies.

SEC. 2. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to establish and operate the center.

By Mr. KENNEDY (for himself, Mr. SIMON, and Mr. INOUYE):

S. 2163. A bill to amend the Public Health Service Act to establish a Lifecare Long-Term Care Program, and for other purposes; to the Committee on Labor and Human Resources.

LIFECARE LONG-TERM CARE PROTECTION ACT

Mr. KENNEDY. Mr. President, today I am introducing the Lifecare Long-Term Care Insurance Program.

When Medicare was passed in 1965, it was the most important step forward for our Nation's senior citizens since the enactment of Social Security more than a half century ago. It is difficult to remember today that in the dark days before Medicare, every illness could be financially devastating for senior citizens. Medicare was a health care bill of rights for every elderly American. But it was a bill of rights with fundamental gaps that were apparent from the day Medicare was enacted. One of these gaps is that Medicare does not cover home care or nursing home care except on a restricted and temporary basis.

Long-term care insurance is as essential to the current generation of the elderly as Medicare was to the last generation. Every senior citizen who has ever needed nursing home care or home care knows that—and so do their spouses, their children, and their grandchildren.

The magnitude of the long-term care problem is immense. Over 1 million elderly Americans live in nursing homes today—and for every senior citizen in a nursing home, two or three more are equally disabled and equally in need—struggling to survive in their own homes, in their children's homes, or in other community settings.

The number of senior citizens in nursing homes today vastly understates those who will need long-term care in the years ahead. As Americans live longer, 35 to 50 percent can expect to enter a nursing home at some point in their lives. The number of people age 85 and older, the group most in need of long-term care, will increase fourfold by 2040. According to surveys, almost half of all American families have been touched—and often touched hard—by the need for long-term care.

One of the most distressing aspects of this growing crisis is the devastating cost of decent long-term care for the vast majority of families. For the average senior citizen, a stay in a nursing

home today can be as financially ruinous as a stay in the hospital used to be in the dark days before Medicare.

According to a study by the House Select Committee on Aging, one-third of all elderly couples would be pauperized if one of them had to be institutionalized for 6 months. And for senior citizens who are single and therefore more likely to be living on the edge, almost two-thirds would be impoverished in the same 6 months.

Home care is less costly than nursing home care, but even that type of care is prohibitively expensive for most of the elderly. One out of every five married couples would be impoverished by 6 months of home care; almost one-third would see their hopes for a dignified retirement vanish within a year. Again, if the senior citizen is single, two-thirds will be impoverished within a year.

Crushing as these expenses are in financial terms, they are even more destructive in human terms. Disabled senior citizens who cannot afford assistance are condemned to lives of loneliness, misery, and despair. Even if they manage to recover physically from the stroke, or fractured hip, or heart attack, or other disability that led to confinement in a nursing home, they often cannot go home, because the financial burden of treatment and recovery has wiped out the savings that made life at home possible, let alone comfortable.

When an infirm senior citizen must be cared for in the home by a spouse, or by a daughter or son with children of their own, the financial and emotional burden of providing needed care can become so great that it destroys all possibility of happiness—both for the senior citizen and for the family members who provided the care.

These conditions are unacceptable in America in 1990, and the legislation I am introducing today is designed to put an end forever to these human tragedies.

The Lifecare Program will provide comprehensive protection against the need for long-term care, whether that care is provided in a nursing home or a person's own home. Because the need for long-term care can strike children and disabled younger adults as well as seniors. Lifecare will cover those groups as well.

Lifecare is constructed on three fundamental principles. First, it will be universal. Everyone will be able to participate. All insurance programs work best with both participation: They are most effective in protecting both society and individuals, and they are most cost-effective, too.

Second, the program will be available to all without regard to ability to pay. Social insurance programs have wide support because rich and poor contribute alike and benefit alike. It is no accident that Social Security and Medicare are the two most broadly supported and widely loved social programs ever enacted, and that successful approach will be a cornerstone of the Lifecare Program.

Third, the program must be comprehensive enough to provide all essential services without the need for private supplementary insurance. Studies by the Brookings Institution have shown conclusively that private insurance cannot possibly reach all the elderly needing help. The reason is obvious. Private insurance that is not sold on a group basis inevitably skims off the easiest risks and least costly clients and dumps the rest on government. And where gaps in a public program need to be filled by private insurance, it is those who need the gaps filled the most who are typically least able to afford supplementary protection. Forty-three percent of those elderly with one or more limitations in the so-called activities of daily living have annual incomes of $9,000 or less.

Even if the elderly could afford private coverage, they would pay too much if they bought it privately. As experience under Medicare proves, private insurance inevitably costs more than the Government charges for the same protection. Administrative costs are a rockbottom 2 or 3 percent under Medicare, compared to as high as 40 percent under private Medigap policies.

In the years subsequent to Medicare's enactment, a strong private insurance market has grown up around the base that Medicare provides. Despite the fact that senior citizens have to pay too much for the Medigap coverage they buy, this coverage does fill some of Medicare's most glaring holes. Eighty percent of senior citizens have either Medicaid or private Medigap coverage for hospital deductibles, copayments, and extended stays, as well as copayments for physician care.

No comparable market has developed for private long-term care insurance. So far only 1.3 million private long-term care policies have been sold, covering less than 1 percent of the elderly. Medicaid coverage for long-term nursing home care is available only after senior citizen has been impoverished by the cost of care.

When Congress passes a long-term care protection program, it should be a program that truly meets the needs of disabled senior citizens—and children and disabled younger adults as well. Congress should not have to come back later to correct inadequacies that were obvious from the beginning. We tried that in the case of the Medicare Catastrophic Coverage Act, but our efforts were unsuccessful for two reasons: The new and expanded benefits were to be paid for partly by a surtax that the elderly found oppressive and the law did too little to address the elderly's greatest concern—protection against the costs of long-term care.

The comprehensive program that I am proposing today comes in two parts, analogous to Medicare. Part A covers the full cost of home care and the first 6 months of nursing home care. It is fully financed with Federal funds. Part B covers longer stays in nursing homes. Enrollment in part B is voluntary, and is financed two-thirds by premiums from the elderly themselves and one-third from public revenues, with subsidies for cost-sharing for the low-income elderly.

Individuals will be eligible under part A for home services, adult day care, and respite care if they are completely unable to perform at least one of the normal activities of daily living or are significantly disabled on two or more of these activities. These activities include transferring—for example, from a bed to a wheelchair—bathing, dressing, eating, and using the bathroom. Those who need care because they are cognitively disabled, by Alzheimer's disease, for example, would also be covered. Services would be based on the degree of disability and the need for care, with limits on the daily or weekly cost, but no limit on the length of time as long as the need continued. A modest copayment would assure that services are provided only when needed, but the copayment would be related to ability to pay, so that no one is denied needed services because the copayment is too burdensome.

Eligibility for home care would be determined at the Federal level, but the program would be organized and managed at the local level by area long-term care coordination agencies designated by State governments. State governments would retain a fiduciary responsibility for their operation under Federal guidelines. This State-local delivery system follows a model of home care that a number of States, including Massachusetts, use to deliver high quality, humane, comprehensive, and cost-effective care to disabled elderly citizens.

In addition to home care, part A would fully cover the cost of the first 6 months of a nursing home stay. Nursing home care, rather than home care, would be provided if nursing home care is necessary and in the best interest of the senior citizen.

For protection against the cost of longer nursing home stays, individuals can enroll in part B of lifecare. After an initial eligibility period subsequent to the bill's enactment, individuals can choose to enroll at either age 45 or age 65. Those enrolling at 45 would have lower premiums throughout life and protection between ages 45 and 65.

The Lifecare Program will cost an estimated $20 billion a year when fully phased in. The cost is large, but the

benefits are even larger. I believe that this is one program where the American people will say "amen" when we ask them to pay for it with higher taxes—and end the shameful current neglect that blights the lives of too many disabled citizens and their families. In a recent poll conducted by the Yankelovich Group for AARP, 88 percent of the respondents said they supported a Federal long-term care program.

There are a number of possible ways to pay for lifecare. The one I favor is to eliminate the current income ceiling on the payroll tax for both employees and employers. This way all Americans will pay the same share of their income to support these important programs. Eliminating the ceiling from its current level of $51,300 a year will raise over $50 billion—much more than is needed to pay for lifecare—and we could use the surplus to reduce the tax rate for all workers.

A number of other possible financing sources for long-term care have been suggested. I intend to work with the tax committees and the elderly groups to find the method that is fairest and most generally acceptable. The key condition is that the program must be self-financing. Deficit increases are as unacceptable as inaction. I am confident that the American people and the Congress will find a way to pay for the kind of program that our senior citizens and their families need and deserve.

If we are honest, we know that society already pays for long-term care, but in cruel and irrational ways. Public funds now contribute more than $20 billion a year for nursing home care—almost half the total. But these revenues, provided through Medicaid, are expended only after senior citizens and their families have been forced to pauperize themselves. I say, these public dollars should be used up front, to protect the elderly's standard of living when there is something left to protect.

The billions of dollars of private funds that go into the current system would also be redirected under lifecare. Today, they are extorted from the sick and their families as an unfair penalty for serious long-term illness. When lifecare is law, these private dollars will be spent through an effective social insurance program that spreads the cost among all citizens.

Enacting lifecare will be a difficult battle—almost as difficult as the enactment of Medicare a quarter century ago. The battle for Medicare was won because America's senior citizens, and the American people as a whole, knew that no decent society denies decent health care to elderly citizens in need. In 1990, the American people know that decent long-term care, whether in a senior citizen's own home or in a nursing home, is just as fundamental.

Finally, I pay tribute to the late Congressman Claude Pepper, whose tireless efforts did so much to place this issue high on our national agenda list and whose pioneering home care bill is the basis for the home care in part A of Lifecare. I also commend Senator PAUL SIMON, who has been a leader in this field. He has contributed a great deal to the development of this legislation, and I am pleased that he is joining in sponsoring it today. Companion legislation is being introduced today by Congressman ROYBAL and Congresswoman OAKAR in the House of Representatives.

Mr. President, I ask unanimous consent that the text of the bill and a fact sheet describing the bill may be printed in the RECORD.

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

S. 2163

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Lifecare Long-Term Care Protection Act".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Lifecare long-term care protection program.

"TITLE XXVI—LIFECARE LONG-TERM CARE PROTECTION PROGRAM

"PART A—GENERAL PROVISIONS

"Sec. 2601. Definitions.
"Sec. 2602. Long-term care agencies.
"Sec. 2603. Contribution of State funds.

"PART B—COVERAGE OF HOME AND COMMUNITY-BASED CARE SERVICES

"Sec. 2611. Benefits.
"Sec. 2612. Eligibility.
"Sec. 2613. Respite care.
"Sec. 2614. Qualified service providers.
"Sec. 2615. Payment for services.
"Sec. 2616. Home and Community-Based Advisory Council.
"Sec. 2617. Quality assurance boards and community advisory boards.
"Sec. 2618. Home and community-based care quality assurance.
"Sec. 2619. Certification.
"Sec. 2620. Reimbursement.

"PART C—COVERAGE OF FIRST 6 MONTHS OF NURSING HOME CARE

"Sec. 2621. Benefits.
"Sec. 2622. Eligibility.
"Sec. 2623. Limitations on payment.
"Sec. 2624. Reimbursement.
"Sec. 2625. Relationship to other entitlement programs.

"PART D—INSURANCE COVERAGE FOR NURSING HOME CARE THAT EXCEEDS 6 MONTHS

"Sec. 2631. Establishment of Federal Long-Term Care Insurance Program.
"Sec. 2632. Eligibility.
"Sec. 2633. Premium rates.
"Sec. 2634. Benefits.
"Sec. 2635. Qualified service providers.
"Sec. 2636. Reimbursement.

"PART E—TRAINING AND RESEARCH

"Sec. 2641. Grants for training for home and community-based care for the elderly.
"Sec. 2642. Grants for home health aides.
"Sec. 2643. Grants for model consumer training programs.
"Sec. 2644. Centers for long-term care planning and technical assistance.

"PART F—DEMONSTRATION PROJECTS

"Sec. 2651. Demonstration projects for seriously mentally ill individuals.
"Sec. 2652. Demonstration projects for working age individuals with severe functional limitations.
"Sec. 2653. General authority.".

Sec. 3. Conforming amendments.
Sec. 4. Effective date.

SEC. 2. LIFECARE LONG-TERM CARE PROTECTION PROGRAM.

The Public Health Service Act is amended—

(1) by redesignating title XXVI (42 U.S.C. 300aaa et seq.) as title XXVII;

(2) by redesignating sections 2601 through 2614 (42 U.S.C. 300aaa through 300aaa-13) as sections 2701 through 2714, respectively; and

(3) by inserting after title XXV the following new title:

"TITLE XXVI—LIFECARE LONG-TERM CARE PROTECTION PROGRAM

"PART A—GENERAL PROVISIONS

"SEC. 2601. DEFINITIONS.

"As used in this title:

"(1) ACTIVITY OF DAILY LIVING.—The term 'activity of daily living' includes:

"(A) BATHING.—Getting water and cleansing the whole body, including turning on the water for a bath, shower, or sponge bath, getting to, in, and out of a tub or shower, and washing and drying oneself;

"(B) DRESSING.—Getting clothes from closets and drawers and then getting dressed, including putting on braces or other devices and fastening buttons, zippers, snaps, or other closures, selecting appropriate attire, and dressing in the proper order;

"(C) TOILETING.—Going to a bathroom for bowel and bladder function, transferring on and off the toilet, cleaning after elimination, and arranging clothes;

"(D) TRANSFERRING.—Moving in and out of bed and in and out of a chair or wheelchair; or

"(E) EATING.—Transferring food from a plate or its equivalent into the body, including cutting food so as to make possible safe ingestion.

"(2) ADULT DAY HEALTH CARE.—The term 'adult day health care' means a community-based group program designed to—

"(A) meet the need for adult day health care for functionally impaired individuals in a structured, comprehensive program; and

"(B) provide a variety of health and social services furnished by an adult day health care center in an ambulatory group care setting during any part of a day, but on a less than 24-hour basis, to an individual described in section 2612.

"(3) ADULT DAY HEALTH CARE CENTER.—

"(A) IN GENERAL.—The term 'adult day health care center' means a public agency or private organization (or a subdivision there-

of), with an identifiable administrative unit headed by a Director, that meets such standards for personnel, program, physical characteristics of the facility, recordkeeping, and such other aspects of the function of such center as the Secretary considers necessary or desirable for the health, safety, and effective treatment of patients and establishes by regulation.

"(B) PROFESSIONAL ORGANIZATION STANDARDS.—In promulgating such regulations, the Secretary shall carefully consider certification standards established by the National Council on Aging and its professional membership unit, the National Institute for Adult Day Care.

"(C) PERSONNEL.—Such standards shall include the participation in the provision of the services of the center of a multidisciplinary group of personnel that includes at least—

"(i) one physician or nurse practitioner, which could be the individual's own physician or nurse practitioner;

"(ii) one registered professional nurse;

"(iii) one social worker;

"(iv) individuals with skills representing physical, recreational, or occupational therapy or speech-language pathology; and

"(v) a dietitian.

"Such personnel may be employed directly by the center or on a consultant basis, as specified by the Secretary by regulation.

"(D) STATE CERTIFICATION.—To be considered an adult health care center under this title, a center shall be certified by a State, pursuant to regulations issued by the Secretary.

"(4) CARE PLAN.—

"(A) IN GENERAL.—The term 'care plan' means a plan that has been developed by a Case Management Agency, or a home care or home health agency working under contract with the Case Management Agency to provide case management services. Such a care plan shall be based on the results of a comprehensive needs assessment of an eligible individual conducted by a case management team in cooperation with the individual, the family of the individual, or other informal caregivers, and in consultation with such other health professionals as the case management team considers appropriate for the needs of the individual. A care plan developed by a home care or home health agency is subject to review and approval by the Case Management Agency. Any entity performing case management services for individuals determined eligible for services under this title shall not be allowed to selfrefer for services included in the care plan of such individual.

"(B) CONTENTS.—The plan shall—

"(i) include a definition of specific outcome goals on which improvement, reduced rate of decline, maintenance, or improved quality of life for the individual is expected; and

"(ii) identify the specific mix of services necessary to meet the outcome goals allotted to the patient and reimbursable under this title as determined by the procedure described in section 2602.

"(5) CASE MANAGEMENT SERVICES.—

"(A) IN GENERAL.—The term 'case management services' means services performed by a case management team that include—

"(i) conducting a comprehensive needs assessment in cooperation with an individual and the family of an individual and in consultation with such other health professionals (including a physical therapist, occupational therapist, nurse practitioner, certified dietitian, or physician) as the case management team considers appropriate for the needs of the individual to assess the physical, social, cognitive, and environmental status of the individual;

"(ii) developing, implementing, and modifying (when necessary) the care plan of an individual;

"(iii) coordinating the services provided under the care plan;

"(iv) monitoring the care plan to ensure the quality, quantity, timeliness, and effectiveness of the services;

"(v) monitoring the progress of an individual toward achievement of the goals specified in the care plan; and

"(vi) reviewing and revising, as necessary, the care plan at least once every three months or earlier in the event that the condition of the individual changes.

"(B) REQUIREMENT.—Individuals providing case management services to children and the disabled under this Act shall demonstrate their experience with the special needs of these populations.

"(6) CASE MANAGEMENT TEAM.—The term 'case management team' means a registered professional nurse and a qualified social worker (who is licensed or certified, if applicable, in the State in which the individual is providing services), working in consultation with other health professionals as needed, who are employed by a Case Management Agency or by a certified home health agency, home care agency, or other private nonprofit organization under contract with the agency to provide case management services pursuant to the requirements of this title and standards prescribed by the Secretary by regulation. Such nurse and social worker shall meet standards of education, training, and experience established by the Secretary by regulation to qualify to provide case management services under this title. The case management team for any person determined eligible for services under this part, as defined under section 2612(a)(2)(B)(ii), shall also include a physician.

"(7) COMPREHENSIVE NEEDS ASSESSMENT.—The term 'comprehensive needs assessment' means a comprehensive interdisciplinary assessment of the status and needs of an individual that is conducted by a case management team. The assessment shall address functional status (including activities of daily living), instrumental activities of daily living (such as housekeeping, shopping, transportation, meal preparation, and taking medication), medically defined conditions, drug regimen, nutrition status, mental status, living arrangement, and availability of caregiver support.

"(8) HEAVY CHORE SERVICES.—The term 'heavy chore services' means heavy cleaning and minor home repair. Chore services may not be used to perform activities that are the responsibility of a housing authority or landlord, or both. Heavy chore services shall be provided by personnel not requiring special training but who work under supervision of the case management agency or other qualified provider. Heavy chore services include those services determined by a case manager to be necessary to protect the health and safety of an individual such as washing floors and walls, woodcutting, changing storm windows, replacing window panes, door and window locks, installing minor home adaptations, snow shoveling, weatherization, and such other needed heavy chore services as are specified by a case manager.

"(9) HOME AND COMMUNITY-BASED CARE SERVICES.—The term 'home and community-based care services' means items and services provided to an individual—

"(A) under a written plan of care for furnishing such items and services to the individual;

"(B) except as provided clauses (iv), (v), and (xii) of subparagraph (C), on a visiting basis in a place of residence of the individual and in other facilities (but not including a nursing home); and

"(C) that include—

"(i) homemaker services;

"(ii) home health aide services;

"(iii) heavy chore services;

"(iv) adult day health care provided at an adult day health care center;

"(v) respite care;

"(vi) home mobility aids and minor adaptations to the home of the individual that promote independence (such as installation of an emergency alarm system, railings, ramps, and special toilets) that are approved by the case manager and included in the care plan of the individual;

"(vii) nursing care provided by or under the supervision of a registered professional nurse;

"(viii) medical social work services;

"(ix) physical, occupational, or speech therapy or rehabilitative services to preserve and restore functional capability or to prevent functional deterioration;

"(x) transportation to and from health or social services;

"(xi) nutrition and dietary counseling provided by or under the supervision of a qualified dietitian; and

"(xii) any of the items and services referred to in clauses (i) through (xi)—

"(I) that are provided on an outpatient basis, under arrangements made by the case manager, at a hospital or nursing facility, or at a rehabilitation center that meets such standards as may be prescribed in regulation; and

"(II) the furnishing of which cannot readily be made available to the individual in such place of residence, or can be provided more economically or effectively in such hospital, facility, or center.

"(10) HOME CARE AGENCY.—The term 'home care agency' means an agency in any State that has been certified by the State to provide home care services pursuant to regulations of the Secretary. Such services include homemaker services, heavy chore services, and respite services.

"(11) HOME HEALTH AGENCY.—The term 'home health agency' means an agency in any State that has been certified by the Secretary to provide home health services. Such services shall include home health aide services, homemaker services, nursing services, respite services, medical social work services, and occupational, physical, speech therapy, and nutrition and dietary counseling.

"(12) HOME HEALTH AIDE SERVICES.—

"(A) IN GENERAL.—The term 'home health aide services' means the services provided by a home health aide who meets such educational, training, and any other requirements as the Secretary shall establish by regulation and who is employed by a home health or home care agency or whose services are provided under a contract with, or subcontract on behalf of, a Case Management Agency.

"(B) SERVICES.—Such services shall include—

"(i) providing personal care in following the instructions of the case management team of an individual under the supervision of a registered professional nurse or, if ap-

propriate, a physical, speech, or occupational therapist;

"(ii) assisting the individual with activities of daily living;

"(iii) assisting the individual with the taking of medications ordered by a physician, that are ordinarily self-administered;

"(iv) assisting and reinforcing the individual with necessary self-help skills; and

"(v) reporting to the registered professional nurse supervisor any change in the condition or family situation of the individual.

"(13) HOMEMAKER SERVICES.—

"(A) IN GENERAL.—The term 'homemaker services' means services provided by a homemaker who meets such educational, training, and any other requirements as the Secretary shall establish by regulation and who is employed by a home health or home care agency or who are working under contract with, or subcontract on behalf of, a Case Management Agency.

"(B) SERVICES.—Homemaker services may include—

"(i) organizing the homemaking activity of the household with the active participation of an individual, if possible, and other responsible family members;

"(ii) coordinating efforts of other family members in planning and carrying out the duties necessary for the normal functioning of the household;

"(iii) performing routine housekeeping tasks, planning and preparing meals, doing the marketing and simple errands, and taking care of light laundry;

"(iv) assisting the individual with personal care services including performing activities of daily living; and

"(v) performing such incidental household services as are essential to the care of an individual at home, such as reporting to a registered professional nurse supervisor changes in the condition or family situation of the individual and following a written case plan established by a case management team.

"(14) NURSING FACILITY.—

"(A) IN GENERAL.—The term 'nursing facility' means an institution that meets such requirements as the Secretary shall prescribe by regulation to ensure the safe and efficient provision of nursing home services under this title.

"(B) REQUIREMENTS.—

"(i) REGISTERED PROFESSIONAL NURSE.—All nursing facilities shall maintain at least one registered professional nurse on duty at all times. The Secretary may provide limited waivers of such requirement if—

"(I) the facility demonstrates to the satisfaction of the Secretary that it has been unable, despite diligent efforts (including offering wages at the community prevailing rate) to recruit and retain appropriate personnel;

"(II) the Secretary determines that a waiver of the requirement will not endanger the health, safety, or well being of residents of the facility;

"(III) the facility meets any other requirements that the Secretary may establish for the approval of such a waiver; and

"(IV) such waiver is not for a period in excess of 6 months, but such may be renewed on a limited basis for additional periods not to exceed 6 months.

"(ii) REGISTERED PROFESSIONAL SOCIAL WORKER.—All nursing facilities shall maintain at least one full-time registered professional social worker to direct its social services program.

"(15) RESPITE CARE.—The term 'respite care' means a temporary break provided to an individual who supplies regular care to a dependent relative or friend. For purposes of this title, the break may not exceed 30 days or 720 hours, in a calendar year. The term includes institutional or noninstitutional patient supervisory services to temporarily relieve the caregiver of an eligible individual as determined by a Care Management Agency and included in the care plan of the individual.

"(17) SPELL OF ILLNESS.—The term 'spell of illness' means a period of consecutive days beginning with the first day on which an individual is furnished a covered service and ending with the close of the first 6 consecutive months thereafter during which the individual is not an inpatient of a hospital or a nursing facility.

"SEC. 2602. LONG-TERM CARE AGENCIES.

"(a) LONG-TERM CARE SCREENING AGENCY.—

"(1) ESTABLISHMENT.—The Secretary shall contract with entities to act as Long-Term Care Screening Agencies (hereinafter referred to in this title as the 'Screening Agency') for each designated area of a State. It shall be the responsibility of such agency to assess the eligibility of individuals residing in the geographic jurisdiction of the agency, for services provided under this Act according to the requirements of this Act and regulations prescribed by the Secretary.

"(2) ELIGIBILITY.—The Screening Agency shall determine the eligibility of an individual based on the results of a preliminary telephone or written questionnaire (completed by the applicant, by the caregiver of the applicant, or by the legal guardian or representative of the applicant) that shall be validated through the use of a screening tool administered in person by a physician, nurse practitioner, or registered professional nurse, to each applicant determined eligible through initial telephone or written questionnaire interviews not later than 15 days from the date on which such individual initially applied for services under this part.

"(3) QUESTIONNAIRES AND SCREENING TOOLS.—

"(A) IN GENERAL.—The Secretary shall establish a telephone or written questionnaire and a screening tool to be used by the Screening Agency to determine the eligibility of an individual for services under this title consistent with requirements of this title and standards established by the Secretary by regulation.

"(B) QUESTIONNAIRES.—The questionnaire shall include questions about the functional impairment, mental status, and living arrangement of an individual and other criteria that the Secretary shall prescribe by regulation.

"(C) SCREENING TOOLS.—The screening tool should measure functional impairment caused by physical or cognitive conditions as well as information concerning cognition disability, behavioral problems (such as wandering or abusive and aggressive behavior), the living arrangement of an individual, availability of caregivers, and any other criteria that the Secretary shall prescribe by regulation. The screening tool shall be administered in person.

"(4) NOTIFICATION.—Not later than 15 days after the date on which an individual initially applied for services under this part (by phone or written questionnaire), the Screening Agency shall notify such individual that such individual is not eligible for benefits, or that such individuals must schedule an in-person screening to determine final eligibility for benefits under this title. The Screening Agency shall notify such individual of its final decision not later than 2 working days after the in-person screening.

"(5) IN-PERSON SCREENING.—An individual (or the legal guardian or representative of such individual) whose application for long-term care benefits under this Act is denied on the basis of information provided through a telephone or written questionnaire, shall be notified of such individual's right to an in-person screening by a nurse or appropriate health care professionals.

"(6) APPEALS.—The Secretary shall establish a mechanism for hearings and appeals in cases in which individuals contest the eligibility findings of the Screening Agency.

"(7) FUNDING LEVEL.—The Screening Agency shall be responsible for determining the estimated funding level that shall be allotted for individuals eligible for home and community-based care, pursuant to standards established under section 2615(e) and regulations of the Secretary.

"(b) LONG-TERM CARE CASE MANAGEMENT AGENCY.—

"(1) ESTABLISHMENT.—The Secretary shall contract with a State or, in any case in which a State declines to contract with the Secretary, a private nonprofit organization, to establish and administer a Long-Term Care Case Management Agency (hereinafter referred to in this title as 'Case Management Agency') for each designated area of a State. Such agency shall demonstrate expertise in the delivery of health and social services to the chronically ill and disabled pursuant to requirements established in this title and such standards as the Secretary may establish by regulation (including standards for training and qualification of personnel, financial responsibility, and governance).

"(2) DUTIES.—A Case Management Agency shall provide case management services for eligible individuals directly or through contracts with home care or home health agencies that meet the requirements of this title and standards prescribed by the Secretary by regulation for providing case management services.

"(3) CARE PLAN.—The Case Management Agency shall develop a care plan for each individual determined to be eligible by a Screening Agency. In developing a care plan for an individual, the Case Management Agency shall design a plan that meets the service needs of the individual, consistent with the resources available to the agency.

"(4) FUNDING.—

"(A) IN GENERAL.—The actual level of funding allotted to an eligible individual by the Case Management Agency to cover services included in the individual's care plan may fall above or below the estimated annualized level allotted to the individual by the Screening Agency based on the detailed assessment and plan of care provided by the Case Management Agency.

"(B) LIMITATION.—The Case Management Agency shall allocate the resources available from the the Screening Agency (as described in section 2615(a)) to ensure that the total expenditures for home and community-based care for individuals eligible for services covered under this title residing within the geographic jurisdiction of the agency do not exceed the total amount available monthly to the Case Management Agency, pursuant to this section, for home and community-based services. The Case Management Agency shall establish specific financial controls (including authorizing the amount, scope, and duration of services to be provided to an individual) to carry out this subparagraph.

"(c) REGISTRY.—A Case Management Agency shall maintain a registry of qualified providers of home and community-based and nursing home care in the State and shall assist individuals in choosing qualified providers to carry out the care plan. An individual eligible for services under this title shall be free to choose from the registry the home care agency, home health agency, or other qualified provider of services to carry out the care plan of such individual. The Case Management Agency shall assist the individual in locating alternative providers if the individual becomes dissatisfied with the provider initially chosen.

"(d) MONITORING.—A State shall, along with the Secretary, monitor the performance of all designated Case Management Agencies and assure the fiscal stability of such agencies. A State shall act as the financial guarantor of each agency.

"SEC. 2603. CONTRIBUTION OF STATE FUNDS.

"(a) ESTIMATE.—The Secretary shall estimate the amount that a State would have spent during each calendar year for individuals eligible for long-term care services under each Federal-State entitlement program in the absence of the program established by this title. Such estimate shall be updated annually based on the projected increases in the cost of carrying out this title.

"(b) CONTRIBUTION.—For residents of a State to be eligible to participate in the program established by this title during a calendar year, the State shall contribute the amount estimated under subsection (a) to the Secretary to share in the costs of providing services to such State residents under the program established by this title for such calendar year.

"PART B—COVERAGE OF HOME AND COMMUNITY-BASED CARE SERVICES

"SEC. 2611. BENEFITS.

"An individual who meets the eligibility criteria prescribed in section 2612 shall be eligible under the program established by this part for coverage for home and community-based care services that are—

"(1) determined to be necessary by a Case Management Agency;

"(2) described in the care plan of the individual;

"(3) services for which the individual is eligible; and

"(4) consistent with the need for care of the individual, regulations issued by the Secretary, and standards established under this part.

"SEC. 2612. ELIGIBILITY.

"(a) IN GENERAL.—An individual shall be eligible for benefits under this part only if the individual—

"(1)(A) is—

"(i) 65 years of age or older; or

"(ii) eligible for benefits under part A of title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) as the result of a disability; and

"(B) has been determined by a Screening Agency through a screening process (conducted in accordance with section 2602) to be—

"(i) completely dependent (does not participate) in at least one age-appropriate activity of daily living or unable to perform two or more age-appropriate activities of daily living without human assistance or supervision; or

"(ii) so cognitively impaired (due to adult onset or acquired chronic organic disease of the brain, occurring in clear consciousness, and including those individuals who would meet such criteria except for the presence of a transient delirium in such individuals) as to require substantial supervision from another individual because such impaired individual engages in inappropriate behavior that poses a substantial health and safety hazard to such impaired individual or to others; or

"(2)(A) is under 19 years of age; and

"(B) has been determined by a Screening Agency through a screening process (conducted in accordance with section 2602)—

"(i) to be unable to perform two or more age-appropriate activities of daily living without human assistance or supervision; or

"(ii) to require both a medical devise to compensate for the loss of a vital body function that is necessary to avert death or major loss of bodily functional capacity and substantial and ongoing nursing care to avert death or further disability; or

"(3)(A) would be eligible for benefits under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq) on the basis of a disability except for the required 24-month waiting period;

"(B) has been determined by a Screening Agency through a screening process (conducted in accordance with section 2602) to be completely dependent (does not participate) in at least one age-appropriate activity of daily living or unable to perform two or more age-appropriate activities of daily living without human assistance or supervision; and

"(C) has a medical prognosis that such individual's life expectancy is 12 months or less.

"(b) APPLICATION.—An individual shall be eligible for benefits under this part only if—

"(1) the individual has filed an application for, and is in need of, benefits covered under this part;

"(2) the legal guardian of the individual has filed an application on behalf of an individual who is in need of benefits covered under this part; or

"(3) the representative of an individual who is cognitively impaired, who has no legal guardian, and who is in need of benefits covered under this part, files an application on behalf of the individual.

"SEC. 2613. RESPITE CARE.

"(a) ELIGIBILITY.—An individual shall be eligible for respite care benefits under this part if—

"(1)(A) the individual meets the requirements established in section 2612;

"(B) the individual is dependent on a daily basis on a primary caregiver and is assisting the individual without monetary compensation in the performance of at least two age-appropriate activities of daily living; and

"(C) without such assistance the individual could not perform such activities of daily living; or

"(2) the individual has dementia or other cognitive impairments, as determined by a Screening Agency.

"(b) DETERMINATION OF NEED.—The determination of the need of an individual for respite care shall be made by the Case Management Agency. An analysis of such need shall be included in the care plan of the individual.

"(c) SERVICES.—Respite care services under this section may include home and community-based services or nursing home services described in section 2621(b).

"(d) PERIOD OF COVERAGE.—Coverage for such services shall be for short periods of time of not to exceed 30 days or 720 hours during a given calendar year.

"(e) REIMBURSEMENT RATES.—Reimbursement rates for respite care services covered under this section shall be the same as rates established elsewhere in this part for home and community-based services and nursing home services.

"SEC. 2614. QUALIFIED SERVICE PROVIDERS.

"(a) IN GENERAL.—Services provided to eligible individuals pursuant to a plan of care under this part shall be provided by qualified service providers.

"(b) TYPES.—A qualified service provider shall include—

"(1) a home care agency certified by the State;

"(2) a home health agency certified by the Secretary;

"(3) an adult day health care center certified by the State; and

"(4) other certified or licensed provider of specific services including a registered professional nurse, qualified social worker, physician, nurse practitioner, physical, occupational or speech therapist, certified dietitian, and other providers as the Secretary shall designate by regulation that meet standards established by the Secretary.

"(c) APPROVAL REQUIRED FOR REIMBURSEMENT.—No individual or agency shall be eligible for reimbursement for services provided to an individual under this part unless the Case Management Agency approves the provision of services to such individual or agency.

"SEC. 2615. PAYMENT FOR SERVICES.

"(a) CASE MANAGEMENT AGENCIES.—The Secretary shall pay an amount monthly to each Case Management Agency that equals the sum of the amounts allotted by the Screening Agency for eligible individuals in the geographic jurisdiction of such Case Management Agency who have been determined by such Screening Agency to be eligible to receive services covered under this part.

"(b) SERVICE PROVIDERS.—

"(1) DIRECT PAYMENTS.—The Case Management Agency shall make direct payments to certified home care and home health agencies, and other qualified providers of home and community-based services reimbursable under this part, in accordance with such methods as the State may establish pursuant to regulations promulgated by the Secretary.

"(2) FULL PAYMENT FOR SERVICES.—All providers of home and community-based care services under the program established under this part shall accept payment rates established by the Case Management Agency as payment in full for services and shall not pass on additional charges to beneficiaries for services rendered under a plan of care.

"(c) PROVIDERS OF CASE MANAGEMENT SERVICES.—If a Case Management Agency contracts with a home health or home care agency to provide case management services, the Case Management Agency shall make direct payments to such organization in accordance with such methods as the State may establish pursuant to regulations promulgated by the Secretary.

"(d) LIMIT ON PAYMENT FOR HOME HEALTH AND COMMUNITY-BASED SERVICES.—

"(1) INITIAL PERIOD.—During the 3-year period beginning on the date of enactment of this title, the maximum amount of payments that may be made to a Case Management Agency for home and community-based services provided to an individual who resides in the geographic jurisdiction of the agency and who is eligible for services under

this part shall be, on an annualized basis, not more than 65 percent of the average amount payable, including the cost of ancillary services, for the same number of care days in a nursing home under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) in the area in which the home and community-based care is provided.

"(2) SUBSEQUENT YEARS.—In years subsequent to the period referred to in paragraph (1), the maximum amount referred to in such paragraph shall be established by the Secretary according to such prospective payment methods as the Secretary may establish by regulation to assure that no payment is made for home and community-based services that will exceed the cost of an alternative placement in a nursing facility, less a reasonable estimate of the cost of room and board in such facilities or in the community.

"(e) AMOUNT OF COVERAGE.—

"(1) IN GENERAL.—Subject to subsection (d) and other provisions of this subsection, the amount of coverage allotted to an eligible individual shall be the amount necessary to carry out the service needs of the individual.

"(2) MAXIMUM AVERAGE AMOUNT.—In the case of an individual in a given geographic area, the average amount payable for such individual shall not exceed an amount determined by multiplying—

"(A) the maximum amount prescribed in subsection (d); by

"(B) a measure of the severity of the need for services of the individual.

"(3) SEVERITY OF NEED FOR SERVICES.—For purposes of paragraph (2), the severity of the need for services of an individual shall be estimated by such statistical models and techniques, that shall include a measure of the severity of dependency in activities of daily living, cognitive impairment, living arrangement, age, and such other factors as the Secretary shall specify by regulation, except that all individuals determined to be eligible for services under this part shall be presumed to face a monthly need for services of at least 5 percent of the maximum allotment. In determining eligibility, the Secretary shall not use any measures of the income and assets of the individual. Expenditures authorized by this paragraph shall be made only for the services specified in this part in accordance with a written care plan prepared through case management services provided by the Case Management Agency or a home care or home health agency under contract with the agency to provide case management services.

"(4) CHRONICALLY-ILL INDIVIDUAL.—The amount of coverage allotted in a month to an eligible individual who is a chronically-ill individual, as described in section 2612(a)(2)(B)(ii), who resides in a State shall be an amount that the Secretary estimates is equal to 100 percent of the amount that would be payable, under the plan of the State approved under title XIX of the Social Security Act during the month if such individual were provided appropriate care in an appropriate institutional setting, if no limit on amount, duration, or scope of covered institutional services applied other than medical necessity.

"(f) COPAYMENT.—The amount payable for home and community-based services under this part shall be reduced by a copayment amount equal to 5 percent of the amount of the monthly insurance benefits of the individual under title II of the Social Security Act (42 U.S.C. 401 et seq.), if any, or 10 percent of the cost of services provided to the individual, whichever is less.

"SEC. 2616. HOME AND COMMUNITY-BASED CARE ADVISORY COUNCIL.

"(a) ESTABLISHMENT.—No later than 60 days after the date of enactment of this title, there shall be established an independent body to be known as the 'Home and Community-Based Care Advisory Council' (hereinafter referred to in this section as the 'Council').

"(b) MEMBERSHIP.—

"(1) IN GENERAL.—The Council shall be composed of 13 individuals appointed by the Secretary.

"(2) EXPERTISE.—To the maximum extent practicable, the Council shall include individuals with expertise in pediatrics, geriatrics, gerontology, disability, case management of home and community-based services and home and community-based care reimbursement, home and community-based care consumers and their representatives, home and community-based care providers and their representatives, professionals with expertise in long-term care including nurses, social workers, discharge planners, third party payors, long-term care ombudsmen, and State and local health and social service agency representatives.

"(3) TERM.—An appointment to the Council shall be for a term of not to exceed 4 years.

"(c) PURPOSE.—The purpose of the Council shall be—

"(1) to assist the Secretary in assuring the prompt and efficient implementation of this part;

"(2) to regularly review the implementation of this part; and

"(3) to recommend to the Secretary and Congress any necessary modifications of this part.

"(d) CONSULTATION.—The Secretary shall regularly and closely consult with the Council in the implementation and administration of this part.

"(e) MEETINGS.—To carry out this section, the Secretary shall meet with the Council at least once every month during the 24-month period beginning 60 days after the date of enactment of this title and at least quarterly after such period.

"SEC. 2617. QUALITY ASSURANCE BOARDS AND COMMUNITY ADVISORY BOARDS.

"(a) QUALITY ASSURANCE BOARD.—A State shall establish and appoint members to a quality assurance board that will monitor the quality of care provided under this part in a given area of the State, pursuant to procedures established by the Secretary by regulation.

"(b) COMMUNITY ADVISORY BOARD.—A State shall establish and appoint members to a community advisory board for each Case Management Agency pursuant to regulations by the Secretary. The advisory board shall be composed of consumers of services and their families, representatives of agencies and organizations, professionals providing services to the elderly, and public members. Public members and consumers and their families shall form a majority of the members of the advisory board.

"SEC. 2618. HOME AND COMMUNITY-BASED CARE QUALITY ASSURANCE.

"(a) HOME AND COMMUNITY-BASED CARE SERVICES CONSUMERS' BILL OF RIGHTS.—The Secretary shall promulgate regulations that shall establish a bill of rights for consumers of home and community-based services (hereafter referred to in this section as the 'consumer'), that shall recognize the following as the rights of consumers that may be asserted by the consumer or the representative or guardian of the consumer:

"(1) TREATMENT OF INDIVIDUAL.—To be treated with courtesy, respect, and full recognition of one's dignity, individuality, and right to control one's own household and lifestyle.

"(2) FULL INFORMATION.—To be fully informed by the individual's case management team of his or her condition.

"(3) REFUSAL OF TREATMENT.—To refuse all or part of any treatment, care, or service, and to be informed of the likely consequences of such refusal.

"(4) NONDISCRIMINATION.—To receive treatment, care, and services in compliance with all State and local laws and regulations without discrimination in the provision or quality of services based on race, religion, gender, age, or creed (except as provided under the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.)), or because of a change in the source of payment.

"(5) FREEDOM FROM ABUSE.—To be free from mental and physical abuse, neglect, and exploitation, and to be free from chemical and physical restraints.

"(6) RESPECT AND PRIVACY.—To receive respect and privacy in the home care consumer's treatment, care, and services in caring for personal needs, in communications, and in all daily activities.

"(7) CONFIDENTIALITY.—To be assured of the confidential treatment of personal and financial records and to approve or refuse the release of such records to any individuals outside the agency except as otherwise required by law or third-party payment contract.

"(8) EXERCISE OF RIGHTS.—To be free to fully exercise the consumer's civil rights and to be assisted in doing so when assistance is needed.

"(9) TRANSITION OF SERVICES.—To receive assistance to assure a smooth transition in services consistent with the welfare of the home care consumer.

"(b) HOME AND COMMUNITY-BASED PROVIDER QUALITY ASSURANCE REQUIREMENTS.—

"(1) IN GENERAL.—In addition to such other requirements as may apply, the Secretary shall promulgate regulations that require that in order to receive funding under this title for the provision of home or community-based services (hereinafter referred to in this section as 'services'), all qualified providers shall, not later than 6 months after the date of the publication of such regulations—

"(A) comply with the consumers' bill of rights promulgated under subsection (a);

"(B)(i) implement procedures for promptly reviewing and resolving the grievances of consumers; and

"(ii) provide an oral notification and a written copy of such procedures to each consumer (or the representative or guardian of the consumer) who receives services provided by a qualified provider;

"(C) ensure that each provider employed by or under contract with a home care or home health agency receives training—

"(i) sufficient to meet a level of proficiency established by the Secretary in regulations (in consultation with representatives of the elderly, disabled, and children, home health and home care agencies, and experts in the fields of geriatric nursing, pediatric nursing, geriatric social work, pediatric social work, mental health, rehabilitation, and other appropriate health care professionals) that are appropriate in content and amount as are consistent with the requirements of section 4021(b) of the Omnibus Budget Reconciliation Act of 1987;

"(ii) that develops separate levels of proficiency in and is reflective of the range of skills required of providers that provide different levels of services; and

"(iii) the extent of which shall be made available on request to each consumer with respect to the amount of training or level of certification achieved by each provider;

"(D) supervise all care providers employed by or under contract with a qualified provider in accordance with regulations promulgated by the Secretary (including regular random on-site supervisory visits by registered nurses or other appropriate health care professionals); and

"(E) perform annual evaluations of the quality of services provided by providers employed by or under contract with a qualified provider that shall document consumer involvement through a process that shall include client interviews.

"(2) DURABLE MEDICAL EQUIPMENT SERVICES.—In addition to such other requirements as may apply, to receive funding for the provision of durable medical equipment services under this title, a qualified provider shall in each case of a consumer to which such services are provided—

"(A) issue written instructions for the operation of such equipment;

"(B) provide sufficient training to the consumer, the family of the consumer, and the staff to permit the appropriate and safe operation of all such equipment; and

"(C) formulate an emergency plan that is appropriate for the services provided to the home care consumer.

"(c) CASE MANAGEMENT AGENCY QUALITY ASSURANCE REQUIREMENTS.—In addition to such other requirements as may apply, the Secretary shall promulgate regulations requiring that an agency, to receive funding for the provision of case management services under this Act, shall, not later than 6 months after the date of the publication of such regulations—

"(1)(A) comply with the consumers' bill of rights promulgated under subsection (a); and

"(B) provide an oral notification and a written copy of such bill of rights to each consumer (or the representative or guardian of the consumer) who receives services under this Act;

"(2)(A) implement procedures for the prompt review and resolution of the grievances of consumers; and

"(B) provide an oral notification and a written copy of such procedures to each consumer (or the representative or guardian of such consumer) who receives services from the agency;

"(3) provide to each consumer (or the representative or guardian of the consumer) a written statement of the services to be provided to the consumer and the schedule for the provision of such services, as agreed on by the consumer;

"(4) provide to each consumer a clear written statement as to how the consumer (or the representative or guardian of the consumer), may appeal the benefit and level decisions made by the agency;

"(5) maintain procedures that assure prompt access by eligible consumers to services;

"(6) ensure that the personnel that provide case management services to each consumer have received adequate training as prescribed in regulations promulgated by the Secretary, in consultation with the appropriate Home Care Quality Assurance Board; and

"(7) establish and implement case management procedures that shall include—

"(A) a plan of care that establishes reasonable and measurable client objectives and the services to be provided to meet such objectives;

"(B) a plan of care that employs outcome measures of care insofar as they are appropriate and available for each consumer served;

"(C) methods for a review that shall be conducted at least once during every 3-month period of—

"(i) the needs of the consumer; and

"(ii) the plan of care for the consumer;

"(D) methods for follow-up and on-going monitoring of patient and services delivery; and

"(E) a statement of the criteria and procedures to be applied for the discharge or transfer of the consumer to another agency, program, or service.

"(d) STANDARD AND EXTENDED SURVEY.—Section 1891(c) and (d) of the Social Security Act (42 U.S.C. 1395bbb(c) and (d)) shall apply to home health agencies certified to receive payments for services provided under this title.

"(e) SURVEY.—The Secretary shall develop and implement a standard and extended survey of home care agencies certified to receive payments for services provided under this title.

"SEC. 2619. CERTIFICATION.

"(a) REQUIREMENT.—

"(1) IN GENERAL.—A State shall—

"(A) survey home care agencies, home health agencies, and adult day health care centers to determine their eligibility to participate in the program established under this part; and

"(B) certify such an agency or center as eligible to participate in such program if the agency meets the requirements of this part and regulations prescribed by the Secretary.

"(2) FREQUENCY.—A State shall conduct the survey and certification required under paragraph (1) not less than once during each fiscal year.

"(b) INDIVIDUAL PROVIDERS.—

"(1) IN GENERAL.—To be eligible to be reimbursed for services covered under this part, a qualified service provider referred to in section 2614 shall be licensed or, if applicable, certified by the State in which the provider practices pursuant to the requirements of this part and regulations prescribed by the Secretary.

"(2) HOMEMAKERS AND HOME HEALTH AIDES.—To be reimbursed for services covered under this part, a homemaker or home health aide must be a trained employee of a certified home care or home health agency working under professional supervision.

"(3) WAIVER.—The Secretary may waive the certification requirement for providers that do not provide direct patient care.

"SEC. 2620. REIMBURSEMENT.

"(a) ACCEPTANCE OF REFERRALS AND REIMBURSEMENT.—

"(1) IN GENERAL.—Except as provided in paragraph (2), a home health or home care agency or other provider certified by a State to provide services reimbursable under this part shall provide services to all individuals referred to the provider by a Case Management Agency or by an organization under contract with the agency to provide case management services and accept as payment in full the reimbursement amounts provided under this part.

"(2) EXCEPTION.—The service requirement imposed under paragraph (1) shall not apply if the requirement would be in conflict with the operating policies under which the provider was certified (such as the maximum number of individuals an agency may care for at any time).

"(b) ADDITIONAL SERVICES.—Nothing contained in this part shall be construed to preclude any individual who is eligible to receive services under this part from purchasing home and community-based services that are more generous than services provided for in the care plan of the individual. If an individual purchases more generous services, a provider may not charge such individual higher rates for such services than the amount the provider is reimbursed under this part.

"(c) RELATIONSHIP TO OTHER ENTITLEMENT PROGRAMS.—Notwithstanding any other provision of law, in the case of any service covered under this part that is also covered under another Federally administered entitlement program, the Secretary shall act as a secondary payer under this part.

"(d) REIMBURSEMENT.—Reimbursement for services provided under this part shall be subject to the requirements of this part and regulations prescribed by the Secretary.

"PART C—COVERAGE OF FIRST 6 MONTHS OF NURSING HOME CARE

"SEC. 2621. BENEFITS.

"(a) IN GENERAL.—Subject to subsection (c), an individual who meets the eligibility criteria prescribed in section 2622 shall be eligible under the program established by this part for coverage for services described in subsection (b) provided to the individual by a nursing facility that are required by the individual, while the individual is an inpatient of the facility, for a period of time not to exceed 6 months for a spell of illness.

"(b) TYPES.—Coverage may be provided under this part for—

"(1) nursing care provided by or under the supervision of a registered professional nurse;

"(2) bed and board in connection with the furnishing of nursing care;

"(3) physical, occupational, or speech therapy furnished by a facility or by others under arrangements with a facility;

"(4) medical social services;

"(5) drug, biological, supply, appliance, and equipment for use in the facility, that is ordinarily furnished by the facility for the care and treatment of an inpatient;

"(6) medical service of an intern or resident-in-training under an approved teaching program of a hospital with which a facility has in effect a transfer agreement or other diagnostic or therapeutic service provided by a hospital with which a facility has in effect a transfer agreement; and

"(7) such other health services necessary to the health of a patient as are generally provided by a nursing home facility.

"(c) BENEFITS AFTER COVERED STAYS.—An individual shall be eligible for additional nursing home coverage under this part subsequent to a covered stay if—

"(1) the individual has not been an inpatient in a hospital or nursing facility for at least 6 consecutive months after any covered stay; and

"(2)(A) the individual has a diagnosis that is different than that provided for the preceding nursing home stay; or

"(B) there has been a substantial worsening of the condition of the individual since the latest discharge of the individual.

"SEC. 2622. ELIGIBILITY.

"(a) IN GENERAL.—An individual shall be eligible for benefits under this part if—

"(1)(A) the individual is—

"(i) 65 years of age or older; or

"(ii) eligible for benefits under Part A of title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) as the result of disability; and

"(B) has been determined by a Screening Agency through a screening process (conducted in accordance with section 2602) to be—

"(i) completely dependent with respect to at least one activity of daily living or unable to perform two or more activities of daily living without human assistance or supervision; or

"(ii) so cognitively impaired (due to adult onset or acquired chronic organic disease of the brain, occurring in clear consciousness, and including those individuals who would meet such criteria except for the presence of a transient delirium in such individuals) as to require substantial supervision from another individual because such impaired individual engages in inappropriate behavior that poses a substantial health and safety hazard to such impaired individual or to others;

"(2)(A) the individual is under 19 years of age; and

"(B) has been determined by a Screening Agency through a screening process (conducted in accordance with section 2602)—

"(i) to be unable to perform two or more age-appropriate activities of daily living without human assistance or supervision; or

"(ii) to require both a medical devise to compensate for the loss of a vital body function that is necessary to avert death or major loss of bodily functional capacity and substantial and ongoing nursing care to avert death or further disability;

"(3) the individual (or legal guardian) has filed an application for such benefits, and is in need of, benefits covered under this title;

"(4) receiving nursing home services in a nursing facility would be in the best interest of the individual; and

"(5) the Secretary determines that the individual meets the eligibility requirements imposed under this subsection.

"(b) CURRENT INDIVIDUALS.—An individual who is in a hospital or nursing home on the date of the enrollment of the individual in the program established by this part shall be ineligible for coverage under this section until the individual's first spell of illness beginning after such date.

"SEC. 2623. LIMITATIONS ON PAYMENT.

"(a) IN GENERAL.—Monthly reimbursement for nursing home services covered under this part shall be an amount the Secretary determines to be reasonable and appropriate, taking into account the average cost of providing appropriate care.

"(b) PROSPECTIVE PAYMENT.—To the extent feasible, the Secretary shall establish a prospective payment mechanism for payment for nursing home services covered under this part that takes into account the expected resource utilization of individual patients based on the degree of impairment of the patients and other factors affecting service requirements.

"SEC. 2624. REIMBURSEMENT.

"Certified nursing homes shall accept payment for services rendered under this part as payment in full and shall not be allowed to pass on additional charges to beneficiaries for covered services.

"SEC. 2625. RELATIONSHIP TO OTHER ENTITLEMENT PROGRAMS.

"Notwithstanding any other provision of law, in the case of any service covered under this part that is also covered under any other Federally administered entitlement program, the Secretary shall act as a secondary payer under this part.

"PART D—INSURANCE COVERAGE FOR NURSING HOME CARE THAT EXCEEDS 6 MONTHS

"SEC. 2631. ESTABLISHMENT OF FEDERAL LONG-TERM CARE INSURANCE PROGRAM.

"The Secretary shall establish an optional insurance program for individuals 45 and over to cover nursing home stays that exceed 6 months.

"SEC. 2632. ELIGIBILITY.

"(a) DETERMINATION.—

"(1) IN GENERAL.—A Screening Agency shall determine whether an individual is eligible to receive benefits covered under this part.

"(2) SCREENING TOOL.—The agency shall use the same screening the first 6 months of nursing home care under part C in order to determine the continued need of an individual for nursing home care and therefore eligibility for benefits under this part.

"(3) PERIODIC EVALUATION.—The Case Management Agency shall continue to make such an evaluation periodically, pursuant to regulations of the Secretary, as long as an individual remains in a nursing home.

"(b) ELECTION OF COVERAGE.—

"(1) IN GENERAL.—Subject to the other provisions of this subsection, an individual shall have the option to purchase coverage under this part at 45 years of age or at 65 years of age.

"(2) INITIAL YEAR.—During the 1-year period beginning on the effective date of this part, an individual who is 45 years of age or over shall be eligible to purchase insurance under this part, except that such an individual shall not be eligible to purchase insurance while confined to a hospital or nursing home or within 6 months after a period of confinement in a nursing home or 90 days after a period of confinement in a hospital.

"(3) EXTENSION BEYOND INITIAL YEAR.—If an individual is confined to a nursing home or hospital during a period that extends beyond the first year after the effective date of this part, an individual shall be eligible to enroll in the program established by this part during the 60-day period beginning after the individual's first spell of illness.

"(4) SUBSEQUENT YEARS.—During years subsequent to the period referred to in paragraph (2), an individual shall be eligible to purchase insurance under this part within 6 months of the 45th or 65th birthday of the individual.

"(5) ACTIVATION OF BENEFITS.—To receive coverage under the insurance program established by this part, an individual shall have purchased such coverage at least 1 month prior to admission to a nursing facility, unless the reason for the need of services is because of an accident or stroke subsequent to the date that such individual signed up for coverage under this part.

"SEC. 2633. PREMIUM RATES.

"(a) IN GENERAL.—The Secretary shall determine one premium rate for individuals electing to purchase coverage under this part at age 45 (or between ages 45 and 64 during the initial enrollment period) and a separate rate for those who elect such coverage at age 65 (or at age 65 and over during the initial enrollment period).

"(b) REVISION.—The Secretary shall revise the premiums annually.

"(c) RATES.—In developing premium rates under the program established by this part, the Secretary shall establish rates that are expected to cover 45 percent of the estimated costs of nursing home stays that exceed 6 months for those individuals enrolled in the program.

"(d) COST SHARING FOR LOW-INCOME INDIVIDUALS.—

"(1) IN GENERAL.—Subject to paragraph (2), the Secretary shall pay—

"(A) an amount equal to 100 percent of the amount of the premium charged an eligible individual under this section if the income of the individual does not exceed 100 percent of the poverty line for a single individual (as defined in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)));

"(B) an amount equal to 75 percent of the amount of the premium charged an eligible individual under this section if the income of the individual is between 100 percent and 150 percent of the poverty line for a single individual (as defined in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2))); and

"(C) an amount equal to 50 percent of the amount of the premium charged an eligible individual under this section if the income of the individual is between 150 percent and 200 percent of the poverty line for a single individual (as defined in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2))).

"(2) MINIMUM PAYMENT.—Notwithstanding paragraph (1), an eligible individual who elects to purchase insurance under this part shall pay not less than $5 per month as part of the premium for such insurance.

"SEC. 2634. BENEFITS.

"(a) TYPES.—An eligible individual who elects to purchase insurance under this part shall be eligible to receive from a nursing facility for an unlimited period of time (contingent on the continued need of the individual for services)—

"(1) nursing care, provided by or under the supervision of a registered professional nurse;

"(2) physical, occupational, or speech therapy furnished by the facility or by others under arrangements with the facility;

"(3) medical social services;

"(4) drugs, biologicals, supplies, appliances, and equipment for use in the facility, that are ordinarily furnished by the facility for the care and treatment of inpatients;

"(5) medical services of interns and residents-in-training under an approved teaching program of a hospital with which the facility has in effect a transfer agreement and other diagnostic or therapeutic services provided by a hospital with which the facility has in effect a transfer agreement; and

"(6) such other health services necessary to the health of patients as are generally provided by nursing facilities.

"(b) DURATION.—The duration of benefits covered under this part shall be unlimited as long as the Case Management Agency determines, through its periodic review of a patient, that the patient continues to require nursing home services.

"SEC. 2635. QUALIFIED SERVICE PROVIDERS.

"(a) IN GENERAL.—Covered nursing home services under this part shall be provided by qualified service providers.

"(b) TYPES.—A provider shall be considered a qualified service provider under this part if the provider is a nursing facility that is certified by the State and meets the requirements of this part and any other standards established by the Secretary by regulation for the safe and efficient provision of services covered under this part.

"SEC. 2636. REIMBURSEMENT.

"(a) AMOUNT.—Monthly reimbursement for nursing home services under this part shall be 65 percent of the amount the Secretary determines to be reasonable and appropriate to cover the cost of care provided under this part, taking into account the average cost of providing appropriate care in the most efficient manner.

"(b) PROSPECTIVE PAYMENT.—To the extent feasible, the Secretary shall establish a prospective payment mechanism for payment for nursing home services under this part that takes into account the expected resource utilization of individual patients based on their degree of disability and other factors determining service requirements.

"(c) ROOM AND BOARD.—

"(1) IN GENERAL.—Notwithstanding section 2632(b)(2), payment for room and board under this part shall be made by an individual participating in the program established by this part for those days spent in a nursing facility beyond 6 months.

"(2) MANNER OF PAYMENT.—Such payments for room and board shall be made by an individual directly to the nursing facility.

"(3) RATES.—Charges for room and board shall be 35 percent of the average per diem rate paid by the Secretary to nursing facilities receiving reimbursement under this part.

"PART E—TRAINING AND RESEARCH

"SEC. 2641. GRANTS FOR TRAINING FOR HOME AND COMMUNITY-BASED CARE FOR THE ELDERLY.

"(a) IN GENERAL.—The Secretary shall make grants to schools of nursing, social work, allied health, and public health of accredited universities to develop and conduct programs to train individuals in the provision, supervision, planning, and analysis of home and community-based care and nursing home care for the elderly, disabled, and chronically ill children and in the administration of such programs.

"(b) USE OF FUNDS.—Funding made available under this section may be used for curriculum development, faculty support, and traineeships and fellowships.

"(c) GRANT PREFERENCES.—In awarding grants under this section, the Secretary shall give a preference to programs that—

"(1) provide for the development or conduct of programs for continuing education and certification of professionals currently working in the field of geriatric health in the provision of services to the chronically impaired and working in the field of pediatric care specialization in the provision of care services to chronically ill, disabled, and medical technology dependent children;

"(2) have established or will establish affiliations with nursing homes, agencies providing home and community-based care, senior citizen centers, adult day care centers, and other institutions and agencies providing health and social services to the impaired elderly, for the purpose of providing in-service training to individuals being trained at the grant-receiving institution and technical assistance to the institution providing services; and

"(3) have established or will establish affiliations with programs of geriatric training based in accredited medical schools or schools of nursing, or both.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $15,000,000 for fiscal year 1991, $20,000,000 for fiscal year 1992, and $25,000,000 for fiscal year 1993.

"SEC. 2642. GRANTS FOR HOME HEALTH AIDES.

"(a) IN GENERAL.—The Secretary shall make grants to State approved programs (that meet requirements established by the Secretary relating to minimum course hours, curriculum content, competency evaluation, and qualifications of instructors) to develop and conduct programs to train individuals in the provision of home health aide services. Such training programs shall be designed and conducted according to guidelines and requirements established by the Secretary by regulation.

"(b) GRANT PREFERENCES.—Preference shall be given to programs that have established or will have established affiliations with nursing homes, agencies providing home and community-based care, senior citizen centers, adult day health care centers, and other institutions providing health and social services to the impaired elderly, for the purpose of providing in-service training to individuals being trained at the grant-receiving program and technical assistance to the institution providing services.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $10,000,000 for each of the fiscal years 1991 and 1992 and $25,000,000 for fiscal year 1993.

"SEC. 2643. GRANTS FOR MODEL CONSUMER TRAINING PROGRAMS.

"(a) IN GENERAL.—The Secretary shall make grants available to accredited university schools of nursing to develop model consumer training programs. Such programs shall provide information and training about the delivery of home care services for caregivers as well as general information about the home and community-based care service system for consumers or potential consumers of home care or home health services, or both, pursuant to regulations established by the Secretary.

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $5,000,000 for fiscal year 1991, $10,000,000 for fiscal year 1992, and $15,000,000 for fiscal year 1993.

"SEC. 2644. CENTERS FOR LONG-TERM CARE PLANNING AND TECHNICAL ASSISTANCE.

"(a) IN GENERAL.—The Secretary shall through grants or contracts, or both, assist public or private nonprofit entities in meeting the costs of planning and developing new centers, and operating existing and new centers, for multidisciplinary health planning development and assistance under this section for the purpose of—

"(1) assisting the Secretary in carrying out this part;

"(2) providing such technical and consulting assistance as States may require;

"(3) conducting research, studies, and analysis of planning and resource development for the provision of long-term care services; and

"(4) developing long-term care planning approaches, methodologies, policies, and standards.

"(b) NUMBER OF CENTERS.—The Secretary shall provide assistance under this section so that at least 6 such centers shall be in operation by January 1, 1992.

"(c) CASE-MANAGEMENT AGENCIES.—Agencies assisted under this section—

"(1) may enter into arrangements with Case Management Agencies for the provision of such services as may be appropriate and necessary in assisting the agencies in performing their functions under this part; and

"(2) shall develop and use methods (satisfactory to the Secretary) to disseminate to such agencies long-term care planning approaches, methodologies, policies, and standards.

"(d) STAFF.—

"(1) DIRECTOR.—Each center shall have a full-time director who possesses a demonstrated capacity for substantial accomplishment and leadership in the field of planning and resource development in the area of long-term care.

"(2) ADDITIONAL STAFF.—Each center shall employ such other additional staff as may be appropriate. The staff of the center shall meet such additional requirements as the Secretary may by regulation prescribe.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $10,000,000 for fiscal year 1991 and $15,000,000 for each of the fiscal years 1992 and 1993.

"PART F—DEMONSTRATION PROJECTS

"SEC. 2651. DEMONSTRATION PROJECTS FOR SERIOUSLY MENTALLY ILL INDIVIDUALS.

"(a) IN GENERAL.—The Secretary shall conduct at least 5 (but not more than 10) demonstration projects to determine the relative effectiveness, cost, and impact on quality of long-term home care of using different models of providing and reimbursing long-term home care services for seriously mentally ill individuals and family caregivers.

"(b) DEFINITION.—As used in section, the term 'seriously mentally ill individual' means an individual who a licensed mental health professional in the individual's State of residence certifies—

"(1) has schizophrenia, bipolar or unipolar disorder or other significant mental illness that restrict the ability of the individual to function in activities of daily living, employment, and social interaction;

"(2) has been previously institutionalized or is at risk of being institutionalized in the absence of the services provided under this section; and

"(3) is not institutionalized at the time of the certification.

"(c) REQUIREMENTS.—Demonstration projects conducted under this section shall—

"(1) each be conducted over a period of 3 years;

"(2) be conducted in sites that are chosen to be geographically diverse and include at least one rural site;

"(3) be sensitive to the needs of racial and ethnic minorities;

"(4) include outreach and case management activities;

"(5) be responsive to family needs and concerns and appropriately involve and consult with family members regarding the provision of services under this section;

"(6) specify, at the time of application, specific outcome expectations to be met by the project and identify appropriate mechanisms for measuring such outcomes; and

"(7) include testing the use of different agencies as Case Management Agencies and providing for the selection of such agencies in consultation with the Comptroller General.

"(d) OTHER SERVICES.—Demonstration projects conducted under this subsection may—

"(1) provide services or reimbursement for nursing care, homemaker or homehealth aide services, psychosocial services, medical services, including the provision, monitoring, and testing of necessary medications, client and family education, training, and counseling, respite care, crisis intervention,

information and referral services, and rehabilitation; and

"(2) provide services to seriously mentally ill individuals or provide services to home caregivers (including family members) when such services augment and support home caregivers in the care of seriously mentally ill individuals.

"(e) EVALUATION.—The Secretary shall provide for the evaluation of the projects on a concurrent basis and shall prepare and submit to the appropriate Committees of Congress, not later than 18 months after the initiation of the projects and on the completion of the projects, a report on the findings of the evaluation. Such evaluation shall measure the cost and effectiveness of funded projects against the outcome expectations identified in the initial applications and include relevant data on client and family satisfaction and perceived benefits, together with such additional information as the Secretary may consider appropriate.

"(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section for each of the fiscal years 1991, 1992, and 1993, not to exceed $10,000,000 to carry out demonstration projects under this section and not to exceed $1,000,000 to carry out the evaluation of such projects under subsection (e).

"SEC. 2652. DEMONSTRATION PROJECTS FOR WORKING AGE INDIVIDUALS WITH SEVERE FUNCTIONAL LIMITATIONS.

"(a) IN GENERAL.—The Secretary shall conduct at least 5 and not more than 10 demonstration projects to determine the feasibility of providing long-term home care benefits for working-age individuals with severe functional limitations (as defined in subsection (b)).

"(b) DEFINITION.—As used in this section, the term 'working-age individual with severe functional limitations' means an individual who is over 18 years of age, but under 65 years of age, who is not entitled to benefits under title XVIII of the Social Security Act but who is a chronically ill individual, within the meaning of section 1861(jj)(1)(A)(i) of such Act.

"(c) REQUIREMENTS.—Demonstration projects under this section—

"(1) shall include, in the items and services covered under long-term home care, personal care services, short term respite, and emergency assistance and shall permit coverage of items and services provided either by home health agencies or by other qualified persons;

"(2) may provide for limited cost-sharing for long-term home care;

"(3) shall provide that payment rates for long-term home care provided by persons other than home health agencies shall be comparable to the payment rates for such care provided by home health agencies;

"(4) shall provide that each plan of care for an individual shall take into account the capability of the individual to direct the long-term home care of the individual and to train persons in providing that care;

"(5) shall test the effectiveness of consumer-directed living centers that are primarily engaged in assisting working age individuals with severe functional limitations in maximizing their independence;

"(6) shall, to the maximum extent practicable, cover working age individuals with severe functional limitations who—

"(A) are at imminent risk of institutionalization within 30 days if such individual is not provided long-term home care;

"(B) are institutionalized but who, if provided long-term home care, could be discharged from the institution; or

"(C) need long-term home care to secure or continue employment, to increase independence, to enable present caregivers to secure or continue employment, or to stabilize families;

"(7) shall include projects under which personal care services are made available away from the primary residence of the individual, as well as at that residence; and

"(8) shall include projects under which family members may be employed as caregivers if the family members would be employed if not providing such care or if the individual requires more than 20 hours a week of long-term home care.

"(d) CONSULATION, EVALUATION, REPORT.—

"(1) CONSULTATION.—In designing and evaluating the projects conducted under this section, the Secretary shall consult with experts in the field of disability policy and independent living and with groups representing working age individuals with severe functional limitations.

"(2) EVALUATION.—The Secretary shall provide for the evaluation of the projects conducted under this section on a concurrent basis. Such evaluation shall include an evaluation of the size of the demand, cost, relative effectiveness, and impact on quality of life, of providing long-term home care to working age individuals with severe functional limitations.

"(3) REPORT.—Not later than 18 months after the date on which the projects conducted under this section are completed, the Secretary shall prepare and submit, to the appropriate Committees of Congress, a report concerning the findings of the evaluation under paragraph (2). The Secretary shall include in such report recommendations for appropriate legislative changes.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated —

"(1) for each of fiscal years 1991, 1992, and 1993 not to exceed $10,000,000 to carry out demonstration projects under this section; and

"(2) for the 3-fiscal-year period beginning with fiscal year 1991 not to exceed $1,000,000 to carry out the evaluation of such projects under this section.

"SEC. 2653. GENERAL AUTHORITY.

"(a) PAYMENTS.—Payments under demonstration projects under this part may be made in advance or by way of reimbursement, as may be determined by the Secretary, and shall be made in such installments and on such conditions as the Secretary finds necessary to carry out the purpose of this section.

"(b) SOCIAL SECURITY ACT.—The Secretary may waive such requirements of title XVIII of the Social Security Act as may be required to carry out demonstration projects under this section.".

SEC. 3. CONFORMING AMENDMENTS.

(a) Section 305(i) of the Public Health Service Act (42 U.S.C. 242c(i)) is amended by striking out "2511" each place it appears and inserting in lieu thereof "2713".

(b) Sections 406(a)(2), 480(a)(2), 485(a)(2), and 505(a)(2) of such Act (42 U.S.C. 284a(a)(2), 287a(a)(2), 287c-2(a)(2), and 290aa-3a(a)(2)) are each amended by striking out "2101" and inserting in lieu thereof "2701".

(c) Sections 465(f) and 497 of such Act (42 U.S.C. 286f and 289f) are each amended by striking out "2601" and inserting in lieu thereof "2701".

SEC. 4. EFFECTIVE DATE.

(a) IN GENERAL.—Except as otherwise provided in this section, this Act and the amendments made by this Act shall become effective on the date of enactment of this Act.

(b) COVERAGE OF HOME AND COMMUNITY-BASED CARE SERVICES.—Part B of title XXVI of the Public Health Service Act (as added by section 2 of this Act) shall require payment for services provided in accordance with such part after 1 year after the date of enactment of this Act.

(c) COVERAGE FOR NURSING HOME CARE.—Part C of such title shall apply to nursing home care provided in accordance with such part on or after January 1 of the third year that begins after the date of enactment of this Act.

(d) FEDERAL LONG-TERM CARE INSURANCE PROGRAM.—Part D of such title shall require the establishment of a Federal long-term care insurance program in accordance with such part on and after January of the second year that begins after the date of enactment of this Act. Payment for nursing care under such part shall begin on January 1 of third year that begins after the date of enactment of this Act.

(e) TRAINING AND RESEARCH.—Part E of such title shall require training and research programs in accordance with such part on and after January 1, 1991.

SENATOR KENNEDY'S LIFECARE LONG-TERM CARE INSURANCE PROGRAM

THE PROBLEM

Approximately three million senior citizens are unable to perform two or more activities of daily living without assistance. Their disabilities make it impossible for them to perform such activities as dressing, bathing, going to the bathroom, or eating on their own. Of this population, 1.3 million reside in nursing homes; an additional 1.6 million live in community settings. For some seniors, the disability can be expected to improve over time; for others, disability is chronic. In all cases, however, some degree of disability will last for an extended period and require long-term care. Approximately 1 million disabled children and disabled adults under age 65 also need long-term care.

The cost of the necessary long-term care required by disabled persons in high, so high as to be out of the reach of all but the most affluent. Indeed, a recent study[1] found that one-third of elderly married couples would be impoverished in just 26 weeks if one member of the family needed nursing home care. Almost half would be impoverished within a year. For single senior citizens, who tend to be less well off, the savings of a lifetime would be lost even more quickly. Over one-half would be impoverished within 26 weeks; over two-thirds would be impoverished within a year.

Most senior citizens perform home care to nursing home care, if their physical condition permits them to stay in their homes. Although it is less costly, home care, too, is expensive. Approximately one in five married couples would be impoverished by 26 weeks of home care; one-third would be impoverished within a year. Half of single seniors would be impoverished within 26 weeks; sixty percent would be destitute within a year.

The inability to afford the cost of essential services can be devastating to disabled

[1] U.S. Congress. Report presented by the Chairman of the House Select Committee on Aging. *Long-Term Care and Personnel Impoverishment: Seven in Ten Elderly Living Alone are at Risk.* October, 1987.

senior citizens. When they cannot afford to purchase the assistance they need, they are condemned to lives of loneliness and misery that generally end in unwanted confinements in nursing homes. Sixty-six percent of even the most disabled seniors, those who are unable to perform four or more of the essential activities of daily living, receive no formal home care or assistance in managing their daily lives. When they recover from strokes or hip fractures or other temporary disabilities that make treatment in nursing homes necessary, too often they can not return to their own homes because the cost of that necessary care destroyed the savings that made life at home possible.

Most disabled senior citizens struggling to survive in community settings rely on assistance from children, spouses, other relatives or friends to manage. But the burden of that care is frequently so overwhelming that it places intolerable strains on the caregivers, many of whom are aging or aged themselves.

Public programs provide limited assistance in meeting long-term care needs. The Medicare program covers up to 100 days in a skilled nursing facility, but a beneficiary must require skilled nursing care to be eligible. Since most disabled senior citizens do not require skilled nursing care for more than a relatively brief time, Medicare provides little help in meeting nursing home bills. Because of this and other restrictions, Medicare covers less than two percent of the total number of nursing home care days. Medicare also covers home health services. However, Medicare only covers such services provided 5 days a week for up to 2 or 3 weeks, regardless of an individual's needs. Moreover, Medicare coverage for home health services is restricted to those needing skilled nursing care (or physical therapy, speech therapy, or occupational therapy).

Medicare covers the cost of nursing home care in all states, and contributes approximately forty-two percent of total national nursing home costs. However, Medicaid is never available until the disabled senior citizen is impoverished. Extremely restrictive eligibility rules in many states make it impossible for some seniors to obtain Medicaid even if they are poor or have become impoverished as a result of nursing home expenses. Medicaid rarely covers home care services, and, again, is only available once the senior citizen has been impoverished by the cost of care. While recent legislation provides some additional protection under Medicaid to spouses of individuals who must enter a nursing home, it does not provide any assistance to single seniors, does not apply in all states, and, even where it applies, does not assure that spouses will not suffer a significant loss of income and assets.

Other public programs, such as Title XX and the Older American's Act, provide assistance for home care for some senior citizens, but budgets for such programs are extremely limited in relationship to need, and they do not provide the security of an insurance program.

PRINCIPLES OF LIFECARE

Universal Insurance: Lifecare is a universal social insurance program modeled on the successful example of Medicare and Social Security. All Americans will contribute, and all seniors, disabled children, and disabled adults eligible for Medicare who need services will benefit. There will be no means testing in determining an individual's eligibility for services.

Government Responsibility for Comprehensive Coverage: Only a public long-term care insurance program can assure universality, equity, and reasonable administrative costs. Gaps in government programs can be filled by private insurance, as has happened in Medicare, but such an approach is inherently unsatisfactory. The administrative costs of private insurance are much higher—10 to 40 percent for private Medigap coverage as compared to two to three percent for Medicare—and the lower income elderly, who are least able to pay out-of-pocket for gaps in government coverage, are also least able to buy private coverage to fill the gaps. There would be a role for private insurance to provide additional coverage under Lifecare, but Lifecare is designed so that all essential services will be covered by the program.

Services Based on Need: All seniors and other eligible individuals who need long-term care will be eligible to receive it. The services available to individuals will be based on need for care, as determined by uniform assessment procedures. Both care in a nursing facility and a person's own home will be covered.

Modest Copayments and Deductibles: Copayments and deductibles reduce the demand for care, but experience has shown that they reduce the demand for necessary as well as unnecessary care. Seniors of moderate means would be particularly victimized by copayments and deductibles, because they would be unable to afford them and because the better off would be likely to buy private insurance to cover the cost of copayments and deductibles. This has been the experience under Medicare.

No Increase in the Deficit: Given the current economic situation, any new long-term care insurance program must be self-financing.

DETAILS OF THE LIFECARE PROGRAM

The Lifecare program would provide home and community-based care and nursing home care for the impaired elderly, for disabled children, and for disabled, Medicare-eligible adults under age 65. In addition, adults who would be Medicare-eligible except that they have not been disabled for the required 29 months would be eligible if they suffered from a terminal disease. Lifecare, like Medicare, would be divided into Part A and Part B. Part A would cover home and community-based care and the first six months of nursing home care. Part B would establish an optional public insurance program to cover stays in nursing homes that exceed six months. The bill also creates a number of grant programs to help increase the national capacity to provide high quality long-term care services.

Under the Lifecare program, the Secretary of the Department of Health and Human Services would establish Screening Agencies for each area of a State. A Screening Agency would be responsible for determining the eligibility of individuals residing in its geographic jurisdiction for services covered under both Part A and Part B of the Lifecare program.

The Secretary would contract with the State to establish and administer a Case Management Agency for each area of a state. The Case Management Agency would assume responsibility for providing case management services for persons determined eligible for services by the Screening Agency. Case management services include conducting a comprehensive needs assessment (which includes measures of the person's functional and cognitive impairment, behavioral problems, living arrangement and availability of informal care, and medical problems), developing an eligible person's specific plan of care for either home and community-based services or for nursing home services based on the results of the needs assessment, and coordinating the provision of such services by qualified providers.

HOME AND COMMUNITY-BASED CARE

Persons eligible for home and community-based care are individuals who are determined by a Screening Agency to be either totally dependent in at least one age-appropriate activity of daily living or dependent upon human assistance in at least two age-appropriate activities of daily living, or cognitively impaired enough to require continual supervision.

Qualified providers of home and community-based care include certified home care agencies, home health agencies, adult day health care centers, and other certified or licensed providers of specific services such as registered professional nurses, licensed social workers, physicians, and physical, occupational and speech therapists and other providers approved by the State or the Case Management Agency. All providers of home care services under the Lifecare program would be required to accept payment rates established by the Case Management Agency as payment in full for services and would not be allowed to pass on additional charges to beneficiaries, for services rendered under the plan of care. A beneficiary could, however, purchase additional, optional services out of his or her own pocket at the payment rates established by the Case Management Agency. For example, a family might wish, as a matter of convenience, to provide more hours of chore services than were determined necessary under the plan of care.

Specific home and community-based benefits covered by the Lifecare program include:

Homemaker services;

Home health aide services;

Heavy chore services;

Adult day health care;

Respite care;

Home mobility aides and minor home adaptations;

Nursing care provided by or under the supervision of a registered professional nurse; and

Physical, occupational, or speech therapy.

The Screening Agency would be responsible for allotting an estimated funding level to each person determined eligible for home and community-based services under the Lifecare program. This funding level will be dependent on an individual's severity of need for services, which shall include a measure of physical and cognitive impairment, living arrangement, and age. While the Case Management Agency would be free to modify the budget for a particular individual based on the individual care plan, the total budget for the agency would be fixed and would be based on the aggregate amount established by the screening for all individuals receiving home and community-based care from the Agency. This budgeting method is analogous to the Medicare DRG payment system, which pays hospitals a fixed amount for all individuals with the same diagnosis but recognizes that individuals with the same diagnosis will require different amounts of treatment.

During the first three years of this program, the maximum amount that could be

spent to provide home and community-based services to a particular individual could not exceed 65 percent of the average amount that would be paid for nursing home services under Medicare. In subsequent years, the limit would be established by the Secretary.

FIRST SIX MONTHS OF NURSING HOME CARE

Eligibility for coverage of the first six months of nursing home care would be based on the same age and disability requirements used to determine a person's eligibility for home and community-based care. Nursing home care would only be provided if it were better for the individual than home care and consistent with the beneficiary's preferences.

Qualified providers of nursing home care include nursing facilities that meet the standards for participation in the Lifecare program established by the Secretary.

The Secretary is encouraged to establish a prospective payment system for nursing home services. The Secretary is required to use a methodology that will promote effective and economical provision of high quality services. Nursing homes would be required to accept payment from the Lifecare program as payment in full and would not be allowed to pass on additional charges to beneficiaries for covered services.

PART B INSURANCE PROGRAM TO COVER NURSING HOME STAYS THAT EXCEED SIX MONTHS

All individuals age 45 and over may enroll in the Part B optional insurance program. Individuals may purchase insurance within six months of their 45th or 65th birthday. There will be a separate, lower premium for those enrolling at age 45 than for those enrolling at age 65. Premiums will be set at a level sufficient to finance two-thirds of the cost of the program, with Federal funds contributing one-third of the cost.

To receive benefits under this program, individuals must be enrolled in the insurance program one month prior to admission to a nursing facility. For persons who received coverage for nursing home care under Part A, the Screening Agency would determine eligibility for Part B coverage through a reassessment process. The Screening Agency would determine the activation of benefits for those enrolled persons aged 45-64, through an assessment process similar to that used for determining eligibility for Part A nursing home care.

The insurance program established by Part B would cover 65 percent of the cost of nursing home stays that exceed six months. People who receive Part B coverage would be required to pay for the part of the nursing home bill that represents the cost of room and board, which they would have had to pay if they were living in the community. Accordingly, Part B insurance does not cover 35 percent of the daily nursing home cost. For those lacking sufficient income to pay the 35 percent share, Medicaid would act as a gap-filler. There would also be income-related subsidies for the premium cost for low-income elderly.

STRENGTHENING OF LONG-TERM CARE DELIVERY SYSTEM

Enactment of Lifecare will result in substantially expanding the ability of disabled seniors and other eligible individuals to receive the home care and nursing home services they need. To help expand our society's ability to provide high quality long-term care services, the legislation establishes a number of capacity-building programs. These include:

Training programs for professionals providing nursing home and home and community-based services;

Training programs for home health aides;

Establishment of centers to provide technical assistance to agencies providing or managing home care and to conduct research on long-term care needs and planning methods; and

Programs to develop consumer information programs on long-term care services.

COST OF THE PROGRAM

The annual net cost of the tax-supported portion of the plan at full implementation is estimated to be $20 billion.

PROGRAM FINANCING

Senator Kennedy believes that the most appropriate way to insure disabled citizens against the cost of long-term care would be to eliminate the current $51,300 cap on the amount of income subject to the Medicare and Social Security payroll tax. As currently applied, the Social Security and Medicare taxes are regressive. Since everyone pays the same percentage tax on the first $51,300 dollars of income and nothing thereafter, workers with wages below that ceiling pay a higher proportion of income to finance these programs than individuals with higher incomes. Eliminating the current cap would correct that inequity and generate enough revenues to cover the cost of Lifecare. The substantial amount of excess revenues created by this change could be used for Social Security rate reduction.

ADDITIONAL BACKGROUND

The following tables provide additional background on the long-term care problem.

TABLE 1.—ELDERLY AT FINANCIAL RISK

[Percent of elderly at risk of impoverishment [1] by weeks of either nursing home care or home care [2]]

Living arrangement	26 weeks	52 weeks
Married in institution	34	46
Alone in institution	58	67
Married at home	22	33
Alone at home	48	57

[1] Impoverishment refers to spending down income and financial assets to the Federal poverty level, which for purposes of this analysis was $4,860 for a one person family and $6,540 for a two person family.

[2] For purposes of these estimates, home care means care received 5 days per week.

Source: House Select Committee on Aging.

NUMBER OF DISABLED ELDERLY

[In millions]

Dependency status	Living in nursing home	Living in community
ADL Score		
2 (Mildly impaired)	0.2	0.8
3-4 (Moderately impaired)	.3	.5
5-6 (Severely impaired)	.6	.3
Total number of disabled elderly	1.3	1.6

Source: 1984 National Health Interview Survey and 1982 National Nursing Home Survey, National Center for Health Statistics.

TABLE 3.—DISTRIBUTION OF PATIENTS IN NURSING HOMES

[By expected length of stay]

Length of stay	Number of patients	Percent of patients
Less than 6 months	740,000	63
6 to 12 months	122,000	10
Over 12 months	302,000	27
Total	1,164,000	100

Source: Korbin Liu and Kenneth G. Manton, "The Gerontologist." Volume 24, Number 1, 1984.

TABLE 4.—*Percent of elderly going home from nursing home*

[By length of stay]

Length of stay	*Percent* [1]
Less than 6 months	18.9
6 to 12 months	1.2
Over 12 months	1.7
Total	21.8

[1] Total discharges 1,223,500.

Source: 1985 National Nursing Home Survey, National Center for Health Statistics.

By Mr. SIMON:

S. 2164. A bill to prevent potential abuses of electronic monitoring in the workplace; to the Committee on Labor and Human Resources.

PRIVACY FOR CONSUMERS AND WORKERS ACT

Mr. SIMON. Mr. President, I am today introducing legislation that would outlaw secret monitoring in the workplace.

Most Americans believe that their telephone conversations with private businesses or Government agencies are free from third party surveillance. However, as many as 400 million such calls a year are subject to invasion by snooping supervisors. Telephone companies, insurance firms, direct mail marketers and even Government agencies such as the Internal Revenue Service and the Social Security Administration regularly listen in on calls between their employees and the public.

Countless telephone callers, since they are not aware that an intruder is overhearing what they believe to be a private conversation, are in this way deprived of the right to make fundamental choices about what sensitive information thay are willing to divulge.

For example, a caller could be discussing a claim for an intimate medical matter, such as a case of AIDS, with an insurance company employee. While the AIDS victim is on the line, he does not know that the claims specialist's supervisor is secretly monitoring his call. Similarly, a taxpayer may be talking about a financial problem with an IRS employee. The taxpayer has no idea the conversation is subject to hidden surveillance by another Government official.

It is an unfortunate irony that the Federal Bureau of Investigation is required to obtain a court order to wiretap a telephone, even in cases of national security, but that employers are permitted to spy at will on their own personnel and the public.

Telephone eavesdropping in the workplace not only tramples upon the public's right to privacy but also violates employees' dignity.

Mr. President, in addition to secretly listening in on consumers' telephone calls, businesses and Government agencies are making rampant use of

computers to evaluate employees' job performance.

Demonstrating the magnitude of this intrusive practice, in 1987 the Office of Technology Assessment reported that concealed computer monitoring was being used by employers to evaluate the pay and performance of up to 6 million American office workers.

In the case of clandestine telephone surveillance, employers now use computers as a tool to supplement company supervisors' scrutiny of workers' conversations with customers. The computer is ued to record information about the length of time the employee spends handling a business call and the kinds of transactions the worker carries out during the conversation.

Just as neither the employee nor the customer knows that a supervisor is on the telephone line, similarly neither party to the conversation is aware that a computer is silently collecting information about the content of the call.

Secret electronic surveillance is also used by management as a tool to monitor the output of employees who use video display terminals [VDT's] and other computer equipment to do their assignments.

Monitored employees, whether in telephone conversations with the public or in producing work with computers, must carry out rapid repetitive duties that require rigorous attention to detail executed under the stress of constant supervision and the demand for faster output. In one mail order firm, employee turnover rose to 80 percent after the company instituted covert electronic monitoring of its VDT operators.

In reality, secret monitoring is the merciless electronic whip that drives the fast pace of today's workplace in the service industry.

Most disturbing, concealed monitoring imposes the worst features of old-fashioned factories on today's office workers. Unrestrained surveillance of workers has turned many modern offices into electronic sweatshops.

In assembly-line environments, employees must labor at top speed under a pace set by unwinking computer taskmasters. These machines are ever vigilant. They "watch" every work activity that an employee performs, even counting the number of keystrokes per second that he or she makes.

The computer sets arbitrary work rules and then inexorably tracks the employee to ensure that these standards are being met. Standards are frequently ratcheted up, and evaluations become based on the minute details rather than on the final product or service.

The relentless assault of secret monitoring impels employees to care more about meeting a numerical standard measured by a lifeless computer than about meeting the service needs of a customer.

The result is that for millions of wage earners, the "electronic supervisor" is the new boss in the information age. Workers justifiably complain of dehumanization when companies use computers as surrogates for human supervisors to set standards and evaluate performance.

From a related standpoint, secret surveillance is taking a devastating toll on the occupational safety and health of workers who are subjected to this misguided business policy. Employees who labor under the scrutiny of concealed monitoring suffer high levels of stress-related medical problems such as ulcers, heart disease, fatigue, diabetes and depression.

Mr. President, Americans should not be forced to give up their dignity or sacrifice their health when they go to work. We have occupational safety and health laws to protect workers' bodies. Congress similarly needs to reduce stressful environments and provide justice on the job for workers subjected to secret monitoring.

Prof. Alan F. Westin of Columbia University, an expert on individual rights in the business world, has observed that "Americans are coming to believe that the rights we attach to citizenship in society—free expression, privacy, equality and due process—ought to have their echo in the workplace."

To help achieve that goal, I am today introducing the Privacy for Consumers and Workers Act. This legislation strikes a careful balance between the demands for technological change and the need for citizen protection.

The bill would provide employees for the first time with a right to know when and under what conditions monitoring will take place. The measure would require employers to give workers advance notice of the types of monitoring that will occur and how they will be used.

The bill stipulates that when monitoring is occurring, workers—and, in the case of third-party telephone surveillance, the public—would have to be notified with a beeping tone or other form of contemporaneous communication.

The Privacy for Consumers and Workers Act mandates that monitoring be relevant to job performance. Thus, if employers must monitor, they should monitor the work and not the worker. The bill also prohibits the collection of data pertaining to employees' exercise of their first amendment rights. An additional provision specifies that monitoring cannot be the exclusive basis for performance evaluation or disciplinary action.

Mr. President, Supreme Court Justice Louis Brandeis referred to the right of privacy as "the right to be left alone, the right most valued by a civilized society." My legislation would help preserve this most fundamental of American values in an era of growing use of surveillance technologies at the workplace.

Mr. President, I ask unanimous consent that a description of the bill be printed in the RECORD.

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

PRIVACY FOR CONSUMERS AND WORKERS ACT

NOTICE

The bill requires employers to provide employees with prior written notice of: the forms of electronic monitoring they will be subjected to and the frequency of the monitoring; how to interpret the records or printouts of statistics on the monitoring and how production standards are based on those statistics; what kind of personal data on the employee will be kept, and what the personal data will be used for.

Employers shall provide prospective employees with the notice described above for monitoring activities that may directly affect the prospective employee if hired. Such notice shall be provided at any personal interview or meeting with the prospective employee, or upon the request of the prospective employee.

Employers shall notify employees while the computer or telephone monitoring is taking place. In the case of telephone monitoring, the notice must also be given to the third party or customer being monitored.

Employers shall have 90 days after enactment to provide written notice to existing employees.

PERFORMANCE EVALUATIONS AND DISCIPLINARY ACTION

The employer may not use the computer monitoring data as the exclusive basis for individual performance evaluations or for disciplinary action, unless the employee is allowed to review the personal data within a reasonable amount of time after it is obtained.

PRODUCTION QUOTAS

The data may not be used as the sole basis for setting production quotas.

FIRST AMENDMENT RIGHTS

In addition, the data may not, disclose an employee's exercise of rights guaranteed by the first amendment.

ENFORCEMENT

Violations of the provisions of this act shall be punishable by a civil penalty, not to exceed $10,000.

The Secretary of Labor may bring injunctive action to enforce the provisions of this act.

Employees may bring civil actions in the appropriate court for damages arising from violations of this act.

Rights protected by this act may not be waived.

The Secretary shall have 6 months to issue rules and regulations regarding the enforcement of this act.

CRIMINAL INVESTIGATIONS

The provisions of this Act shall not apply to monitoring conducted by law enforcement agencies as otherwise permitted in criminal investigations.

By Mr. BINGAMAN:

S. 2165. A bill to establish the Glorieta National Battlefield in the State

of New Mexico; to the Committee on Energy and Natural Resources.

GLORIETA NATIONAL BATTLEFIELD

● Mr. BINGAMAN. Mr. President, I rise today to introduce a bill that would designate as a national battlefield the site on which the battle of Glorieta, NM, was fought. This historic site is in need of Federal protection to preserve the historical and cultural values of the area where hundreds of Civil War volunteers and regulars fought bitterly over the questions that divided this Nation into war.

The battle of Glorieta, fought at an important pass on the Santa Fe Trail, marked the turning point of a Confederate drive to occupy and control the New Mexico territory and larger areas of the Southwest beyond Texas. After having passed through the Arizona territory to the south, and traveling along the Rio Grande River, the Confederate force of Texas Mounted Rifle Volunteers was met at Glorieta by a Federal contingent of Colorado and New Mexico volunteers and detachments of U.S. Cavalry regiments.

The Texas volunteers were intent on continuing through the pass and on to the Federal garrison of Fort Union, which was many miles to the northeast. The opposing forces fought to a draw as the Union soldiers fortified and blocked the trail in addition to attacking and burning on 80-wagon supply train which held nearly all of the Confederates' belongings. It was at this point that the Texas volunteers were checked in their progress, turned back to San Antonio where they had begun.

The casualties suffered on both sides were significant, as each sought victory in what was to become a decisive battle. The stakes were becoming increasingly high—nothing less than jurisdiction over the two vast territories of Arizona and New Mexico and the chance to control much more of the West and increase the land holdings of the Confederacy.

Today, much of the actual battlefield is in private hands and parts of it lie under the roadbed of a nearby interstate. A smaller, two-lane road bisects the site. The adobe buildings of Pigeon Ranch, still standing since they were occupied in March of 1862 by both sides in the battle, are without the Federal protection that they badly deserve.

I cannot stress enough, Mr. President, the need to act quickly in this matter, so that the important historical events that transpired there are not forgotten. Increased development activity in the area and the growing popularity of the region make it imperative that these lands and buildings be secured before deterioration renders them valueless.

It is important that generations to come do not forget the history of this great Nation, which includes the battles that we have fought among ourselves. For this reason, Mr. President, I introduce legislation today that would lead to Federal acquisition of the important lands on which this significant battle was fought. Similar legislation is being introduced today in the House of Representatives by Congressman BILL RICHARDSON.

I urge my colleagues to support this important legislation.

Mr. President, I ask unanimous consent that the text of the bill be placed in the RECORD.

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

S. 2165

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Glorieta National Battlefield Establishment Act of 1990".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—the Congress makes the following findings:

(1) The March 26-28, 1862 Civil War battle of Glorieta Pass, New Mexico was the decisive battle of the Civil War in the Far West, which has prompted some historians to label it the "Gettysburg of the West". The consequences of the battle were far reaching.

(2) Following the Confederate defeat at Glorieta Pass, the Confederate grand design to capture the riches and support of the West collapsed as the Confederate forces withdrew from New Mexico and the Rocky Mountains. Except for fighting in eastern Kansas, the Civil War in the West ended at Glorieta Pass.

(3) Although many have made proposals for Government protection of the battlefield sites, the area has not been protected and is subject to a variety of impacts and threats to the integrity of this historic scene.

(b) PURPOSE.—It is the purpose of this Act to recognize the national significant of the Battle of Glorieta and its importance in our Nation's history, and to provide for the preservation and interpretation of the battlefield by establishing the Glorieta National Battlefield.

SEC. 3. ESTABLISHMENT OF THE NATIONAL BATTLEFIELD.

In order to preserve for the benefit and enjoyment of present and future generations, that area in New Mexico known as the Glorieta Battlefield, is hereby established as the Glorieta National Battlefield (referred to as the "national battlefield"). The national battlefield shall include the Pigeon's Ranch and Johnson's Ranch Units comprising approximately seven hundred and fifty three acres as generally depicted on the map entitled "Glorieta National Battlefield", numbered GLNB-80, OOOB and dated February 1990.

SEC. 4. ACQUISITION OF LAND WITHIN THE GLORIETA NATIONAL BATTLEFIELD.

(a) IN GENERAL.—The Secretary is authorized to acquire lands, waters, and interest therein within the boundaries of the Glorieta National Battlefield as identified in section 3 of this Act by donation, purchase with donated or appropriated funds, or exchange.

(b) LIMITS ON CONDEMNATION.—The Secretary's authority to acquire lands through condemnation under subsection (a) is limited to the 121 acres included in the core area of the Pigeon's Ranch Unit. The remaining lands within the boundary of the national battlefield shall be acquired from willing sellers.

(c) TRANSFER.—The 33 acres within the Pigeon's Ranch Unit administered by the United States Forest Service is hereby transferred to the management of the National Park Service to be managed according to the purposes of section 5.

SEC. 5. ADMINISTRATION OF THE PARK.

The Secretary shall administer the national battlefield in accordance with the provisions of this Act and the provisions of law generally applicable to the administration of units of the National Park System, including the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2-4), and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461-7).

SEC. 6. GENERAL MANAGEMENT.

Within two fiscal years from the date funding is made available for the purpose of preparing a general management plan for the national battlefield, the Secretary shall develop and transmit to the Committee on Energy and National Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives, a general management plan for the national battlefield consistent with the purposes of this Act.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

There are hereby authorized to be appropriated such sums as may be necessary for the purposes of this Act.●

By Mr. HATCH (for himself, Mr. DOLE, Mr. THURMOND, and Mr. COATS):

S. 2166. A bill to amend 42 U.S.C. section 1981 in regard to the formation and implementation of contracts and title VII of the Civil Rights Act of 1964 to protect against discrimination in employment, and for other purposes; to the Committee on Labor and Human Resources.

CIVIL RIGHTS PROTECTIONS ACT

Mr. HATCH. Mr. President, today I am introducing a bill prepared and supported by the administration, the Civil Rights Protections Act of 1990. This bill is a measured and fitting response to recent Supreme Court civil rights decisions. It affects two civil rights statutes, section 1981 and title VII.

Section 1981 bans racial discrimination in the making and enforcement of contracts. This bill codifies the Supreme Court's ruling in *Runyon* v. *McCrary*, 427 U.S. 160 (1976), that 42 U.S.C. section 1981 reaches discrimination by private actors. It also ensures that racial discrimination in the performance, terms, and conditions of a contract, including racial harassment, are also prohibited by section 1981. Thus, the bill overturns *Patterson* v. *McLean Credit Union*, 109 S.Ct. 2363 (1989).

Further, this bill provides that, under title VII, an employee may calculate the time within which to challenge the validity of a seniority system alleged to have been adopted for the purpose of discriminating from the date on which the employee suffers injury. This provision overturns *Lorance* v. *AT&T Technologies,* 109 S.Ct. 2261 (1989).

At the same time, this bill does not "jimmy" the rules by which disparate impact lawsuits may be brought under title VII. By leaving the Wards Cove versus Atonio decision undisturbed, it avoids imposing liability under title VII due to mere racial or gender imbalance in a job. It does not disturb at all the proper use of statistics in a disparate impact case, but it avoids their misuse which Justice O'Connor, in her plurality opinion in Watson versus Fort Worth Bank and Trust, said could "lead in practice to perverse results. If quotas and preferential treatment become the only cost-effective means of avoiding expensive litigation and potentially catastrophic liability, such measures will be widely adopted. The prudent employer will be careful to ensure that its programs are discussed in euphemistic terms but will be equally careful to ensure that the quotas are met. Allowing the evolution of disparate impact analysis to lead to this result would be contrary to Congress' clearly expressed intent * * *"

I urge my colleagues to support the Civil Rights Protections Act of 1990 which would provide safeguards against discrimination where a need has been demonstrated.

I ask unanimous consent that at the conclusion of my remarks, a copy of the bill and a section-by-section analysis be printed in the RECORD.

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

S. 2166

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Civil Rights Protections Act of 1990".

SEC. 2. EXPANSION OF PROTECTIONS AGAINST DISCRIMINATION IN THE PROFORMANCE OF CONTRACTS.

Section 1977 of the Revised Statutes of the United States (42 U.S.C. 1981) is amended by inserting at the end thereof the following new language:

"The rights protected by this section are protected against impairment by nongovernmental discrimination as well as against impairment under color of state law. This section affords the same protection against discrimination in the performance, breach, or termination of a contract, or in the setting of the terms or conditions thereof, as it does in the making or enforcement of that contract.".

SEC. 3. EXPANSION OF RIGHT TO CHALLENGE DISCRIMINATORY SENIORITY SYSTEMS.

Section 706(e) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5(e)) is amended by adding at the end thereof the following:

"For purposes of this section, an unlawful employment practice occurs when a seniority system is adopted, when an individual becomes subject to a seniority system, or when a person aggrieved is injured by the application of a seniority system, or provision thereof, that was adopted for an intentionally discriminatory purpose, in violation of this Title, whether or not that discriminatory purpose is apparent on the face of the seniority provision.".

SECTION-BY-SECTION ANALYSIS

Section 1. Short title. This section states that the Act may be referred to as the "Civil Rights Protections Act of 1990".

Section 2. This section codifies the Supreme Court's holding in *Runyon* v. *McCrary*, 427 U.S. 160 (1976), that 42 U.S.C. § 1981 reaches discrimination by private actors. This section also addresses the holding in *Patterson* v. *McLean Credit Union*, ____ U.S. ____, 109 S. Ct. 2363 (1989), (1) that section 1981 only protects against discrimination involving the right to make or the right to enforce contracts, and (2) that on-the-job racial harassment does not impair the right to enforce a contract because the victim has access to legal process to sue for the harassment. This section addresses the holding in Patterson by specifying that section 1981 protects against racial discrimination, not only in the formation and enforcement of a contract but in the performance, breach and termination of a contract, and in the setting of its terms and conditions, as well.

Section 3. This section provides that the calculation of time within which an employee must file a charge challenging the validity of a seniority system alleged to have been discriminatorily adopted or maintained may be measured from the date on which the employee becomes subject to the seniority system or the date on which the employee suffers injury, as well as from the date on which the seniority system is adopted. In *Lorance* v. *AT&T Technologies, Inc.*, ____ U.S. ____, 109 S. Ct. 2261 (1989), the Supreme Court construed section 706(e) of the Civil Rights Act of 1964, 42 U.S.C. § 2000e-5(e), as requiring any employee potentially affected by the adoption of a new seniority system to sue within a certain period of time after the date on which the new seniority system is adopted, even though at that point the employee has not yet suffered and may never suffer any actual injury. Under section 706(e) as this section would amend it, while the date on which the new seniority system is adopted and the date on which an employee becomes subject to the seniority system would trigger the time for filing a charge, so would subsequent applications of the seniority system to the employee.

42 U.S.C. 1981 AS AMENDED TO ADDRESS PATTERSON

42 U.S.C. § 1981 [R.S. § 1977]. Equal rights under law.

All persons within the jurisdiction of the United States shall have the same right in every State and Territory to make and enforce contracts, to sue, be parties, give evidence, and to the full and equal benefit of all laws and proceedings for the security of persons and property as is enjoyed by white citizens, and shall be subject to like punishment, pains, penalties, taxes, licenses, and exactions of every kind, and to no other. The rights protected by this section are protected against impairment by nongovernmental discrimination as well as against impairment under color of state law. This section affords the same protection against discrimination in the performance, breach, or termination of a contract, or in the setting of the terms or conditions thereof, as it does in the making or enforcement of that contract.

42 U.S.C. 2000E-5(E) AS AMENDED TO ADDRESS LORANCE

§ 2000e-5(e) [Section 706(e) of Title VII]

A charge under this section shall be filed within one hundred and eighty days after the alleged unlawful employment practice occurred and notice of the charge (including the date, place, and circumstances of the alleged unlawful employment practice) shall be served upon the person against whom such charge is made within ten days thereafter, except that in a case of an unlawful employment practice with respect to which the person aggrieved as initially instituted proceedings with a State or local agency with authority to grant or seek relief from such practice or to institute criminal proceedings with respect thereto upon receiving notice thereof, such charge shall be filed by or on behalf of the person aggrieved within three hundred days after the alleged unlawful employment practice occurred, or within thirty days after receiving notice that the State or local agency has terminated the proceedings under the State or local law, whichever is earlier, and a copy of such charges shall be filed by the Commission with the State or local agency. For purposes of this section, an alleged unlawful employment practice occurs when a seniority system is adopted, when an individual becomes subject to a seniority system, or when a person aggrieved is injured by the application of a seniority system, or provision thereof, that is alleged to have been adopted for an intentionally discriminatory purpose, in violation of this Title, whether or not that discriminatory purpose is apparent on the face of the seniority provision.

Mr. DOLE. Mr. President, I join today with my distinguished colleagues, Senators HATCH, THURMOND, and COATS, in introducing the Civil Rights Protections Act of 1990.

During the past several months, the Justice Department has conducted a review of several recent, and fairly controversial, Supreme Court decisions involving civil rights policy and the proper interpretation of our Nation's civil rights laws. The Justice Department has also been carefully monitoring the practical, real-life effects of these decisions on the ability of prospective plaintiffs to bring discrimination lawsuits.

As a result of its efforts, the Justice Department has prepared remedial legislation to correct two of the Supreme Court decisions—Patterson versus McLean Credit Union and Lorance versus AT&T Technologies. Although these rulings may have been correct as a matter of statutory construction, the Justice Department believes—and I agree—that legislation is needed to ensure that the underlying purposes of our Federal civil rights laws are not needlessly frustrated.

Let me briefly describe the rulings in both cases and explain why I believe that this legislation is important.

PATTERSON VERSUS MC LEAN CREDIT UNION

Section 1981 of title 42 of the United States Code, a statute enacted in 1866 during the reconstruction ERA, prohibits discrimination in the "making and enforcing" of contracts.

In Patterson, the Supreme Court ruled that section 1981 applies only to discrimination occurring at the time of a contract's formation and not during the contract's performance. Under this restrictive interpretation of section 1981, a person who suffers racial harassment while on the job could not seek section 1981 remedies.

The Civil Rights Protection Act would amend section 1981 so that section 1981 covers discrimination not only when a contract is formed, but all stages of a contract's performance. As a result, someone who suffers on-the-job discrimination would be able to avail himself of section 1981's damages provision, a remedy not contained in the other Federal law prohibiting employment discrimination—title VII of the Civil Rights Act of 1964.

LORANCE VERSUS AT&T TECHNOLOGIES

In Lorance, the Supreme Court ruled that title VII requires that an employee who wishes to challenge a discriminatory seniority plan must challenge the seniority plan at the time of its adoption.

This ruling may have been correct as a matter of statutory construction, but it is simply unfair to require an employee to challenge a seniority plan before the plan actually applies to him or her. None of us are mind-readers, nor can we predict the future. Furthermore, the Court's restrictive interpretation of title VII in Lorance will encourage speculative litigation, since employees are likely to challenge seniority plans immediately at the time of adoption out of a fear that they will be precluded from challenging these plans at a later date.

ROOM FOR REFORM

I know that Senator KENNEDY and others have introduced legislation, the Civil Rights Act of 1990, that overturns not only Patterson and Lorance, but also three other recent Supreme Court decisions—Martin versus Wilks, Wards Cove versus Atonio, and Price Waterhouse versus Hopkins. At this time, I am not convinced that these three decisions were wrongly decided nor am I convinced that the principles underlying these decisions are invalid.

Nevertheless, I look forward to the upcoming Labor Committee hearings on the Civil Rights Act of 1990 and to reviewing the testimony that will be presented at these hearings. After my review, I will determine whether remedial legislation to correct the perceived deficiencies of Martin versus Wilks, Wards Cove, and Price Waterhouse is, in fact, needed.

CONCLUSION

Mr. President, the Civil Rights Protections Act of 1990 is prudent and responsible legislation. It responds to specific, identifiable problems created by two recent Supreme Court decisions and responds in a way that is carefully targeted to address these problems.

As a result, I urge my colleagues to support this bill, and I urge its speedy passage by Congress.

By Mr. McCAIN (for himself, Mr. INOUYE, Mr. DASCHLE, Mr. CONRAD, Mr. BURDICK, Mr. MURKOWSKI, Mr. DECONCINI, and Mr. GORTON):

S. 2167. A bill to reauthorize the Tribally Controlled Community College Assistance Act of 1978 and the Navajo Community College Act; to the Select Committee of Indian Affairs.

REAUTHORIZATION OF TRIBALLY CONTROLLED COMMUNITY COLLEGES

● Mr. McCAIN. Mr. President, I rise today to introduce a bill to extend the authorization for funding of the Navajo Community College and other tribally controlled colleges and for their endowment program.

In introducing this bill I am pleased to be joined by Senators INOUYE, DASCHLE, CONRAD, BURDICK, MURKOWSKI, DECONCINI, and GORTON. I look forward to working closely with them as we consider this legislation.

The authorization would extend through 1992, consistent with the request of the tribal colleges, at which time a comprehensive review of the authorizing legislation would be conducted.

Even though my bill is a simple reauthorization, I want to use this occasion to inform my colleagues of what these colleges are, and why they are of such importance to American Indians and to higher education generally.

The 24 tribally controlled community colleges are located in 10 Midwestern and Western States, and all but two are located on Indian reservations. Sixteen of the colleges are in Montana, North Dakota, and South Dakota; the others are in Arizona, California, Michigan, Nebraska, New Mexico, Washington, and Wisconsin.

The largest of the colleges, with an enrollment approaching 2,000 this year, is the Navajo Community College, in my home State of Arizona. This college was also the first to be established; it was created by the Navajo Nation upon its own initiative in 1968.

These community colleges were established to meet needs of American Indians that were not being met by other institutions of higher education. These colleges reflect the cultures and the aspirations of the tribes that govern them; their curriculums may include Indian cultures and languages, as well as the curriculums found in other community colleges; they provide supportive learning environments to students whose previous instruction may have been deficient; and their reservation settings make higher education accessible and encourage continued learning by young and old alike.

And what these colleges do, they do well. Their graduates go on to jobs or to 4-year schools. And those who enter 4-year schools are less likely to drop out than those who have not had the tribal college experience.

The success tribal colleges have achieved has been achieved despite inadequate funding and facilities which are often poor. Congressional authorization of $5,280 per student has not been matched by appropriations, I regret to say.

I commend my colleagues, however, for the support you gave to an increase in the fiscal year 1990 budget. For each student, the tribal college will receive about $2,300 this year.

I am hopeful that we will be able to further increase the funding for tribal colleges this year, perhaps, in part, through the congressionally-authorized tribal college endowment fund. I applaud President Bush for proposing a tripling of the endowment program for historically black colleges and universities, and I look forward to working with him to obtain a substantial increase in the endowment program for tribally-controlled community colleges.

My colleague from North Dakota, Senator CONRAD, will soon be introducing a bill to enlarge the community college endowment program, and I have told him that I will be pleased to join him in sponsoring that bill.

Mr. President, the tribally-controlled community colleges of this Nation have been for too long but little noticed for the important roles they play in affording higher education opportunities to American Indians. Late last year, however, they gained new visibility with the publication of "Tribal College: Shaping the Future of Native America," the product of a 2-year study conducted by the Carnegie Foundation for the Advancement of Teaching.

This publication describes the richness of the tribal college experience for students and for the communities they serve, and the poverty of their resources. Its action plan looks to private sources of funding, as well as to the Congress, to strengthen the abilities of the colleges to serve Indian people and communities as they ought to be served.

The Carnegie report also looks to the promise of the tribal colleges, saying, "They can, with adequate support, continue to open doors of opportunity to the coming generations and help Native American communities

bring together a cohesive society, one that draws inspiration from the past in order to shape a creative, inspired vision of the future."

Mr. President, I ask that a copy of my bill and the section-by-section analysis be printed in the CONGRESSIONAL RECORD immediately following my remarks.

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

S. 2167

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TRIBALLY CONTROLLED COMMUNITY COLLEGES.

(a) GRANT PROGRAMS.—Subsection (a) of section 110 of the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1810(a)) is amended by striking out "1987, 1988, 1989, and 1990" each place it appears and inserting in lieu thereof "1990, 1991, and 1992".

(b) ENDOWMENT PROGRAM.—Section 306 of the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1836) is amended by striking out "1987, 1988, 1989, and 1990" and inserting in lieu thereof "1990, 1991, and 1992".

SEC. 2 NAVAJO COMMUNITY COLLEGE.

Paragraph (1) of section 5(a) of the Navajo Community College Act (25 U.S.C. 640c-1) is amended by striking out "1987, 1988, 1989, and 1990" and inserting in lieu thereof "1990, 1991, and 1992".

SECTION-BY-SECTION ANALYSIS OF A BILL REAUTHORIZING APPROPRIATIONS FOR TRIBALLY-CONTROLLED COMMUNITY COLLEGES

Section 1(a) authorizes appropriations for grants to tribally-controlled community colleges for two additional years, through fiscal year 1992.

Section 1(b) authorizes appropriations for the endowment program for tribally-controlled community colleges for two additional years, through fiscal year 1992.

Section 2 authorizes appropriations for the Navajo Community College for two additional years, through fiscal year 1992.●

ADDITIONAL CONSPONSORS

S. 513

At the request of Ms. MIKULSKI, the names of the Senator from Vermont [Mr. LEAHY] and the Senator from Massachusetts [Mr. KERRY] were added as cosponsors of S. 513, a bill to amend chapters 83 and 84 of title 5, United States Code, to extend certain retirement provisions of such chapters which are applicable to law enforcement officers to inspectors of the Immigration and Naturalization Service, inspectors and canine enforcement officers of the U.S. Customs Service, and revenue officers of the Internal Revenue Service.

S. 565

At the request of Mr. CRANSTON, the name of the Senator from Tennessee [Mr. GORE] was added as a cosponsor of S. 565, a bill to authorize a new corporation to support State and local strategies for achieving more affordable housing; to increase homeownership; and for other purposes.

S. 566

At the request of Mr. CRANSTON, the name of the Senator from Tennessee [Mr. GORE] was added as a cosponsor of S. 566, a bill to authorize a new corporation to support State and local stategies for achieving more affordable housing, to increase home ownership, and for other purposes.

S. 675

At the request of Mr. CRANSTON, the name of the Senator from Wisconsin [Mr. KOHL] was added as a cosponsor of S. 675, a bill to eliminate discriminatory barriers to voter registration, and for other purposes.

S. 1349

At the request of Mr. PRYOR, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of S. 1349, a bill to amend the Internal Revenue Code of 1986 to exclude small transactions and to make certain clarifications relating to broker reporting requirements.

S. 1515

At the request of Mr. MITCHELL, the name of the Senator from Idaho [Mr. SYMMS] was added as a cosponsor of S. 1515, a bill to amend the Internal Revenue Code of 1986 to permit private foundations and community foundations to establish tax-exempt cooperative service organizations.

S. 1629

At the request of Mr. SPECTER, the name of the Senator from Washington [Mr. ADAMS] was added as a cosponsor of S. 1629, a bill to establish clearly a Federal right of action by aliens and U.S. citizens against persons engaging in torture or extrajudicial killings, and for other purposes.

S. 1766

At the request of Mr. DANFORTH, the name of the Senator from Arizona [Mr. MCCAIN] was added as a cosponsor of S. 1766, a bill to amend titles XVIII and XIX of the Social Security Act to require providers of services under such titles to enter into agreements assuring that individuals receiving services from such providers will be provided an opportunity to participate in and direct health care decisions affecting such individuals.

S. 1832

At the request of Mr. LAUTENBERG, the name of the Senator from Michigan [Mr. LEVIN] was added as a cosponsor of S. 1832, a bill to amend and reauthorize the Public Housing Drug Elimination Act of 1988.

S. 1853

At the request of Mr. CHAFEE, the names of the Senator from Florida [Mr. GRAHAM], the Senator from West Virginia [Mr. ROCKEFELLER], and the Senator from Louisiana [Mr. JOHNSTON] were added as cosponsors of S. 1853, a bill to award a Congressional Gold Medal to Laurence Spelman Rockefeller.

S. 1890

At the request of Mr. THURMOND, the name of the Senator from Utah [Mr. GARN] was added as a cosponsor of S. 1890, a bill to amend title 5, United States Code, to provide relief from certain inequities remaining in the crediting of National Guard technician service in connection with civil service retirement, and for other purposes.

S. 2051

At the request of Mr. HELFLIN, the name of the Senator from North Carolina [Mr. HELMS] was added as a cosponsor of S. 2051, a bill to amend the Social Security Act to provide for more flexible billing arrangements in situations where physicians in the solo practice of medicine or in another group practice have arrangements with colleagues to "cover" their practice on an occasional basis.

S. 2158

At the request of Mr. PRYOR, the names of the Senator from Nevada [Mr. REID] and the Senator from New Jersey [Mr. BRADLEY] were added as cosponsors of S. 2158, a bill to direct the Secretary of Health and Human Services to promulgate regulations to require that an individual telephoning the Social Security Administration has the option of accessing a Social Security Administration representative in a field office in the geographical area of such individual, and for other purposes.

SENATE JOINT RESOLUTION 48

At the request of Mr. HOLLINGS, the name of the Senator from Nevada [Mr. REID] was added as a cosponsor of Senate Joint Resolution 48, a joint resolution proposing an amendment to the Constitution of the United States relative to contributions and expenditures intended to affect congressional and Presidential elections.

SENATE JOINT RESOLUTION 212

At the request of Mr. METZENBAUM, his name was withdrawn as a cosponsor of Senate Joint Resolution 212, a joint resolution designating April 24, 1990, as "National Day of Remembrance of the Seventy-Fifth Anniversary of the Armenian Genocide of 1915-1923."

SENATE JOINT RESOLUTION 229

At the request of Mr. CRANSTON, the names of the Senator from Arizona [Mr. DECONCINI], the Senator from Louisiana [Mr. JOHNSTON], and the Senator from Maine [Mr. MITCHELL] were added as cosponsors of Senate Joint Resolution 229, a joint resolution to designate April 1990, as "National Prevent-A-Litter Month."

SENATE JOINT RESOLUTION 235

At the request of Mr. HUMPHREY, the name of the Senator from Wisconsin [Mr. KOHL] was added as a cosponsor of Senate Joint Resolution 235, a joint

resolution proposing a constitutional amendment to limit congressional terms.

SENATE JOINT RESOLUTION 236

At the request of Mr. WILSON, the names of the Senator from Utah [Mr. HATCH], the Senator from Iowa [Mr. GRASSLEY], the Senator from Louisiana [Mr. BREAUX], and the Senator from Michigan [Mr. RIEGLE] were added as cosponsors of Senate Joint Resolution 236, a joint resolution designating May 6 through 12, 1990, as "Be Kind to Animals and National Pet Week."

SENATE JOINT RESOLUTION 238

At the request of Mr. SARBANES, the name of the Senator from Tennessee [Mr. SASSER] was added as a cosponsor of Senate Joint Resolution 238, a joint resolution to designate the week beginning March 5, 1990, as "Federal Employees Recognition Week."

SENATE JOINT RESOLUTION 243

At the request of Mr. LAUTENBERG, the name of the Senator from South Dakota [Mr. DASCHLE] was added as a cosponsor of Senate Joint Resolution 243, a joint resolution to designate March 25, 1990, as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy."

SENATE JOINT RESOLUTION 255

At the request of Mr. PRYOR, the names of the Senator from New Hampshire [Mr. HUMPHREY], the Senator from Maine [Mr. MITCHELL], and the Senator from Idaho [Mr. SYMMS] were added as cosponsors of Senate Joint Resolution 255, a joint resolution designating the 1990 filing season, to be celebrated as the "20th Anniversary of the IRS-Sponsored Volunteer Programs Season."

SENATE JOINT RESOLUTION 257

At the request of Mr. BIDEN, the names of the Senator from North Dakota [Mr. BURDICK], the Senator from Arizona [Mr. DECONCINI], the Senator from Alabama [Mr. HEFLIN], the Senator from Hawaii [Mr. INOUYE], the Senator from Indiana [Mr. LUGAR], and the Senator from Ohio [Mr. METZENBAUM] were added as cosponsors of Senate Joint Resolution 257, a joint resolution to designate March 10, 1990, as "Harriet Tubman Day."

SENATE CONCURRENT RESOLUTION 88

At the request of Mr. GRAHAM, the names of the Senator from North Carolina [Mr. SANFORD], the Senator from Wyoming [Mr. SIMPSON], the Senator from Virginia [Mr. ROBB], the Senator from Massachusetts [Mr. KERRY], and the Senator from Alabama [Mr. HEFLIN] were added as cosponsors of Senate Concurrent Resolution 88, a concurrent resolution expressing the sense of the Congress that a postage stamp should be issued in honor of Claude Denson Pepper.

SENATE CONCURRENT RESOLUTION 91

At the request of Mr. HATFIELD, the name of the Senator from South Dakota [Mr. DASCHLE] was added as a cosponsor of Senate Concurrent Resolution 91, a concurrent resolution expressing the sense of the Congress with respect to achieving common security in the world by reducing reliance on the military and redirecting resources toward overcoming hunger and poverty and meeting basic human needs.

SENATE RESOLUTION 239

At the request of Mr. DECONCINI, the name of the Senator from Washington [Mr. GORTON] was added as a cosponsor of Senate Resolution 239, a resolution expressing the sense of the Senate denouncing the military offensive in Angola and urging an immediate ceasefire.

SENATE RESOLUTION 245

At the request of Mr. LUGAR, the name of the Senator from North Carolina [Mr. HELMS] was added as a cosponsor of Senate Resolution 245, a resolution designating National Employee Health and Fitness Day.

SENATE CONCURRENT RESOLUTION 94—RELATING TO THE RELEASE OF NELSON MANDELA AND OTHER POSITIVE DEVELOPMENTS IN SOUTH AFRICA

Mr. SIMON (for himself, Mr. CRANSTON, Mrs. KASSEBAUM, Mr. KENNEDY, Mr. BOREN, Mr. GORE, Mr. MCCONNELL, Mr. SANFORD, Mr. JEFFORDS, Mr. PELL, Mr. LUGAR, Mr. SPECTER, Mr. LEVIN, and Mr. BOSCHWITZ) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 94

Whereas tremendous sacrifices have been made by the anti-apartheid movement in South Africa, including Nelson Mandela, Walter Sisulu, and other imprisoned black leaders, throughout this century;

Whereas the release of long-term political prisoners and other reforms announced by the Government of South Africa in recent months represent significant victories for these leaders and the cause of justice;

Whereas South African President F.W. de Klerk released Nelson Mandela, after 27 years of imprisonment, and unbanned the African National Congress and other political organizations;

Whereas President de Klerk has taken other steps to promote a climate conducive to dialogue and negotiations within South Africa, including permitting a number of peaceful protests and calling for the repeal of the Separate Amenities Act, the relaxation of some emergency regulations and a moratorium on executions;

Whereas Nelson Mandela, Walter Sisulu, and other black leaders recently released from prison have committed themselves to negotiations for a peaceful end to apartheid and the establishment of a nonracial democracy in South Africa;

Whereas United States and international sanctions have strengthened the courageous efforts of anti-apartheid forces in South Africa to promote peaceful change; and

Whereas the Group Areas Act, the Population Registration Act, and other legislative pillars of apartheid remain firmly in place and many political prisoners continue to be incarcerated: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress—

(1) welcomes the positive political changes in South Africa;

(2) commends President de Klerk for the courageous actions he has taken, particularly the release of Nelson Mandela and the unbanning of the African National Congress and other political organizations;

(3) urges President de Klerk to initiate the real dismantling of the apartheid system, to move rapidly to meet the conditions necessary for the opening of negotiations, and to meet the terms of the Comprehensive Anti-Apartheid Act of 1986 for the relaxation of sanctions;

(4) commends Nelson Mandela, Walter Sisulu, and other representatives of the black majority for their courageous perseverance in the struggle for a nonracial democracy and urges them to continue to facilitate the climate for negotiations;

(5) remains committed to the maintenance of sanctions against the Government of South Africa until the requisite conditions of the Comprehensive Anti-Apartheid Act of 1986 for the suspension, modification or termination of sanctions have been met;

(6) will support the suspension or modification of one or more sanctions or the termination of sanctions as soon as the conditions of the Comprehensive Anti-Apartheid Act of 1986 are met; and

(7) continues to regard assistance to the victims of apartheid as an important and necessary complement to U.S. sanctions.

Mr. SIMON. This past Sunday I had the indescribable privilege of speaking with Mr. Nelson Mandela over the telephone. It was a thrilling moment to speak to a man who has committed his life to bringing justice in South Africa and who is so respected and loved by people all over the world. His release is a transforming event.

Today, I am introducing a resolution on South Africa and am joined by my colleagues Senators CRANSTON, KASSEBAUM, KENNEDY, MCCONNELL, BOREN, GORE, SANFORD, JEFFORDS, SPECTER, LEVIN, and BOSCHWITZ. It recognizes the positive, concrete steps taken by President de Klerk to help create a climate for negotiations in South Africa. And although it was long overdue, President de Klerk took an important step in releasing Nelson Mandela. The tone and direction President de Klerk is taking is one that the African National Congress and other antiapartheid activitists have long been working for. And I hope that in the next few weeks, President de Klerk will lift the state of emergency, release more political prisoners, and continue to take other critical steps.

Our resolution recognizes the courage and perseverance of Nelson Mandela, Walter Sisulu, and other leaders. Nelson Mandela has made it abun-

dantly clear that he is committed to a peaceful solution.

While we are mindful of the real progress being made in South Africa, we also recognize that it is only the beginning. The call from some quarters for suspending or modifying sanctions is premature. The Comprehensive Anti-Apartheid Act of 1986 provides two sets of criteria, one for complete termination of sanctions, the other for suspension or modification of sanctions.

Briefly, for termination, these five conditions must be met:

First, release of all political prisoners, including Nelson Mandela;

Second, repeal of the nationwide state of emergency and release of all detainees;

Third, unbanning of political groups and allowing for freedom of political expression;

Fourth, repeal of the Group Areas Act and the Population Registration Act; and

Fifth, agreement to enter into good faith negotiations with truly representative members of the black majority without preconditions.

For suspension or modification of sanctions, the South African government must meet four of the five conditions, and demonstrate "substantial progress toward dismantling the system of apartheid and establishing a nonracial democracy."

In my view the first condition includes all those detained without charge and sentenced or currently prosecuted for "security" offenses motivated by political resistance to apartheid as well as those prosecuted or sentenced for offenses committed during anti-apartheid protests.

Their third condition refers to basic political freedoms, such as political expression, publication, assembly, association and movement (including the return of exiles), and freedom from violence and intimidation by the military, police, and vigilante forces.

The substantial progress on dismantling apartheid and establishing a nonracial democracy condition involves repealing some of the legislative pillars of apartheid and demonstrating a willingness to abandon the concept of group rights as a means of protecting individual rights and to establish a political system based on the fundamental democratic principle of majority rule and the need to protect individual rights.

Inevitably, there may be differences of opinion between the Congress and the administration on when sanctions might be modified or suspended. At the appropriate time I am willing to work closely with the administration to ensure that we are in agreement on the progress that we need to see before we can begin to consider any suspension or modification of sanctions. We will soon have a meeting with Secretary of State Baker to continue our ongoing dialog with the administration.

When the South African Government released Nelson Mandela, it also unleashed hopes there and around the world that an end to institutional injustice in South Africa might soon be in sight. Nelson Mandela's release has the potential to be the most important transforming even in the long, sad history of apartheid. It is too soon to know if we're seeing the light at the end of the tunnel.

Democratization is sweeping other regions of the world. Our hope is that fundamental change will come also to South Africa. The policy of the United States, as stated in the sanctions act, has helped bring us to this juncture and our role has been significant. We will continue the United States role in helping to foster the climate for continuing progress. This resolution begins to more clearly define that role.

When we passed the Comprehensive Anti-Apartheid Act of 1986, we took a solid, bipartisan stand in favor of bringing justice to South Africa. That stand has made a difference in South Africa. Our stand supported those fighting against aparthied and helped to persuade those who wanted to maintain it to take steps to change it. I hope that the significant, positive movement in South Africa will continue.

Mr. Nelson Mandela and President de Klerk have delivered important speeches in the past week and a half. I recommend them to my colleagues, and I ask unanimous consent that the speeches be printed in the RECORD.

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

[From the New York Times, Feb. 12, 1990]

TRANSCRIPT OF MANDELA'S SPEECH AT CAPE TOWN CITY HALL: "AFRICA IT IS OURS!"

(Following is a transcript of the address at Cape Town City Hall yesterday by Nelson Mandela, as recorded by The New York Times through the facilities of Cable News Network. Portions of the speech were delivered in Xhosa, one of the major languages spoken by black South Africans.)

Amandla! Amandla! i-Afrika, mayibuye! [Power! Power! Africa it is ours!]

My friends, comrades and fellow South Africans, I greet you all in the name of peace, democracy and freedom for all. I stand here before you not as a prophet but as a humble servant of you, the people.

Your tireless and heroic sacrifices have made it possible for me to be here today. I therefore place the remaining years of my life in your hands.

On this day of my release, I extend my sincere and warmest gratitude to the millions of my compatriots and those in every corner of the globe who have campaigned tirelessly for my release.

I extend special greetings to the people of Cape Town, the city to which, which has been my home for three decades. Your mass marches and other forms of struggle have served as a constant source of strength to all political prisoners.

I salute the African National Congress. It has fulfilled our every expectation in its role as leader of the great march to freedom.

I salute our president, Comrade Oliver Tambo, for leading the A.N.C. even under the most difficult circumstances.

I salute the rank-and-file members of the A.N.C. You have sacrificed life and limb in the pursuit of the noble cause of our struggle.

LEADER'S SALUTATIONS

I salute combatants of Umkonio We Sizwe [Spear of the Nation], like Solomon Malhangu and Ashley Kriel, who have paid the ultimate price for the freedom of all South Africans.

I salute the South African Communist Party for its steady contribution to the struggle for democracy. You have survived 40 years of unrelenting persecution. The memory of great Communists like Moses Kotane, Yusuf Dacoo, Bram Fischer and Moses Madidha will cherished for generations to come.

I salute General Secretary Joe Slovo, one of our finest patriots. We are heartened by the fact that the alliance between ourselves and the party remains as strong as it always was.

I salute the United Democratic Front, the National Education Crisis Committee, the South African Youth Congress, the Transvaal and Natal Indian Congresses. And Costau. And the many other formations of the mass democratic movement.

I also salute the Black Sash and the National Union of South African Students. We note with pride that you have acted as the conscience of white South Africans. Even during the darkest days in the history of our struggle, you held the flag of liberty high. The large-scale mass mobilization of the past few years is one of the key factors which led to the opening of the final chapter of our struggle.

I extend my greetings to the working class of our country. Your organized stance is the pride of our movement. You remain the most dependable force in the struggle to end exploitation and oppression.

TRIBUTES TO CAMPAIGNERS

I pay tribute—I pay tribute to the many religious communities who carried the campaign for justice forward when the organizations of our people were silenced.

I greet the traditional leaders of our country. Many among you continue to walk in the footsteps of great heroes like Hintsa and Sekhukhuni.

I pay tribute to the endless heroes of youth. You, the young lions. You the young lions have energized our entire struggle.

I pay tribute to the mothers and wives and sisters of our nation. You are the rock-hard foundation of our struggle. Apartheid has inflicted more pain on you than on anyone else. On this occasion, we thank the world—we thank the world community for their great contribution to the anti-apartheid struggle. Without your support our struggle would not have reached this advanced stage.

The sacrifice of the front-line states will be remembered by South Africans forever.

My salutations will be incomplete without expressing my deep appreciation for the strength given to me during my long and lonely years in prison by my beloved wife and family.

I am convinced that your pain and suffering was far greater than my own.

NEED FOR ARMED STRUGGLE

Before I go any further, I wish to make the point that I intend making only a few preliminary comments at this stage. I will make a more complete statement only after I have had the opportunity to consult with my comrades.

Today the majority of South Africans, black and white, recognize that apartheid has no future. It has to be ended by our own decisive mass actions in order to build peace and security. The mass campaigns of defiance and other actions of our organizations and people can only culminate in the establishment of democracy.

The apartheid destruction on our subcontinent is incalculable. The fabric of family life of millions of my people has been shattered. Millions are homeless and unemployed.

Our economy—our economy lies in ruins and our people are embroiled in political strife. Our resort to the armed struggle in 1960 with the formation of the military wing of the A.N.C., Umkonto We Sizwe, was a purely defensive action against the violence of apartheid.

The factors which necessitated the armed struggle still exist today. We have no option but to continue. We express the hope that a climate conducive to a negotiated settlement would be created soon so that there may no longer be the need for the armed struggle.

I am a loyal and disciplined member of the African National Congress. I am, therefore, in full agreement with all of its objectives, strategies and tactics.

DEMOCRATIC PRACTICE

The need to unite the people of our country is as important a task now as it always has been. No individual leader is able to take all these enormous tasks on his own. It is our task as leaders to place our views before our organization and to allow the democratic structures to decide on the way forward.

On the question of democratic practice, I feel duty bound to make the point that a leader of the movement is a person who has been democratically elected at a national conference. This is a principle which must be upheld without any exceptions.

Today, I wish to report to you that my talks with the Government have been aimed at normalizing the political situation in the country. We have not as yet begun discussing the basic demands of the struggle.

I wish to stress that I myself had at no time entered into negotiations about the future of our country, except to insist on a meeting between the A.N.C. and the Government.

Mr. de Klerk has gone further than any other Nationalist president in taking real steps to normalize the situation. However, there are further steps as outlined in the Harare Declaration that have to be met before negotiations on the basic demands of our people can begin.

I reiterate our call for inter alia the immediate ending of the state of emergency and the freeing of all, and not only some, political prisoners.

A DECISIVE MOMENT

Only such a normalized situation which allows for free political activity can allow us to consult our people in order to obtain a mandate. The people need to be consulted on who will negotiate and on the content of such negotiations.

Negotiations cannot take place—negotiations cannot take up a place above the heads or behind the backs of our people. It is our belief that the future of our country can only be determined by a body which is democratically elected on a nonracial basis.

Negotiations on the dismantling of apartheid will have to address the overwhelming demand of our people for a democratic nonracial and unitary South Africa. There must be an end to white monopoly on political power.

And a fundamental restructuring of our political and economic systems to insure that the inequalities of apartheid are addressed and our society thoroughly democratized.

It must be added that Mr. de Klerk himself is a man of integrity who is acutely aware of the dangers of a public figure not honoring his undertakings. But as an organization, we base our policy and strategy on the harsh reality we are faced with, and this reality is that we are still suffering under the policies of the Nationalist Government.

Our struggle has reached a decisive moment. We call on our people to seize this moment so that the process toward democracy is rapid and uninterrupted. We have waited too long for our freedom. We can no longer wait. Now is the time to intensify the struggle on all fronts.

UNIVERSAL SUFFRAGE

To relax our efforts now would be a mistake which generations to come will not be able to forgive. The sight of freedom looming on the horizon, should encourage us to redouble our efforts. It is only through disciplined mass action that our victory can be assured.

We call on our white compatriots to join us in the shaping of a new South Africa. The freedom movement is the political home for you, too. We call on the international community to continue the campaign to isolate the apartheid regime.

To lift sanctions now would be to run the risk of aborting the process toward the complete eradication of apartheid. Our march to freedom is irreversible. We must not allow fear to stand in our way.

Universal suffrage on a common voters roll in a united democratic and nonracial South Africa is the only way to peace and racial harmony.

In conclusion, I wish to go to my own words during my trial in 1964. They are as true today as they were then. I wrote: I have fought against white domination, and I have fought against black domination. I have cherished the idea of a democratic and free society in which all persons live together in harmony and with equal opportunities.

It is an ideal which I hope to live for and to achieve. But if needs be, it is an ideal for which I am prepared to die.

[The following portion was delivered in Xhosa. The translation was provided by Mbulelo Mzamane, a professor of Comparative Literature at the University of Georgia.]

My friends, I have no words of eloquence to offer today except to say that the remaining days of my life are in your hands.

[He continued in English.] I hope you will disperse with discipline. And not a single one of you should do anything which will make other people to say that we can't control our own people.

NELSON MANDELA ADDRESSES SOWETO RALLY, FEBRUARY 1, 1990

[Text] [Words indistinct] unable to do so [words indistinct] that it is not worthwhile to (?compete with) [words indistinct]. I appeal to you, therefore, as my comrade Walter [Sisulu] has done, for discipline. It is discipline and loyalty to our principles that will liberate us, and I have not the slightest doubt that you are capable of behaving like people who are ready to make your contribution to the solution of the problems that are facing us, and also to address the greater question of the new society we want to establish.

Comrades, friends, and people of Soweto at large: I greet you in the name of the heroic struggle of our people to establish justice and freedom for all in our country. I salute our president, Comrade Oliver Tambo, for his leadership of the ANC [African National Congress] that has put our organization and the hopes of the people it represents on the political center stage in South Africa.

I salute our rank-and-file members and combatants of the ANC who have sacrificed all for the love of their country and their people.

I salute the South African Communist Party for its consistent and determined contribution to the struggle for a democratic government in South Africa. Our alliance is built on the unshakable foundation of our united struggle for a nonracial democracy.

I salute the United Democratic Front [UDF], the Congress of South African Trade Unions [COSATU], the National Education Crisis Committee, and many other formations of the MDM [Mass Democratic Movement]. The work of the [word indistinct] has ensured that none of the reformist strategies of the government have succeeded.

I salute the working class of our country. Our movement would not be where it is without your organized strength. You are an indispensable force in the struggle to end exploitation and oppression in South Africa.

We salute the victory of SWAPO [South-West African People's Organization] with whom we have shared plenty of battles against colonialism and apartheid. You have established your right to self-determination, and your victory is our victory. I pay tribute to the many religious leaders who carried the struggle for justice forward and held our banner high during the most brutal periods of repression against our people.

I salute the courage and heroism of the youth of South Africa organized under the South African Youth Congress. At this point I wish to pay tribute to Comrade Hector Pieterson, who together with hundreds of young activists were mowed down by apartheid bullets in 1976. [applause]

We gained inspiration by courage and conviction during our lonely years on the island. Today, my return to Soweto fills my heart with joy. At the same time, I also return with a deep sadness, with a deep sense of sadness. Sadness to learn that you are still suffering under an inhuman system. The housing shortage, the school crisis, unemployment, and the crime rate still remains.

I am even more proud to be a member of this community because of the pioneering role it has played in the struggle for the democratization of local government. You have built democratic structures of local government in Soweto such as street committees and civic organizations that give practical import to our desire to let the people [word indistinct].

I fully support the call made by our people for democratic systems of local government that will have a (?single) [word indistinct]. In this regard, I believe that the campaign for open cities must receive our

active support. As proud as I am to be part of the Soweto community, I have been greatly disturbed by the statistics of crime that I have read in the newspapers.

Although I understand the deprivations our people suffer, I must make it clear that the level of crime in (?our country) is unhealthy and must be eliminated as a matter of urgency. It is through the creation of democratic and accountable structures that we can achieve this. I salute the anticrime campaign conducted by our organizations.

The crisis in education that exists in South Africa demands special attention. The education crisis in black schools is a political crisis. It arises out of the fact that our people have no vote and therefore cannot make the government of the day responsible for their [words indistinct]. Apartheid education is inferior and a crime against humanity.

Education is an area that needs attention, that needs the attention of all our people: students, parents, teachers, workers, and all other organized sectors of our community.

Let us build disciplined structures, SRC's [students representative councils], a united national teachers organization, parent structures and parent-teacher-student associations, and the National Education Crisis Committee.

It has been the policy of the ANC that those schools and the entire education system is a (?sign) of problems. The actual process of learning must take place in the school. I want to add my voice, therefore, to the call made at the beginning of the year that all students must return to school and learn.

We must continue our struggle for people's education within the school system and utilize its resources to achieve our goals. I call on the government to build more schools, to train and employ more teachers, and to abandon its policy of forcing our children out of the school system by use of various measures such as the age restriction and their refusal to admit those who fail their classes.

We have consistently called for a unitary, nonracial education system that develops the potential of all our youth. As I said when I spoke on the [word indistinct] at the Rivonia trial 27 years ago, and as I said on the day of my release in Cape Town, the ANC will pursue the armed struggle against the government as long as the violence of apartheid continues. [applause]

Our armed combatants act under the political leadership of the ANC [word indistinct] of our people's army [word indistinct] not only in the military affairs but as [words indistinct] of our movement. We are therefore disturbed that there are certain elements among those who claim to support the liberation struggle who use violence against our people. The hijackings and setting alight of vehicles and the harassment of innocent people are criminal acts that have no place in our struggle. We condemn such. [applause]

Our major weapon of struggle against apartheid oppression and exploitation is our people organized into mass formations of the democratic movement. This is achieved by politically organizing our people, not through the use of violence against our people. I call in the strongest possible way for us to act with the dignity and discipline that our just struggle for freedom deserves.

Our victory must be celebrated in peace and joy. In particular, I call on our people in Natal to unite against the perpetrators of violence. I call on the leadership of the UDF, COSATU, and Inkatha to take decisive steps to revive the peace initative and to (?end the scourge) on our proud history. Let us act with political foresight and develop bold steps to end the mindless violence.

Joint initiatives at local, regional, and national levels between the parties concerned must call for restraint. The security forces must be compelled to act with absolute impartiality and to arrest those offenders who continue with violence. We understand that attempts are being made to disrupt the unity of the oppressed by stirring (?vengeance) between African and Indian communities in Natal. Let us build on the proud tradition of the unity in action as a [words indistinct] which was fully endorsed by our great hero, Chief Luthuli.

I am also concerned by the ongoing violence perpetrated by certain sections of the security forces against our people's marches and demonstrations. We condemn this. I understand that implementing apartheid laws has made it extremely difficult for many honest policemen to [word indistinct] their role as servants of the public. You are seen in the eyes of many of our people as an instrument of repression and injustice. We call on the police to abandon apartheid to serve the interests of the people. Join our march to a new South Africa, where you also have a place.

We note with appreciation that there are certain areas where policemen are acting with restraint and fulfilling the real role of protecting all our people, irrespective of their race.

Much debate has been sparked off by the ANC policy on the economy relating to nationalization and the redistribution of wealth. We believe that apartheid has created a heinous system of exploitation in which a racist minority monopolizes economic wealth while the vast majority of the oppressed, (?the black people), are condemned to poverty. South Africa is a wealthy country. It is the labor of black workers that has built the cities, roads, and factories we see. They cannot be excluded from sharing this wealth.

The ANC is just as committed to economic growth and productivity as the present employers claim to be. Yet we are also committed to ensure that a democratic government has the resources to address the inequality caused by apartheid. Our people need proper housing, not ghettoes like Soweto. [applause]

Workers need a living wage [applause] and the right to join unions of their own choice [applause] and to participate in determining policies that affect their lives. Our history has shown that apartheid has stifled growth, created mass unemployment, and led to spiralling inflation that has undermined the standard of living of the majority of our people, both black and white. Only a participatory democracy involving our people in the structures of decisionmaking at all levels of society can ensure that this is corrected.

We will certainly introduce policies that address the economic problems that we face. We call on employers to recognize the fundamental rights of workers in our country. We are marching to a new future, based on strong foundations of respect for each other, achieved through bona fide negotiations.

In particular, we call for genuine negotiations to achieve a fair labor relations act and better [word indistinct] to resolve conflict.

Employers can play their role in serving the new South Africa by acknowledging these rights. We call on workers, black and white, to join industrial trade unions organized under the banner of our nonracial, progressive federation, the Congress of South African Trade Unions, which has played an indispensable role in our struggle against apartheid. [applause]

A number of obstacles to the creation of a nonracial, democratic South Africa remain and need to be tackled. The fears of whites about their rights and place in a South Africa they do not control exclusively are an obstacle we must understand and address. I stated in 1964 that I and the ANC are as opposed to black domination as we to white domination. We must accept that our statements and declaration alone will not be sufficient to allay the fears of white South Africans. We must clearly demonstrate our goodwill to our white compatriots and convince them by our conduct and arguments that a South Africa without apartheid will be a better home for all. A new South Africa has to eliminate racial hatred and suspicion caused by apartheid, and offer guarantees to all its citizens of peace, security, and prosperity.

We call on those who, out of ignorance, have collaborated with apartheid in the past to join our liberation struggle. No man or woman who has abandoned apartheid will be excluded from our (?movement) towards a nonracial, united, and democratic South Africa based on one-person, one-vote, on a common voters roll. [applause]

Our primary task remains to unite our people across the length and breadth of our country. Our democratic organizations must be consolidated in all our (?sectors). Democratic, political practice and accountable leadership must be strengthened on all fronts. Our struggle against apartheid, though seemingly (?uncertain), must be intensified on all fronts. Let each one of you and all of our people give the enemies of peace and liberty no space to take us back to the dark hell of apartheid. [applause]

It is only disciplined mass action that (?assures) us of the victory we seek. Go back to your schools, factories, mines, and communities. Build on the massive energies that recent events in our country have unleashed by strengthening disciplined mass organizations. We are going (?forward). The march towards freedom and justice is irreversible.

I have spoken about freedom in my lifetime. Your struggle, your commitment, and your discipline have released me to stand before you today. [applause] These basic principles will propel us to a free, nonracial, democratic, united South Africa that we have struggled and died for.

Comrades, I came here expecting to see not only the comrades who are here, but also Comrade (Elias Motshwaledi), Govan Mbeki, Raymond Mkaba, Oscar Mpheta, Harry Gwala. I am told that with exception of Comrade Raymond Mkaba, they are all ill, and it is my wish that they all have a complete and speedy recovery so that they again can lead us.

You know very well that our president, Comrade Oliver Tambo, is not well. It is my intention, subject to what the National Reception Committee may decide, to visit our headquarters in Lusaka, to go and thank personally those remarkable men and women who have put our organization in an unprecedented position to win the new South Africa that we are fighting for.

From Lusaka I intend to visit Sweden, so that I can have the opportunity of shaking hands and congratulating the man who has led this movement. [applause]

Two days ago in my address in Cape Town I told the audience that I have read on numerous occasions that it is not the king and general that make history, but the masses of the people. I have always believed in this but not to the extent to which I now believe that basic principle, because I have seen, with my own eyes, the masses of our people, the workers, the peasants, the doctors, the lawyers, the clergy, all our people; I have seen them making history, and that is why all of us are here today.

In conclusion, I must repeat what Comrade Sisulu has said. It is proper that we should behave, it is proper that we should behave in a way worthy of disciplined freedom fighters and men who know what their duty is. Let not a single (?hair), not a window be broken when you leave this place. And remember that we have friends on death row, and it is your struggle that has made the government to grant some sort of relief in this regard, and we sincerely hope that there are men among the government who will respond constructively to the demand that those men should be set free. Africa!

ADDRESS BY THE STATE PRESIDENT, MR. F.W. DE KLERK, DMS, AT THE OPENING OF THE SECOND SESSION OF THE NINTH PARLIAMENT OF THE REPUBLIC OF SOUTH AFRICA, CAPE TOWN, FEBRUARY 2, 1990

Mr. Speaker, Members of Parliament, the general election on September the 6th, 1989, placed our country irrevocably on the road of drastic change. Underlying this is the growing realisation by an increasing number of South Africans that only a negotiated understanding among the representative leaders of the entire population is able to ensure lasting peace.

The alternative is growing violence, tension and conflict. That is unacceptable and in nobody's interest. The well-being of all in this country is linked inextricably to the ability of the leaders to come to terms with one another on a new dispensation. No one can escape this simple truth.

On its part, the Government will accord the process of negotiation the highest priority. The aim is a totally new and just constitutional dispensation in which every inhabitant will enjoy equal rights, treatment and opportunity in every sphere of endeavour—constitutional, social and economic.

I hope that this new Parliament will play a constructive part in both the prelude to negotiations and the negotiating process itself. I wish to ask all of you who identify yourselves with the broad aim of a new South Africa, and that is the overwhelming majority:

Let us put petty politics aside when we discuss the future during this Session.

Help us build a broad consensus about the fundamentals of a new, realistic and democratic dispensation.

Let us work together on a plan that will rid our country of suspicion and steer it away from domination and radicalism of any kind.

During the term of this new Parliament, we shall have to deal, complementary to one another, with the normal processes of legislation and day-to-day government, as well as with the process of negotiation and renewal.

Within this framework I wish to deal first with several matters more closely concerned with the normal process of government before I turn specifically to negotiation and related issues.

1. FOREIGN RELATIONS

The Government is aware of the important part the world at large has to play in the realisation of our country's national interests.

Without contact and co-operation with the rest of the world we cannot promote the well-being and security of our citizens. The dynamic developments in international politics have created new opportunities for South Africa as well. Important advances have been made, among other things, in our contacts abroad, especially where these were precluded previously by ideological considerations.

I hope this trend will be encouraged by the important change of climate that is taking place in South Africa.

For South Africa, indeed for the whole world, the past year has been one of change and major upheaval. In Eastern Europe and even the Soviet Union itself, political and economic upheaval surged forward in an unstoppable tide. At the same time, Beijing temporarily smothered with brutal violence the yearning of the people of the Chinese mainland for greater freedom.

The year of 1989 will go down in history as the year in which Stalinist Communism expired.

These developments will entail unpredictable consequences for Europe, but they will also be of decisive importance to Africa. The indications are that the countries of Eastern and Central Europe will receive greater attention, while it will decline in the case of Africa.

The collapse, particularly of the economic system in Eastern Europe, also serves as a warning to those who insist on persisting with it in Africa. Those who seek to force this failure of a system on South Africa, should engage in a total revision of their point of view. It should be clear to all that it is not the answer here either. The new situation in Eastern Europe also shows that foreign intervention is no recipe for domestic change. It never succeeds, regardless of its ideological motivation. The upheaval in Eastern Europe took place without the involvement of the Big Powers or of the United Nations.

The countries of Southern Africa are faced with a particular challenge: Southern Africa now has an historical opportunity to set aside its conflicts and ideological differences and draw up a joint programme of reconstruction.

It should be sufficiently attractive to ensure that the Southern African region obtains adequate investment and loan capital from the industrial countries of the world. Unless the countries of Southern Africa achieve stability and a common approach to economic development rapidly, they will be faced by further decline and ruin.

The Government is prepared to enter into discussions with other Southern African countries with the aim of formulating a realistic development plan. The Government believes that the obstacles in the way of a conference of Southern African states have now been removed sufficiently.

Hostile postures have to be replaced by co-operative ones; confrontation by contact; disengagement by engagement; slogans by deliberate debate.

The season of violence is over. The time for reconstruction and reconciliation has arrived.

Recently there have, indeed, been unusually positive results in South Africa's contacts and relations with other African states. During my visits to their countries I was received cordially, both in private and in public, by Presidents Mobutu, Chissano, Houphouet-Boigny and Kaunda. These leaders expressed their sincere concern about the serious economic problems in our part of the world. They agreed that South Africa could and should play a positive part in regional co-operation and development.

Our positive contribution to the independence process in South West Africa has been recognized internationally. South Africa's good faith and reliability as a negotiator made a significant contribution to the success of the events. This, too, was not unnoticed. Similarly, our efforts to help bring an end to the domestic conflict situations in Mozambique and Angola have received positive acknowledgement.

At present the Government is involved in negotiations concerning our future relations with an independent Namibia and there are no reason why good relations should not exist between the two countries. Namibia needs South Africa and we are prepared to play a constructive part.

Nearer home I paid fruitful visits to Venda, Transkei and Ciskei and intend visiting Bophuthatswana soon. In recent times there has been an interesting debate about the future relationship of the TBVC countries with South Africa and specifically about whether they should be re-incorporated into our country.

Without rejecting this idea out of hand, it should be borne in mind that it is but one of many possibilities. These countries are constitutionally independent. Any return to South Africa will have to be dealt with, not only by means of legislation in their parliaments, but also through legislation in this Parliament. Naturally this will have to be preceded by talks and agreements.

2. HUMAN RIGHTS

Some time ago the Government referred the question of the protection of fundamental human rights to the Southern Africa Law Commission. This resulted in the Law Commission's interim working document on individual and minority rights. It elicited substantial public interest.

I am satisfied that every individual and organisation in the country has had ample opportunity to make representations to the Law Commission, express criticism freely and make suggestions. At present, the Law Commission is considering the representations received. A final report is expected in the course of this year.

In view of the exceptional importance of the subject of human rights to our country and all its people, I wish to ask the Law Commission to accord this task high priority.

The whole question of protecting individual and minority rights, which includes collective rights and the rights of national groups, is still under consideration by the Law Commission. Therefore, it would be inappropriate of the Government to express a view on the details now. However, certain matters of principle have emerged fairly clearly and I wish to devote some remarks to them.

The Government accepts the principle of the recognition and protection of the fundamental individual rights which form the constitutional basis of most Western democracies. We acknowledge, too, that the most practical way of protecting those rights is vested in a declaration of rights justifiable by an independent judiciary. However, it is clear that a system for the protection of the rights of individuals, minorities and national entities has to form a well-rounded and balanced whole. South Africa has its own national composition and our constitutional

dispensation has to take this into account. The formal recognition of individual rights does not mean that the problems of a heterogeneous population will simply disappear. Any new constitution which disregards this reality will be inappropriate and even harmful.

Naturally, the protection of collective, minority and national rights may not bring about an imbalance in respect of individual rights. It is neither the Government's policy nor its intention that any group—in whichever way it may be defined—shall be favoured above or in relation to any of the others.

The Government is requesting the Law Commission to undertake further task and report on it. This task is directed at the balanced protection in a future constitution of the human rights of all our citizens, as well as of collective units, associations, minorities and nations. This investigation will also serve the purpose of supporting negotiations toward a new constitution.

The terms of reference also include:

The identification of the main types and models of democratic constitutions which deserve consideration in the aforementioned context;

An analysis of the ways in which the relevant rights are protected in every model; and

Possible methods by means of which such constitutions may be made to succeed and be safeguarded in a legitimate manner.

3. THE DEATH PENALTY

The death penalty has been the subject of intensive discussion in recent months. However, the Government has been giving its attention to this extremely sensitive issue for some time. On April the 27th, 1989, the honourable Minister of Justice indicated that there was merit in suggestions for reform in this area. Since 1988 in fact, my predecessor and I have been taking decisions on reprieves which have led, in proportion, to a drastic decline in executions.

We have now reached the position in which we are able to make concrete proposals for reform. After the Chief Justice was consulted, and he in turn had consulted the Bench, and after the Government had noted the opinions of academics and other interested parties, the Government decided on the following broad principles from a variety of available options:

That reform in this area is indicated;

That the death penalty should be limited as an option of sentence to extreme cases, and specifically through broadening judicial discretion in the imposition of sentence; and

That an automatic right of appeal be granted to those under sentence of death.

Should these proposals be adopted, they should have a significant influence on the imposition of death sentences on the one hand, and on the other, should ensure that every case in which a person has been sentenced to death, will come to the attention of the Appellate Division.

These proposals require that everybody currently awaiting execution, be accorded the benefit of the proposed new approach. Therefore, all executions have been suspended and no executions will take place until Parliament has taken a final decision on the new proposals. In the event of the proposals being adopted, the case of every person involved will be dealt with in accordance with the new guidelines. In the meantime, no executions have taken place since November the 14th, 1989.

New and uncompleted cases will still be adjudicated in terms of the existing law. Only when the death sentence is imposed, will the new proposals be applied, as in the case of those currently awaiting execution.

The legislation concerned also details other related principles which will be announced and elucidated in due course by the Minister of Justice. It will now be formulated in consultation with experts and be submitted to Parliament as soon as possible.

I wish to urge everybody to join us in dealing with this highly sensitive issue in a responsible manner.

4. SOCIO-ECONOMIC ASPECTS

A changed dispensation implies far more than political and constitutional issues. It cannot be pursued successfully in isolation from problems in other spheres of life which demand practical solutions. Poverty, unemployment, housing shortages, inadequate education and training, illiteracy, health needs and numerous other problems still stand in the way of progress and prosperity and an improved quality of life.

The conservation of the physical and human environment is of cardinal importance to the quality of our existence. For this the Government is developing a strategy with the aid of an investigation by the President's Council.

All of these challenges are being dealt with urgently and comprehensively. The capability for this has to be created in an economically accountable manner. Consequently, existing strategies and aims are undergoing a comprehensive revision.

From this will emanate important policy announcements in the socio-economic sphere by the responsible Ministers during the course of the session. One matter about which it is possible to make a concrete announcement, is the Separate Amenities Act, 1953. Pursuant to my speech before the President's Council late last year, I announce that this Act will be repealed during this Session of Parliament.

The State cannot possibly deal alone with all of the social advancement our circumstances demand. The community at large, and especially the private sector, also have a major responsibility towards the welfare of our country and its people.

5. THE ECONOMY

A new South Africa is possible only if it is bolstered by a sound and growing economy, with particular emphasis on the creation of employment. With a view to this, the Government has taken thorough cognisance of the advice contained in numerous reports by a variety of advisory bodies. The central message is that South Africa, too, will have to make certain structural changes to its economy, just as its major trading partners had to do a decade or so ago.

The period of exceptionally high economic growth experienced by the Western world in the sixties, was brought to an end by the oil crisis in 1973. Drastic structural adaptations became invitable for these countries, especially after the second oil crisis in 1979, when serious imbalances occurred in their economies. After considerable sacrifices, those countries which presevered with their structural adjustment programmes, recovered economically so that lengthy periods of high economic growth and low inflation were possible.

During that particular period, South Africa was protected temporarily by the rising gold price from the necessity of making similar adjustment immediately. In fact, the high gold price even brought prosperity with it for a while. The recovery of the world economy and the decline in the price of gold and other primary products, brought with them unhealthy trends. These included high inflation, a serious weakening in the productivity of capital, stagnation in the economy's ability to generate income and employment opportunities. All of this made a drastic structural adjustment of our economy inevitable.

The Government's basic point of departure is to reduce the role of the public sector in the economy and to give the private sector maximum opportunity for optimal performance. In this process, preference has to be given to allowing the market forces and a sound competitive structure to bring about the necessary adjustments.

Naturally, those who make and implement economic policy have a major responsibility at the same time to promote an environment optimally conducive to investment, job creation and economic growth by means of appropriate and properly co-ordinated fiscal and monetary policy. The Government remains committed to this balanced and practical approach.

By means of restricting capital expenditure in parastatal institutions, privatisation, deregulation and curtailing government expenditure, substantial progress has been made already towards reducing the role of the authorities in the economy. We shall persist with this in a well-considered way.

This does not mean that the State will forsake its indispensable development role, especially in our particular circumstances. On the contrary, it is the precise intention of the Government to concentrate an equitable portion of its capacity on these aims by means of the meticulous determination of priorities.

Following the progress that has been made in other areas of the economy in recent years, it is now opportune to give particular attention to the supply side of the economy. Fundamental factors which will contribute to the success of this restructuring are:

The gradual reduction of inflation to levels comparable to those of our principal trading partners;

The encouragement of personal initiative and savings;

The subjection of all economic decisions by the authorities to stringent financial measures and discipline;

Rapid progress with the reform of our system of taxation; and

The encouragement of exports as the impetus for industrialisation and earning foreign exchange.

These and other adjustments, which will require sacrifices, have to be seen as prerequisites for a new period of sustained growth in productive employment in the nineties.

The Government has also noted with appreciation the manner in which the Reserve Bank has discharged its special responsibility in striving toward common goals.

The Government is very much aware of the necessity of proper co-ordination and consistent implementation of its economic policy. For this reason, the establishment of the necessary structures and expertise to ensure this co-ordination is being given preference. This applies both to the various functions within the Government and to the interaction between the authorities and the private sector.

This is obviously not the occasion for me to deal in greater detail with our total economic strategy or with the recent course of the economy.

I shall confine myself to a few specific remarks on one aspect of fiscal policy that has

been a source of criticism of the Government for some time, namely State expenditure.

The Government's financial year ends only in two month's time and several other important economic indicators for the 1989 calendar year are still subject to refinements at this stage. Nonetheless, several important trends are becoming increasingly clear. I am grateful to be able to say that we have apparently succeeded to a substantial degree in achieving most of our economic aims in the past year.

In respect of Government expenditure, the budget for the current financial year will be the most accurate in many years. The financial figures will show:

That Government expenditure is thoroughly under control;

That our normal financing programme has not exerted any significant upward pressure on rates of interest; and

That we will close the year with a surplus, even without taking the income from the privatisation of Iscor into account.

Without pre-empting this year's main budget, I wish to emphasise that it is also our intention to co-ordinate fiscal and monetary policy in the coming financial year in a way that will enable us to achieve the ensuing goals—namely:

That the present downturn will take the form of a soft landing which will help to make adjustments as easy as possible;

That our economy will consolidate before the next upward phase so that we will be able to grow from a sound base; and

That we shall persist with the implementation of the required structural adaptations in respect, among other things, of the following; easing the tax burden, especially on individuals; sustained and adequate generation of surplusses on the current account of the balance of payments and the reconstruction of our gold and foreign exchange reserves.

It is a matter of considerable seriousness to the Government, especially in this particular period of our history, to promote a dynamic economy which will make it possible for increasing numbers of people to be employed and share in rising standards of living.

6. NEGOTIATION

In conclusion, I wish to focus the spotlight on the process of negotiation and related issues. At this stage I am refraining deliberately from discussing the merits of numerous political questions which undoubtedly will be debated during the next few weeks. The focus, now, has to fall on negotiation.

Practically every leader agrees that negotiation is the key to reconciliation, peace and a new and just dispensation. However, numerous excuses for refusing to take part, are advanced. Some of the reasons being advanced are valid. Others are merely part of a political chess game. And while the game of chess proceeds, valuable time is being lost.

Against this background I committed the Government during my inauguration to giving active attention to the most important obstacles in the way of negotiation. Today I am able to announce far-reaching decisions in this connection.

I believe that these decisions will shape a new phase in which there will be a movement away from measures which have been seized upon as a justification for confrontation and violence. The emphasis has to move, and will move now, to a debate and discussion of political and economic points of view as part of the process of negotiation.

I wish to urge every political and community leader, in and outside Parliament, to approach the new opportunities which are being created, constructively. There is no time left for advancing all manner of new conditions that will delay the negotiating process.

The steps that have been decided, are the following:

The prohibition of the African National Congress, the Pan Africanist Congress, the South African Communist Party and a number of subsidiary organisations is being rescinded.

People serving prison sentences merely because they were members of one of these organisations or because they committed another offence which was merely an offence because a prohibition on one of the organisations was in force, will be identified and released. Prisoners who have been sentenced for other offences such as murder, terrorism or arson are not affected by this.

The media emergency regulations as well as the education emergency regulations are being abolished in their entirety.

The security emergency regulations will be amended to still make provision for effective control over visual material pertaining to scenes of unrest.

The restrictions in terms of the emergency regulations on 33 organisations are being rescinded. The organisations include the following: National Education Crisis Committee, South African National Students Congress, United Democratic Front, Cosatu, and Die Blanke Bevrydingsbeweging van Suid-Afrika.

The conditions imposed in terms of the security emergency regulations on 374 people on their release, are being rescinded and the regulations which provide for such conditions are being abolished.

The period of detention in terms of the security emergency regulations will be limited henceforth to six months. Detainees also acquire the right to legal representation and a medical practitioner of their own choosing.

These decisions by the Cabinet are in accordance with the Government's declared intention to normalise the political process in South Africa without jeopardising the maintenance of the good order. They were preceded by thorough and unanimous advice by a group of officials which included members of the security community.

Implementation will be immediate and, where necessary, notices will appear in the Government Gazette from tomorrow.

The most important facets of the advice the Government received in this connection, are the following:

The events in the Soviet Union and Eastern Europe, to which I have referred already, weaken the capability of organisations which were previously supported strongly from those quarters.

The activities of the organisations from which the prohibitions are now being lifted, no longer entail the same degree of threat to internal security which initially necessitated the imposition of the prohibitions.

There have been important shifts of emphasis in the statements and points of view of the most important of the organisations concerned, which indicate a new approach and a preference for peaceful solutions.

The South African Police is convinced that it is able, in the present circumstances, to combat violence and other crimes perpetrated also by members of these organisations and to bring offenders to justice without the aid of prohibitions on organisations.

About one matter there should be no doubt. The lifting of the prohibition on the said organisations does not signify in the least the approval or condonation of terrorism or crimes of violence committed under their banner or which may be perpetrated in the future. Equally, it should not be interpreted as a deviation from the Government's principles, among other things, against their economic policy and aspects of their constitutional policy. This will be dealt with in debate and negotiation.

At the same time I wish to emphasise that the maintenance of law and order dare not be jeopardised. The Government will not forsake its duty in this connection. Violence from whichever source, will be fought with all available might. Peaceful protest may not become the springboard for lawlessness, violence and intimidation. No democratic country can tolerate that.

Strong emphasis will be placed as well on even more effective law enforcement. Proper provision of manpower and means for the police and all who are involved with the enforcement of the law, will be ensured. In fact, the budget for the coming financial year will already begin to give effect to this.

I wish to thank the members of our security forces and related services for the dedicated service they have rendered the Republic of South Africa. Their dedication makes reform in a stable climate possible.

On the state of emergency I have been advised that an emergency situation, which justifies these special measures which have been retained, still exists. There is still conflict which is manifesting itself mainly in Natal, but as a consequence of the countrywide political power struggle. In addition, there are indications that radicals are still trying to disrupt the possibilities of negotiation by means of mass violence.

It is my intention to terminate the state of emergency completely as soon as circumstances justify it and I request the co-operation of everybody towards this end. Those responsible for unrest and conflict have to bear the blame for the continuing state of emergency. In the meantime, the state of emergency is inhibiting only those who use chaos and disorder as political instruments. Otherwise the rules of the game under the state of emergency are the same for everybody.

Against this background the Government is convinced that the decisions I have announced are justified from the security point of view. However, these decisions are justified from a political point of view as well.

Our country and all its people have been embroiled in conflict, tension and violent struggle for decades. It is time for us to break out of the cycle of violence and break through to peace and reconciliation. The silent majority is yearning for this. The youth deserve it.

With the steps the Government has taken it has proven its good faith and the table is laid for sensible leaders to begin talking about a new dispensation, to reach an understanding by way of dialogue and discussion.

The agenda is open and the overall aims to which we are aspiring should be acceptable to all reasonable South Africans.

Among other things, those aims include a new, democratic constitution; universal franchise; no domination; equality before an independent judiciary; the protection of minorities as well as of individual rights; freedom of religion; a sound economy based on proven economic principles and private en-

terprise; dynamic programmes directed at better education, health services, housing and social conditions for all.

In this connection Mr. Nelson Mandela could play an important part. The Government has noted that he has declared himself to be willing to make a constructive contribution to the peaceful political process in South Africa.

I wish to put it plainly that the Government has taken a firm decision to release Mr. Mandela unconditionally. I am serious about bringing this matter to finality without delay. The Government will make a decision soon on the date of his release. Unfortunately, a further short passage of time is unavoidable.

Normally there is a certain passage of time between the decision to release and the actual release because of logistical and administrative requirements. In the case of Mr. Mandela there are factors in the way of his immediate release, of which his personal circumstances and safety are not the least. He has not been an ordinary prisoner for quite some time. Because of that, his case requires particular circumspection.

Today's announcements, in particular, go to the heart of what Black leaders—also Mr. Mandela—have been advancing over the years as their reason for having resorted to violence. The allegation has been that the Government did not wish to talk to them and that they were deprived of their right to normal political activity by the prohibition of their organisations.

Without conceding that violence has ever been justified, I wish to say today to those who argued in this manner:

The Government wishes to talk to all leaders who seek peace.

The unconditional lifting of the prohibition on the said organizations places everybody in a position to pursue politics freely.

The justification for violence which was always advanced, no longer exists.

These facts place everybody in South Africa before a fait accompli. On the basis of numerous previous statements there is no longer any reasonable excuse for the continuation of violence. The time for talking has arrived and whoever still makes excuses does not really wish to talk.

Therefore, I repeat my invitation with greater conviction then ever:

Walk through the open door, take your place at the negotiating table together with the Government and other leaders who have important power bases inside and outside of Parliament.

Henceforth, everybody's political points of view will be tested against their realism, their workability and their fairness. The time for negotiation has arrived.

To those political leaders who have always resisted violence I say thank you for your principled stands. This includes all the leaders of parliamentary parties, leaders of important organizations and movements, such as Chief Minister Buthelezi, all of the other Chief Ministers and urban community leaders.

Through their participation and discussion they have made an important contribution to this moment in which the process of free political participation is able to be restored. Their places in the negotiating process are assured.

CONCLUSION

In may inaugural address I said the following:

"All reasonable people in this country—by far the majority—anxiously await a message of hope. It is our responsibility as leaders in all spheres to provide that message realistically, with courage and conviction. If we fail in that, the ensuing chaos, the demise of stability and progress, will forever be held against us.

"History has thrust upon the leadership of this country the tremendous responsibility to turn our country away from its present direction of conflict and confrontation. Only we, the leaders of our peoples, can do it.

"The eyes of responsible governments across the world are focused on us. The hopes of millions of South Africans are centered around us. The future of Southern Africa depends on us. We dare not falter or fail."

This is where we stand:

Deeply under the impression of our responsibility.

Humble in the face of the tremendous challenges ahead.

Determined to move forward in faith and with conviction.

I ask of Parliament to assist me on the road ahead. There is much to be done.

I call on the international community to re-evaluate its position and to adopt a positive attitude towards the dynamic evolution which is taking place in South Africa.

I pray that the Almighty Lord will guide and sustain us on our course through unchartered waters and will bless your labours and deliberations.

Mr. Speaker, Members of Parliament, I now declare this Second Session of the Ninth Parliament of the Republic of South Africa to be duly opened.

Mr. CRANSTON. Mr. President, as Senate floor manager of the 1986 Comprehensive Anti-Apartheid Act, I am pleased to join with fellow congressional leaders of antiapartheid movement to reaffirm our commitment to combating apartheid and promoting multiracial democracy in South Africa.

Our message is clear.

The days of the repugnant apartheid regime are numbered. Like the Berlin wall, the obscene barriers of the apartheid state must soon crumble.

The courage of those in South Africa working for democracy—black and white—will clearly carry the day.

Sanctions have worked. By marshaling moral, diplomatic, and economic influence, we have helped impress upon South African leaders the urgency and inevitability of change.

The bipartisan resolution we are introducing today sets forth the following clear principles.

First, we welcome the commitment to nonviolence voiced by Nelson Mandela and his colleagues in the African National Congress.

We also welcome the courageous moves of F.W. de Klerk.

But these are just first steps. All the instruments of the hated apartheid state remain in place. Black citizens still cannot vote, cannot live where they want, work where they wish.

Congress extends two hands to the people of South Africa. We offer both carrots and sticks: the incentive of expanded trade and significant aid to a multiracial democracy; the commitment of continued sanctions if the instruments of apartheid are not swiftly dismantled.

Mr. President, I submit for the RECORD the following documents:

The text of section 311 of the 1986 act; and

A Senate Foreign Relations Committee staff memorandum explains these conditions, a memorandum which serves as the basis for the action we are taking today.

ELABORATION ON CONDITIONS OF 1986 ANTI-APARTHEID ACT

CONDITION (SEC. 311(A))

1. This includes, throughout South Africa, all those detained without charge and sentenced or currently prosecuted for "security" offenses motivated by political resistance to apartheid. It also addresses those who have been sentenced or prosecuted for offenses committed because they were swept up in anti-apartheid unrest.

2. The state of emergency in place at the time of enactment was nationwide. Repeal of the state of emergency includes the repeal of all emergency restrictions affecting the media, anti-apartheid groups and organizations including those dealing with education, and police powers.

3. This includes, throughout South Africa, such conditions as freedom of expression, publication, assembly, association and movement (including the return of exiles), and freedom from violence and intimidation by the military, police, and vigilante forces.

4. Self-explanatory.

5. "Truly representative members of the black majority" refers to those individuals who represent the genuine political aspirations of the black community and does not include individuals who represent elements of the black community because of their positions in apartheid structures, such as the homeland leaders.

"Good faith negotiations" are negotiations designed to bring about the real dismantling of apartheid and the creation of a political system in which individual rights, including the right to vote and full political participation, are provided for all races.

CONDITION 3 UNDER SECTION 311(B)

"Substantial progress toward dismantling the system" means repealing some of the legislative pillars of apartheid.

Substantial progress toward establishing a "nonracial democracy" means demonstrating a willingness to abandon the concept of "group rights" as a means of protecting individual rights and to establish a political system based on the fundamental democratic principle of majority rule, while also recognizing the need to protect individual rights.

TERMINATION OF CERTAIN PROVISIONS

SEC. 311. (a) This title and sections 501(c) and 504(b) shall terminate if the Government of South Africa—

(1) releases all persons persecuted for their political beliefs or detained unduly without trial and Nelson Mandela from prison;

(2) repeals the state of emergency in effect on the date of enactment of this Act and releases all detainees held under such state of emergency;

(3) unbans democratic political parties and permits the free exercise by South Africans of all races of the right to form political parties, express political opinions, and

otherwise participate in the political process;

(4) repeals the Group Areas Act and the Population Registration Act and institutes no other measures with the same purposes; and

(5) agrees to enter into good faith negotiations with truly representative members of the black majority without preconditions.

(b) The President may suspend or modify any of the measures required by this title or section 501(c) or section 504(b) thirty days after he determines, and so reports to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate, that the Government of South Africa has—

(1) taken the action described in paragraph (1) of subsection (a),

(2) taken three of the four actions listed in paragraphs (2) through (5) of subsection (a), and

(3) made substantial progress toward dismantling the system of apartheid and establishing a nonracial democracy,

unless the Congress enacts within such 30-day period, in accordance with section 602 of this Act, a joint resolution disapproving the determination of the President under this subsection.

(c) It is the policy of the United States to support the negotiations with the representatives of all communities as envisioned in this Act. If the South African Government agrees to enter into negotiations without preconditions, abandons unprovoked violence against its opponents, commits itself to a free and democratic post-apartheid South Africa under a code of law; and if nonetheless the African National Congress, the Pan African Congress, or their affiliates, or other organizations, refuse to participate; or if the African National Congress, the Pan African Congress or other organizations—

(1) refuse to abandon unprovoked violence during such negotiations; and

(2) refuse to commit themselves to a free and democratic post-apartheid South Africa under a code of law,

then the United States will support negotiations which do not include these organizations.

Mr. BOREN. Mr. President, I am pleased to join with a bipartisan group of my Senate colleagues in sponsoring this joint resolution on the changes in South Africa. The resolution shows our support for the positive developments in South Africa, as well as for the political process that began last year and has accelerated during the past few weeks.

I believe this resolution accurately reflects the feelings of Members of Congress, the administration, and the American people. All Americans welcome the political process that has begun, and all of us hope that the longstanding goal of a just and nonracial South Africa can finally be realized in the foreseeable future.

The events in South Africa of the last month have truly been historic.

The release of Nelson Mandela is an event all of us have long been awaiting. His moral and symbolic leadership in fighting apartheid serves as an inspiring example for people around the world who are working for justice and political and economic freedom. His speeches and interviews following his release were very positive, and highlighted his lifelong commitment to a nonracial just society for all South Africans.

President de Klerk has embarked on a courageous path toward achieving a peaceful resolution to his country's problems. His opening speech to the South African Parliament, announcing the unbanning of the ANC and other political organizations and stating his dedication to opening negotiations with leaders of the opposition, along with his statement announcing the release of Nelson Mandela herald a new phase in the political development in South Africa.

Mr. President, I want to especially highlight for my colleagues the speeches Nelson Mandela gave in Cape Town and in Soweto, as well as the opening address by President de Klerk at the opening of Parliament. I ask unanimous consent that these three speeches be included in the RECORD at the end of my remarks.

The PRESIDING OFFICER. If there is no objection, the speeches will be printed in the RECORD.

Mr. BOREN. While there are fundamental political, cultural, and economic differences, I believe analogies between President de Klerk's leadership and that of President Gorbachev in the Soviet Union contain a great deal of truth. Both men are attempting to lead their country out of a troubled past to a new country with political and economic freedoms for all. Both are responding to historic developments, political as well as economical, that dictate either progress or a final failure, with the very viability of their countries at stake.

Both also face strong opposition from the political extremes in both countries. However, one crucial difference prevents the analogy from being complete. The changes in the Soviet Union have had a profound impact on the political culture in that country, and the drive for political freedom in regions of the Soviet Union can never be rolled back. However, the changes we have seen in South Africa are reversible. Because of this, our country needs to be vigilante, and work closely together to enhance the delicate process underway. We cannot respond and act all at once. We must take deliberate steps, in a step-by-step process, to encourage progress and maintain our leverage for continuing change. This applies to the sanctions currently in place, as well as possible future positive gestures. Our approach must not be one that is an all or nothing approach toward sanctions but one which allows us a range of reactions phased to coincide with the actual rate of real progress in the negotiations. A proportional approach should be followed.

To this end, I believe it is crucial that the President and the Secretary of State work closely with leaders of Congress to ensure the United States speaks with one voice, sends one message, and articulates a common set of goals for change in South Africa. Through a united position, we can best influence positive change within that country.

President Bush decided at the onset of his administration to set a different tone in United States policy toward South Africa. After my visit to that country in December 1988, I met with the President on a number of occasions to discuss U.S. policy. I encouraged him to invite a Albertina Sisulu and leaders of the United Democratic Front to come to the United States and talk directly with him. His personal invitation and positive meeting with "Mama" Sisulu, as well as his earlier meeting with Archbishop Tutu, the Reverend Boesak, and the Reverend Naude were very significant, and highlighted his personal interest in South Africa. This was a marked change from the previous administration, and opens the opportunity for a new partnership with Congress on U.S. policy as we move forward. President Bush deserves commendation for moving administration policy in more potentially helpful directions.

I hope both Nelson Mandela and President de Klerk have the opportunity to visit our country in the coming weeks. Their thoughts, visions, and plans would be welcome here, and a first hard account would help all U.S. policymakers for the future.

I look forward to sitting down with Secretary Baker and the bipartisan leaders of Congress to discuss these changes in South Africa and where our policy goes from here if progress continues, including the details concerning modifying sanctions under the 1986 Comprehensive Anti-Apartheid Act. Our country's role in encouraging this process will be greatly enhanced if we speak with one voice. As I believe with all matters of foreign policy, a united, bipartisan stand is the best avenue to positively affect the current situation.

Again, Mr. President, I want to commend all of my colleagues in joining together on this resolution. I hope this is a symbol of the work all of us can do together in promoting the changes underway in South Africa.

EXCERPTS FROM THE SPEECH BY MANDELA IN SOWETO

SOWETO, SOUTH AFRICA, February 13.—Following are excerpts from Nelson Mandela's speech here today:

HIS PRIDE IN SOWETO

. . . As proud as I am to be part of the Soweto community, I have been greatly disturbed by the statistics of crime, what I have read in the newspapers. Although I understand the deprivations our people suffer, I must make it clear that the level of crime

in our township is unhealthy and must be eliminated as a matter of urgency. I salute the anti-crime campaigns conducted by our organizations.

The crisis in education that exists in South Africa demands special attention. The education crisis in black schools is a political crisis. It arises out of the fact that our people have no vote and therefore cannot make the government of the day responsive to their needs.

Apartheid education is inferior and a crime against humanity. Education is an area that needs attention, that needs the attention of all our people, students, parents, teachers, workers and all of the organized sectors of our community. . . .

THE POWER OF EDUCATION

It has been the policy of the A.N.C. that the entire education system is a site of struggle . . . I want to add my voice therefore to the call made at the beginning of the year: that all students must return to school and learn.

We must continue our struggle for people's education within the school system and utilize its resources to achieve our goals. I call on the Government to build more schools, to train and employ more teachers, and to abandon its policies of forcing our children out of the school system by use of various measures. . . .

THE VIOLENCE OF APARTHEID

As I said when I stood on the dock at the Rivonia Trial 27 years ago and as I said on the day of my release in Cape Town, the A.N.C. will pursue the armed struggle against the Government as long as the violence of apartheid continues.

Our armed combatants act under the political leadership of the A.N.C., cadres of our people's army are engaged not only in military affairs but as the political commissars of our movement. We are therefore disturbed that there are certain elements amongst those who claim to support the liberation struggle who use violence against our people. The hijacking and setting alight of vehicles and the harassment of innocent people are criminal acts that have no place in our struggle. We condemn that. . . .

POWER IN NUMBERS

Our major weapon of struggle against apartheid oppression . . . is our people organized into mass formation of the democratic movement. This is achieved by politically organizing our people, not through the use of violence against our people.

I call in the strongest possible way for us to act with the dignity and discipline that our just struggle for freedom deserves. Our vigils must be celebrated in peace and joy. In particular I call on our people in Natal to unite against the perpetrators of violence . . . Let us act with political foresight and develop bold steps to end the mindless violence.

. . . We understand that attempts have been made to disrupt the unity of the oppressed by starting tensions between African and Indian communities in Natal. Let us build from the proud tradition of unity in action.

BLACKS BUILT THE NATION

We call on the police to abandon apartheid, to serve the interests of the people. Join our march to a new South Africa where you also have a place. We note with appreciation that there are certain areas where policemen are acting with restraint and fulfilling the real role of protecting all our people irrespective of their race.

Much debate has been spoken of the A.N.C. policies on the economy relating to nationalization and the redistribution of wealth. We believe that apartheid has created a heinous system of exploitation in which a racist minority monopolizes economic wealth while the vast majority of the oppressed and black people are condemned to poverty.

South Africa is a wealthy country. It is the labor of black workers that has built the cities, roads and factories we see. They cannot be excluded from sharing this wealth. The A.N.C. is just as committed to economic growth and productivity as the present employer came to be. Yet we are also committed to ensure that a democratic government has the resources to address the inequalities caused by apartheid. Our people need proper houses, not ghettos like Soweto. . . .

A LIVING WAGE

Workers need a living wage and the right to join unions of their own choice and to participate in determining policies that affect their lives. . . .

We call on employers to recognize the fundamental rights of workers in our country. We are marching to a new future based on strong foundations of respect for each other achieved through bona-fide negotiations. In particular, we call for genuine negotiations to achieve a fair Labor Relations Act and mechanisms to resolve conflict.

Employers can play their role in shaping the new South Africa by acknowledging these rights. We call on workers, black and white, to join industrial trade unions. . . .

The fears of whites about their rights and place in a South Africa they do not control exclusively are an obstacle we must understand and address. I stated in 1964 that I and the A.N.C. are as opposed to black domination as we are to white domination. We must accept that our statements and declarations alone will not be sufficient to allay the fears of white South Africans. We must clearly demonstrate our good will to our white compatriots and convince them by our conduct . . . that a South Africa without apartheid will be a better home for all. . . .

ONE PERSON ONE VOTE

We call on those who out of ignorance have collaborated with apartheid in the past to join our liberation struggle. No men or women who have abandoned apartheid will be excluded from our movement towards a nonracial, united and democratic South Africa based on one person one vote, on a common voters roll. . . .

MASSES CONTROL HISTORY

Two days ago, in my address in Cape Town, I told the audience that I have read on numerous occasions that it is not the kings and generals that make history but the masses of the people. I have always believed in this.

But much to the extent to which I now believe that basic principle because I have seen with my own eyes the masses of our people, the workers, the peasants, the doctors, the lawyers, the clergy, all our people I have seen them making history and that is why all of us are here today.

(Following is a transcript of the address at Cape Town City Hall yesterday by Nelson Mandela, as recorded by The New York Times through the facilities of Cable News Network. Portions of the speech were delivered in Xhosa, one of the major languages spoken by black South Africa.)

Amandla! Amandla! i-Afrika, mayibuye! [Power! Power! Africa it is ours!]

My friends, comrades and fellow South Africans, I greet you all in the name of peace, democracy and freedom for all. I stand here before you not as a prophet but as a humble servant of you, the people.

Your tireless and heroic sacrifices have made it possible for me to be here today. I therefore place the remaining years of my life in your hands.

On this day of my release, I extend my sincere and warmest gratitude to the millions of my compatriots and those in every corner of the globe who have compaigned tirelessly for my release.

I extend special greetings to the people of Cape Town, the city to which, which has been my home for three decades. Your mass marches and other forms of struggle have served as a constant source of strength to all political prisoners.

I salute the African National Congress. It has fulfilled our every expectation in its role as leader of the great march to freedom.

I salute our president, Comrade Oliver Tambo, for leading the A.N.C. even under the most difficult circumstances.

I salute the rank-and-file members of the A.N.C. You have sacrificed life and limb in the pursuit of the noble cause of our struggle.

LEADER'S SALUTATIONS

I salute combatants of Umkonto We Sizwe [Spear of the Nation], like Solomon Malhangu and Ashley Kriel, who have paid the ultimate price for the freedom of all South Africans.

I salute the South Africa Communist Party for its steady contribution to the struggle for democracy. You have survived 40 years of unrelenting persecution. The memory of great Communists like Moses Kotane, Yusuf Dacoo, Bram Fischer and Moses Madidha will be cherished for generations to come.

I salute General Secretary Joe Slovo, one of our finest patriots. We are heartened by the fact that the alliance between ourselves and the party remains as strong as it always was.

I salute the United Democratic Front, the National Education Crisis Committee, the South African Youth Congress, the Transvaal and Natal Indian Congresses. And Cosatu. And the many other formations of the mass democratic movement.

I also salute the Black Sash and the National Union of South African Students. We note with pride that you have acted as the conscience of white South Africans. Even during the darkest days in the history of our struggle, you held the flag of liberty high. The large-scale mass mobilization of the past few years is one of the key factors which led to the opening of the final chapter of our struggle.

I extend my greetings to the working class of our country. Your organized stance is the pride of our movement. You remain the most dependable force in the struggle to end exploitation and oppression.

TRIBUTES TO CAMPAIGNERS

I pay tribute—I pay tribute to the many religious communities who carried the campaign for justice forward when the organizations of our people were silenced.

I greet the traditional leaders of our country. Many among you continue to walk in the footsteps of great heroes like Hintsa and Sekhukhuni.

I pay tribute to the endless heroes of youth. You, the young lions. You the young lions have energized our entire struggle.

I pay tribute to the mothers and wives and sisters of our nation. You are the rock-hard foundation of our struggle. Apartheid has inflicted more pain on you than on anyone else. On this occasion, we thank the world—we thank the world community for their great contribution to the antiapartheid struggle. Without your support our struggle would not have reached this advanced stage.

The sacrifice of the front-line states will be remembered by South Africans forever.

My salutations will be incomplete without expressing my deep appreciation for the strength given to me during my long and lonely years in prison by my beloved wife and family.

I am convinced that your pain and suffering was far greater than my own.

NEED FOR ARMED STRUGGLE

Before I go any further, I wish to make the point that I intend making only a few perliminary comments at this stage. I will make a more complete statement only after I have had the opportunity to consult with my comrades.

Today the majority of South Africans, black and white, recognize that apartheid has no future. It has to be ended by our own decisive mass actions in order to build peace and security. The mass compaigns of defiance and other actions of our organizations and people can only culminate in the establishment of democracy.

The apartheid destruction on our subcontinent is incalculable. The fabric of family life of millions of my people has been shattered. Millions are homeless and unemployed.

Our economy—our economy lies in ruins and our people are embroiled in political strife. Our resort to the armed struggle in 1960 with the formation of the military wing of the A.N.C., Umkonto We Sizwe, was a purely defensive action against the violence of apartheid.

The factors which necessitated the armed struggle still exist today. We have no option but to continue. We express the hope that a climate conducive to a negotiated settlement would be created soon so that there may no longer be the need for the armed struggle.

I am a loyal and disciplined member of the African National Congress. I am, therefore, in full agreement with all of its objectives, strategies and tactics.

DEMOCRATIC PRACTICE

The need to unite the people of our country is as important a task now as it always has been. No individual leader is able to take all these enormous tasks on his own. It is our task as leaders to place our views before our organization and to allow the democratic structures to decide on the way forward.

On the question of democratic practice, I feel duty bound to make the point that a leader of the movement is a person who has been democratically elected at a national conference. This is a principle which must be upheld without any exceptions.

Today, I wish to report to you that my talks with the Government have been aimed at normalizing the political situation in the country. We have not as yet begun discussing the basic demands of the struggle.

I wish to stress that I myself had at no time entered into negotiations about the future of our country, except to insist on a meeting between the A.N.C. and the Government.

Mr. de Klerk has gone further than any other Nationalist president in taking real steps to normalize the situation. However, there are further steps as outlined in the Harare Declaration that have to be met before negotiations on the basic demands of our people can begin.

I reiterate our call for inter alia the immediate ending of the state of emergency and the freeing of all, and not only some, political prisoners.

A DECISIVE MOMENT

Only such a normalized situation which allows for free political activity can allow us to consult our people in order to obtain a mandate. The people need to be consulted on who will negotiate and on the content of such negotiations.

Negotiations cannot take place—negotiations cannot take up a place above the heads or behind the backs of our people. It is our belief that the future of our country can only be determined by a body which is democratically elected on a nonracial-basis.

Negotiations on the dismantling of apartheid will have to address the overwhelming demand of our people for a democratic nonracial and unitary South Africa. There must be an end to white monopoly on political power.

And a fundamental restructuring of our political and economic systems to insure that the inequalities of apartheid are addressed and our society thoroughly democratized.

It must be added that Mr. de Klerk himself is a man of integrity who is acutely aware of the dangers of a public figure not honoring his undertakings. But as an organization, we base our policy and strategy on the harsh reality we are faced with, and this reality is that we are still suffering under the policies of the Nationalist Government.

Our struggle has reached a decisive moment. We call on our people to seize this moment so that the process, toward democracy is rapid and uninterrupted. We have waited too long for our freedom. We can no longer wait. Now is the time to intensify the struggle on all fronts.

UNIVERSAL SUFFRAGE

To relax our efforts now would be a mistake which generations to come will not be able to forgive. The sight of freedom looming on the horizon should encourage us to redouble our efforts. It is only through disciplined mass action that our victory can be assured.

We call on our white compatriots to join us in the shaping of a new South Africa. The freedom movement is the political home for you, too. We call on the international community to continue the campaign to isolate the apartheid regime.

To lift sanctions now would be to run the risk of aborting the process toward the complete eradication of apartheid. Our march to freedom is irreversible. We must not allow fear to stand in our way.

Universal suffrage on a common voters roll in a united democratic and nonracial South Africa is the only way to peace and racial harmony.

In conclusion, I wish to go to my own words during my trial in 1964. They are as true today as they were then. I wrote: I have fought against white domination, and I have fought against black domination. I have cherished the idea of a democratic and free society in which all persons live together in harmony and with equal opportunities.

It is an ideal which I hope to live for and to achieve. But if needs be, it is an ideal for which I am prepared to die.

[The following portion was delivered in Xhosa. The translation was provided by Mbulelo Mzamane, a professor of Comparative Literature at the University of Georgia.]

My friends, I have no words of eloquence to offer today except to say that the remaining days of my life are in your hands.

[He continued in English.] I hope you will disperse with discipline. And not a single one of you should do any thing which will make other people to say that we can't control our own people.

ADDRESS BY THE STATE PRESIDENT, MR. F.W. DE KLERK, DMS, AT THE OPENING OF THE SECOND SESSION OF THE NINTH PARLIAMENT OF THE REPUBLIC OF SOUTH AFRICA, CAPE TOWN, FEBRUARY 2, 1990

Mr. Speaker, Members of Parliament, the general election on September the 6th, 1989, placed our country irrevocably on the road of drastic change. Underlying this is the growing realisation by an increasing number of South Africans that only a negotiated understanding among the representative leaders of the entire population is able to ensure lasting peace.

The alternative is growing violence, tension and conflict. That is unacceptable and in nobody's interest. The well-being of all in this country is linked inextricably to the ability of the leaders to come to terms with one another on a new dispensation. No one can escape this simple truth.

On its part, the Government will accord the process of negotiation the highest priority. The aim is a totally new and just constitutional dispensation in which every inhabitant will enjoy equal rights, treatment and opportunity in every sphere of endeavour—constitutional, social and economic.

I hope that this new Parliament will play a constructive part in both the prelude to negotiations and the negotiating process itself. I wish to ask all of you who identify yourselves with the broad aim of a new South Africa, and that is the overwhelming majority:

Let us put petty politics aside when we discuss the future during this Session.

Help us build a broad consensus about the fundamentals of a new, realistic and democratic dispensation.

Let us work together on a plan that will rid our country of suspicion and steer it away from domination and radicalism of any kind.

During the term of this new Parliament, we shall have to deal, complementary to one another, with the normal processes of legislation and day-to-day government, as well as with the process of negotiation and renewal.

Within this framework I wish to deal first with several matters more closely concerned with the normal process of government before I turn specifically to negotiation and related issues.

1. FOREIGN RELATIONS

The Government is aware of the important part the world at large has to play in the realisation of our country's national interests.

Without contact and co-operation with the rest of the world we cannot promote the well-being and security of our citizens. The dynamic developments in international politics have created new opportunities for South Africa as well. Important advances have been made, among other things, in our

contacts abroad, especially where these were precluded previously by ideological considerations.

I hope this trend will be encouraged by the important change of climate that is taking place in South Africa.

For South Africa, indeed for the whole world, the past year has been one of change and major upheaval. In Eastern Europe and even the Soviet Union itself, political and economic upheaval surged forward in an unstoppable tide. At the same time, Beijing temporarily smothered with brutal violence the yearning of the people of the Chinese mainland for greater freedom.

The year of 1989 will go down in history as the year in which Stalinist Communism expired.

These developments will entail unpredictable consequences for Europe, but they will also be of decisive importance to Africa. The indications are that the countries of Eastern and Central Europe will receive greater attention, while it will decline in the case of Africa.

The collapse, particularly of the economic system in Eastern Europe, also serves as a warning to those who insist on persisting with it in Africa. Those who seek to force this failure of a system on South Africa, should engage in a total revision of their point of view. It should be clear to all that it is not the answer here either. The new situation in Eastern Europe also shows that foreign intervention is no recipe for domestic change. It never succeeds, regardless of its ideological motivation. The upheaval in Eastern Europe took place without the involvement of the Big Powers or of the United Nations.

The countries of Southern Africa are faced with a particular challenge: Southern Africa now has an historical opportunity to set aside its conflicts and ideological differences and draw up a joint programme of reconstruction.

It should be sufficiently attractive to ensure that the Southern African region obtains adequate investment and loan capital from the industrial countries of the world. Unless the countries of Southern Africa achieve stability and a common approach to economic development rapidly, they will be faced by further decline and ruin.

The Government is prepared to enter into discussions with other Southern African countries with the aim of formulating a realistic development plan. The Government believes that the obstacles in the way of a conference of Southern African states have now been removed sufficiently.

Hostile postures have to be replaced by cooperative ones; confrontation by contact; disengagement by engagement; slogans by deliberate debate.

The season of violence is over. The time for reconstruction and reconciliation has arrived.

Recently there have, indeed, been unusually positive results in South Africa's contacts and relations with other African states. During my visits to their countries I was received cordially, both in private and in public, by Presidents Mobutu, Chissano, Houphouet-Boigny and Kaunda. These leaders expressed their sincere concern about the serious economic problems in our part of the world. They agreed that South Africa could and should play a positive part in regional co-operation and development.

Our positive contribution to the independence process in South West Africa has been recognized internationally. South Africa's good faith and reliability as a negotiator made a significant contribution to the success of the events. This, too, was not unnoticed. Similarly, our efforts to help bring an end to the domestic conflict situations in Mozambique and Angola have received positive acknowledgement.

At present the Government is involved in negotiations concerning our future relations with an independent Namibia and there are no reason why good relations should not exist between the two countries. Namibia needs South Africa and we are prepared to play a constructive part.

Nearer home I paid fruitful visits to Venda, Transkei and Ciskei and intend visiting Bophuthatswana soon. In recent times there has been an interesting debate about the future relationship of the TBVC countries with South Africa and specifically about whether they should be re-incorporated into our country.

Without rejecting this idea out of hand, it should be borne in mind that it is but one of many possibilities. These countries are constitutionally independent. Any return to South Africa will have to be dealt with, not only by means of legislation in their parliaments, but also through legislation in this Parliament. Naturally this will have to be preceded by talks and agreements.

2. HUMAN RIGHTS

Some time ago the Government referred the question of the protection of fundamental human rights to the Southern Africa Law Commission. This resulted in the Law Commission's interim working document on individual and minority rights. It elicited substantial public interest.

I am satisfied that every individual and organisation in the country has had ample opportunity to make representations to the Law Commission, express criticism freely and make suggestions. At present, the Law Commission is considering the representations received. A final report is expected in the course of this year.

In view of the exceptional importance of the subject of human rights to our country and all its people, I wish to ask the Law Commission to accord this task high priority.

The whole question of protecting individual and minority rights, which includes collective rights and the rights of national groups, is still under consideration by the Law Commission. Therefore, it would be inappropriate of the Government to express a view on the details now. However, certain matters of principle have emerged fairly clearly and I wish to devote some remarks to them.

The Government accepts the principle of the recognition and protection of the fundamental individual rights which form the constitutional basis of most Western democracies. We acknowledge, too, that the most practical way of protecting those rights is vested in a declaration of rights justifiable by an independent judiciary. However, it is clear that a system for the protection of the rights of individuals, minorities and national entities has to form a well-rounded and balanced whole. South Africa has its own national composition and our constitutional dispensation has to take this into account. The formal recognition of individual rights does not mean that the problems of a heterogeneous population will simply disappear. Any new constitution which disregards this reality will be inappropriate and even harmful.

Naturally, the protection of collective, minority and national rights may not bring about an imbalance in respect of individual rights. It is neither the Government's policy nor its intention that any group—in whichever way it may be defined—shall be favoured above or in relation to any of the others.

The Government is requesting the Law Commission to undertake further task and report on it. This task is directed at the balanced protection in a future constitution of the human rights of all our citizens, as well as of collective units, associations, minorities and nations. This investigation will also serve the purpose of supporting negotiations toward a new constitution.

The terms of reference also include:

The identification of the main types and models of democratic constitutions which deserve consideration in the aforementioned context;

An analysis of the ways in which the relevant rights are protected in every model; and

Possible methods by means of which such constitutions may be made to succeed and be safeguarded in a legitimate manner.

3. THE DEATH PENALTY

The death penalty has been the subject of intensive discussion in recent months. However, the Government has been giving its attention to this extremely sensitive issue for some time. On April the 27th, 1989, the honourable Minister of Justice indicated that there was merit in suggestions for reform in this area. Since 1988 in fact, my predecessor and I have been taking decisions on reprieves which have led, in proportion, to a drastic decline in executions.

We have now reached the position in which we are able to make concrete proposals for reform. After the Chief Justice was consulted, and he in turn had consulted the Bench, and after the Government had noted the opinions of academics and other interested parties, the Government decided on the following broad principles from a variety of available options:

That reform in this area is indicated;

That the death penalty should be limited as an option of sentence to extreme cases, and specifically through broadening judicial discretion in the imposition of sentence; and

That an automatic right of appeal be granted to those under sentence of death.

Should these proposals be adopted, they should have a significant influence on the imposition of death sentences on the one hand, and on the other, should ensure that every case in which a person has been sentenced to death, will come to the attention of the Appellate Division.

These proposals require that everybody currently awaiting execution, be accorded the benefit of the proposed new approach. Therefore, all executions have been suspended and no executions will take place until Parliament has taken a final decision on the new proposals. In the event of the proposals being adopted, the case of every person involved will be dealt with in accordance with the new guidelines. In the meantime, no executions have taken place since November the 14th, 1989.

New and uncompleted cases will still be adjudicated in terms of the existing law. Only when the death sentence is imposed, will the new proposals be applied, as in the case of those currently awaiting execution.

The legislation concerned also details other related principles which will be announced and elucidated in due course by the Minister of Justice. It will now be formulated in consultation with experts and be submitted to Parliament as soon as possible.

I wish to urge everybody to join us in dealing with this highly sensitive issue in a responsible manner.

4. SOCIO-ECONOMIC ASPECTS

A changed dispensation implies far more than political and constitutional issues. It cannot be pursued successfully in isolation from problems in other spheres of life which demand practical solutions. Poverty, unemployment, housing shortages, inadequate education and training, illiteracy, health needs and numerous other problems still stand in the way of progress and prosperity and an improved quality of life.

The conservation of the physical and human environment is of cardinal importance to the quality of our existence. For this the Government is developing a strategy with the aid of an investigation by the President's Council.

All of these challenges are being dealt with urgently and comprehensively. The capability for this has to be created in an economically accountable manner. Consequently, existing strategies and aims are undergoing a comprehensive revision.

From this will emanate important policy announcements in the socio-economic sphere by the responsible Ministers during the course of the session. One matter about which it is possible to make a concrete announcement, is the Separate Amenities Act, 1953. Pursuant to my speech before the President's Council late last year, I announce that this Act will be repealed during this Session of Parliament.

The State cannot possibly deal alone with all of the social advancement our circumstances demand. The community at large, and especially the private sector, also have a major responsibility towards the welfare of our country and its people.

5. THE ECONOMY

A new South Africa is possible only if it is bolstered by a sound and growing economy, with particular emphasis on the creation of employment. With a view to this, the Government has taken thorough cognisance of the advice contained in numerous reports by a variety of advisory bodies. The central message is that South Africa, too, will have to make certain structural changes to its economy, just as its major trading partners had to do a decade or so ago.

The period of exceptionally high economic growth experienced by the Western world in the sixties, was brought to an end by the oil crisis in 1973. Drastic structural adaptations became inevitable for these countries, especially after the second oil crisis in 1979, when serious imbalances occurred in their economies. After considerable sacrifices, those countries which persevered with their structural adjustment programmes, recovered economically so that lengthy periods of high economic growth and low inflation were possible.

During that particular period, South Africa was protected temporarily by the rising gold price from the necessity of making similar adjustment immediately. In fact, the high gold price even brought prosperity with it for a while. The recovery of the world economy and the decline in the price of gold and other primary products, brought with them unhealthy trends. These included high inflation, a serious weakening in the productivity of capital, stagnation in the economy's ability to generate income and employment opportunities. All of this made a drastic structural adjustment of our economy inevitable.

The Government's basic point of departure is to reduce the role of the public sector in the economy and to give the private sector maximum opportunity for optimal performance. In this process, preference has to be given to allowing the market forces and a sound competitive structure to bring about the necessary adjustments.

Naturally, those who make and implement economic policy have a major responsibility at the same time to promote an environment optimally conducive to investment, job creation and economic growth by means of appropriate and properly co-ordinated fiscal and monetary policy. The Government remains committed to this balanced and practical approach.

By means of restricting capital expenditure in parastatal institutions, privatisation, deregulation and curtailing government expenditure, substantial progress has been made already towards reducing the role of the authorities in the economy. We shall persist with this in a well-considered way.

This does not mean that the State will forsake its indispensable development role, especially in our particular circumstances. On the contrary, it is the precise intention of the Government to concentrate an equitable portion of its capacity on these aims by means of the meticulous determination of priorities.

Following the progress that has been made in other areas of the economy in recent years, it is now opportune to give particular attention to the supply side of the economy. Fundamental factors which will contribute to the success of this restructuring are:

The gradual reduction of inflation to levels comparable to those of our principal trading partners;

The encouragement of personal initiative and savings;

The subjection of all economic decisions by the authorities to stringent financial measures and discipline;

Rapid progress with the reform of our system of taxation; and

The encouragement of exports as the impetus for industrialisation and earning foreign exchange.

These and other adjustments, which will require sacrifices, have to be seen as prerequisites for a new period of sustained growth in productive employment in the nineties.

The Government has also noted with appreciation the manner in which the Reserve Bank has discharged its special responsibility in striving toward common goals.

The Government is very much aware of the necessity of proper co-ordination and consistent implementation of its economic policy. For this reason, the establishment of the necessary structures and expertise to ensure this co-ordination is being given preference. This applies both to the various functions within the Government and to the interaction between the authorities and the private sector.

This is obviously not the occasion for me to deal in greater detail with our total economic strategy or with the recent course of the economy.

I shall confine myself to a few specific remarks on one aspect of fiscal policy that has been a source of criticism of the Government for some time, namely State expenditure.

The Government's financial year ends only in two month's time and several other important economic indicators for the 1989 calendar year are still subject to refinements at this stage. Nonetheless, several important trends are becoming increasingly clear. I am grateful to be able to say that we have apparently succeeded to a substantial degree in achieving most of our economic aims in the past year.

In respect of Government expenditure, the budget for the current financial year will be the most accurate in many years. The financial figures will show:

That Government expenditure is thoroughly under control;

That our normal financing programme has not exerted any significant upward pressure on rates of interest; and

That we will close the year with a surplus, even without taking the income from the privatisation of Iscor into account.

Without pre-empting this year's main budget, I wish to emphasise that it is also our intention to co-ordinate fiscal and monetary policy in the coming financial year in a way that will enable us to achieve the ensuing goals—namely:

That the present downturn will take the form of a soft landing which will help to make adjustments as easy as possible;

That our economy will consolidate before the next upward phase so that we will be able to grow from a sound base; and

That we shall persist with the implementation of the required structural adaptations in respect, among other things, of the following; easing the tax burden, especially on individuals; sustained and adequate generation of surpluses on the current account of the balance of payments and the reconstruction of our gold and foreign exchange reserves.

It is a matter of considerable seriousness to the Government, especially in this particular period of our history, to promote a dynamic economy which will make it possible for increasing numbers of people to be employed and share in rising standards of living.

6. NEGOTIATION

In conclusion, I wish to focus the spotlight on the process of negotiation and related issues. At this stage I am refraining deliberately from discussing the merits of numerous political questions which undoubtedly will be debated during the next few weeks. The focus, now, has to fall on negotiation.

Practically every leader agrees that negotiation is the key to reconciliation, peace and a new and just dispensation. However, numerous excuses for refusing to take part, are advanced. Some of the reasons being advanced are valid. Others are merely part of a political chess game. And while the game of chess proceeds, valuable time is being lost.

Against this background I committed the Government during my inauguration to giving active attention to the most important obstacles in the way of negotiation. Today I am able to announce far-reaching decisions in this connection.

I believe that these decisions will shape a new phase in which there will be a movement away from measures which have been seized upon as a justification for confrontation and violence. The emphasis has to move, and will move now, to a debate and discussion of political and economic points of view as part of the process of negotiation.

I wish to urge every political and community leader, in and outside Parliament, to approach the new opportunities which are being created, constructively. There is no time left for advancing all manner of new conditions that will delay the negotiating process.

The steps that have been decided, are the following:

The prohibition of the African National Congress, the Pan Africanist Congress, the South African Communist Party and a number of subsidiary organisations is being rescinded.

People serving prison sentences merely because they were members of one of these organisations or because they committed another offence which was merely an offence because a prohibition on one of the organisations was in force, will be identified and released. Prisoners who have been sentenced for other offences such as murder, terrorism or arson are not affected by this.

The media emergency regulations as well as the education emergency regulations are being abolished in their entirety.

The security emergency regulations will be amended to still make provision for effective control over visual material pertaining to scenes of unrest.

The restrictions in terms of the emergency regulations on 33 organisations are being rescinded. The organisations include the following: National Education Crisis Committee, South African National Students Congress, United Democratic Front, Cosatu, and Die Blanke Bevrydingsbeweging van Suid-Afrika.

The conditions imposed in terms of the security emergency regulations on 374 people on their release, are being rescinded and the regulations which provide for such conditions are being abolished.

The period of detention in terms of the security emergency regulations will be limited henceforth to six months. Detainees also acquire the right to legal representation and a medical practitioner of their own choosing.

These decisions by the Cabinet are in accordance with the Government's declared intention to normalise the political process in South Africa without jeopardising the maintenance of the good order. They were preceded by thorough and unanimous advice by a group of officials which included members of the security community.

Implementation will be immediate and, where necessary, notices will appear in the Government Gazette from tomorrow.

The most important facets of the advice the Government received in this connection, are the following:

The events in the Soviet Union and Eastern Europe, to which I have referred already, weaken the capability of organisations which were previously supported strongly from those quarters.

The activities of the organisations from which the prohibitions are now being lifted, no longer entail the same degree of threat to internal security which initially necessitated the imposition of the prohibitions.

There have been important shifts of emphasis in the statements and points of view of the most important of the organisations concerned, which indicate a new approach and a preference for peaceful solutions.

The South African Police is convinced that it is able, in the present circumstances, to combat violence and other crimes perpetrated also by members of these organisations and to bring offenders to justice without the aid of prohibitions on organisations.

About one matter there should be no doubt. The lifting of the prohibition on the said organisations does not signify in the least the approval or condonation of terrorism or crimes of violence committed under their banner or which may be perpetrated in the future. Equally, it should not be interpreted as a deviation from the Government's principles, among other things, against their economic policy and aspects of their constitutional policy. This will be dealt with in debate and negotiation.

At the same time I wish to emphasise that the maintenance of law and order dare not be jeopardised. The Government will not forsake its duty in this connection. Violence from whichever source, will be fought with all available might. Peaceful protest may not become the springboard for lawlessness, violence and intimidation. No democratic country can tolerate that.

Strong emphasis will be placed as well on even more effective law enforcement. Proper provision of manpower and means for the police and all who are involved with the enforcement of the law, will be ensured. In fact, the budget for the coming financial year will already begin to give effect to this.

I wish to thank the members of our security forces and related services for the dedicated service they have rendered the Republic of South Africa. Their dedication makes reform in a stable climate possible.

On the state of emergency I have been advised that an emergency situation, which justifies these special measures which have been retained, still exists. There is still conflict which is manifesting itself mainly in Natal, but as a consequence of the countrywide political power struggle. In addition, there are indications that radicals are still trying to disrupt the possibilities of negotiation by means of mass violence.

It is my intention to terminate the state of emergency completely as soon as circumstances justify it and I request the co-operation of everybody towards this end. Those responsible for unrest and conflict have to bear the blame for the continuing state of emergency. In the meantime, the state of emergency is inhibiting only those who use chaos and disorder as political instruments. Otherwise the rules of the game under the state of emergency are the same for everybody.

Against this background the Government is convinced that the decisions I have announced are justified from the security point of view. However, these decisions are justified from a political point of view as well.

Our country and all its people have been embroiled in conflict, tension and violent struggle for decades. It is time for us to break out of the cycle of violence and break through to peace and reconciliation. The silent majority is yearning for this. The youth deserve it.

With the steps the Government has taken it has proven its good faith and the table is laid for sensible leaders to begin talking about a new dispensation, to reach an understanding by way of dialogue and discussion.

The agenda is open and the overall aims to which we are aspiring should be acceptable to all reasonable South Africans.

Among other things, those aims include a new, democratic constitution; universal franchise; no domination; equality before an independent judiciary; the protection of minorities as well as of individual rights; freedom of religion; a sound economy based on proven economic principles and private enterprise; dynamic programmes directed at better education, health services, housing and social conditions for all.

In this connection Mr. Nelson Mandela could play an important part. The Government has noted that he has declared himself to be willing to make a constructive contribution to the peaceful political process in South Africa.

I wish to put it plainly that the Government has taken a firm decision to release Mr. Mandela unconditionally. I am serious about bringing this matter to finality without delay. The Government will make a decision soon on the date of his release. Unfortunately, a further short passage of time is unavoidable.

Normally there is a certain passage of time between the decision to release and the actual release because of logistical and administrative requirements. In the case of Mr. Mandela there are factors in the way of his immediate release, of which his personal circumstances and safety are not the least. He has not been an ordinary prisoner for quite some time. Because of that, his case requires particular circumspection.

Today's announcements, in particular, go to the heart of what Black leaders—also Mr. Mandela—have been advancing over the years as their reason for having resorted to violence. The allegation has been that the Government did not wish to talk to them and that they were deprived of their right to normal political activity by the prohibition of their organisations.

Without conceding that violence has ever been justified, I wish to say today to those who argued in this manner:

The Government wishes to talk to all leaders who seek peace.

The unconditional lifting of the prohibition on the said organizations places everybody in a position to pursue politics freely.

The justification for violence which was always advanced, no longer exists.

These facts place everybody in South Africa before a fait accompli. On the basis of numerous previous statements there is no longer any reasonable excuse for the continuation of violence. The time for talking has arrived and whoever still makes excuses does not really wish to talk.

Therefore, I repeat my invitation with greater conviction then ever:

Walk through the open door, take your place at the negotiating table together with the Government and other leaders who have important power bases inside and outside of Parliament.

Henceforth, everybody's political points of view will be tested against their realism, their workability and their fairness. The time for negotiation has arrived.

To those political leaders who have always resisted violence I say thank you for your principled stands. This includes all the leaders of parliamentary parties, leaders of important organizations and movements, such as Chief Minister Buthelezi, all of the other Chief Ministers and urban community leaders.

Through their participation and discussion they have made an important contribution to this moment in which the process of free political participation is able to be restored. Their places in the negotiating process are assured.

CONCLUSION

In my inaugural address I said the following:

"All reasonable people in this country—by far the majority—anxiously await a message of hope. It is our responsibility as leaders in all spheres to provide that message realistically, with courage and conviction. If we fail in that, the ensuing chaos, the demise of stability and progress, will forever be held against us.

"History has thrust upon the leadership of this country the tremendous responsibility to turn our country away from its

present direction of conflict and confrontation. Only we, the leaders of our peoples, can do it."

"The eyes of responsible governments across the world are focused on us. The hopes of millions of South Africans are centered around us. The future of Southern Africa depends on us. We dare not falter or fail."

This is where we stand:

Deeply under the impression of our responsibility.

Humble in the face of the tremendous challenges ahead.

Determined to move forward in faith and with conviction.

I ask of Parliament to assist me on the road ahead. There is much to be done.

I call on the international community to re-evaluate its position and to adopt a positive attitude towards the dynamic evolution which is taking place in South Africa.

I pray that the Almighty Lord will guide and sustain us on our course through unchartered waters and will bless your labours and deliberations.

Mr. Speaker, Members of Parliament, I now declare this Second Session of the Ninth Parliament of the Republic of South Africa to be duly opened.

SENATE CONCURRENT RESOLUTION 95—RELATING TO NEGOTIATIONS RELATIVE TO GERMAN UNIFICATION

Mr. SIMON (for himself and Ms. MIKULSKI) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 95

Whereas, a uniting of the two governments of Germany into one entity appears likely in the near future; and

Whereas, the people of Germany and all of Europe, who have experienced the painful consequences of military aggression in the past, desire to live in peace and freedom in a Europe free of military aggression;

Whereas, France, Poland and Czechoslovakia have special reason for making sure that great care is exercised as preparations are made for a united Germany; and

Whereas, the upcoming conference on German unification includes only one of those three countries, France; and

Whereas, the people of Poland and Czechoslovakia have suffered greatly when decisions were made on the future of Central Europe by other nations, without consultations with the Governments of Poland and Czechoslovakia;

Whereas, other bordering nations have much at stake in the unification of Germany: Therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the Sense of the Congress that Prime Minister Tadeusz Mazowiecki and President Vaclav Havel and other designated leaders of the Polish and Czechoslovak Governments should be consulted by the governments of the United States, the Union of Soviet Socialist Republics, Great Britain and France both prior to the upcoming meeting and during its sessions: Be it further

Resolved by the Senate (the House of Representatives concurring), That the leaders of other bordering nations should also be consulted by the governments of the United States, the Union of Soviet Socialist Republics, Great Britain and France both prior to the upcoming meeting and during its sessions.

Mr. SIMON. Madam President, I am submitting a concurrent resolution that calls for consultation with Poland and the other bordering countries of Germany in connection with the talks that are going to be taking place on the unification of Germany. I had frankly hoped that we would have clearance to take this up and suspend the rules and take it up immediately. There is objection by one member of the Foreign Relations Committee to doing that. So I am submitting it. I hope we can move it expeditiously.

There is concern, particularly in Poland. There are only two nations that have experienced dramatic changes in the lifetimes of any of us in this body in connection with Germany. One is France and one is Poland. France is a member of the two plus four, one of the big four that is going to be talking about this.

There is concern in Poland that actions are going to be taken without consultation with Poland. Frankly, the consultation should not be just with Poland. It should be with Czechoslovakia, it should be with Austria, Denmark, Netherlands, Begium. It should be with the other bordering countries. The resolution simply calls for that consultation; that the four superpowers—that is probably in incorrect terminology—that the United States, Soviet Union, France, and Great Britain should not act independently without consulting with these other bodies.

That is what the concurrent resolution does, very simply. It will be referred to the Committee on Foreign Relations. I hope we can move it very quickly.

I think it is significant that Mr. Gorbachev has suggested that Poland should be considered. It seems to me to be not in our own national interest for Mr. Gorbachev to say Poland should be considered and we are not saying the same thing. It is not a very complicated thing that I am talking about. It is fairly simple. I hope we can get some positive action.

The PRESIDING OFFICER. Will the Senator withhold?

The Chair in her capacity as a Senator from Maryland, asks unanimous consent to be included as an original cosponsor.

Mr. SIMON. I will be honored to have the Senator from Maryland as an original cosponsor.

SENATE RESOLUTION 247—RELATING TO HUMAN RIGHTS IN CUBA

Mr. DOLE (for Mr. MACK), (for himself, Mr. GRAHAM, Mr. MCCAIN, Mr. LIEBERMAN, Mr. KASTEN, Mr. COATS, Mr. GRAMM, and Mr. GORTON) submitted the following resolution; which was considered and agreed to:

S. RES. 247

Whereas the United Nations Human Rights Commission (UNHRC) sent a delegation to Cuba to investigate violations of human rights in Cuba in September, 1988;

Whereas the UNHRC delegation report found serious abuses of human rights, including "137 complaints of torture, cruel, inhuman or degrading treatment or punishment";

Whereas the Cuban Government gave public guarantees that no reprisals would be taken against Cuban citizens testifying before the UNHRC delegation;

Whereas after the visit of the UNHRC delegation more than twenty Cuban citizens who testified before the delegation were arrested, and the leaders of human rights groups imprisoned;

Whereas ninety United States Senators wrote to the United Nations Secretary General requesting that he intercede on behalf of Alfredo Mustelier Nuevo, Ernesto Diaz Rodriguez, and Mario Chanes de Armas, who have been incarcerated for over twenty years in Cuba;

Whereas on March 9, 1989, the UNHRC called on the Secretary General of the United Nations to "maintain direct contacts on the issues and questions contained in the report" on human rights in Cuba and take up the results of his efforts "in an appropriate manner";

Whereas the Secretary General of the United Nations has not acceded to the requests of the United States and other nations to provide a report on human rights situation in Cuba;

Whereas the UNHRC has appointed Special Rapporteurs to investigate and report on the situation of human rights in such countries as Iran, Afghanistan, El Salvador and Romania: Now, therefore, be it

Resolved by the Senate, That the Senate hereby—

Condemns the Government of Cuba for retaliating against citizens who testified before the delegation of the United Nations Human Rights Commission (UNHRC);

Urges the Government of Cuba to release all human rights activists and other political prisoners, particularly those who have suffered over twenty years in prison;

Urges the Secretary General to prepare and make available to the 46th Session of the UNHRC a report on the results of his contacts with the Government of Cuba pursuant to UNHRC Resolution 89-113;

Urges the UNHRC to hold Cuba accountable to the standards embodied in the Universal Declaration of Human Rights;

Urges the UNHRC to appoint a Special Rapporteur to investigate the situation of human rights in Cuba and to submit a report for consideration at the 47th Session of the United Nations Human Rights Commission.

SENATE RESOLUTION 248—ESTABLISHING AN ADVISORY PANEL ON CAMPAIGN FINANCE REFORM

Mr. BYRD (for Mr. MITCHELL), (for himself and Mr. DOLE) submitted the following resolution; which was considered and agreed to:

S. RES. 248

Resolved, That the majority and minority leaders of the Senate are authorized to assemble an advisory panel (hereinafter referred to as the "Campaign Finance Reform Panel") to assist in the formulation of policy relating to campaign finance reform.

SEC. 2. The Secretary of the Senate is authorized and directed to pay from the contingent fund of the Senate, out of the account for miscellaneous items, the actual and reasonable expenses (including expenses incurred prior to the date this resolution is agreed to) incurred by members of the Campaign Finance Reform Panel for transportation and per diem expenses, in carrying out their functions as members of such Panel. Such expenses shall be paid on vouchers certified by the majority leader (or his designee), or the minority leader (or his designee) of the Senate.

AMENDMENTS SUBMITTED

STUDENT ATHLETE RIGHT-TO-KNOW ACT

BRADLEY (AND OTHERS) AMENDMENT NO. 1259

Mr. BYRD (for Mr. BRADLEY), (for himself, Mr. KENNEDY, and Mr. COCHRAN) proposed an amendment to the bill (S. 580) to require institutions of higher education receiving Federal financial assistance to provide certain information with respect to the graduation rates of student-athletes at such institutions, as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Student Athlete Right-to-Know Act".

SEC. 2. FINDINGS.

The Congress finds that—

(1) education is fundamental to the development of individual citizens and the progress of the Nation as a whole;

(2) there is increasing concern among citizens, educators, and public officials regarding the academic performance of student-athletes at institutions of higher education;

(3) an overwhelming majority of college presidents (86 percent) in a survey by the U.S. News and World Report believe that the pressure for success and financial rewards in intercollegiate athletics interfers with the educational mission of the United States' colleges and universities;

(4) more than 10,000 athletic scholarships are provided annually by institutions of higher education;

(5) prospective student atheltes and their families should be aware of the educational commitments prospective colleges make to athletes; and

(6) knowledge of the graduation rates of student-athletes would assist prospective students and their families in making an informed judgment about the educational benefits available at a given institution of higher education.

SEC. 3. REPORTING REQUIREMENTS FOR INSTITUTIONS OF HIGHER EDUCATION.

(A) REPORTS TO THE SECRETARY.—Each institution of higher education which receives Federal financial assistance and is attended by students receiving athletic scholarships shall annually submit a report to the Secretary which contains—

(1) the number of students at the institution of higher education who received athletically related student aid for football, basketball, and all other sports, broken down by race and sex;

(2) the number of students at the institution of higher education, broken down by race and sex;

(3) the graduation rate for students at the institution of higher education who received athletic scholarships for football, basketball, and all other sports, broken down by race and sex;

(4) the graduation rate for first-time, full-time students, broken down by race and sex;

(5) the average graduation rate for the 4 most recent graduating classes of students at the institution of higher education who received athletically related student aid for football, basketball, and all other sports, broken down by race and sex;

(6) the average graduation rate for the 4 most recent graduating classes of all students, broken down by race and sex; and

(7) the average graduation rate for the 10 most recent graduating classes of students at the institution of higher education who received athletically related student aid for football, basketball, and all other sports, broken down by race and sex.

(b) STUDENT NOTIFICATION.—When an institution described in subsection (a) offers a potential student-athlete athletically related student aid, such institution shall provide to the student and his parents, his guidance counselor, and coach the information contained in the report submitted by such institution pursuant to subsection (a).

(c) SPECIAL CIRCUMSTANCES.—If an institution of higher education described in subsection (a) finds that the information collected pursuant to subsection (a), because of extenuating circumstances, does not provide an accurate representation of the school's graduation rate, the school may provide additional information to the student and the Secretary.

(d) COMPARABLE INFORMATION.—Each institution of higher education described in subsection (a) may provide supplemental information to students and the Secretary showing the graduation rate when such graduation rate does not include students transferring into, and out of, such institution. The Secretary shall ensure that the data presented to the student and the data submitted to the Secretary are comparable.

SEC. 4. REPORT BY SECRETARY.

(a) IN GENERAL.—The Secretary shall, using the data required under section 3, shall compile and publish a report containing the information required under section 3, broken down by—

(1) individual institutions of higher education, and

(2) athletic conferences recognized by the National Collegiate Athletic Association and the National Assocition of Intercollegiate Athletics.

(b) REPORT AVAILABILITY.—The Secretary shall make available copies of the report required under subsection (a) to any individual or secondary school requesting a copy of such report.

SEC. 5. INFORMATION.

The Secretary may, at his discretion, obtain the information required by section 3 from a private, not-for-profit organization when, in the Secretary's opinion, such collection will reduce the paperwork burden imposed on higher education institutions.

SEC. 6. WAIVER.

The Secretary shall waive the requirements of this Act for any institution of higher education which is a member of an athletic association or athletic conference that voluntarily publishes graduation rate data (or has already agreed to publish the data) that, in the opinion of the Secretary, is substantially comparable to the information required under this Act.

SEC. 7. DEFINITIONS.

For the purpose of this Act—

(1) The term "athletically related student aid" means any scholarship, grant, or other form of financial assistance whose terms require the recipient to particpate in an institution of higher education's program of intercollegiate athletics in order to be eligible to receive such assistance;

(2) The term "institution of higher education" has the same meaning given such term by section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a));

(3) The term "Secretary " means the Secretary of Education; and

(4) The term "graduation rate" means the percentage of students who enter an institution in a specific year and receive a bachelor's degree within 5 years.

SEC. 8. EFFECTIVE DATE.

The amendments made by this Act shall take effect October 1, 1991.

FEDERAL CIVIL PENALTIES INFLATION ADJUSTMENT ACT

GLENN AMENDMENT NO. 1260

Mr. BYRD (for Mr. GLENN) proposed an amendment to the bill (S. 535) to increase civil monetary penalties based on the effect of inflation, as follows:

On page 1, line 5, strike out "1989" and insert in lieu thereof "1990".

NOTICES OF HEARINGS

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT

Mr. LEVIN. Mr. President, I wish to announce that the Subcommittee on Oversight of Government Management, Committee on Governmental Affairs, will hold a hearing on the Federal role in promoting and using special alternative incarceration on Thursday, March 1, at 9:30 a.m., in room 342 of the Dirksen Senate Office Building.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. METZENBAUM. Mr. President, I would like to announce for the public that a hearing has been scheduled before the Subcommittee on Energy Regulation and Conservation of the Committee on Energy and Natural Resources.

The hearing will take place Tuesday, March 27, at 9:30 a.m. in room SD-366 of the Senate Dirksen Office Building in Washington, DC.

The purpose of the hearing is to receive testimony on S. 1355, legislation to assist private industry in establishing a uniform residential energy effi-

ciency rating system, and for other purposes.

For further information, please contact Allen Stayman at (202) 244-7865.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON CONSUMERS

Mr. BYRD. Mr. President, I ask unanimous consent that the Consumer Subcommittee, of the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on February 22, 1990, at 9:30 a.m. to hold a hearing on S. 1400, the Product Liability Reform Act.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. BYRD. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, February 22, 1990, at 2 p.m. to hold a closed hearing on intelligence matters.

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

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. BYRD Mr. President, I ask unanimous consent that the Committee on Banking. Housing, and Urban Affairs be allowed to meet during the session of the Senate, Thursday, February 22, 1990, at 10 a.m. to hold hearings on the Federal Reserve's First Monetary Policy Report for 1990.

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

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. BYRD. Mr. President, I ask unanimous consent that the full Committee on Environment and Public Works be authorized to meet during the session of the Senate on Thursday, February 22, beginning at 10 a.m., to hear presidential nominees Erich W. Bretthauer, nominated to be assistant administrator, Office of Research and Development, EPA; Jacqueline L. Phillips, nominated to be Federal cochairman, ARC; and Hilda Gay Legg, nominated to be alternate Federal cochairman, ARC.

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BYRD. Mr. President, I ask unanimous consent that the full Committee of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate 9:30 a.m., February 22, 1990, to receive testimony on the Department of Energy's implementation of the civilian nuclear waste program.

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

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Thursday, February 22, at 2:30 P.M., on the nomination of Allan Victor Burman, to be administrator for Federal Procurement Policy.

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

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Thursday, February 22, at 9 a.m., on S. 1742, the Federal Information Resources Management Act of 1989.

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

SUBCOMMITTEE ON EDUCATION, ARTS AND HUMANITIES

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Education, Arts and Humanities of the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Thursday, February 22, 1990, at 10 a.m. for a hearing on S. 1675, the Excellence in Teaching Act and S. 1676, the National Teacher Act of 1989.

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

COMMITTEE ON ARMED SERVICES

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet in open session on Thursday, February 22, 1990, at 9 a.m. to receive testimony on the implications of changes in the Soviet Union and Eastern Europe for Western security.

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

COMMITTEE ON ARMED SERVICES

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Thursday, February 22, 1990 at 2 p.m. in open session to consider the nomination of Adm. David E. Jeremiah, USN, to be Vice Chairman of the Joint Chiefs of Staff.

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

SUBCOMMITTEE ON EUROPEAN AFFAIRS

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on European Affairs of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, February 22, at 2 p.m. to hold a hearing on U.S. policy in Europe.

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

COMMITTEE ON RULES AND ADMINISTRATION

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on Thursday, February 22, 1990, for the following hearings:

9:30 a.m.: Hearing on S. 1543, to authorize the Colonial Dames at Gunston Hall to establish a memorial to George Mason in the District of Columbia;

10:00 a.m.: Hearing on the nomination of Robert William Houk, of Ohio, to be Public Printer; and

11:00 a.m.: Hearing on S. 2120, to amend the Federal Election Campaign Act of 1971 to provide for a voluntary system of spending limits and partial public financing of Senate general election campaigns, to limit contributions by multicandidate political committees, and for other purposes.

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

SUBCOMMITTEE ON COURTS AND ADMINISTRATIVE PRACTICE

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Courts and Administrative Practice of the Committee on the Judiciary, be authorized to meet during the session of the Senate on Thursday, February 22, 1990, at 2:30 p.m., to hold a hearing on S. 1436, a bill to revise, streamline, and make more efficient the review of land and resource management plans, together with sales and other actions implementing such plans, to clarify the jurisdiction and powers of the courts with regard to review of such plans and actions pursuant thereto, and for other purposes.

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

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Public Lands, National Parks and Forests of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate at 2 p.m. on February 22, 1990, to receive testimony on S. 1578, to provide for the creation of an independent Historic Preservation Agency and a National Center for Preservation Technology, and for other purposes; and S. 1579, to amend the National Historic Preservation Act, the Historic Sites Act, the Archaeological Resources Protection Act, the Abandoned Shipwreck Act, and certain related acts to strengthen the preservation of our historic heritage and resources, and for other purposes.

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

COMMITTEE ON FINANCE

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on February 22, 1990, at 9:30 a.m. to hold a hearing on the Budget Authorization for the U.S. Customs Service, and to examine the possibility of a 2-year authorization and to also consider proposed legislation relating to the ad va-

lorem customs merchandise processing fee.

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

ADDITIONAL STATEMENTS

THE IMPACTS OF THE EXPIRATION OF THE GREAT LAKES SET-ASIDE ON GREAT LAKES PORTS

● Mr. GLENN. Mr. President, as cochair of the Senate Great Lakes Task Force, I rise to protest the expiration of the Great Lakes set-aside, a policy that has helped offset the negative impacts of cargo preference on the Great Lakes shipping industry.

Cargo preference requires that a certain percentage of U.S. food aid cargoes will be transported on U.S. flag vessels. This policy is intended to assure employment for the U.S. flag shipping industry, and encourage a healthy merchant marine. However, the reality for the Great Lakes maritime commerce is that there is no regular ocean-going U.S. flag service to the lakes and there will not be for the foreseeable future. Thus, every time cargo preference is expanded, Great Lakes ports lose out on opportunities to compete for these cargoes. This means that within the Great Lakes region, cargo preference hurts employment in maritime related activities, and reduces merchant shipping activity.

Congress recognized this situation in 1985 when it expanded cargo preference from 50 to 75 percent of the Public Law 480 Government food aid cargoes. The Great Lakes historically competed successfully for roughly 4 percent of these cargoes. Because Congress foresaw that expansion of cargo preference would greatly curtail our region's ability to compete, and Congress' intent was not to hurt employment but increase it, Congress created a Great Lakes set-aside guaranteeing that 4 percent of United States Government food-aid cargoes would still be available to Great Lakes ports.

The set-aside was authorized for 4 years, while the increase in cargo preference was indefinite. Despite our earnest efforts by Great Lakes Task Force members to extend the set-aside prior to expiration last fall, all of our attempts were blocked by members representing competing port ranges. The set-aside has now expired, and Great Lakes ports are feeling the damage as the new shipping season opens.

The first round of bids for Public Law 480 cargoes were recently submitted to the U.S. Department of Agriculture by Great Lakes ports. Last year, when the set-aside was still in effect, the ports won allocations totaling thousands of tons of cargoes during the first round. This year the ports were the low bidder for a substantial portion of the allocations, but cargo preference policies prevented the U.S. Department of Agriculture from awarding any of the shipments to our ports. This outcome is neither efficient nor equitable.

The 1990 farm bill and the Great Lakes Maritime Trade Act of 1989 offer opportunities to redress this unnecessary blow to the Great Lakes agricultural exports. The Great Lakes only seek the opportunity to compete on a level playing field with the other port ranges. Repeal of the 75-percent cargo preference policy to the historical 50 percent, extension of the Great Lakes set-aside, and reflagging are among many possible resolutions to the present inequitable situation.

Mr. President, I personally will be seeking appropriate committee action on these and other Great Lakes maritime issues which I raise in S. 1350, my omnibus Great Lakes maritime trade bill—a bill which was cosponsored by 12 Senators—and look forward to your assistance in addressing the legitimate needs of the Great Lakes region.●

NOMINATION OF CLARENCE THOMAS

● Mr. PRYOR. Mr. President, on February 6, the Senate Judiciary Committee held a confirmation hearing on the nomination of Clarence Thomas as a U.S. circuit judge for the District of Columbia Circuit. During this hearing, a number of statements were made by Mr. Thomas that I find troubling.

Before I outline my concerns, I would like to acknowledge that there is much to admire and respect about Clarence Thomas. He is truly a self-made man, having advanced from very humble beginnings to Chairman of the Equal Employment Opportunity Commission [EEOC]. Along the way he attended law school at Yale University, served as assistant attorney general for the State of Missouri, and was appointed Assistant Secretary for Civil Rights at the U.S. Department of Education. These are significant achievements that should be taken into account when considering Mr. Thomas' fitness to serve on what is often described as the second most important court in the land.

What must be taken as an equally important indication of Mr. Thomas' ability to serve effectively on the District of Columbia Circuit, however, is his track record in his most recent position as Chairman of the EEOC. In that vein, I would like to take this opportunity to briefly explain my understanding of his performance in that capacity.

As chairman of the Senate Special Committee on Aging, I am particularly concerned about, and committed to, strong and effective enforcement of the Age Discrimination in Employment Act [ADEA]. With this in mind, I was dismayed to learn about several erroneous statements made by Chairman Thomas and his supporters regarding his role in enforcing ADEA.

At the hearing Mr. Thomas was praised by some for his 8-year tenure in which he took the EEOC "in shambles" and eliminated the case backlog, installed a new computer system for tracking cases, and managed the Commission's funds more wisely. Such comments give the impression that Clarence Thomas saved the EEOC from certain demise. I believe that the several thousand age discrimination claimants who, during Chairman Thomas' watch, lost their rights largely due to EEOC neglect and mismanagement would differ with this rose-colored view of the past 8 years.

According to documents obtained by the staff of the Special Committee on Aging during an investigation of the EEOC by former Chairman John Melcher, the EEOC's inventory backlog of 33,000 in 1982 rose to over 61,000 in 1987. During that same period, the number of unprocessed charges 300 days old or older increased some 2,200 percent, from 727 to 15,428. Therefore, far from eliminating its backlog, the EEOC was actually adding to it.

In addition, words of praise for Chairman Thomas for modernization of the EEOC must be taken with a grain of salt. The Aging Committee's investigation of EEOC found evidence that during Chairman Thomas' tenure the Commission spent millions of dollars in a highly unreliable computer system that eventually had to be replaced. Only recently has the EEOC's new Charge Data System begun to function properly and provide a reliable national data base.

Mr. Thomas' performance under questioning by members of the Judiciary Committee regarding EEOC's enforcement of the ADEA raised a number of concerns. Many of his responses appeared to be shaky attempts at revisionist history. Under questioning from Senator HATCH, Mr. Thomas stated that the EEOC had at one time allowed the statute of limitations for filing a case in Federal court lapse on 900 ADEA cases. He claimed, however, that the situation has been corrected and that lapses are now down to two cases a year.

These numbers are totally inaccurate and, some would say, border on misrepresentation. In fact, the EEOC's own figures indicate that the statute of limitations may have lapsed on well over 13,000 ADEA claims form 1984 to 1988. Additionally, over 1,500 charges contracted out by the EEOC to State Fair Employment Practice Agencies [FEPA's] have been allowed to expire since 1988.

In 1987 Chairman Melcher, acting on a number of complaints, began an investigation into ADEA claims that the EEOC had allowed to lapse. In early September, Chairman Melcher requested that the EEOC provide him with information on how many ADEA cases had exceeded the 2 year statute of limitations. Although an internal survey of district offices showed that the EEOC had let at least 900 ADEA charges lapse, Mr. Thomas chose to redefine cases as charges which had been recommended for litigation, and he told the Aging Committee that 70 such cases had expired.

After months of fruitless attempts to obtain additional and accurate information on this matter, the Aging Committee issued a February 1988 subpoena to Chairman Thomas to provide data on the lapsed charges. Thomas reported that from 1984 to 1987, 779 charges had exceeded the statute of limitations. Two weeks later Thomas received an internal EEOC report indicating that 1,200 charges had expired in 1987 alone.

Later in 1988, Congress passed the Age Discrimination Claims Assistance Act [ADCAA], which extended the statute of limitations 18 months for charges which were filed on or after January 1, 1984 and which expired on or before April 7, 1988. In complying with reporting requirements under ADCAA, the EEOC has admitted that it has mailed out more than 13,000 notices to older workers whose claims may have been allowed to expire during that period.

As mentioned, Mr. Thomas proclaimed to the Judiciary Committee that the problem of lapsed ADEA charges has been correcterd and that lapses are now running about 2 a year. In fact, EEOC documents submitted to the Judiciary Committee show that over 1,500 ADEA charges contracted out by the Commission to State FEPA's for investigation have lapsed since ADCAA.

Mr. Thomas' response when confronted by Senator METZENBAUM with this fact was twofold. He initially stated that the EEOC has no control over the FEPA's. He further responded by stating that the ADEA statute of limitations did not matter on those charges because they were filed under State antidiscrimination laws, which have no such limitations. These statements are certainly misleading, and raise serious questions about the nominee's appropriateness for the Federal bench.

The EEOC contracts with FEPA's to investigate a range of employment discrimination cases filed at the State level. While it is true that age discrimination charges lodged with FEPA's are filed under State antidiscrimination laws, they also represent claims under the ADEA. Indeed, EEOC regulations make it clear that charges filed with FEPA's under contract are considered to be filed with the EEOC also.

As the Federal entity charged with the enforcement of the ADEA, the EEOC has an inescapable duty to protect the rights of ADEA claimants. The fact that a lapsed charge may still be valid under State law does not relieve the Commission of its fundamental responsibility.

The contracts between the EEOC and FEPA's require that a charge be investigated and sent to the EEOC within 18 months of the date the charge is filed. This is intended to give the EEOC time before the expiration of the 2 year statute of limitations to make a decision on litigating the charge or issuing a no cause letter to the claimant. If FEPA's violate this time frame, they don't get paid. In addition, the EEOC can discontinue its relationship with poorly performing FEPA's. Most importantly, with its new computer system, the EEOC has the ability to track charges filed with FEPA's, and has the contractual right to take from the State agencies those charges found to be in danger of lapsing.

In conclusion, there should be little dispute that thousands of ADEA claimants have unfairly and unacceptably lost their rights during Chairman Thomas' 8-year tenure. We all agree that the massive lapses of ADEA charges prior to 1988 should have never happened. Likewise, we must recognize the tragedy and irony that even as Congress was acting to restore the rights of those who lose claims during that period, hundreds more cases were lapsing.

Mr. President, the qualifications and experiences of any person nominated to fill such an important post as a judgeship on the D.C. Circuit must be closely scrutinized. There are few things I respect more than an individual who has made a success of him or herself in the face of hardships. Indeed, Mr. Thomas' accomplishments are to be applauded; however, the concerns I have outlined above should not be dismissed as irrelevent to the confirmation process.

I have not decided how I will vote on Mr. Thomas' nomination; however, I will make my decision based on the scope of my knowledge about the nominee and his qualifications. It is my hope that all my colleagues will do the same. I look forward to reviewing the Senate Judiciary's report and recommendation on Mr. Thomas, as well as to any discussion which may occur on the floor regarding his nomination.●

OPPOSITION TO ANTI-SEMITISM

● Mr. GRAHAM. Mr. President, today I rise to call to the attention of the Senate and to the world the signs of an insidious rise of anti-Semitism in the Soviet Union.

Unfortunately, some in the Soviet Union have translated the new openness in their country as the freedom to hate, the freedom to revive scapegoat tactics of the past, and the freedom to attack other peoples' religious heritage.

President Gorbachev's program of glasnost has lifted some of the constraints on freedoms of expression, religion and assembly in the Soviet Union. Changes in the Soviet Union and neighboring Eastern bloc countries generally have advanced the cause of freedom. But, as we note these positive trends, we must not overlook the growth of organized anti-Semitic movements like Pamyat, which advocate religious hatred and violence against Soviet Jews.

In 1988, I visited Kiev, Leningrad, and Moscow, and learned first-hand of the phenomenon of rising anti-Semitism. Mr. President, silence in the face of anti-Semitism is not acceptable. We will not be silent. We will not close our eyes. We will not sit on the sidelines. We must speak out. For this reason, I have joined with Senator SIMON and other Members of the Senate to call on President Gorbachev to publicly condemn anti-Semitism in all its forms. Furthermore, I have asked Mr. Gorbachev to take quick action on pending proposals to permit those who have sought for many years to leave the Soviet Union to do so.

Mr. President, I ask that an article by Vitalii I. Goldanksii, a member of the Soviet Council of Peoples Deputies and the Foreign Relations Committee of the Supreme Soviet be printed in the RECORD. Mr. Goldanski, the director of the Semenov Institute of Chemical Physics of the Soviet Academy of Sciences, is considered the highest ranking Soviet official to acknowledge—in very clear terms—the rising anti-Semitism in the Soviet Union. His observations must be heeded by this body and by the world to prevent human rights and Soviet reform from being undermined by bigotry and prejudice.

The article follows:

[From the Washington Post, Feb. 18, 1990]

ANTI-SEMITISM: THE RETURN OF A RUSSIAN NIGHTMARE

(By Vitalii I. Goldanskii)

Supporters of President Gorbachev's perestroika are increasingly alarmed by the possibility that this program of restructuring and reforms may collapse. Should this occur—and it cannot be ruled out even in the near future—it would be a disaster not only for the Soviet Union but for all humankind.

Many of the difficulties being encountered by perestroika are well known outside the Soviet Union, as are some of the potential consequences if perestroika fails. But too little attention has been given, until now, to the special dangers posed by the

growing aggressiveness in the Soviet Union of extreme right-wing, virulently anti-semitic groups that seek to subvert perestroika, to blame the country's past and present problems on the Jews, and (as some of their propaganda states explicitly) to "finish what Hitler started."

These extremists are flourishing in the climate of spite, envy, scapegoating and hatred associated with the increasingly severe difficulties in the Soviet economy and growing ethnic tensions. They are perhaps already the strongest, and certainly the fastest growing, of the divisive forces pushing the country toward bloodshed and civil war.

The extremist groups go by a variety of innocuous-sounding names, of which the best known outside the Soviet Union is the "National Patriotic Front *Pamyat*" (pamyat means "memory"). A number of them recently entered into a confederation under the title of "Bloc of Social-Patriotic Movements of Russia." I prefer to call them Russian monarcho-Nazis (or monarcho-fascists), to reflect their combination of deep reverence for the autocratic csarist Russian empire and ferocious hatred of Jews.

Incredibly, the Russian monarcho-Nazis openly and widely condemn the Jews as the main culprits in all of the troubles of Russia from the October Revolution of 1917 up until the present—including genocide against the Russian people in the form of the millions of Russian deaths in civil war, collectivization and various purges; destruction of tens of thousands of Russian churches and historical monuments; and spiritual poisoning of the people through the introduction of decadent and corrupt Western culture alien to Russian tradition. They even accuse the Jews of ritual murders and a worldwide conspiracy against humankind, making reference to the disgraceful hoax, "The Protocols of the Elders of Zion."

There is striking similarity, in fact, between the views, programs and intentions of the Russian monarcho-Nazis and the original Nazi platform as laid out in Hitler's "Mein Kampf" and other infamous documents of the German Nazi period. This similarity, and the resemblance of the general situation in the Soviet Union in 1988-90 to that in Germany in 1931-33, have been publicized by progressive Soviet mass media. The newspaper Soviet Circus, for example, has printed a point-by-point comparison of Pamyat's manifesto with the program of the Nazi Party of the 1930s.

The main organization serving as a coordinator of the monarcho-Nazi forces is the Union of Writers of the Russian Federation (RSFSR). As outlets for their propaganda they have at their disposal such newspapers and journals as "Literaturnaya Rossiya" (Literary Russia), "Nash Sovremennik" (Our Contemporary), "Molodaya Gvardija" (Young Guards) and "Moscow." The leaders of this movement include many notorious writers, some scientists, some artists and others.

The Nazi-type speeches and publications of these groups are becoming routine features of everyday life in the Soviet Union. Their form and content were analyzed by Prof. Herman Andreyev from Mainz University in West Germany in a recent issue of the weekly magazine Ogonyok. He concluded that in Western European countries such statements would be treated as unconstitutional, the persons propagating them would be called to account and the organizations supporting them would be dissolved.

Yet the monarcho-Nazis seem to be meeting no serious opposition—indeed, more often sympathy and connivance—from important party and government leaders of the U.S.S.R. It is instructive, for example, that in the platform of the Soviet Communist Party on ethnic problems published in August 1989, not a single word was said about the anti-semitic campaign against so-called cosmopolites (1949), the shooting of leading Jewish writers and artists (1952), or the disgraceful "Doctor's plot" (1953), while many other Stalin-era crimes against various nationalities of the Soviet people were scrupulously mentioned.

Similarly, an appeal by more than 200 people's deputies of the U.S.S.R. to the Presidium of the First Session of the Congress of People's Deputies in June 1989, expressing concern about the "growing wave of anti-semitic activities, including open calls for violence that could lead to irretrievable consequences," went unanswered. That was also the fate of a letter written to Gorbachev on this subject by 10 distinguished scientists and writers in September 1989.

The explanation of such passivity on the part of the authorities seems quite simple. In addition to the evident sympathy of many authorities on different levels to the views of the monarcho-Nazis, others who do not sympathize nonetheless hesitate to act because of the way the growing aggressiveness of the monarcho-Nazis is linked to the bloody ethnic conflicts and intensifying separatist movements in nearly all of the outlying districts of the Soviet Union.

Specifically, this situation offers the monarcho-Nazis considerable opportunities for blackmail and intimidation of Gorbachev and his closest advisers, through the claim that, in conditions of the "decline of empire," the Russian heartland and her "genuine sons" constitute the only reliable basis for the preservation of Gorbachev's power. Such arguments are being used to push Gorbachev toward the right and to divide him from his true supporters on the left—the liberal intelligentsia. The result could be a repetition of the circumstances that produced the downfall of Khrushchev in 1964.

In parallel with their attempts to intimidate Gorbachev, the monarcho-Nazis have been openly attacking his foreign policy. They even have accused Gorbachev of being an agent in the service of the CIA and the Israeli intelligence, the Mossad. With this two-pronged strategy of intimidation and direct attack, the Russian monarcho-Nazis hope to attain either a decisive influence over Gorbachev's policies or his removal and replacement at the seat of power by supporters of their movement.

What would that mean for Soviet Jews? The answer is all too clear from the similarity of the monarcho-Nazis' program to that of Hitler. The Russian monarcho-Nazis already possess their equivalent to Hitler's SA and SS, in the form of the Pamyat movement. This movement does not disguise its intentions to carry out pogroms against the Jews, to whom it refers using the insulting world *"zhidy"* (yids). In fact, members of Pamyat have been organizing well-attended meetings all over the country to call for pogroms—even in Moscow's Red Square on Nov. 12, 1989—and no one has stood in their way.

Hitler treated as Jews those who have more than one-quarter Jewish blood. Pamyat goes further. It has announced its intention to search for Jewish progenitors back to the 10th generation. New recuits to Pamyat are required to prove their "racial purity" and to provide to the organization the home addresses of five Jews—no doubt for the purposes of the pogroms to come. Opponents of the monarcho-Nazi movement who happen to be "racially pure" or "Aryan" are characterized, along with all liberal intelligentsia, as "masons" (or *"zhido-masons,"* i.e., supporters of Jews); and these are also the targets of pogrom propaganda.

The brazenness of monarcho-Nazi threats against Soviet Jewry has been increasing. In addition to anti-semitic rallies and the desecration of Jewish cemeteries around the country, which have been going on for some time, it now seems that meetings of liberal intellectuals are no longer safe from disruption by Pamyat thugs.

On the evening of Jan. 18 of this year, for example, a meeting of the progressive "April" group of writers at the Central House of Writers in Moscow was invaded by some dozens of Pamyat monarcho-Nazis with megaphones. They roughed up some of the writers, forcibly ejected others from the hall, shouted anti-semitic slogans and announced that their next visit will be with automatic weapons. They also designated St. George's Day, at the beginning of May, for a pogrom. The police were called but took their time in arriving, and there were no arrests.

Further increases in anti-semitic activities (especially, of course, actual violence) surely will lead to a mass exodus of Jews, people of partly Jewish extraction and "racially pure" liberal intelligentsia. This new wave of emigrants—refugees from monarcho-Nazi power—could reach several millions and would represent a serious brain-drain from the U.S.S.R.

As for the possibility of another Holocaust, it certainly could not reach the scale of earlier Nazi crimes: The world has changed too drastically in the last half century for that. But a wave of pogroms more or less along the lines of the infamous *"Kristallnacht"* cannot be ruled out—weaker if a government like the present one tries to oppose them, stronger if a successor government of the monarcho-Nazi stripe sympathizes with the pogrom lust.

What should be done? As a start, the world public should be informed of the activities and intentions of the new followers of Hitler in the Soviet Union and should be told their names. The famous "Brown Book" published by anti-fascists in 1933, after all, was the first important step in the exposure of the Nazi crimes of that era. Clearly, the publishers of newspapers, journals and books, and producers of electronic media, have an important role to play.

The stakes are high. If the monarcho-Nazi prevail and perestroika collapses in an orgy of chauvinism and racism, the results are likely to include not only a rapidly growing degree of anarchy in the Soviet Union but even the outbreak of civil war. In a country still laden with tremendous stockpiles of nuclear and chemical weapons, as well as a widespread network of nuclear power plants, such a chain of events could quickly become not just a national but an international catastrophe.●

GAO REPORT ON B-2 PROGRAM

● Mr. LEAHY. Mr. President, this morning the General Accounting Office presented its first unclassified report on the B-2 program to the House Armed Services Committee. The report issues a strong warning

that the B-2 cost and schedule have changed significantly since 1986 and remain uncertain.

The GAO makes clear that the Air Force will not "fly before it buys." American taxpayers have already spent $25 billion on this program and to date, only 1 percent of the flight test program has been completed. GAO claims over $48 billion will be spent and 31 planes purchased before critical performance requirements will finally be tested.

Mr. President, I ask that a copy of the executive summary of the GAO report be printed in the RECORD so that all Senators and their staff may review these findings.

The summary follows:

[GAO Feb. 22, 1990]

EXECUTIVE SUMMARY

PURPOSE

The B-2 bomber is one of the most costly Department of Defense programs. Its high cost and highly classified nature have made it the subject of considerable controversy. Since 1986, GAO has issued five classified reports on the B-2 program. Recent changes in the security classification of the program permit this unclassified report on the program's history and current cost, schedule, and test status. This report contains information from our prior classified reports that is now unclassified and updated as necessary.

BACKGROUND

The B-2 has been in full-scale development since 1981. It is a flying wing aircraft with two crew members and provisions for a third. It has twin weapon bays and four engines and is designed to perform the traditional long-range bomber role for both nuclear and non-nuclear missions. The Air Force believes the B-2 has the greatest potential for a future capability against targets of uncertain locations, although concerns exist about the difficulties of locating movable targets.

The Air Force has been developing the B-2 while producing and deploying the B-1B bomber to modernize the aging B-52 bomber fleet. The B-2 is being developed to take advantage of low observable technologies, which, when combined with on-board avionics, are intended to allow penetration of current and postulated Soviet defenses.

In 1981 the Air Force estimated the cost to procure 133 B-2s—6 development aircraft and 127 production aircraft—would be $32.7 billion in 1981 dollars. In 1986 the Department of Defense announced the estimated cost would be $36.6 billion in 1981 dollars, which was equivalent to $58.2 billion in escalated dollars over the life of the B-2's procurement. The cost estimate and the related program schedule became the baseline from which subsequent budget and schedule changes are measured.

RESULTS IN BRIEF

The B-2 program's cost and schedule have changed significantly since 1986 and remain uncertain. The B-2 acquisition strategy includes cost and schedule projections that rely on very high annual funding levels and on ordering a large number of planes before the necessary testing to demonstrate that the B-2 can perform its mission is completed.

Since 1986 the B-2 cost estimate increased $12 billion, and the final B-2 delivery was extended 3 years to 1999. Future schedule changes and cost increases will occur if projected annual funding requirements are not appropriated or if planned program savings are not achieved.

The flight test program has just begun. If current schedules are met, it will be at least 3 years before critical performance requirements have been fully tested. That is the point in testing where problems are typically discovered. At that time, under the current schedule, over $48 billion would have been appropriated and 31 aircraft would have been ordered. In view of these uncertainties, as well as changing world conditions, GAO believes that alternative acquisition strategies should be considered.

Major design changes early in the B-2's development caused manufacturing difficulties that have contributed to a slower production schedule and labor cost increases. Contractors have reported improvements in productivity and reductions in manufacturing defects, but these improvements are less than anticipated. Also, further manufacturing improvements may be hindered by continuing design changes.

PRINCIPAL FINDINGS

Cost Estimate Increases: In June 1989 the B-2 program was estimated to cost $70.2 billion, a $12 billion increase from the baseline estimate. The June 1989 estimate depends on achieving $6.2 billion in savings through a cost reduction initiatives program and multiyear procurement strategy. The amount of savings and the feasibility of achieving them are uncertain. If the projected savings are not realized, additional funding will be required, and the B-2 program's schedule may be extended.

Since 1986 B-2 estimated cost increases have been caused primarily by an incomplete aircraft design at the start of manufacturing, underestimated material costs, and production schedule extensions. The most recent increase, $2.6 billion, occurred between January and June 1989 and was primarily due to extending the schedule 1 year.

Funding Assumptions: The current acquisition plan requires funding of $5.3 billion in fiscal year 1991 and $7.5 to $8 billion annually for fiscal years 1992 through 1995 to achieve the estimated program cost of $70.2 billion. If these funding levels are not achieved, the Air Force will have to delay or reduce the B-2's production program.

Program Schedule Changes: The B-2 program schedule has changed each year since 1986. The latest change in June 1989 delayed both the first full production and multi-year procurement decisions by 1 year. It also extended the B-2 final deliveries from 1998 to 1999. The last B-2 delivery is now scheduled 3 years later than planned in the 1986 baseline estimate.

The Secretary of Defense approved this schedule extension because delays in completing the first aircraft delayed the start of flight testing. If the production schedule had not been extended, the concurrency in the program would have increased. The schedule extension maintained the previously planned relationship between flight testing and production.

Manufacturing Problems: GAO reported in August 1988 that the contractors were encountering manufacturing problems, as evidenced by a large number of manufacturing defects, inefficient labor, and the transfer of work originally planned to be accomplished at the subcontractor plants to the final assembly site. These problems were caused in part because, to maintain schedule, manufacturing was started before the aircraft design was complete.

Manufacturing data collected in 1989 showed that the contractors are resolving some of these problems. The contractors are reporting they have reduced the number of manufacturing defects, improved worker efficiency, and transferred less work to the final assembly site. However, these improvements were less than anticipated.

As in the case of other programs, the contractors are initiating many changes to engineering drawings, which continue to disrupt the manufacturing process. Some of these changes require new parts, new tooling, and changes to the manufacturing plan, which hinder efforts to stabilize the manufacturing process.

B-2 Flight Test Program: The B-2 flight test program began on July 17, 1989, with the first flight of the aircraft. To date, 1 percent of the flight test program has been completed. The program will likely continue into 1994. The pace of testing will increase as the remaining five development aircraft become available for testing.

The first 1½ years of flight testing is to demonstrate basic B-2 air worthiness and provide preliminary data on the low observable features of the aircraft. More critical operational testing, including integrated offensive and defensive avionics, where problems have frequently been discovered on other programs, is scheduled to begin in 1992.

MATTER FOR CONGRESSIONAL CONSIDERATION

There has been much debate on whether the Department of Defense can realistically expect to receive the funding levels projected by the Department for the B-2 program. Because of this and the fact that critical testing is several years away, the Congress may wish to require the Secretary of Defense to provide an analysis of alternative acquisition plans for the B-2 program, including various annual funding levels. This analysis would provide the Congress with information on options for future funding decisions and their related impact on the B-2's cost and schedule.

AGENCY COMMENTS

GAO did not request official written comments on this report. However, GAO discussed a draft of this report with Department of Defense officials and incorporated their comments where appropriate.●

SMALL GOVERNMENTS REGULATORY PARTNERSHIP ACT OF 1989

● Mr. BOSCHWITZ. Mr. President, I recently cosponsored Senator GLENN's bill, S. 1758, the Small Governments Regulatory Partnership Act of 1989. I believe this legislation will be most beneficial to small governments in relieving the burden placed on it by the Federal Government. Most Senators have many small governments—villages, towns, townships—in his or her State; Minnesota, the State I am proud to represent, has many such small governments.

This bill, Mr. President, will clarify that the Regulatory Flexibility Act [RFA] applies to small governments as well as to small businesses. Oftentimes the Federal Government asks too much of the local government. Since

the RFA was passed, whenever a Federal agency issues a regulation, it must certify whether the regulation will affect small entities. Small entities includes both small businesses and small governments. Currently, the enforcement of the RFA is by the Office of Advocacy at the Small Business Administration. Naturally, their emphasis is on small businesses rather than small governments.

S. 1758 would establish an Office of Small Government Advocacy within the Office of Management and Budget [OMB], headed by a Director for Small Government Advocacy. The Director shall be appointed by the President with Senate confirmation. That individual needs to be familiar with small government needs, and with the difficulties these communities encounter with the Federal regulatory process. It is believed this office could be staffed, and perhaps even funded, by existing OMB personnel and resources.

The Office of Small Government Advocacy will be assisted by a small government coordinator within certain Federal agencies. These coordinators will watch their own agencies' actions under the RFA, and provide support and data to the Office for Small Government Advocacy.

The legislation, Mr. President, will also establish an Interagency Committee of Small Government Coordinators within OMB. This committee will be responsible for coordinating the programs, plans, and policies of the small government coordinators.

S. 1758 will make it more difficult for agencies to exercise some of the RFA's waiver provisions. In fact, an agency would be required to provide evidence and citation of data sources when it claims that a proposed regulation will have no ill effects on small entities.

Finally, the legislation would require agencies to use standard measures when analyzing the effect of regulations on small governments.

I believe the Small Governments Regulatory Partnership Act of 1989 could relieve some of the burden Federal regulations place on small governments. I am proud to be a cosponsor of Senator GLENN's legislation, and I encourage my colleagues to support this bill.●

FALLON FEDERAL CHILD CARE CENTER OPENING

● Mr. SARBANES. Mr. President, I was very pleased to participate in the opening earlier this month of the Fallon Federal Child Care Center in Baltimore. The opening of this excellent facility comes at a time when the need for more and better child care services is becoming increasingly apparent. I am pleased that Federal employees working in the Fallon Building and other working parents will now have the opportunity to leave their children in the hands of an experienced, professional staff during the workday.

The Fallon Child Care Center is operated by the YWCA and provides full-time and drop-in day care for children ages 2 through 5. In addition, a holiday and summer program will be offered for children ages 6 to 12. Children of all Federal employees as well as the public are welcome at the center.

This facility was sponsored by the Internal Revenue Service, the Army Corps of Engineers, the General Services Administration, and the Federal Highway Administration. These four agencies, together with the remaining Federal agencies which have offices located in the Fallon Federal Office Building, will provide continuing funding for the program. Additional funding will be provided by the YWCA, the CFC, and private donors.

The generous support of these agencies and organizations enables the center to offer exceptional child care at significantly lower fees than are typically charged by child care services. In view of recent statistics indicating the inadequacy of the existing supply of child care services to meet the needs of children whose mothers are in the labor force, I share the view of the Fallon Child Care Center's sponsors that the opening of this facility addresses a critical need to offer quality, affordable child care for the children of all parents employed in the Fallon Building.

It is unfortunate that most American working mothers and their children do not have the same opportunity. There are more than 9 million children under the age of 6 with working mothers. Over half of all mothers with infants under 1 year of age work outside the home. In the past 15 years, the number of preschool children with mothers in the work force has increased by 75 percent, and the number of school-aged children with working mothers has grown by 22 percent. Yet, a study completed by the National Association for the Education of Young Children reported that in 1986, licensed day care services were capable of accommodating just 2.1 million children—only 24 percent of all preschool children with working mothers. The Census Bureau reported that in 1985, over 2 million school-aged children spent a portion of the day unsupervised while their parent or parents worked. In Maryland, a study undertaken by the Johns Hopkins Institute for Policy Studies at the request of the Maryland Department of Human Resources indicates that there is a great need for increased day care facilities for both preschool and school-aged children.

As an original cosponsor of the Act for Better Child Care, I was very pleased that this legislation was passed by the Senate on June 23, 1989. It remains my view that the ABC bill will help establish a national commitment to extend the availability of quality, affordable child care such as that offered by the Fallon Federal Child Care Center to all working parents and their children. It has become increasingly apparent that economic trends will continue to bring larger numbers of mothers into the work force, and it is my hope that similar legislation will receive prompt consideration in the House of Representatives.●

JENIFER JONES, CYPRUS HIGH SCHOOL, MAGNA, UT

● Mr. HATCH. Mr. President, I rise today to pay tribute to a very talented young woman from my home State of Utah who has just been chosen as the 1990 western regional recipient of the 1990 Amateur Athletic Union/Mars Milky Way High School All-American Award. Jenifer Jones, a senior at Cyprus High School in Magna, UT, is one of eight students nationally to receive this award.

The criteria for this award are manifold. In addition to academic and athletic prowess, the recipient must also participate in community events. Jenifer, a 4.0 student, is a General Sterling Scholar and a member of both the National Honor Society and the National Honor Roll. She was awarded the Century III Leadership Award and won the Disney World "Dreamer & Doer" for the State of Utah. In addition, she is a talented musician and composed her school fight song.

In addition to her many scholastic achievements, Jenifer is the captain of the Cyprus High School girl's basketball, volleyball, and track teams, earning varsity letters in all three sports. She was selected as a member of the all-region basketball team, the all-State volleyball first team, and was awarded the outstanding distance runner.

Jenifer also participates in church and community events. She is the congregation organist at her church, founded the Piano Achievement Day, and is a member of the drug youth committee. In addition, she coordinated a youth conference at Utah State University.

Jenifer is now eligible to be one of the two national recipients of this award, and I am very happy that such an accomplished young woman is representing Utah.●

FAIR OR FOUL: BEYOND TODAY'S ELECTION IN NICARAGUA

● Mr. DURENBERGER. Mr. President, like umpires in a World Series baseball game, the whole world seems to be standing around polling places in Nicaragua this coming weekend, observing the election and getting ready to declare the results either "fair" or "foul."

The stakes are significant in making that declaration, but there are also pitfalls in overemphasizing the "fair" or "foul" call. Sandinista actions after the elections are perhaps even more important than the elections themselves.

Before acting hastily after declaring the elections fair or foul, U.S. policymakers would be wise to take a quick "time out"—at least long enough to survey the scene and resist the temptation to make rash judgments that might not bear the test of time.

Regardless of the outcome, Nicaragua's much touted elections are only one step in the long process of democratization. The elections are not the end objective. They represent one essential element in a much broader process of establishing a peaceful, democratic, open society.

Even if the Sandinistas win an election that international observers and the internal opposition consider to have met acceptable standards, and that victory is by no means assured, in no way does that imply that we will immediately return to fully normalized bilateral relations between the United States and Nicaragua. The singular, if significant, act of conducting a fair election process does not automatically grant Nicaragua lifetime membership in the family of democratic nations.

I support Secretary of State James Baker's recent statements regarding future directions of United States policy toward Nicaragua. Secretary Baker recently stated that the United States "would be prepared to improve relations with any government that wins a certifiably free and fair election in Nicaragua." He also stated, however, there would have to be a testing period, some period of time during which we can satisfy ourselves that they—the Sandinistas—have indeed stopped shipping SA-7 missiles and other military equipment to the Marxist FMLN guerrillas in El Salvador.

We must also acknowledge that our past policy of supporting the armed Nicaraguan Contras is dead in the water, no longer a credible option in a country that desperately wants peace and an opportunity to pick up the pieces and move on. If the elections are generally considered free and fair, we must be prepared to accept the election and then define those issues that really matter—issues that can be used to define a new, more constructive bilateral relationship between the United States and Nicaragua.

So, what comes next—regardless of who wins Sunday's elections? And, what do we—as U.S. citizens and policymakers—do on Monday morning?

Beyond evaluating the full range of assessments from the international observers, I'd suggest we watch both the winners and losers and see how they act, both in victory and in defeat.

If the Sandinistas lose, will they be the first government in Nicaraguan history to relinquish power in a peaceful transition? As either winners or losers, will they give up Sandinista party control of the army and police? If they lose, will they accept their role as a minority political party?

Regardless of the outcome, will the Sandinistas finally end their support for the FMLN guerrillas in El Salvador? Will they, in coordination with a Contra army demobilization, drastically cut the size of their military and security forces? Will they permit the political opposition to operate as a legitimate democratic force—a force that will not be abused, but will be consulted and respected?

This past year has marked an amazing watershed in world history—away from tyranny and repression and in the direction of freedom and economic opportunity. Nicaraguans deserve to cross that watershed, as well. In Central America, as elsewhere, there's a distinct and encouraging trend away from the authoritarianism represented by the first 10 years of Sandinista rule. Nicaragua is the final holdout.

And, while some will contend that Sunday's election will not live up to the standards set by Nicaragua's neighbors, we must be prepared to accept its results.

But, as Americans, we also have a responsibility to keep democracy from being defined by singular events, without considering the broader range of circumstances in the country.

The Nicaraguan elections can help define our future relations with a nation toward which we have shown heavyhandedness in the past. And, some might argue, the job of defining that new United States-Nicaraguan relationship is as simple as calling one election "fair" or "foul." It is not.

I would content today's vote represents much more—the opportunity for a new and more constructive policy. But, determining the full extent of that opportunity will take patience. And, it will take time.●

DEDICATION OF LA VERTA L. TERRY

● Mr. LUGAR. Mr. President, February marks the annual observance of National TRIO Day, enacted by a joint resolution of Congress which each year recognizes the contributions and importance of federally supported initiatives which work to assure equal opportunity in postsecondary education.

In Indiana, there are 26 such programs, including Upward Bound, Student Support Services, Talent Search, Educational Opportunity Centers, and the Ronald E. McNair Post Baccalaureate Achievement which annually oversees 10,000 Hoosier citizens.

On this occasion, I wish to acknowledge the dedication and commitment of a very special individual, Mrs. La Verta L. Terry, who has dedicated 22 years of her professional career in service to the students of Indiana.

Born on November 10, 1926, in Brasil, IN, La Verta entered the work force at the tender age of 10, working part time before and after school. During the summer, La Verta worked full time. Admitted to the Indiana University School of Music and the recipient of a merit scholarship, La Verta instead enrolled in Southern Christian College and went on to receive her baccalaureate degree from Jarvis College.

In 1963, La Verta began her career as a substitute teacher in the Monroe County School. A year later she accepted a full-time teaching position.

In 1968, she joined the staff of Indiana University as assistant to Dean Rozelle Boyd of the university division. Together they established what would become the Groups Program which still services hundred of Indiana University students each year.

"Ms. Terry," as she is affectionately referred to by her many students both past and present, now serves in the capacity of director of the Groups Program. In its over 20-year history the program has served well over 4,000 students and touched the lives of many others by providing that first opportunity for a postsecondary education for those who otherwise would not have attended college.

With a rare combination of talents that inspire, motivate, challenge, and encourage, La Verta Terry has served not only as a role model, but in many cases family to those individuals fortunate enough to participate in her program. Her work goes far beyond the routine 9 to 5, and she still spends countless hours devoting herself to individuals who find themselves in need of her counsel and advice. To this day, her former students remain in contact with their special mentor in Bloomington.

I ask my colleagues to join me in recognizing an outstanding Hoosier, La Verta L. Terry, for her many contributions to Indiana and the Nation.●

DENIAL OF SOVIET VISAS TO CONGRESSIONAL DELEGATION

● Mr. SIMON. Mr. President, this coming Saturday, February 24, the

people of Lithuania will go to the polls in the first multiparty elections they have held since their nation was forcibly incorporated into the Soviet Union 50 years ago. It's a momentous occasion. And, for obvious reasons, it has become the focus of worldwide attention.

This is both the test and the promise of the much-discussed new thinking in Moscow. The central authorities have begun to allow glasnost and political perestroika to extend beyond the bounds of theory and debate and be put into actual practice. Lithuania's opposition parties are campaigning for seats in the national legislature. Because they haven't had any experience doing this in the past—political parties hardly have experience even existing in the open, let alone trying to run campaigns—they have looked to established parliamentary institutions, like ours, for some advice on how best to put their message before the voters. This is glasnost in action. And it is tremendously encouraging.

Unfortunately, mixed in with these examples of new thinking run some currents of old thinking. I learned last night that a bipartisan delegation of U.S. Congressmen, headed by my good friend and fellow Illinoisian DICK DURBIN, was denied a visa to enter the U.S.S.R. The purpose of their visit was straightforward: it was to have been a fact-finding mission to Lithuania, designed to give members of the U.S. Congress first-hand exposure to the changes in that Republic that are a direct result of President Gorbachev's reform policies.

But the Soviet authorities turned them down. And the visa refusal came not from a mid-level consular official, but from no less a body of stature than the U.S.S.R. Supreme Soviet. The decision stated that the presence of foreign legislators in the Soviet Union at this time was not desirable, because it is not possible to render them the necessary assistance and hospitality. This, despite the fact that a delegation from the Canadian Parliament had already arrived in Lithuania. And despite the fact that the United States Congress recently played host to a delegation from the same Supreme Soviet.

The real reason for the turndown could be found a little further down in the official Soviet statement. It said the invitation to the Congressman had been offered by an improper authority—namely, the Lithuanian Reform Movement Sajudis. Moscow, trying to safeguard its prerogative against the rising tide of decentralization, said such invitations could be offered only by the Supreme Soviet.

Mr. President, I am willing to make a small wager that if that invitation had been made by the Lithuanian Communist Party, and not Sajudis, the Supreme Soviet in Moscow could have found a way to endorse it, and visas would have been on the table in no time flat.

This episode is especially frustrating because it reminds me of a similar experience I had in 1985 during a visit to the Soviet Union. In the process of applying for Soviet visas I encountered a fair amount of foot-dragging whenever I mentioned my desire to visit the Lithuanian capital of Vilnius, where I planned to hold some informal meetings. Eventually I received the visa, but when I arrived in Leningrad and tried to fly to Lithuania, I was told there would be a delay of 2 weeks. Both the consulate general in Leningrad and the Embassy in Moscow made protests in my behalf, but the Soviet authorities would not be moved and I was not allowed to go to Vilnius.

That was, as I said, in 1985, not long after General Secretary Gorbachev came to power. In many areas there have been truly revolutionary changes since that time, as the upcoming election in Lithuania demonstrates. But as we can see from the regrettable and, in my opinion, misguided decision to deny visas to an official delegation of the U.S. Congress, in other important respects there has been little if any change at all. But I think the people of Lithuania are going to have the last word on that this Saturday.●

ORDERS FOR FRIDAY, FEBRUARY 23; MONDAY, FEBRUARY 26, AND TUESDAY, FEBRUARY 27, 1990

Mr. MITCHELL. Mr. President, I am about to propound a unanimous-consent request. I am advised by staff of the distinguished Republican leader that this is agreeable to him. Perhaps Senator HATCH might remain and confirm that with the staff. This involves the schedule through next Tuesday for the Senate.

RECESS UNTIL 10 A.M.

Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 10 a.m. on Friday, February 23, and that on Friday, the Senate meet in pro forma session only, with no business conducted.

RECESS UNTIL 11:30 A.M. MONDAY, MORNING BUSINESS

I further ask unanimous consent that at the close of the pro forma session, the Senate stand in recess until 11:30 a.m. on Monday, February 26; that on Monday, following the time for the two leaders, there be a period for morning business until 12 noon, with Senators permitted to speak therein for up to 5 minutes each.

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

CONSIDERATION OF S. 1430

Mr. MITCHELL. Mr. President, I ask unanimous consent that at 12 noon on Monday, the Senate begin consideration of S. 1430, the National and Community Service Act of 1989.

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

MOTION TO PROCEED TO CONSIDERATION OF SENATE JOINT RESOLUTION 212; VOTE ON CLOTURE MOTION

Mr. MITCHELL. Mr. President, I further ask unanimous consent that at 2:15 p.m. on Tuesday, February 27, there be 2 hours of debate, equally divided between Senators BYRD and DOLE on the motion to proceed to Senate Joint Resolution 212, and that at 4:15 p.m., the Senate proceed to vote on the motion to invoke cloture on the motion to proceed, with the live quorum having been waived.

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

Mr. MITCHELL. Mr. President, for the information of Senators, votes are possible Tuesday morning in relation to the national service bill.

PROGRAM

Mr. MITCHELL. For the information of Senators planning their schedules, let me summarize the schedule for the next several days. As I announced earlier, there will be no further rollcall votes today, and the Senate will be in pro forma session only tomorrow.

On Monday, the Senate will come in at 11:30 and then beginning at noon will go to the national service bill. There will be no rollcall votes on Monday, but it is anticipated that there will be debate, and if any Senator has amendments and is prepared to offer them, he or she should be prepared to do so at that time.

Any votes ordered on Monday will be stacked on Tuesday. It is possible, indeed, that there will be votes on Tuesday morning on that bill.

On Tuesday, after the party caucuses, at 2:15 there will be 2 hours of debate on the motion to invoke cloture on the motion to proceed to the Armenian resolution, and the vote on that cloture motion will be held at 4:15 p.m. on Tuesday, the mandatory live quorum having been waived by virtue of this unanimous consent agreement.

After that vote, if we have not finished the national service bill by then, we will return to it and I hope be able to complete it promptly thereafter.

Following that, and probably on Wednesday morning, we will return to the Clean Air Act. It is my expectation that by then, there will be a substitute to be offered either embodying an agreement reached between members of the committee and the administration, or absent that agreement, a substitute prepared by the committee incorporating some aspects of that agreement. And in any event, we will be back on clean air with the expecta-

tion that we will stay on that until we then finish it.

So, Mr. President, for the information of Senators, there will be no votes tomorrow or Monday. There will be votes Tuesday, including a cloture vote at the specific time of 4:15 on the Armenian resolution, and then we hope to finish national service and be on clean air until we finish that. I thank my colleague from Utah, and the distinguished Republican leader for his courtesy.

Mr. BYRD. Mr. President, does the distinguished Republican leader have any further statement to make or any business he would like to transact?

Mr. DOLE. Nothing further. I thank my colleague.

Mr. BYRD. I thank the Republican leader.

RECESS UNTIL 10 A.M. TOMORROW

Mr. BYRD. Mr. President, if there be no further business to come before the Senate, I move in accordance with the order previously entered that the Senate stand in recess until the hour of 10 a.m. on tomorrow, Friday, February 23, 1990.

The motion was agreed to and, at 6:47 p.m., the Senate recessed until Friday, February 23, 1990, at 10 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate February 22, 1990:

DEPARTMENT OF ENERGY

ROBERT H. GENTILE, OF OHIO, TO BE AN ASSISTANT SECRETARY OF ENERGY (FOSSIL ENERGY).

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.

IN THE COAST GUARD

COAST GUARD NOMINATIONS BEGINNING DAVID M. BERNSTEIN, AND ENDING MICHAEL L. WOOLARD, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 24, 1990.

COAST GUARD NOMINATIONS BEGINNING ROBERT L. DEYOUNG, AND ENDING JOHN J. FAGAN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 24, 1990.

COAST GUARD NOMINATIONS BEGINNING DAVID L. POWELL, AND ENDING BARRY L. HIGGINS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 5, 1990.

EXTENSIONS OF REMARKS

A TRIBUTE TO THE HONORABLE JAMES ERNEST WHARTON

HON. FRANK HORTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 22, 1990

Mr. HORTON. Mr. Speaker, as the dean of the New York congressional delegation, I want to pay tribute today to a former Member of this body, Congressman James Wharton of the State of New York. Representative Wharton died of a stroke on January 12, 1990, at his home in Summit, NY.

James Wharton served in this body from 1951 until 1965. I had the privilege of serving with Congressman Wharton when I first came to Washington in 1953. As a freshman, I looked to him for advice and guidance since he was one of the more senior members of the delegation. His departure after the elections in 1964 marked a significant loss to the House and to our State.

Congressman Wharton had a varied career outside of Congress. He fought in World War I and then attended Union University, and Albany Law School. After working in the insurance business for 7 years, he began his own private practice in 1929 in his hometown of Richmondville, NY. He also owned and operated a farm and worked in the real estate development business. During his career in public service, he served as district attorney of Scholarie County, as well as county judge and judge of the children's court.

On behalf of the Members of the New York congressional delegation, I send our condolences to his wife Marion, daughter Beverly Radez, and sister Lucy. My wife Nancy joins me in expressing our thoughts and prayers.

CRITICISM OF ISRAEL'S HUMAN RIGHTS RECORD—CHARLES KRAUTHAMMER CRITICIZES THE DOUBLE STANDARD USED TO JUDGE ISRAEL

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 22, 1990

Mr. LANTOS. Mr. Speaker, Israel has been unjustifiably singled out by the media with the release yesterday of the State Department's annual human rights report to the Congress. This morning's edition of the Washington Post is typical of the coverage. The report contains 1,641 pages, of which 23 pages are devoted to Israel, yet today's Washington Post devotes one article to general comments about the entire report and a second article of equal length to Israel alone.

The comments in the State Department report on Israel are generally positive and balanced:

Israel is a parliamentary democracy with a multiparty political system and free elections. * * * Since Israel's founding * * * it has been in a formal state of war with most of its Arab neighbors * * * Israel has experienced numerous terrorist incidents * * * Israeli citizens have a range of civil and other rights generally comparable to those in advanced Western democracies although Israel's Arab citizens have not shared fully in the rights granted to, and the duties levied on, Jewish citizens.

Compare that with the human rights report on Iraq:

Iraq's human rights record remained abysmal * * * the intelligence services engage in * * * torture and summary execution * * * problems include continuing disappearances and arbitrary detentions, lack of fair trial, widespread interference with privacy, excessive use of force against Kurdish civilians * * * the Government used chemical weapons against Kurdish civilians in 1989 as it did in 1988 * * * the Government has destroyed villages and relocated approximately 500,000 Kurdish and Assyrian inhabitants. * * * For years execution has been an established Iraqi method for dealing with perceived political and military opponents of the government * * * thousands of people arrested over the years by Iraqi security * * * have "disappeared" while in detention, with many feared executed * * * both physical and pyschological torture are used by authorities.

Mr. Speaker, I could continue these examples ad nauseam, but I believe my point is clear.

An excellent essay appeared in the February 26 issue of Time magazine by Charles Krauthammer entitled "Judging Israel." Mr. Krauthammer—senior editor at the New Republic, essayist for Time magazine, and the winner of the Pulitzer Prize for commentary in 1987—gives very knowledgeable insight into the double standard by which Israel is judged.

Mr. Speaker, Mr. Krauthammer's excellent essay provides a much needed perspective on the Israeli human rights record. I ask that it be placed in the CONGRESSIONAL RECORD, and I urge my colleagues to give it careful and thoughtful attention.

[From Time magazine, Feb. 26, 1990]

JUDGING ISRAEL

(By Charles Krauthammer)

Jews are news. It is an axiom of journalism. An indispensable axiom, too, because it is otherwise impossible to explain why the deeds and misdeeds of dot-on-the-map Israel get an absurdly disproportionate amount of news coverage around the world. If you are trying to guess how much coverage any Middle East event received, and you are permitted but one question, the best question you can ask about the event is: Were there any Jews in the vicinity? The paradigmatic case is the page in the International Herald Tribune that devoted seven of its eight columns to the Palestinian uprising. Among the headlines: "Israeli Soldier Shot to Death; Palestinian Toll Rises to 96." The eighth column carried a report that 5,000 Kurds died in an Iraqi gas attack.

Whatever the reason, it is a fact that the world is far more interested in what happens to Jews than to Kurds. It is perfectly legitimate, therefore, for journalists to give the former more play. But that makes it all the more incumbent to be fair in deciding how to play it.

How should Israel be judged? Specifically: Should Israel be judged by the moral standards of its neighborhood or by the standards of the West?

The answer, unequivocally, is: the standards of the West. But the issue is far more complicated than it appears.

The first complication is that although the neighborhood standard ought not to be Israel's, it cannot be ignored when judging Israel. Why? It is plain that compared with the way its neighbors treat protest, prisoners and opposition in general, Israel is a beacon of human rights. The salient words are Hama, the town where Syria dealt with an Islamic uprising by killing perhaps 20,000 people in two weeks and then paving the dead over; and Black September (1970), during which enlightened Jordan dealt with its Palestinian intifadeh by killing at least 2,500 Palestinians in ten days, a toll that the Israeli intifadeh would need ten years to match.

Any moral judgment must take into account the alternative. Israel cannot stand alone, and if it is abandoned by its friends for not meeting Western standards of morality, it will die. What will replace it? The neighbors: Syria, Jordan, the P.L.O., Hamas, Islamic Jihad, Ahmed Jabril, Abu Nidal (if he is still around) or some combination of these—an outcome that will induce acute nostalgia for Israel's human-rights record.

Any moral judgment that refuses to consider the alternative is merely irresponsible. That is why Israel's moral neighborhood is important. It is not just the neighborhood, it is the alternative and, if Israel perishes, the future. It is morally absurd, therefore, to reject Israel for failing to meet Western standards of human rights when the consequence of that rejection is to consign the region to neighbors with considerably less regard for human rights.

Nevertheless, Israel cannot be judged by the moral standards of the neighborhood. It is part of the West. It bases much of its appeal to Western support on shared values, among which is a respect for human rights. The standard for Israel must be Western standards.

But what exactly does "Western standards" mean? Here we come to complication No. 2. There is not a single Western standard, there are two: what we demand of Western countries at peace and what we demand of Western countries at war. It strains not just fairness but also logic to ask Israel, which has known only war for its 40 years' existence, to act like a Western country at peace.

The only fair standard is this one: How have the Western democracies reacted in similar conditions of war, crisis and insurrection? The morally relevant comparison is not with an American police force reacting

to violent riots, say, in downtown Detroit. (Though even by this standard—the standard of America's response to the urban riots of the '60s—Israel's handling of the intifadeh has been measured.) The relevant comparison is with Western democracies at war: to, say, the U.S. during the Civil War, the British in Mandatory Palestine, the French in Algeria.

Last fall Anthony Lewis excoriated Israel for putting down a tax revolt in the town of Beit Sahour. He wrote: "Suppose the people of some small American town decided to protest Federal Government policy by withholding their taxes. The Government responded by sending in the Army . . . Unthinkable? Of course it is in this country. But it is happening in another . . . Israel."

Middle East scholar Clinton Bailey tried to point out just how false this analogy is. Protesting Federal Government policy? The West Bank is not Selma. Palestinians are not demanding service at the lunch counter. They demand a flag and an army. This is insurrection for independence. They are part of a movement whose covenant explicitly declares its mission to be the abolition of the state of Israel.

Bailey tried manfully for the better analogy. It required him to posit 1) a pre-glasnost Soviet Union, 2) a communist Mexico demanding the return of "occupied Mexican" territory lost in the Mexican War (Texas, New Mexico, Arizona, Utah, Nevada and California) and 3) insurrection by former Mexicans living in these territories demanding secession from the Union. Then imagine, Bailey continued, that the insurrectionists, supported and financed by Mexico and other communist states in Latin America, obstruct communications; attack civilians and police with stones and fire bombs; kill former Mexicans holding U.S. Government jobs ("collaborators"); and then begin a tax revolt. Now you have the correct analogy. Would the U.S., like Israel, then send in the Army? Of course.

But even this analogy falls flat because it is simply impossible to imagine an American in a position of conflict and vulnerability analogous to Israel's. Milan Kundera once defined a small nation as "one whose very existence may be put in question at any moment; a small nation can disappear and knows it." Czechoslovakia is a small nation. Judea was. Israel is. The U.S. is not.

It is quite impossible to draw an analogy between a small nation and a secure superpower. America's condition is so radically different, so far from the brink. Yet when Western countries have been in conditions approximating Israel's, when they have faced comparable rebellions, they have acted not very differently.

We do not even have to go back to Lincoln's Civil War suspension of habeas corpus, let alone Sherman's march through Georgia. Consider that during the last Palestinian intifadeh, the Arab Revolt of 1936-39, the British were in charge of Palestine. They put down the revolt "without mercy, without qualms," writes Middle East scholar Fouad Ajami. Entire villages were razed. More than 3,000 Palestinians were killed. In 1939 alone, the British hanged 109. (Israel has no death penalty.)

French conduct during the Algerian war was noted for its indiscriminate violence and systematic use of torture. In comparison, Israeli behavior has been positively restrained. And yet Israel faces a far greater threat. All the Algerians wanted, after all, was independence. They were not threatening the extinction of France. If Israel had the same assurance as France that its existence was in no way threatened by its enemies, the whole Arab-Israeli conflict could have been resolved decades ago.

Or consider more contemporary democracies. A year ago, when rioting broke out in Venezuela over government-imposed price increases, more than 300 were killed in less than one week. In 1984 the army of democratic India attacked rebellious Sikhs in the Golden Temple, killing 300 in one day. And yet these democracies were not remotely as threatened as Israel. Venezuela was threatened with disorder; India, at worst, with secession. The Sikhs have never pledged themselves to throw India into the sea.

"Israel," opined the Economist, "cannot in fairness test itself against a standard set by China and Algeria while still claiming to be part of the West." This argument, heard all the time, is a phony. Israel asks to be judged by the standard not of China and Algeria but of Britain and France, of Venezuela and India. By that standard, the standard of democracies facing similar disorders, Israel's behavior has been measured and restrained.

Yet Israel has been treated as if this were not true. The thrust of the reporting and, in particular, the commentary is that Israel has failed dismally to meet Western standards, that it has been particularly barbaric in its treatment of the Palestinian uprising. No other country is repeatedly subjected to Nazi analogies. In no other country is the death or deportation of a single rioter the subject (as it was for the first year of the intifadeh, before it became a media bore) of front-page news, of emergency Security Council meetings, of full-page ads in the New York Times, of pained editorials about Israel's lost soul, etc., etc.

Why is that so? Why is it that of Israel a standard of behavior is demanded that is not just higher than its neighbors', not just equal to that of the West, but in fact far higher than that of any Western country in similar circumstances? Why the double standard?

For most, the double standard is unconscious. Critics simply assume it appropriate to compare Israel with a secure and peaceful America. They ignore the fact that there are two kinds of Western standards, and that fairness dictates subjecting Israel to the standard of a Western country at war.

But other critics openly demand higher behavior from the Jewish state than from other states. Why? Jews, it is said, have a long history of oppression. They thus have a special vocation to avoid oppressing others. This dictates a higher standard in dealing with others.

Note that this reasoning is applied only to Jews. When other people suffer—Vietnamese, Algerians, Palestinians, the French Maquis—they are usually allowed a grace period during which they are judged by a somewhat lower standard. The victims are, rightly or wrongly (in my view, wrongly), morally indulged. A kind of moral affirmative action applies. We are asked to understand the former victims' barbarities because of how they themselves suffered. There has, for example, been little attention to and less commentary on the 150 Palestinians lynched by other Palestinians during the *intifadeh*. How many know that this year as many Palestinians have died at the hands of Palestinians as at the hands of Israelis?

With Jews, that kind of reasoning is reversed: Jewish suffering does not entitle them to more leeway in trying to prevent a repetition of their tradegy, but to less. Their suffering requires them, uniquely among the world's sufferers, to bend over backward in dealing with their enemies.

Sometimes it seems as if Jews are entitled to protection and equal moral consideration only insofar as they remain victims. Oriana Fallaci once said plaintively to Ariel Sharon, "You are no more the nation of the great dream, the country for which we cried." Indeed not. In establishing a Jewish state, the Jewish people made a collective decision no longer to be cried for. They chose to become actors in history and not its objects. Historical actors commit misdeeds, and should be judged like all nation-states when they commit them. It is perverse to argue that because this particular nation-state is made up of people who have suffered the greatest crime in modern history, they, more than any other people on earth, have a special obligation to be delicate with those who would bring down on them yet another national catastrophe.

That is a double standard. What does double standard mean? To call it a higher standard is simply a euphemism. That makes it sound like a compliment. In fact, it is a weapon. If I hold you to a higher standard of morality than others, I am saying that I am prepared to denounce you for things I would never denounce anyone else for.

If I were to make this kind of judgment about people of color—say, if I demanded that blacks meet a higher standard in their dealings with others—that would be called racism.

Let's invent an example. Imagine a journalistic series on cleanliness in neighborhoods. A city newspaper studies a white neighborhood and a black neighborhood and finds that both are messy, the black neighborhood is cleaner. But week in, week out, the paper runs front-page stories comparing the garbage and graffiti in the black neighborhood to the pristine loveliness of Switzerland. Anthony Lewis chips in an op-ed piece deploring, more in sadness than in anger, the irony that blacks, who for so long had degradation imposed on them, should now impose degradation on themselves.

Something is wrong here. To denounce blacks for misdemeanors that we overlook in whites—that is a double standard. It is not a compliment. It is racism.

The conscious deployment of a double standard directed at the Jewish state and at no other state in the world, the willingness systematically to condemn the Jewish state for things others are not condemned for—this is not a higher standard. It is discriminatory standard. And discrimination against Jews has a name too. The word for it is anti-Semitism.

DANIEL ORTEGA—FATHER OF DESPAIR

HON. BOB McEWEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 22, 1990

Mr. McEWEN. Mr. Speaker, today marks the birthday of George Washington, the Father of our Country.

George Washington led America in peace and prosperity for 8 years. He could have remained in office for a third term but rejected any notion that a democracy should be controlled by one man. For two centuries, the

Presidency and the Nation have flourished by following the good advice and example of George Washington, and the tradition of the peaceful transfer of power.

What a contrast we have in Nicaraguan President Daniel Ortega, who assumed power by deceit, retained power by force and terror, stole the 1984 Nicaraguan Presidential election, and is ready to steal another election.

For those of us who have bothered to take note, Danny Ortega is running again this weekend.

The Sandinista Party's platform calls for at least 4 more years—

Four more years of violent repression of dissenting voices;

Four more years of maintaining a huge army to strong-arm Nicaragua's peaceful neighbors;

Four more years of economic blight;

And 4 more years of Marxism in our hemisphere.

Freedom-loving people everywhere must demand a fair election. A fair election is unlikely in a nation where the Sandinistas are intimidating opposition candidates, forcing them to abandon their campaigns, and threatening the democratic opposition's election observers.

This body must repudiate Daniel Ortega, the father of Nicaraguan misery and despair. We must recognize and condemn his calculated, violent effort to ensure his reelection. Nicaragua deserves to be free.

IN HONOR OF FRANK R.J. WHITTAKER

HON. VIC FAZIO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 22, 1990

Mr. FAZIO. Mr. Speaker, I rise today to honor Frank R.J. Whittaker, past chairman of the Sacramento Neighborhood Housing Services' board of trustees, for his numerous contributions to assure the success of this grassroots organization through its formative years.

Mr. Whittaker, a native of Scotland, came to Sacramento in 1985, at the request of the late C.K. McClatchy, to become general manager of the Sacramento Bee, a position he filled until he was named president of the newspaper this year.

When a number of Sacramento's elected officials, business leaders, and I organized Neighborhood Housing Services in 1986, we asked Frank to help, and he agreed without hesitation.

Because Sacramento Neighborhood Housing Services was excluded from receiving funds from a statewide consortium of lending institutions, it became necessary to find alternative sources of operating income to assure the delivery of program services. In 1987, a Board of Trustees, comprised of major public and private sector representatives, was organized to conduct an annual fund-raising campaign. Since that time, Frank Whittaker has given leadership to not one, but two, successful fund raising campaigns.

His dedication to the Neighborhood Housing Services' public, private, and resident partnership has been an inspiration to other business leaders who have joined in providing the financial resources to deliver neighborhood services for the past 3 years.

The contributions Frank made as chairman of Sacramento Neighborhood Housing Services' board of trustees have set a standard for all future chairmen and members of this organization. It is indeed my pleasure to recognize Frank R.J. Whittaker for his service to the entire Sacramento community through his exemplary leadership of the Sacramento Neighborhood Housing Services.

A CONGRESSIONAL SALUTE TO J.T. McKINNEY IN HONOR OF HIS SELECTION AS MAN OF THE YEAR

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 22, 1990

Mr. ANDERSON. Mr. Speaker, it is my pleasure today to pay tribute to my very close friend, J.T. McKinney, who is to be honored as the California Pools for the Handicapped, Inc.'s, "Man of the Year." I have the distinct pleasure of using this opportunity to express my personal appreciation for his tremendous commitment to his fellow man and years of service to our community.

J.T. was born in Texas, raised in Oklahoma, and came to sunny California in 1954. A man of humble beginnings, J.T. started making his name in the world with a $200 loan from his sister, with which he acquired one truck and embarked on his career in the transportation industry. Typically though, J.T. not only paid attention to his own affairs but to the needs of his industry through involvement in its principal organizations. He was chairman of the board of the California Truck Rental and Leasing Association [CATRALA], founding board member of the National Truck Rental and Leasing Association [TRALA], a founding member of the Alliance of State TRALA's, a board member of the American Truck Leasing Network [AMATRALEASE], and a board member of the Pico Rivera Chamber of Commerce, where he was named Man of the Year one year.

J.T.'s accomplishments extend well beyond his line of business. He is currently on the board of trustees of St. Mary's Hospital, a member of the board of directors of the Long Beach civil light opera, on the board of trustees of California Pools for the Handicapped, on the men's hospice action committee, and on the board of directors of the Rancho Dominquez Bank. I can't think of a more impressive list of life accomplishments.

My wife, Lee, joins me in extending our heartfelt congratulations to this intensely dedicated man. His continuing dedication to the needs of the community make him a worthy recipient of this distinguished honor. To no finer man could we have the pleasure of extending the deserved title, "Man of the Year." He is truly a man for all years. Lee and I wish him all the best in the years to come.

TRIBUTE TO AFRICAN AMERICANS' CONTRIBUTIONS TO AMERICAN BUSINESS

HON. C. THOMAS McMILLEN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 22, 1990

Mr. McMILLEN of Maryland. Mr. Speaker, I rise today to express my appreciation for the important contributions that African-Americans and especially African-American business organizations have made to America's stability and growth. In the 200 years since Richard Allen formed the Free African Society in Philadelphia to provide Americans of African descent with a forum within which they could give one another assistance and support, much has been accomplished.

Society as a whole has benefits from the innovative and entrepreneurial spirit of African-Americans. Inventions patented by African-Americans have raised the comfort level of each of us and enhanced the quality of life in America. Charles Drew discovered blood plasma, Jan Matzeliger revolutionized shoemaking with his lasting machine, Norbert Rilieux revolutionized the sugar industry, Lewis Latimer made important applications to the principles of electricity, and the list goes on, and on.

Despite the odds, organizations such as the National Business League, which was founded by Booker T. Washington 100 years ago and predates the U.S. Chamber of Commerce by 12 years, were the foundation for much of the process we realize today. I believe that special tribute is to go to former Congressman Parren T. Mitchell. He's someone for whom I hold a great deal of respect and someone I regard as Booker T. Washington's contemporary counterpart.

Thanks to Congressman Mitchell's foresight and determination, there is a Small Business Administration that offers technical assistance and support to both minority and smaller businesses. Within the Fourth Congressional District, I would like to recognize the dedicated work of Ms. Joanne Jackson, minority business enterprise coordinator for Anne Arundel County, and Mr. Dennis Brownlee, minority business enterprise coordinator for Prince Georges County, for their efforts to bring African-Americans in general and minority businesses in particular, closer to our shared goal of economic equality.

THE GLORIETA BATTLEFIELD

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 22, 1990

Mr. RICHARDSON. Mr. Speaker, in May of each year thousands of dedicated Civil War enthusiasts and a broad range of interested observers travel to Glorieta, NM to witness a reenactment of the "Battle of Glorieta," the decisive battle of the Civil War in the Far West.

The Battle of Glorieta, often called the "Gettysburg of the West," occurred on March 28, 1862, at Glorieta Pass in northern New Mexico. Approximately 1,000 Texas Confederate troops engaged in a pitched battle against Union troops at Pigeon's Ranch on Glorieta Creek. The Confederates hoped to take Fort Union, a major Union supply point, and the last Union stronghold before Colorado. Although the Confederate forces eventually won the battle, the Union forces destroyed the Confederate supply train which was left 6 miles back at Johnson's Ranch. This forced the Confederates to retreat down the Rio Grande back to Texas. The Battle of Glorieta prevented the expansion of the Confederacy into the rich mining fields of Colorado and California. Except for fighting in eastern Kansas, the Civil War in the West ended at Glorieta Pass.

The significance of the Glorieta site was recently underscored by the discovery of a mass Confedrate gravesite containing the remains of at least 34 Confederate soldiers and numerous Civil War artifacts. The director of the Museum of New Mexico described the gravesite as "extraordinarily significant and very, very important historically." This discovery will greatly increase our knowledge of this pivotal battle and facilitate a great appreciation of the site by the general public.

Today, I am introducing legislation that would authorize the National Park Service to acquire approximately 753 acres of the Glorieta battlefield including the Pigeon's Ranch and Johnson's Ranch, by donation, exchange, or purchase. The Secretary's authority to acquire lands through condemnation would be limited to the 121 acres included in the core of the Pigeon's Ranch.

Mr. Speaker, most of the residents in the area I have described are already willing to sell or exchange their lands. The battlefield will be an important addition to the Nation's public park system. I urge my colleagues to support this legislation so that the Glorieta Battlefield may be preserved for the enjoyment of future generations.

BLACK HISTORY MONTH—HONORING IDA B. WELLS

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 22, 1990

Ms. ROS-LEHTINEN. Mr. Speaker, in February of 1926, Dr. Carter G. Woodson established "Black History Month" in order to honor the invaluable contributions made by black men and women to the culture and history of the United States. Over the years, our fine Nation has paused each February to honor these contributions which have furthered the cause of our Nation's ideals of "life, liberty and the pursuit of happiness." This occasion should not limit us to only recognize the contributions made on our continent, it also affords us the opportunity to recognize those made by black men and women across the globe. This is a month of bittersweet celebration, for it reminds us how far we have come on this journey, as well as how far we have yet to go.

One of the many significant figures deserving recognition for her contributions is Ida B. Wells, a civil rights activist in the late 1800's. Wells was born in 1862 into a society divided by racial hate and oppression, seeing first hand the sad effects of racial discrimination. Ms. Wells was secretary of the National Afro-American Council and was the first president of the Negro Fellowship League in Chicago and in 1909, she helped establish the NAACP. Through her tireless dedication and efforts in these organizations, she educated people about the horrors of discrimination and lynchings. Her heroic contributions to the civil rights movement influenced the easing of racial tensions at the beginning of this century, which in turn, made possible the needed reforms of the sixties.

Her actions educated the ignorant who sought to hold fast to their racial prejudices. Ms. Wells is being honored on a commemorative stamp in the black heritage series for the impact she had on the civil rights movement. The stamp features a portrait of Wells with a picket line in the background which symbolizes her perseverance to bring an end to the racially divided society. During this month rich in history, we should all take time to educate ourselves of the tremendous contributions Afro-Americans have made. Through the contributions of all Americans such as Ida B. Wells, we have furthered ourselves as a society which maintains its excellence through diversified achievements.

THE 1990 CELEBRATION OF NATIONAL TRIO DAY IN THE DISTRICT OF COLUMBIA

HON. WALTER E. FAUNTROY

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 22, 1990

Mr. FAUNTROY. Mr. Speaker, I am honored to rise in this noble Chamber to recognize that unique group of programs known as TRIO on the occasion of its National Day.

Talent Search [TS], Upward Bound [UB], Student Support Services [SSS], the Educational Opportunity Center [EOC] and Ronald E. McNair programs are federally funded educational opportunity programs that enhance postsecondary access, retention and graduation for minority and low-income citizens of this country. Together these programs serve as advocates for more than 450,000 low-income students (youth and adults) and work to eliminate perceived and realistic barriers to higher education. Admissions and financial aid guidance, career counseling, tutoring, pre-GED testing and cultural enrichment programs are but a few of the services offered by these programs to facilitate personal growth and prepare students for the future.

The 1990 celebration of National TRIO Day is especially significant in that this year marks the 25th anniversary of two of the programs, Talent Search and Upward Bound, both funded under the original Higher Education Act of 1965.

In the District of Columbia we have been extremely fortunate to have had two of the TRIO programs for 25 and 23 years respectively, Upward Bound at Howard University (1965) and the Educational Opportunity center (1967) in southeast (formerly Project O.P.E.N.) In addition to these two, we have an Upward Bound Program at Trinity College (1968) and Student Support Services Programs at Gallaudet University (1972), Howard University (1973) and the University of the District of Columbia (1971).

Each year TRIO programs in the Nations Capital help more than 4,000 low income, first generation and physically disabled residents begin or continue a program of postsecondary education.

TRIO Programs are educational opportunity programs that help low-income, disadvantaged students enter and succeed in college. They were established by Congress and are funded under title IV of the High Education Act of 1965.

While student financial aid programs are designed to help students overcome financial barriers to higher education, TRIO Programs help students overcome class, cultural and academic barriers to higher education. They provide information, academic instruction, counseling, tutoring and assistance in applying for financial aid.

For the foregoing, I celebrate the history of the D.C. TRIO Program, and pray God's continued blessing on the leadership and the fruit of their collective labors.

YOUNG ISRAEL OF PARKCHESTER, BRONX, NY

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 22, 1990

Mr. SCHEUER. Mr. Speaker, I rise in recognition of Young Israel of Parkchester, an orthodox synagogue that is marking its golden anniversary on February 25. For 50 years, Young Israel has kept faith with the Jewish community in the Parkchester section of the Bronx. It continues to serve as a center of Jewish life—for prayer, Jewish study, and social activity.

Keeping Jewish traditions alive in the East Bronx through dedicated and devoted service to Jews of all ages has been the mission of Young Israel of Parkchester since its inception in 1940. As Rabbi Seymour Schwartz, the spiritual leader of Young Israel, has stated: "The building of a sanctuary does not end with the physical structure alone, it continues in the daily life of the Jew residing in our community, reaching out, stretching forth a hand to all who seek the spiritual nourishment provided by our synagogue."

Although its congregation, like that of many other tradition-bound religious institutions, has diminished in size, Young Israel remains as a beacon for those seeking spiritual guidance, be they congregants or unaffiliated Jews. Young Israel has retained its commitment to fostering an active Jewish communal life. The synagogue's efforts have helped instill in young people a deeper understanding of, and appreciation for, their faith and their heritage. Those in their golden years—who comprise the bedrock of Parkchester's Jewish commu-

nity—have been well served by a senior center operated under the auspices of Young Israel of Parkchester. The synagogue's Sabbath meal programs have brought the spirit of Shabbat to those who might not otherwise have experienced this religious ritual.

Through its highly successful adult education program, outreach to youth, women's league and men's club-sponsored Sunday morning breakfast programs, daily minyans, and special holiday programs and festivities, Young Israel is helping to keep the spirit of Judaism and of community alive in Parkchester.

All this obviously could not have been possible without the active support of a group of dedicated men and women committed to disseminating their spiritual values of orthodoxy. Among this synagogue's dedicated founders were Max and Ruth Spielberger. At its 50 anniversary dinner on February 25, the congregation of Young Israel of Parkchester will fittingly pay tribute to the Spielbergers for their untiring, noble efforts in building, supporting, and vitalizing their synagogue. The couple remain active congregants today and Max continues to raise needed funds with an uncommon fervor. Says one fellow congregant, "Max, in his quest for donations, makes a tax collector appear like a timid soul."

To Young Israel of Parkchester and to Max and Rose Spielberger, we say "mazel tov" on this important occasion and extend our best wishes for the future.

POPULATION ASSISTANCE

HON. CLAUDINE SCHNEIDER

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 22, 1990

Ms. SCHNEIDER. Mr. Speaker, we have all heard the predictions that the 1990's are destined to be known as the decade of the environment.

As signs of democracy flourish in East Europe and the Soviet Union there is great opportunity for shifting dollars now spent on troops and weaponry, to doing battle on the global environmental perils confronting us.

The industrialized world is responsible for a disproportionate share of fouling the global nest, and we are long overdue in moving from needless polluting to thoughtful stewardship practices.

Considerable environmental degradation also emanates from the developing world, and these problems will get worse because of the enormous growth in population projected for the coming decades.

Enforcement of rigorous environmental standards may be the most appropriate action for the highly industrialized nations, but the first line of defense against environmental destruction in the developing world is the stabilization of population growth.

The Third World is adding to the planet the equivalent of the U.S. population every 36 months, or the equivalent of China's population every 12 years.

It is precisely in these poorer nations where population pressures have taken the greatest toll. There is simply no way to isolate environmental problems from population growth.

In the developing world, firewood is still the primary source of fuel and will be for years to come. But firewood requires cutting down trees, which leads to soil erosion, flooding, and a cycle of resource degradation that, for most of the world's poorest countries, severely undermines economic development.

The National Academy of Sciences recently notified President Bush that population growth is threatening local and global environmental integrity.

World Bank President Barber Conable has repeatedly called upon all countries to increase funding for family planning services, warning that a burgeoning population will overwhelm even the mose successful development assistance.

The World Health survey of the World Health Organization estimates that if universal voluntary family planning services were provided to women who want fewer children, births would drop by one-third in Latin America and Asia, and by one-fifth in Africa.

It is noteworthy that abortions would decline in the wake of more extensive family planning services. Currently, a large fraction of deliberately terminated pregnancies result from women lacking access to modern birth control methods.

The bottom line is that voluntary family planning services make good sense. U.N. studies show that each dollar expended on these services reaps a sevenfold return on the taxpayers' investment in the form of improved maternal and infant health, and improved productivity.

Therefore, it stands to reason that the U.S. must get back into the effort, alongside other industrialized countries, to assist the less developed world in establishing a more equitable balance between its population, its environment, and its resources.

We have been, in effect, a sideline observer rather than a participant since some Government officials put forward the incredulous position some 5½ years ago that population growth does not have an impact on development one way or another.

Nothing could be further from the truth, and that is why I join with my colleague, Representative PETE KOSTMAYER, in introducing the International Voluntary Family Planning Act, which calls for $500 million per year for U.S. international population assistance—roughly a doubling from current U.S. expenditures.

This is a fiscally prudent investment that buys us more development for our tax dollars than virtually any other international assistance program.

Until quite recently population experts were telling us that by substantially accelerating family planning information, education, and services worldwide, global population could be stabilized at 8 billion.

Today, the U.N. estimates that unless immediate action is taken to significantly increase family planning, a stabilization will not be achieved until our human numbers reach 14 billion or more.

The net result of our past neglect combined with our continued neglect will be a world with nearly double the population than it might have been.

For the next 30 to 40 years, let us hope that the world will not be divided into teams playing demographic roulette. The game is much too dangerous, with our quality of life and the planet's health very much at stake.

MEDICAID AIDS AND HIV AMENDMENTS OF 1990

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 22, 1990

Mr. WAXMAN. Mr. Speaker, over the past year, one message has come through loud and clear about AIDS: The epidemic is not over yet. And, as far as health care costs and hospital programs, the worst is yet to come. For some time, we have all looked at numbers like 100,000 cases or 1 million infected Americans or averages of 2 to 3 hospitalizations per patient.

But now we are facing what those numbers really mean. They mean hospitals near bankruptcy. They mean overflowing emergency rooms. They mean rising public health care costs. They mean morbidity and mortality, death and disease among some of our youngest citizens and among many who have no access to health care at all.

AIDS is creating a crisis in access to health care, in financing health care, and in delivering health care. None of these problems is new. All of them are, however, made much worse and much more immediate and unforgiving with the tidal wave of patients that now need and will continue to call upon hospitals and community providers for help.

Medicaid has become a principal source of financing for this help. The Health Care Financing Administration estimates that 40 percent of all AIDS patients at some point become Medicaid beneficiaries. This comes about for a variety of reasons. Most common is that people with AIDS often lose their jobs and thus their insurance and quickly become poor in an effort to pay their health bills. In addition, the number of women and children with AIDS is growing and the disease is increasingly concentrated among many people who are the poorest of the poor, even before they became sick.

Today I am joining with a number of my colleagues in introducing legislation to make Medicaid respond more effectively to this epidemic. I hope to deal with a basic problem of getting early intervention drug services to poor patients while such services are still useful. I hope to assist those hospitals that are struggling with an overwhelming case load of AIDS patients who depend on Medicaid. I hope to begin to use Medicaid dollars to slow the shift of private insurance responsibilities onto public programs. And I hope to provide good home care for children with AIDS.

The first, and most far reaching, of these proposals is to give States the option to expand the eligibility for Medicaid to provide access to early intervention prescription drugs to low-income HIV-infected people.

Medicaid is not available to all poor people in the United States. In order to be eligible, a person must meet two requirements. First, the individual must meet the means test—both in

terms of annual income and total personal assets—established by the State.

Second, the individual must also fall into one of three basic categories: he or she must be over 65 or be a member of a family with dependent children or be totally disabled. Even if the individual is poor enough to meet the means test, if he or she does not meet one of these three criteria, then the individual is not eligible for Medicaid.

While some impoverished AIDS patients are undoubtedly eligible for Medicaid as elderly people or as mothers or children, most impoverished people with AIDS who are on Medicaid are eligible because they are disabled. In general, however, the Social Security Administration requires that a patient have full AIDS before he or she is considered disabled; patients with such a full AIDS diagnosis are presumed to be disabled.

Medicaid is not available for payment for early intervention drugs and services for HIV-infected people with no symptoms or with early mild symptoms. Since these people are not disabled yet, they cannot meet the standard for eligibility, no matter how poor they may be. If, however, they develop one of the opportunistic infections or conditions, they will be considered disabled and thus Medicaid eligible.

Thus, a person who is HIV-infected and has a severely compromised immune system (e.g., T-cells under 200) is recommended by National Institutes of Health [NIH] to be taking pneumonia prophylaxis and early AZT to prevent illness. That person is not, however, eligible for Medicaid assistance to purchase these early intervention drugs or to pay for physician visits or laboratory services for diagnosis.

When this person develops pneumonia, however, he or she meets the Centers for Disease Control [CDC] definition for AIDS, is presumed by the Social Security Administration to be disabled, and is eligible for Medicaid assistance to pay for the inpatient hospital care that is needed to treat the AIDS-related pneumonia.

The obvious problem is that while prescription drugs are available to slow or prevent disabling immune deficiency and its accompanying illnesses, most of the people eligible for Medicaid assistance are those who already have such immune deficiency and illnesses. The parallel financial problem is that while early intervention drugs cost less than hospital care, most HIV-infected people become eligible for Medicaid only when early intervention is too late and hospitalization is needed. (E.g., the cost of pneumonia prophylaxis is $1,100 per year; the average cost of hospitalizing an AIDS patient with pneumonia is $17,000 per admission.)

With such limitations, the Medicaid program serves poor HIV and AIDS patients badly, requiring them to get sick almost to the point of no return before assisting them with their health care. Similarly, the program serves hospitals badly by crowding them with AIDS patients whose pneumonia and other illnesses might have been prevented if early intervention had been provided. And, obviously, the program limits serve no financial interests, short-changing less expensive prescription drug care and thus driving up the need for costly inpatient hospital care.

The second proposal that we are making is to improve the Medicaid payment to hospitals that serve a large number of AIDS patients. It has been demonstrated that AIDS patients cost more for hospitals to care for than the Medicaid program in most States will pay. Recently published studies by the National Association of Public Hospitals show that, on average, revenues for AIDS patients are almost 20 percent below the costs of delivering inpatient care for those patients.

If we hope for hospitals to stay in business—not just to provide care for AIDS patients but also to provide acute care to all patients—then we have to make sure that the rising number of AIDS patients and their associated costs does not overwhelm the hospitals. We must, at a minimum, assure that the Medicaid program does not contribute to the problem.

The third proposal that we are making is to allow States to use Medicaid dollars to pay for Medicaid beneficiaries' continuation coverage under COBRA. By making it an allowable Medicaid expenditure for States to pay this premium for people who are otherwise eligible for Medicaid, we allow people to retain their full private health insurance at a savings to both State and Federal governments.

The final proposal is to allow States to use Medicaid dollars to provide home- and community-based care to children with AIDS. Long-term hospitalization for these children is clearly not the most therapeutic or even humane way of caring for them. If we can make it possible for parents, for foster families, or for charitable organizations to care for these sick children outside of such high-tech settings we should do so.

Clearly these proposals are not a panacea for the health care delivery problems that the epidemic is posing. Clearly we could do more for long-term care, for improvement of primary care, for psychosocial services, and for home- and community-based services for adults. But this is a starting point. If we can begin by making these changes to the financing system, it will prolong lives, save dollars, keep financially strapped hospitals afloat, and improve care for people with AIDS and all Americans. If we do not, our whole public health care system may be flooded with sickness, death, and bad debt, and the communities it serves will be devastated.

We must make the start.

I've included a summary of the provisions of the bill:

Optional Medicaid Coverage of HIV-Related Services for Certain HIV-Positive Individuals. States would be allowed to offer Medicaid coverage for certain services for low-income individuals infected with the HIV virus. If a State elects this option, it must cover the following services, to the extent that they relate to treatment of infection with the HIV virus or treatment for (or prevention of) opportunistic diseases relating to AIDS: (1) prescribed drugs; (2) physicians' services, outpatient hospital services, rural health clinic services, and Federally-qualified health center services; (3) laboratory services; (4) clinic services; and (5) case management services. To qualify for this coverage, an individual would have to meet the following criteria: (1) the individual has tested positively to be infected with the HIV virus and has an abnormally low immune function for which medical intervention is indicated to prevent decline in such function or to prevent opportunistic diseases related to AIDS; and (2) the individual's income and resources could not exceed the maximum amounts allowed, respectively, under the State's Medicaid program for a disabled individual. Unless they were otherwise eligible for Medicaid, these HIV-positive individuals would be eligible only for the services specified, and not for inpatient hospital care. This option would be effective January 1, 1991.

Adjustment in Payments to Hospitals for Individuals with AIDS. States would be required to increase payments for inpatient services delivered to Medicaid-eligible individuals with AIDS by hospitals serving high volumes of persons with AIDS. Hospitals meeting the following criteria would qualify for the payment adjustments: (1) the hospital qualifies as a Medicaid disproportionate share hospital under the State plan; (2) during the most recent calendar year the hospital's inpatient admissions with AIDS exceeded the lesser of 250 or 20 percent of its total admissions; and (3) the hospital has made a reasonable effort to reduce hospitalization of persons with AIDS by making arrangements to coordinate the care of these individuals with at least one of a number of specified outpatient service providers (such as community health centers, TB or STD clinics, or AIDS service demonstration projects). The payment adjustment would apply only to inpatient hospital services provided to Medicaid-eligible individuals with AIDS. The amount of the adjustment would have to equal at least 25 percent of the amount the hospital would otherwise be paid (including its Medicaid disproportionate share adjustment). States would have the option of broadening the eligible class of hospitals or increasing the payment adjustments. This requirement is effective July 1, 1991.

Providing Federal Medicaid Assistance for Payments for Premiums for "COBRA" Continuation Coverage for HIV-Positive Individuals. Under the Consolidated Omnibus Budget Reconciliation Act of 1986 (COBRA), as amended by the Omnibus Budget Reconciliation Act of 1989, employers with more than 20 employees are required to offer employees who lose their jobs (and their families) the option of continuing coverage under the employer's group health insurance plan at the employer's group rate. If the employee was disabled at the time he or she lost his job, the employee may continue coverage for up to 29 months. During the first 18 months, the employee must pay 102 percent of the employer's group premium rate; from the 19th through the 29th month, the employee must pay 150 percent of the employer's rate. The bill would allow States to use Federal Medicaid funds, at their regular matching rates, to pay the premiums for "COBRA" continuation coverage on behalf of certain individuals. These individuals must (1) have tested positively to be infected with the HIV virus, (2) be entitled to elect COBRA continuation coverage, (3) have an income at or below 100 percent of the Federal poverty level ($5,980 for an individual in 1989), and (4) have countable resources (other than the home) that do not exceed twice the amount allowed under the SSI program ($4,000). The option would be effective January 1, 1991.

Optional State Coverage of Home or Community-Based Services to Certain Children With AIDS. Under current law, States can

obtain from the Secretary of HHS a waiver of limitations on the use of Federal Medicaid funds to enable them to purchase home- and community-based services to individuals with AIDS who are at risk of hospital or nursing home care. In order to receive this waiver, States must demonstrate budget neutrality. Under this provision, States would be allowed to offer Medicaid coverage for home and community-based services to low-income children under age 18 who have been diagnosed as having AIDS without obtaining a waiver or demonstrating budget neutrality. Home and community-based services would include case management, supervision or additional services for foster children or their parents, personal care, and respite care. The income and resource standards would be the same as those that would apply under the State's Medicaid plan if the child were in a hospital. This option would be effective January 1, 1991.

TRIBUTE TO FULLER E. CALLAWAY, JR.

HON. RICHARD RAY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 22, 1990

Mr. RAY. Mr. Speaker, I rise today to pay tribute to Mr. Fuller E. Callaway, Jr., a gentleman who has helped to make the Third District of Georgia such a great place to live. Mr. Callaway has spent his entire career with an eye toward helping others become established in business. He has done this by creating educational grants, endowing research projects, and offering financial incentives. Through his generosity, countless others have benefitted.

Mr. Speaker, I am proud to announce that a new magazine has recently come to life in the third district; it is called LaGrange magazine. By the quality of the first issue I am sure that it will be very successful. It is fitting that LaGrange magazine chose to honor Mr. Callaway with a picture on the cover of the first issue and by offering an excellent account of his life. I would now like to insert into the RECORD that article:

LAGRANGE FRIEND AND BENEFACTOR

(By Ed Crouse)

Neither the history of LaGrange nor the history of the Callaway family could be written without many references each to the other. To talk with the elder Callaways is to get an often exciting, often homespun glimpse into a mutually benevolent past.

If ever a city could be said to have a heart and spirit, it is LaGrange. And the heart and spirit of LaGrange is the Callaway family. For over fifty years, the city has been the beneficiary of Callaway largesse to an extent that literally boggles the mind. Schools. Parks. Hospitals. Churches. Band uniforms. Law enforcement. Charitable organizations. Medical research. Social programs. And on and on.

The patriarch of the family is Fuller Earle Callaway, Jr., ably assisted by his gracious wife, Alice Hand Callaway. Now in their golden years, Mr. Fuller and Miss Alice can look out from their gracious home on Vernon Street onto a city whose civic, educational, religious and cultural assets are a direct result of the Callaway generosity and belief in the strength and durability of their fellow citizens.

Mr. Fuller created the Callaway Foundation in 1943 to carry on in an orderly fashion the charitable work he no longer could do personally because of tax laws and legal restrictions. From that time until September 1988, the Foundation has made contributions from income to recognized religious, charitable and educational purposes, or the acquisition of facilities for those purposes, of over $120 million. Traditionally, most of that support has gone to the benefit of projects and people in LaGrange and Troup County. Over time, the Foundation has contributed, in unusual circumstances or degree of need, to deserving causes elsewhere in Georgia and throughout the United States. But, by and large, it is the local community that enjoys the greatest consideration.

Mr. Fuller is the son of Fuller E. Callaway and Ida Cason Callaway. He is Georgia born and educated and has been a local resident all his life.

"I was born in a house on West Haralson that my father bought for $1,250 cash. Even when I was a litte lad in school, my father was teaching me the lessons I would need for the years ahead. Not by preaching, but by example and experience.

"When I was fourteen, he took me with him on a business trip to Europe. We visited many countries. So I would learn different currencies, he made me treasurer for the trip.

"And one day he said to me, 'Baby,' (Since I was six, he called me Baby. Later on, our hands called me Mr. Baby.) 'Baby,' he said, 'I'll give you ten cents a week if you'll keep my shoes shined.' I agreed. I was always eager to earn hard money.

" 'But there are conditions,' he said 'That ten cents is not all yours. One penny belongs to the Lord. One penny is yours to go into savings. And the other eight cents is yours to spend wisely.' That's a lesson and a formula I've lived with all my life."

Young Fuller grew up in a home always warm and always busy. Allowances were unknown, but hard money for hard work was the norm. He idolized his mother, Ida, and loved and respected the father who was the foundation of the home.

"My father was a hard worker and a smart businessman, even though he never went further than a one-room, one-class schoolhouse. He earned his first hard money—five cents—when he was eight, as a waterboy at a barn raising.

"In town, he bought three spools of thread for that nickel and sold them to farm women in the community for five cents each. He was practicing what I learned later is 'place utility' in economics. With his fifteen cents, he bought nine spools and sold them.

"As he grew older, he walked the county with a pack on his back, having added to his household items. When he was twelve, he rented a farm with his own money . . . and worked it. Then he moved into town and worked at Bradfield's Store and saved five-hundred dollars, a fortune back then, by the time he was eighteen. Then he opened his own store in a rented building where Mansour's now stands on the square."

Mr. Fuller enjoys recounting stories about his father, who was an instinctive salesman, practicing clever merchandising programs as unknown then as they are common today. And Fuller, Sr. was aggressive.

On one occasion, when he was eighteen and legally unable to borrow money to operate his store, he personally lobbied the legislature in Atlanta to pass a resolution declaring he was of legal age! Armed with that document, affixed with the Great Seal of Georgia, he wheedled a thousand-dollar line of credit from Mr. Abrams, a local banker.

"Father didn't realize it, but he was operating on the British banking system, working with a line of credit rather than an outright loan so he didn't pay interest until he used the money. As I grew older, and entered the financial arena, I have done the same thing."

Fuller, Sr. was an eminently successful storekeeper. Very quickly, he adopted the concept of mass marketing. From a young German metalsmith named Conklin, he bought a freight car of kitchen utensils to bolster his standard inventory of goods. He sold out. Then from a Mr. Jim Cannon, who built the first terrycloth towel factory in North Carolina, Fuller, Sr. bought two carloads of towels. He sold those, too. Then he bought twelve carloads of a new kind of canning jar from a man named Mason in Indiana. Again, he sold out.

"Father believed in advertising. He once bought the whole front page of the newspaper and ran an ad saying, 'I sell everything a man needs to eat, to wear or to wash his face!' He had two big events every month in the store—a grand-opening sale and a great liquidation sale. Cheapest advertising in the world. Father's store had a lot to do with LaGrange's early growth. At the time Mountville and Greenville were bigger, as I recall. But a lot of families came to town on Saturdays 'to see what Callaway has.' "

Fuller Callaway, Sr.—still a young man not yet thirty—went on to build or buy and expand the Callaway group of companies that was to carry out virtually every phase of textile production. The name Callaway was recognized throughout the United States and Europe as a force in the industry.

"When my father was twenty-nine, he told his bookkeeper to figure out what he was worth. His net worth. The man did. It was a considerable figure. Father said, 'That's enough. No man needs any more. Every year that we exceed that figure, we will give away the difference.' That was the beginning of the Callaway Foundation."

HIS ADULT YEARS

Mr. Fuller followed in his father's footsteps practicing both the business acumen and philosophy of giving that was to add to both the family wealth and the Callaway philanthropies. Following graduation from the Georgia School of Technology (Georgia Tech) in 1926, he took employment at Valley Waste Mills, one of several dozen small, autonomous mills owned by Callaway. At one time or another, he served—often simultaneously—as an officer of all the Callaway facilities, including the Fuller E. Callaway Foundation that had been founded in 1923 as the Relief Association.

"Father used to help build churches out of his own pocket. He had a rule: anyone—white, black or spotted—who wanted to build a church in the LaGrange area would be given a plot of land and half the cost of the building. He wouldn't support the church's operation; that was up to the congregation. The people had to come up with half of the construction costs and they were on their own. After income taxes came in, he couldn't do that. That's when Father set up the Relief Association."

After the untimely death of Fuller Earle Callaway in 1928, elder brother Cason and Mr. Fuller undertook management of the far-flung Callaway interests. In 1932, they brought all the Callaway facilities under

one umbrella; they consolidated and streamlined and formed Callaway Mills, the entity that became a leader in the world textile industry. Its research and design specialists broke new ground in production, machinery, operations, products and sales. Still determined to follow his father's philosophy of giving, Mr. Fuller conceived the Institute of Textile Technology in Charlottesville, Virginia.

Mr. Fuller shocked his business associated by announcing he would, at age forty, take a ten-year leave of absence from the Callaway enterprises "to charge up my batteries and get a fresh perspective on what was important to me." He turned control of Callaway over to his old friend and confidant, Arthur B. Edge, Jr., and looked to interests outside the company. He tinkered with electronics. He took up painting and produced a good number of excellent seascapes, nature scenes and still-life oils. He took up the beef-cattle business and assembled a large herd of prize horned Herefords.

HIS UNIVERSITY TIES

Mr. Fuller has worked hard over the years to repay his "debt" to Georgia Tech. In 1946, with two other alumni, he founded the Georgia Tech Research Institute. With only three-thousand dollars seed money, the Tech Research Institute prospered and last year turned over to Tech over $100 million dollars.

"I was in my young twenties when I got interested in research. It is a foundation stone for a prosperous industry. I learned later that Georgia Tech, being a tax-supported state institution, could not do research. So three of us put in a thousand dollars each and founded the Georgia Tech Research Institute. Hired a young Tech graduate named Harry Baker to run it. We told him how long the job lasted depended on how good a job he did. He did extremely well. Made a career of it. Harry's dead now. The institute will turn over another $100 million this year. It supports all nineteen branches of science. Harry did extremely well."

Mr. Fuller kept his word and stepped back into harness in 1958. Under his leadership, the company thrived. Then, ten years later, after friendly negotiations, Callaway Mills Company was sold—for cash—to Roger Milliken, a strong and respected textile-empire builder of Spartanburg, South Carolina.

It is interesting to note that since Callaway Foundation was organized in 1943, no member of the family has ever received one penny in compensation or expenses from its coffers. But Foundation beneficiaries—most of them in and around LaGrange—have been awarded over $120 million!

Today, Mr. Fuller and Miss Alice enjoy the good life at their home on Vernon Street. The house was begun in 1914 and completed in 1916 on land bought from the Ferrell Estate by Fuller, Sr. He tore down the Ferrell house and built the mansion on the same spot to take full advantage of a grand five-acre boxwood garden planted originally in 1841 by Mrs. Ferrell. The original Mrs. Ferrell tended the garden meticulously until her death in 1903. Mr. Fuller's mother took up the garden in 1914, followed by Miss Alice, who admits the garden is "a love of my life."

Mr. Fuller is particularly proud of the fact that Georgia Tech now has in the design state a dramatic, ultramodern research building that will be named after him. Due largely to the support of the Georgia Tech Research Foundation and the support of industrial giants such as Southern Bell, IBM and Standard Oil, the university now is considered to be among the leaders in research and Number One in research in electronics and solar energy.

"They told me they wanted to name the building after me. My father always said, 'If you never name a thing for anyone that's alive, you'll never be sorry you did.' I said, 'You better wait till I'm dead.' But they said they'd do it whether I wanted it or not. I'm pleased. There is a building already on campus named for my father and another for my son, Fuller Earle Callaway, IL. He died in 1971."

To meet and talk with Mr. Fuller today is to enjoy a man who has lived long, accomplished much and given bountifully. He loves to reminisce. He tends to denigrate his contributions to his town—almost embarrassed when you mention them. He will tell you stories endlessly about his father and about his own adventures in business. And he appreciates the elements that have allowed him to succeed.

"I have always said if you could ever choose anything to inherit, it should be luck. You can be right in every way and have bad luck . . . and you're gone! You can be wrong in every way and have good luck . . . and you have it made! The second choice would be humor. I would rather have humor than an extra leg. Fortunately, I had two Irish great-grandmothers. Got a good helping of luck and humor from them."

And we all have benefitted.

THE DIGITAL AUDIO TAPE RECORDER ACT OF 1990

HON. ROBERT W. KASTENMEIER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 22, 1990

Mr. KASTENMEIER. Mr. Speaker, the Digital Audio Tape Recorder Act of 1990, which is being introduced today, has many significant implications for the copyright laws. The Judiciary Committee Subcommittee on Courts, Intellectual Property, and the Administration of Justice, which I chair, has jurisdiction over these laws. I speak here today to express my concern that because of the way the bill has been drafted, it will apparently not be referred to the Committee on the Judiciary for consideration of those copyright issues.

Copyright law represents a balance between the rights of creators and the interests of the public. This bill squarely and significantly implicates that balance, and in particular the issue of home-taping, which has been a controversial issue before my subcommittee for many years.

On the one hand, a digital audio tape [DAT] machine provides considerable benefits for consumers. It will enable them to make perfect copies of sound recordings that are in digital form. The Digital Audio Tape Recorder Act will, in certain important respects, limit the ability of consumers to use DAT machines to copy.

On the other hand, DAT technology poses serious concerns for holders of the copyrights in the underlying works. The recording industry has argued that consumers who are able to make perfect copies will no longer be interested in buying the underlying works from retail outlets; they will simply obtain them from other sources and copy them. The result will be a decrease in purchases, in financial rewards to creators, and in the ability of the copyright holders to financially support the creation of new works.

Hardware manufacturers have disputed this argument, contending that home-taping has stimulated the interest of music lovers, and has motivated them to buy more music than they otherwise would have. Studies commissioned by these parties have invariably contradicted each other. This situation led Senator DECONCINI, the chairman of the Senate Judiciary Subcommittee on Patents, Copyrights, and Trademarks, and me to request the Office of Technology Assessment to conduct its own study. That study, released last October, concluded that while the ultimate impact of home-taping on consumers and the affected industries is difficult to determine, the costs to the public of a ban might outweigh any offsetting losses to the music industry.

I am always concerned about the impact of new technology on the copyright laws, and about the availability of that technology to consumers. The Constitution authorizes the enactment of copyright laws that encourage the creative process by granting creators a limited monopoly. The ultimate goal is to promote "the progress of science and useful arts," and thereby ensure that the American public has access to these creative works. New technologies may enhance consumer access, or they may threaten to limit it. The Congress must review these innovations and, when necessary, must act to fulfill its constitutional mandate.

The proposed bill requires that a "serial copy management system" [SCMS] be incorporated into DAT machines. This system would permit consumers to make digital-to-digital first-generation copies of prerecorded music, but would prevent them from making digital-to-digital subsequent-generation copies of the copies. Certain exceptions are created, such as for noncopyrighted materials, and first and second-generation digital copying of analog material is permitted. Analog copying as a whole is not covered by the bill.

Last Congress, the recording industry supported legislation that would have required a copy-code scanner to be inserted into all digital audio tape machines imported into this country. The purpose of the scanner was to prevent taping of copyrighted music under certain circumstances. This was a controversial measure, with some opponents contending that the system would degrade the quality of the underlying music, would prevent taping when it should permit it, and would permit it when it should have precluded it. Senator DECONCINI and I requested the National Bureau of Standards to test the copy-code scanner; NBS concluded that these concerns were legitimate and that the system in fact suffered from these defects. I opposed the legislation, which died at the end of the 100th Congress.

Despite the failure of the copy-code scanner proposal, I strongly encouraged the parties, both proponents and opponents, to try to negotiate their differences. In Athens, Greece, last spring and summer, representatives of the

software and hardware manufacturers gathered for extensive negotiations that resulted in this bill. For the first time that I can recall, they are united in their strong support for legislation on the issue of taping of sound recordings. They deserve praise for their efforts to negotiate a solution to what seemed an intractable problem.

Even so, the proposal is not without controversy. SCMS is a purely technical solution. It does not address the issue of royalties for the copying of copyrighted material. Music publishers and songwriters, therefore, strongly oppose it. They argue that a technical solution is insufficient to protect their rights, and that any proposal must include a provision for royalties. In addition, they argue that the SCMS system is inadequate because any losses from home-taping stem from the very first-generation taping that SCMS permits, and not from the subsequent generation taping that it limits.

My subcommittee has considered the debate over royalties for many years. It is, both intellectually and politically, a difficult issue, and supporters of the idea have to date not been successful in convincing the Congress of its merits. In particular, consumers who would have to pay those royalties have objected strenuously.

I do not know whether the political tenor on the issue of royalties has changed and therefore express no opinion about it. I certainly understand the arguments of the opponents of this legislation, and believe that they must be thoroughly aired in hearings before the Judiciary Committee, which has the experience and expertise to consider these issues.

In addition, I have my own questions about the specifics of the SCMS proposal. For example, as I have noted, I have always had concerns about technical limitations on new technologies, supporting full access by consumers to those innovations. In addition, the SCMS agreement is intended to be worldwide in scope. The Congress must therefore make sure that its actions are consistent with those of its counterparts elsewhere in the world. I am aware, however, that the proposal is not without strong dissenters in Europe, and that royalty proposals are gaining strength there. Third, the bill incorporates by reference a lengthy technical document, prepared by the parties supporting the legislation. It does not set forth all required conduct within the statute itself. This raises delegation of authority, notice, and technical drafting questions. Finally, the Congress should consider whether it makes sense to enact legislation on a technology-by-technology basis, or whether a comprehensive approach to the issue of home-taping is more appropriate.

I also believe, however, that the parties to this agreement should be rewarded for their efforts. This proposal deserves consideration by the Congress. I have no doubt that the committee or committees that will receive referral will do an excellent job of considering the issues within their jurisdiction. I believe, however, that consideration of this bill is incomplete without a full and expert review of the copyright issues it raises.

THE FEDERAL CUSTODIAL RESPONSIBILITY PROTECTION ACT OF 1990

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 22, 1990

Mr. CONTE. Mr. Speaker, I rise today to introduce legislation that would release Federal agencies from Superfund liability whenever they buy in collateral at a foreclosure sale in order to hold the property in a custodial manner until resold. My bill, The Federal Custodial Responsibility Protection Act of 1990, seeks to remedy an adverse situation created for Federal departments, agencies, or instrumentalities under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, better known as CERCLA or Superfund, in which Federal agencies who exercise their fiduciary responsibilities in order to minimize the Government's loss on a default may be held responsible for environmental cleanup costs.

The Federal Custodial Responsibility Protection Act of 1990 simply amends section 101(20)(A)(iii) of CERCLA to include a Federal department, agency, or instrumentality in exemption from the definition of "owner or operator" for purposes of liability whenever title or control is conveyed due to bankruptcy, foreclosure, tax delinquency, or abandonment. I am pleased to state that two of my distinguished small business colleagues, ANDY IRELAND and IKE SKELTON have joined with me in introducing this critical legislation.

Mr. Speaker, I first became aware of this problem when the Small Business Committee held a hearing on Superfund liability and its impact on financing for small business. This hearing, which was chaired by our distinguished chairman, JOHN LAFALCE, determined that lending institutions are unwilling to finance businesses located near possible contaminated sites because under CERCLA they can be held liable for the entire cost of the cleanup plus damages even if they were not a direct party to the waste problem. Chairman LAFALCE has introduced legislation, H.R. 2085, of which I am the first original cosponsor, that would allow banks to foreclose without CERCLA liability. H.R. 2085 would also exempt the fiduciary from exposing its own assets to CERCLA liability. Passage of H.R. 2085 would restore lender confidence in the value of land and greatly aid small businesses, whose greatest collateral is frequently land, in obtaining financing necessary for growth and competition.

A key panelists at that hearing was Sally B. Narey, General Counsel, U.S. Small Business Administration who discussed the issue of CERCLA implications for the SBA, indeed all Federal agencies. My bill, The Federal Custodial Responsibility Protection Act of 1990, was introduced as a direct result of her testimony. With a minimum of words and a lawyer's understanding of the complexity of the issue she presented testimony that succinctly addresses the problem. I enclose for the RECORD a copy of her testimony and urge all my colleagues to join with me and my small business colleagues ANDY IRELAND and IKE SKELTON in cosponsoring The Federal Custodial Responsibility Protection Act of 1990.

STATEMENT OF SALLY B. NAREY, GENERAL COUNSEL, U.S. SMALL BUSINESS ADMINISTRATION

I want to thank the Committee for the opportunity to address the issues raised by Chairman LaFalce in his recent letter to Administrator Engeleiter. At the request of the Administrator, it is my privilege, as General Counsel of SBA, to appear before this Committee today on behalf of the Agency. The focus of this hearing is of great interest. The Small Business Administration has heard from small businesses about the problems which have arisen for them and their lending institutions under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, or, as it is more commonly known, CERCLA or Superfund. They have also expressed complaints about similar problems created by other related federal laws, and by numerous environmental statutes which have been adopted by the states. These problems are of significance to SBA because they directly impact upon our programs of financial assistance to small businesses. It is clear that solutions to these problems are urgently needed.

IMPLICATIONS FOR LENDERS AND SMALL BUSINESSES

Under Section 107(a) of CERCLA, among those persons who may be held to be liable for the cleanup costs of a hazardous waste site, are the owner or operator of that site. The application of that provision in the lending context has caused such concern among lenders to small businesses that it has diminished their interest in making financing available. It has resulted in a growing reluctance by lenders to extend loans to small businesses out of the fear that if a small business should fail, and its lender take possession of the debtor's assets through foreclosure, settlement, or a bankruptcy proceeding, the lender, as an "owner" under CERCLA, is likely to be required to bear the costs of any necessary environmental cleanup.

Because of this potential liability, a prudent lender will often request an environmental audit of the potential borrower's property upon submission of a loan application. This can cost several thousand dollars. Small businesses, certainly those seeking SBA financial assistance, generally do not have sufficient funds to incur the cost of such audits and may be deprived of the opportunity for financing. On the other hand, if lenders finance these audits, it is likely that interest rates on loans to small businesses will rise to offset the cost. If this should occur, some otherwise creditworthy small businesses may simply not be able to bear the costs of higher periodic loan payments and, as a result, may not be able to afford financing.

Additionally, small businesses, especially fledgling enterprises, are likely to benefit from their lender's financial and entrepreneurial advice after a loan has been made. The lenders also want to keep an eye on such businesses. Yet, out of concern that they may be viewed as participating in the day-to-day operation of the borrower to such a degree as to be considered an owner or operator liable under CERCLA, lenders may determine that it is best not to offer advice to inexperienced small businesses. If unable to protect their investments, these

lenders may simply decide not to extend financing.

Finally, many small businesses have little collateral beyond land, buildings, machinery and equipment. But those are the very items of collateral most likely to be tainted if hazardous waste is, or becomes, present on the property. Once again, a lender may seek to avoid involvement in a loan to a small business for fear that the collateral obtained to secure such a loan is likely to become tainted and, ultimately, become valueless or give rise to cleanup costs should the lender take ownership of the collateral. As you are aware, cleanup liability can be imposed without any degree of fault on the part of the lender. This potential outcome may be sufficient to dissuade many lenders from ever getting involved in loans to small businesses.

IMPLICATIONS FOR SBA

If a small business cannot obtain a loan from a bank, it may seek an SBA-guaranteed or direct loan. SBA itself does not have the expertise or funds to conduct environmental audits to determine the propriety of Agency involvement in a particular loan transaction. Similarly, if a participating lender asks SBA to honor its guaranty and buy its share of a guaranteed loan, SBA has no ability to determine if the bank has acted prudently in its treatment of environmental issues. Nor is SBA able to discern if the collateral for the loan has become tainted during the life of the loan. Finally, we note that at least one court case has raised the issue of potential cleanup liability as a result of advice provided a borrower by SBA employees.

SBA is currently faced with potential cleanup liability once it buys in collateral at a foreclosure sale upon default of an SBA borrower. When SBA honors a guaranty the collateral for the loan is assigned by the lender to SBA and either the Agency or the lender, acting at the request of the Agency, proceeds to liquidate the collateral. When SBA liquidates a direct loan it proceeds on its own with respect to its collateral. Often it is deemed appropriate by SBA that it buy in collateral at foreclosure in order to hold the property in a custodial manner for future resale in order to minimize the government's loss on the default.

Under CERCLA and other similar laws, it is possible that such buy ins by SBA may make it the owner of the subject property and, as a result, potentially liable for cleanup costs. Even though the SBA is a government lending agency, mandated to become involved in risky loans, mandated to attempt to minimize the government's loss upon a borrower's default, and certainly not motivated by profit, SBA may be found to be a party responsible for Superfund cleanup costs.

SBA does not buy in property for the purpose of building up a portfolio. SBA does not hold property for proprietary reasons. SBA takes possession of collateral and holds it in a custodial manner in an effort to secure a later recovery for the government. SBA attempts to sell such bought in property as quickly as possible.

Mr. Chairman, the problems I have outlined are very real. SBA is presently finding itself involved in hazardous waste sites around the country as a result of its loan programs. In one situation, where SBA obtained collateral through foreclosure, we are now being sued by a state environmental agency. SBA now faces the possibility of sending unknown amounts of money for site cleanups simply because of foreclosure actions taken to minimize the government's loss following the default of a small business borrower. We have apprised EPA of our concerns, and we are pleased to have the opportunity to express them to you today.

This concludes my prepared remarks. I will be pleased to answer any questions you may have.

THE CONGRESS MUST CONDEMN THE OUTRAGE OF ANTI-SEMITISM IN THE SOVIET UNION; SUPPORT HOUSE CONCURRENT RESOLUTION 264

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 22, 1990

Mr. LANTOS. Mr. Speaker, the astounding changes which are taking place in the Soviet Union—which have brought democracy, pluralism, and much-needed economic, social, and political reform to Eastern Europe—have been welcomed by peoples around the world. But those same changes have unleashed forces within the Soviet Union that are cause for serious alarm, not only for enlightened Soviet citizens, but for friends of human rights everywhere. The greater openness in the Soviet Union and the instability and uncertainty produced by the changes taking place under Mikhail Gorbachev have encouraged the rise of an assertive and extremist right-wing, which has led to a most disturbing and destructive revival of Russian anti-Semitism.

In the Washington Post of February 18, Vitalii I. Goldanskii, a prominent Soviet scientist, director of the Semenov Institute of Chemical Physics of the prestigious Soviet Academy of Sciences, and a member of the Soviet parliament and its foreign relations committee expressed his serious concern in terms that demand our attention:

Too little attention has been given, until now, to the special dangers posed by the growing aggressiveness in the Soviet Union of extreme right-wing, virulently anti-Semitic groups that seek to subvert perestroika, to blame the country's past and present problem on the Jews, and (as some of their propaganda states explicitly) to "finish what Hitler started."

According to Professor Goldanskii,

These extremists are flourishing in the climate of spite, envy, scapegoating, and hatred,

And they

Openly and widely condemn the Jews as the main culprits in all the troubles of Russia from the October revolution of 1917 up until the present—including the genocide against the Russian people in the form of the millions of Russian deaths in civil war, collectivization and various purges. . . . They even accuse the Jews of ritual murders and a worldwide conspiracy against humankind, making reference to the disgraceful hoax, "The Protocols of the Elders of Zion."

The best known of these extremist Russian nationalist groups, *Pamyat*—which academician Goldanskii refers to an "equivalent to Hitler's SA and SS"—refers to Jews by the insulting term zhidy [yids] and has been organizing well-attended meetings throughout the Soviet Union to call for pogroms. In addition to anti-Semitic rallies, the extremists have desecrated Jewish cemeteries and disrupted meetings of intellectuals.

Mr. Speaker, in view of these vicious anti-Semitic actions by growing numbers of individuals and groups in the Soviet Union, it is essential that we unequivocally go on record as being opposed to these racist outrages. A few days ago with my distinguished colleague from Colorado, Mr. BROWN, I introduced House Concurrent Resolution 264 condemning popular anti-Semitism in the Soviet Union. I urge my colleagues to join us as a cosponsor of this legislation.

In view of the appalling rise of anti-Semitism in the Soviet Union, we must go on record against these outbursts. Our Nation—which has been the leading advocate for human rights and respect for the dignity of all men—must take all action necessary to stop these acts of harassment and violence.

Mr. Speaker, I insert the text of our resolution in the RECORD, and I urge my colleagues to join in supporting its passage:

H. CON. RES. 264

Whereas the emergence of popular anti-Semitism in the Soviet Union is of great concern to the United States;

Whereas the more than 2,000,000 Soviet Jews constitute the third largest Jewish community in the world;

Whereas throughout the Soviet Union, anti-Semitic sentiment, including demonstrations by Pamyat, a nationalist anti-Semitic organization, statements by electoral candidates, threatening phone calls and letters, and harassment of Jews, is becoming commonplace in certain Soviet cities;

Whereas on January 18, 1990, a Moscow writers' meeting was disrupted by a group of individuals shouting anti-Semitic statements;

Whereas many Soviet Jews live in fear of violence, intimidation, and harassment;

Whereas the Anti-Defamation League conducted an 11-day investigation into anti-Semitism in the Soviet Union, and has concluded that the situation poses a serious threat to the Soviet Jewish community; and

Whereas the Soviet Government has not responded forcefully to the rise in popular anti-Semitism: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that the President of the United States should urge President Gorbachev of the Soviet Union to—

(1) publicly condemn the emergence of popular anti-Semitism in the Soviet Union; and

(2) take whatever measures are necessary to protect Soviet Jews from acts of harassment and violence.

A TRIBUTE TO IMOGENE GERLACH

HON. BOB McEWEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 22, 1990

Mr. McEWEN. Mr. Speaker, it is with great pleasure that I rise today to recognize Imogene Gerlach of Wheelersburg, OH, who on

Monday, February 26, is celebrating her 50th anniversary as an employee of GTE North Inc. I join with all of her coworkers at GTE in Portsmouth by expressing pride in her years of tireless effort to serve her community.

Mrs. Gerlach began her career as an operator with the Portsmouth Home Telephone Co. in 1940. She later became an assistant chief operator with the Ohio Associated Telephone Co., and she now serves as an office assistant in the outside plant engineering department of GTE in Portsmouth.

Mr. Speaker, though telecommunications has been one of the fastest growing and most technical industries in our country over the past half-century, we must all remember that it was the service and dedication of people like Imogene Gerlach that made our phone system the best in the world. I urge my colleagues to join me today in commending Mrs. Gerlach for her dedicated and tireless service as a phone company employee for the past 50 years.

IN HONOR OF COL. JOHN THOMAS LAWELL

HON. VIC FAZIO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 22, 1990

Mr. FAZIO. Mr. Speaker, I rise today to pay tribute to Col. John Thomas Lawell who is retiring after 30 years of dedicated service to the U.S Air Force.

Originally from Indiana, Colonel Lawell was commissioned into the Air Force in 1960 through the Air Force Reserve Officers Training Program immediately upon graduation from Indiana University with a bachelor's degree in business administration. He entered pilot training at Bainbridge AFB, GA, and completed his training at Reese AFB, TX. Upon completion of pilot training, Colonel Lawell was assigned to Travis AFB, CA, where he was a C-124 pilot, a C-141 pilot, and he also piloted the C-5A aircraft. In 1969, he went to Wake Island as the air operations officer and then returned to Travis AFB in 1970 serving first as chief of aircraft maintenance quality control and then as commander of the organizational maintenance squadron.

In 1974, Colonel Lawell was assigned to Lajes Field in the Azores where he served as chief of maintenance. In 1976, Colonel Lawell earned his master's degree in management and supervision from Central Michigan University and, in the same year, attended the Air War College. He was reassigned in 1977 to Scott AFB, IL, where he served as the chief of the avionics systems division and then as the chief of the weapons systems division. His next assignment was at the Pentagon in May 1979 where he served as chief of the combat aircraft branch and then as chief of the maintenance policy division.

Colonel Lawell became the deputy commander for operations at the 437th Military Airlift Wing at Charleston AFB, SC, in 1981. Later that same year, he assumed the position of deputy chief of staff for operations at the headquarters of the 21st Air Force at McGuire AFB, NJ, and subsequently became the commander of the 438th Military Airlift Wing at McGuire AFB. In 1983, he was appointed deputy chief of the combat logistics division in the directorate of logistics plans and programs in the office of the deputy chief of staff for logistics and engineering at the headquarters of the U.S Air Force.

In June 1985, Colonel Lawell became the inspector general at the Sacramento Air Logistics Center. In August of that same year, he became the first director of Environmental Management, the first dedicated environmental organization in the U.S. Air Force. Under his direction, McClellan AFB's Office of Environmental Management has excelled and became a leader within the Air Force and the Department of Defense.

In response to a serious threat to local ground water supplies and private wells on the northwest side of McClellan AFB, Colonel Lawell, through his work with the McClellan Ground Water Task Force in 1986, initiated a hookup of over 560 off-base residents to a local city water supply. In addition, he oversaw the implementation of a state of the art ground water extraction-treatment system in 1987 to contain the contamination under the base.

Colonel Lawell has also managed the development and implementation of a base hazardous waste minimization program which has achieved a 57-percent reduction in hazardous waste generation in only 5 years. As a result of this successful program, McClellan AFB was selected as the Air Force winner of the Gen. Thomas D. White Award for Environmental Quality.

Colonel Lawell led the Air Force in signing the first ever interagency agreement between three Air Force bases, the Environmental Protection Agency, and the State of California. He also coordinated the implementation of a chemical reduction program which reduces the amount of hazardous chemicals brought onto the base, manages and tracks all hazardous chemicals used at McClellan, and incorporates an innovative system to calculate all hazardous air and water emissions.

Colonel Lawell has demonstrated his extraordinary leadership skills by providing extensive support of Air Force operations, in managing the environmental responsibilities for one of the Air Force's oldest and largest industrial facilities, and by excelling as a command pilot with over 6,000 flying hours in the C-124, C-131, C-141, C-5A, T-33, and T-37 aircraft. In addition, Colonel Lawell has received the Department of Defense Meritorious Service Medal, the Air Medal with one Oak Leaf Cluster, the Air Force Commendation Medal with three Oak Leaf Clusters, the Air Force Humanitarian Service Medal, and the Combat Readiness Medal. The superb leadership, outstanding dedication, and ceaseless efforts of Col. John Thomas Lawell culminate a distinguished career in the service of his country.

A CONGRESSIONAL SALUTE TO SISTER MARY LUCILLE DESMOND IN HONOR OF HER SELECTION AS HUMANITARIAN OF THE DECADE

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 22, 1990

Mr. ANDERSON. Mr. Speaker, I rise today to pay tribute to a dear friend and outstanding citizen, Sister Mary Lucille Desmond, in honor of her selection by the California Pools for the Handicapped, as "Humanitarian of the Decade." It has been an absolute pleasure and privilege to have known Sister Mary Lucille the past few years and I can think of no individual more deserving of this prestigious award. By virtue of her kindness toward others, her commitment to the needs of the sick, and her unflinching dedication to the betterment of mankind, Sister Mary Lucille stands as an inspiration to all those who have ever known her. It is for this reason, I would like to tell you a little about her.

Sister Mary Lucille was born in County Cork, Ireland, the Isle of Saints and Scholars and I believe dedicated nuns, and entered the congregation at age 16. Pursuant to completing 1 year of initial spiritual studies, she went to the Motherhouse in Houston for completion of religious formation and theological studies.

After making religious perpetual profession of vows in the congregation, she attended Loyola University in New Orleans to finish work on her doctorate in hospital pharmacy. She later served as director of pharmacy in congregational health-care facilities both in Houston and in Lake Charles, LA. In the late 1960's she was sent to study hospital administration at St. Louis University and on completion of those studies became president and CEO at St. Patrick Hospital, Lake Charles, LA, and subsequently, CEO of St. Mary Medical Center in Long Beach, where she continues to be very active in the community.

My wife, Lee, joins me in extending our heartfelt congratulation to Sister Mary Lucille Desmond and we wish her all the best in the years to come.

MARYLANDERS CONTRIBUTE TO BLACK HISTORY

HON. C. THOMAS McMILLEN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 22, 1990

Mr. McMILLEN of Maryland. Mr. Speaker, as we commemorate Black History Month, I would like to take this opportunity to bring your attention to the rich contributions made to black history by Marylanders. Residents of my State and the Fourth Congressional District have contributed to the achievements, the heritage, and to the character of American history and black history in particular.

As Marylanders, we don't have to look long or far for the accomplishments and great deeds of black Americans from our State. In

fact, three of the most noted black Americans in history, Benjamin Banneker, Frederick Douglass, and Harriet S. Tubman, all hail from Maryland. Christian Fleetwood, a "free man of color" and college graduate was the recipient of a Congressional Medal of Honor for his bravery during the Civil War. Henry Blair, of the Eastern Shore, inventor of a seed planter, was the first black American to receive a patent from the U.S. Office of Patents.

The list of contributions made by black Marylanders is extensive and due in part to the fact that by 1830, our State had the largest number of free blacks than any State in the Union. By 1860, blacks constituted one-third of the State's population. The Maryland Abolition Society, formed in 1789, was only the fourth such society organized in this country. Its work made a significant impact on the dismantling of that system here in our State in 1864, as well as nationally.

There's a great deal of local history in Anne Arundel County as well. Kunta Kinte, made famous through Alex Haley's book "Roots," arrived in the Port of Annapolis on the *Lord Ligonier* in September 1767. The area we now call Historic Annapolis was the hub of activity for many black artisans and businessmen. Following the Civil War, the former Camp Parole became a popular settlement area for newly freed men and is still one of the most stable and respected communities in the city of Annapolis today.

The first school for blacks in the county, the Freedmen's Bureau, was established in 1865 on Muddy Creek Road in south Anne Arundel County. Supported by Federal funds, it founded the Stanton School in the Parole area of Annapolis in 1867. When the original school closed in 1870, black residents rallied to save the Parole site, purchasing land and moving it to West Washington Street in Annapolis. The original Freedmen's Bureau is now the site of the Ralph Bunche Community Center, and the former Stanton School now a community recreation center. The Free School had the distinction of being the oldest school in continuous use for the blacks in the county and was never a part of the public school system.

Over the span of our Nation's history, black Marylanders have made enormous contributions to our heritage. By remembering their achievements over the past 200 years, we are reminded of how far we've come as a nation.

INTRODUCTION OF THE UNITED STATES-PANAMA FREE TRADE BILL

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 22, 1990

Mr. RICHARDSON. Mr. Speaker, the nascent democratic Government of Panama is struggling to rebuild its devastated economy and democratic institutions. As Panama rises from the depths to which it was taken by Manuel Noriega, our two nations' close historical ties dictate that the United States play a critical role in Panama's revival. For this very reason, I am today introducing legislation directing the President to pursue negotiations to initiate a free trade agreement with the Government of Panama.

Six years of Noriega's corruption-infested rule, coupled with the damage of United States sanctions and invasion, and subsequent looting, have left Panama's economy, particularly the private sector, in ruins. The final years of Noriega's rule saw economic production decline by as much as 25 percent. Similarly, fully one-quarter of the population is unemployed. To make matters worse, Panama's foreign debt, which stands at $4 billion, is one of the world's largest per capita. These numbers only hint at the task which lies ahead of the Panamanian people and the government of President Guillermo Endara.

The United States has already taken important steps toward aiding Panama. On February 7, the House and Senate approved a package of $42 million in aid and removed sanctions, imposed in 1988, making Panama eligible for loans and investment credits. President Bush will soon present Congress with a larger package of aid for Panama, totaling nearly $500 million. Both of these packages are critical to Panama's future. I am most heartened that Congress is addressing the Panamanian situation on a level of high priority.

But it is important to understand that United States economic assistance packages will not immediately "jump start" the Panamanian economy, particularly the private sector. Our aid will primarily be used to repair Panama's dilapidated infrastructure. For example, of the $42 million package recently approved, nearly $30 million will go to build housing and public works projects. In light of Noriega's neglect and damages incurred during the invasion, these projects are badly needed and have high priority. Their effect, however, will not immediately impact the private sector. Not until public works projects are well underway or completed will Panama's private sector reap the benefits of United States aid.

A free trade agreement would assure Panama's private sector grows and develops simultaneously with Panama's public sector. Such a free trade agreement would quickly begin to pay dividends. Due to its unique tax, banking, and corporate laws, foreign investors long poured capital into Panama until Noriega's actions isolated the country both politically and economically. Duty-free status for Panamanian goods headed to the United States would again make Panama an attractive center for foreign investors.

Increased foreign investment, in turn, would help address two of Panama's other major problems; unemployment and foreign debt. The private sector, fueled by foreign capital and unimpeded access to U.S. markets, will undoubtedly grow and provide the jobs Panama's young and growing population desperately needs. As more of its citizens are employed and the private sector strengthens, the Panamanian Government would be better able to resolve its balance of payments crisis without neglecting the needs of its people.

Mr. Speaker, Panama is at a critical juncture in its history. We must do all that is possible to assure Panama benefits from a growing and stable economy. We would expect economic stability and growth to translate into political stability—a growing economy would help Panama avoid the problems of Latin America's other fledgling democracies, desperately attempting to consolidate democratic institutions in the face of economic disaster.

The United States has already moved to restore Panama to the generalized system of preferences and the Caribbean Basin Initiative. While these programs are tremendously important, my legislation calls for a more comprehensive agreement between our two nations. Under the Omnibus Trade Act of 1988 the President was given the authority to enter into negotiations with nations to reduce trade tariffs and other barriers. The legislation I am introducing today encourages the President to exercise that very authority with the nation of Panama.

Mr. Speaker, United States foreign assistance will be critical to Panama's economic revitalization. By coupling this assistance with a free trade agreement, we would give Panama's private sector similar assistance and, in effect, help the Panamanians help themselves.

IN MEMORY OF GEORGE SAENZ

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 22, 1990

Ms. ROS-LEHTINEN. Mr. Speaker, I wish to speak today about the war on drugs from a perspective which is slightly different than that which is usually discussed. The unusual battlefield which the war is being fought upon is not acknowledged and recognized.

In the particular battlefield to which I refer, the combatants are usually anonymous, and for good reason. Anonymity is necessary to protect their identity because of the particular way they must fight the war. I am talking about the drug war being waged in the skies over our borders by the U.S. Customs Service. Without fanfare, but effectively, the Customs Service Aviation Operation has been serving notice on airborne smugglers that if they try to bring drugs into our country by air, they are going to get caught and be prosecuted. And they have been caught and prosecuted. But, regrettably, not without a price. At times that price has been tragically high.

Today, I recognize and pay tribute to a fallen warrior in the war on drugs. His name is George Saenz, a pilot for the U.S. Customs Service Miami Aviation Operations Branch.

On November 2, 1989, George Saenz entered a Customs enforcement operation from which he never returned. At about 9:30 p.m. on that fateful evening, a Black Hawk helicopter on an enforcement mission crashed into the Atlantic Ocean. Six crewmen were aboard; five were rescued. The sixth man, copilot George Saenz, could not be accounted for and was listed as missing. A massive air/sea rescue effort was launched. All possibilities were explored. The missing pilot was never found—a catastrophic result of the war on drugs.

Few of us in this esteemed body knew George Saenz personally. As a Customs Service pilot in Miami, he was well known as a member of a distinguished group of dedicated professionals who, voluntarily, have taken on

the deadly responsibility of stopping airborne smugglers in their quest to enslave for profit.

George Saenz was exemplary of the American tradition that says we see a situation that is hurting the American people, their children, their families, their futures. It must be stopped. George Saenz accepted his commission with all of its risks, as Customs Service pilots do, day after day. Unfortunately, he paid the ultimate price.

I had the high honor of knowing George because he was the pilot during a demonstration interception mission of the U.S. Customs Service which I participated in this summer. He was a man of much integrity and devotion to his job and he is sorely missed by all of the fine men and women of Homestead Air Force Base.

I would like to take this moment and extend my personal condolences to Mr. Saenz's wife, Laurie, their two beautiful children, Melanie and Elaine, and all of the members of his family. There is no more noble calling than to dedicate one's life to the service for his country and his countrymen. George Saenz will be missed dearly, but not forgotten. We must never forget the fallen soldiers in the war on drugs.

THE 1990 HISTORICAL HERITAGE CELEBRATION

HON. WALTER E. FAUNTROY

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 22, 1990

Mr. FAUNTROY. Mr. Speaker, I rise to bring to the attention of the Congress the fact that on Monday, February 26, 1990, the annual Heritage Symposium will be held in the Blackburn Auditorium at Howard University in Washington, DC.

The symposium is being organized by the Heritage of Afro-American Beauty and Barber Industry, Inc. The Heritage was established and incorporated in the District of Columbia on July 11, 1988. The symposium, an annual event, will focus on promoting unity, education, history, culture, and economic development. This focus is consistent with the goals of the symposium; to chronicle the history of the Afro-American beauty, barbering, and manufacturing industry, while being dedicated to research, study, and the dissemination of historical information to schools, libraries, archives, and museums.

The symposium promises to be informative and fascinating. There will be presentations on the historical origin of beauty, barbering, and manufacturing from ancient to modern times. There will be displays of historical artifacts and information about early pioneers in the industry.

Proud Lady Cosmetics and Products will present a film and an exhibition. Many notables will be in attendance, including officials from the Education Bureau of the Embassy of Egypt. Models will feature fashions, hairstyles, and makeup from early to modern times. The event will be an exciting exploration into the rich historical past of an industry which traces its roots back thousands of years to the beginning of time.

I urge all Members to consider this program which seeks to "Link the past—with the present—for the future."

NATHAN KOLODNEY HONORED FOR HIS COMMUNITY SERVICE

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 22, 1990

Mr. SCHEUER. Mr. Speaker, we all believe that education and community service are valuable pursuits, and I would like to take this opportunity to recognize a citizen of my district, Nathan Kolodney, who has dedicated his life to both.

Nathan Kolodney is completing his 11th year at the Bronx House Jewish Community Center and his 10th year as its vice president. Bronx House serves as an important cultural and educational organization in our community and under Mr. Kolodney's leadership, its programming has been expanded and enhanced. It has not been easy. Private and public bureaucracy are not always immediately amenable to the achievement of goals, even those as noble and necessary as those of Bronx House. But patience and hard work have prevailed, and Nat will continue for at least another 10 years to persevere in helping all the residents of the Pelham Parkway community. In addition to his work at Bronx House, Mr. Kolodney is a founding member and chairperson of the Bronx Council of United Jewish Appeal Federation agencies and a founding member and officer of the Neighborhood Initiatives Development Corp.

This weekend we honor Mr. Kolodney for his current efforts to raise funds through Bronx House to support the postelementary education of Jewish children in Yeshivas and Hebrew schools throughout the Bronx. Very recently, hundreds of Russian Jewish immigrant families have settled in our Pelham Parkway community. Recognizing the importance of Jewish education in preserving their cultural and religious heritage, these families want very much to enable their children to receive Jewish educations. However, this education is very expensive and few families can afford it, making scholarship assistance essential if this proud tradition is to continue. Through Nathan Kolodney's current fundraising efforts at Bronx House, this dream will become a reality for many in our Pelham Parkway community.

On behalf of the citizens of my district, I take this opportunity to personally thank and honor Mr. Kolodney for his lifetime of selfless and generous work.

A TRIBUTE TO ART ST. GERMAIN

HON. C. THOMAS McMILLEN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 22, 1990

Mr. McMILLEN of Maryland. Mr. Speaker, I rise today to pay tribute to one very special member of my community in recognition for his years of service and commitment to the Provinces Civic Association [PCA] of Anne Arundel County. I wish to congratulate Art St. Germain as this year's recipient of the PCA's Citizen of the Year Award in recognition for his 14 years of dedication and service for that association.

Art has served on the Provinces Civic Association board of directors since 1976 when he undertook the role of vice president while at the same time he remained a full-time student at the University of Maryland. Since then, Art has served in every capacity on the board of directors. He currently holds the position of president and represents a community of more than 900 homes. Art has served on the Anne Arundel County Housing Code Violations Review Board, been a delegate to the United Council of Civic Associations, and was the youngest nominee at age 21 for the Outstanding Young Marylander Award sponsored by the Glen Burnie Jaycees.

It is with great pride that I offer my congratulations to Art St. Germain on his many achievements and extend best wishes for his continued success in the future as he leaves the board to pursue other interests. I know that my colleagues will be pleased to join me in this well-deserved tribute.

RESTORING U.S. LEADERSHIP IN POPULATION ASSISTANCE

HON. PETER H. KOSTMAYER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 22, 1990

Mr. KOSTMAYER. Mr. Speaker, the cold war, which had preoccupied world leaders for more than 40 years, appears on the brink of a permanent thaw. We stand at the threshold of rare opportunities and singular challenges.

The dramatic events now occurring in Eastern Europe could not have been predicted a year, or even 6 months, ago. But these events could lead to even more dramatic changes in global policies and perspectives.

For too long, the priorities of both East and West have been based on fear and distrust. As Vaclav Havel told us yesterday, for too long, we have been contestants engaged in a dangerous and debilitating arms race rather than partners striving to improve the quality of life for the human race.

Our generation has the responsibility of writing a new world agenda. We must reorder world priorities. These priorities may determine our very survival.

Mr. Speaker, the bill I am introducing today, along with nearly 100 members of the House, addresses a vital issue for the new global agenda. In fact, former Secretary of Defense and World Bank President Robert McNamara ranked it as second in importance only to the threat of thermonuclear war. Former Secretary of State George Schultz asserted that this issue underlies all poverty and deprivation in the Third World. The issue is rapid population growth.

Today's world population of 5.3 billion increases at the rate of more than 90 million a year—a number equal to the population of Mexico. Virtually all of that growth is in the

poorest countries of the world. Within the next generation, 3 billion young people—the equivalent of the entire world population in 1960—will enter their reproductive years and 90 developing countries are projected to double their populations.

Given these facts, the amount proposed by this legislation—$500 million for voluntary family planning assistance with $60 million earmarked for the United Nations Population Fund—is fully warranted and constitutes a direct investment in global peace and security. Furthermore, this kind of assistance is cost-effective and will save much money that would otherwise be used for disaster and famine relief, while helping to promote social and political stability, and natural resource protection in developing nations. More realistic family planning aid will help make economic growth a more likely possibility for the poorest nations of the world, and it will help to vastly reduce the number of abortions worldwide—something we all support.

Some 20 years ago the issue of population stabilization was considered controversial. It is no longer controversial except in a very small number of countries, one of which, unhappily, is the United States.

Five or six years ago the antichoice movement here, smarting from a series of defeats on the domestic front, turned its attention to U.S. foreign assistance. The movement convinced some in Congress that the United Nations Population Fund had forfeited its right to U.S. funds. Why? Because the UNFPA provides assistance to the National Family Planning Program or the People's Republic of China—a program that allegedly condones forced abortions.

The fact is that the UNFPA has never funded a single abortion—forced or voluntary—in the People's Republic of China or anywhere else. The aid that the UNFPA has given to population efforts in China has been primarily assistance with the census undertaken there in the past decade. UNFPA opponents overlook or ignore the fact that the current assistance rendered by the UNFPA to the family planning efforts in China is concentrated primarily on the improvement of maternal and child health and on the manufacture of safer contraceptive methods.

Even if the allegations against China's population program are assumed to be true, it is both irrational and unconscionable for the United States—once the industrialized world's foremost leader in international population assistance—to turn its back on the U.N. Population Fund.

The UNFPA is the largest multilateral organization providing population and family planning assistance to the developing world. The United States was instrumental in establishing UNFPA 20 years ago, and U.S. leadership in the UNFPA is critical to the success of worldwide population efforts. Can anyone be surprised to learn that, until 5 years ago, the United States was the leading contributor to UNFPA?

Not one single donor country has followed the lead of the United States in refusing to contribute to UNFPA. Not Great Britain. Not Canada. Not West Germany. Not Japan. Not one single traditional ally of the United States has turned its back on UNFPA, as has the U.S. Government. In fact, most of our best friends in the industrialized world have actually increased their contributions to the United Nations Population Fund.

A proposal to provide funding for UNFPA was vetoed by the President last December, because the White House wants to play politics with this critical issue to placate its friends in the antichoice movement. That is certainly its prerogative, but this Congress is obligated to approve responsible legislation and to disapprove legislation that is irresponsible. By vetoing the bill last year that called for restoring U.S. funds to UNFPA, the President of the United States said, in effect, everyone else is out of step but us.

According to President Bush, it is OK to continue to sell state-of-the-art fighter planes to China, but it is not OK to fund a multilateral organization that spent a mere $10 million in China last year helping to improve maternal and child health. I urge my colleagues who understand the importance of the voluntary family planning effort and who voted less than 3 months ago for the resumption of U.S. funds for the UNFPA to stand with us again.

This bill will allow the United States to resume its leadership in international population assistance, and to resume its partnership with the most important multilateral organization in this field. It will begin to compensate for the 5 years in which the United States has not contributed to the United Nation Population Fund and it, once again, will not provide any funds to the Chinese Population Program in order to accommodate those who object to the Chinese Program.

The bill preserves intact the prohibition against the use of any United States population assistance funds for abortion, coercive or otherwise, in China or in any other country that receives United States funds. Moreover, those funds contributed to the UNFPA must be maintained in a segregated account and shall not be available for the People's Republic of China. Any agreement entered into by the United States and the UNFPA must expressly state that the full amount granted to the UNFPA by such agreement will be refunded to the United States if any United States funds are used for any family planning programs in China or for abortions in any country. The U.N. Population Fund provides support to programs in more than 130 countries around the world while the U.S. Government provides bilateral population aid to less than 40.

Finally, world population stablization based on voluntary family planning activities will not be achieved at the lowest possible total cost so long as each country goes its own separate way. Stabilization will be achieved only through a cooperative and concerted effort—an effort undertaken by the most affluent nations, such as the United States, working in harmony with the organizations that have the most experience and the best infrastructure, such as the UNFPA.

Balancing the world's population with its resources and environment involves the entire international community—nations large and small, wealthy and poor. The task encompasses a wide ideological, cultural and political spectrum. If we make the right decisions in reordering global priorities, the beneficiaries will be our children and grandchildren. If we do not, the brunt of the consequencs—from environmental deterioration, economic stagnation, famine and political chaos—will victimize all of us.

RECYCLERS URGE CONGRESS TO SUPPORT THEIR CAUSE

HON. RON MARLENEE

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 22, 1990

Mr. MARLENEE. Mr. Speaker, with all the current hype about the need to recycle everything from bottle caps to washers, I am shocked that a major piece of legislation currently under consideration by the House Energy and Commerce Committee threatens to decimate the existing recycling industry.

Has Congress gotten so caught up in a stampede to churn out environmental legislation that it would destroy an entire industry that for years has played a vital role in environmental protection through its market of recyclable materials. That's sheer lunacy. How can Members of Congress ride the current recycling bandwagon, but support legislation that so clearly deals a fatal blow to the recycling industry? Where I come from, we call that double-talk, pure and simple.

H.R. 3735's devastating impact on recyclers is detailed in a letter from one of my constituents. Allow me to quote from that letter:

DEAR CONGRESSMAN MARLENEE: The Energy and Commerce Committee is considering legislation which will treat recyclers, including most scrap metal processors, as hazardous waste handlers and make it much more difficult and far more expensive to recycle most metals. If left unchanged this legislation has the potential to close many scrap recycling operators and, for those that continue, create new costs to be assumed in the manufacturing of ferrous and non-ferrous metals.

The bill, H.R. 3735, was introduced by Rep. Thomas Luken of Ohio, a member of the House Energy and Commerce Committee and Chairman of the Subcommittee on Transportation and Hazardous Materials. That Subcommittee will begin to work on the bill in the next few weeks. Among its many provisions, the bill requires that anyone handling discarded materials which contain 0.1 percent or more of nickel, silver, chromium, cadmium, beryllium, lead, or mercury be classified as a hazardous waste facility. It would define common household items such as stainless steel flatware, or durable goods such as automobile and refrigerator components as hazardous wastes. Recyclers of such materials would have to obtain a hazardous waste permit, purchase new liability insurance or post a large bond, install groundwater and other environmental monitoring, provide for closure and post-closure care of the facility, and be subject to EPA controls on manufacturing and handling procedures for hazardous waste.

In 1988, recyclers processed over 57 million tons of discarded material which H.R. 3735 would classify as hazardous. In so doing, the legislation will prevent many recyclers from handling metals at all, requiring both increased land disposal and increase production of virgin inputs.

Congress should instead promote recycling and treat recyclers, their suppliers and their customers differently from solid and hazardous waste operators. After all, a material in the recycling process isn't a waste. To be a waste means disposal; material in the recycling process means reuse.

Please oppose the imposition of hazardous waste handler status on scrape recyclers, and support amending H.R. 3735 to remove materials in the recycling process from the definition of solid and hazardous waste. Let the Subcommittee on Transportation and Hazardous Materials know the impact this legislation will have on recycling. If you need any further information, please let me know. The survival of the recycling industry as we know is at stake.

With high freight costs and low population density, it is marginal to work in Montana. Imposition of this type will tend to raise the cost of doing business and the end result will be losses of jobs in Montana.

Help us stay in business and continue to be a responsible employer. Unneeded extra regulation is bad for us, bad for Montana and bad for the country!

Best personal regards.

Very truly yours,

JERROLD A. WEISSMAN,
President.

URBAN MARSHALL PLAN

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 22, 1990

Mr. RANGEL. Mr. Speaker, I would like to bring to your attention and to the attention of my colleagues, an interesting and thought-provoking article by John Jacob, president of the National Urban League, about an urban Marshall plan that would help keep America competitive in the 21st century.

I believe in the whole concept of an urban Marshall plan and feel it would benefit our society tremendously.

Here is the article by John Jacob which appeared in the Carib News on January 23, 1990:

URBAN MARSHALL PLAN

The revolution sweeping eastern Europe has led to calls for a new Marshall Plan and for a new Economic Development Bank to help those countries back on their feet.

Those ideas may make sense, but what about an Urban Marshall Plan to help our own cities and an Urban Investment Bank to invest in our own human and physical resources?

That makes even more sense.

It's not a new idea, either. Back in 1963, Whitney Young and the National Urban League called for a Domestic Marshall Plan. That plan would have rebuilt our cities and invested in developing the human resources of poor people shunted off to the margins of society.

Had that call been implemented, we would not have the devastation we see in our inner cities today and despair would long ago have been replaced by hope and opportunity.

In 1990, we have another chance to implement a peaceful revolution of progress in our own country. The experts say that the end of the Cold War means today's $300 billion defense budget could be safely cut in half.

The $150 billion savings is the much-derided "peace dividend" that many claim doesn't really exist. But it does—if we have the political will to use it wisely.

Some people say the peace dividend should be applied to balancing the federal budget, but that is not inconsistent with funding an Urban Marshall Plan.

Up to $100 billion could go to cutting the deficit. Economists say that would bring interest rates down to around five percent, which would stimulate investment and productivity. There would be a growth in sales and tax revenues that would further close the budget gap.

The remaining $50 billion or so should fund an Urban Marshall Plan that is essential to keeping America competitive in the 21st century.

An Urban Marshall Plan would have as its primary goal bringing people at the margins of society into the mainstream to become productive citizens in a productive society.

Some of the Urban Marshall Plan funds would go to repairing our neglected infrastructure—the base of our economy. America's roads, bridges, water supply and other key infrastructure sectors are in desperate need of modernizing.

That would create blue-collar jobs and put many of our ailing industries back on their feet, while creating conditions necessary for future prosperity.

Part of the Urban Marshall Plan would targeted to developing our neglected human resources by providing the job training, health care, and housing people need to function at peak levels.

All of America's poor would greatly benefit, but the most immediate impact would be on minorities, who lagged far behind the majority population in the go-go 1980s.

Education is one obvious area where greater public investment in minority and poor children will pay off in a productive future workforce.

Right now we're competing against countries like Japan, where 95 percent of all their people are high school or technical school graduates. We're not doing a good job of meeting the Japanese challenge—and we won't until 95 percent of our school children get the same solid education that theirs get.

Without the public investments of an Urban Marshall Plan, we'll be well on our way to become a second-rate power in an age where national strength is measured by brainpower and skills, and not by bombs that can't be used without committing suicide.

INTRODUCTION OF APRIL 1990, AS NATIONAL WEIGHT LOSS MONTH

HON. THOMAS M. FOGLIETTA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 22, 1990

Mr. FOGLIETTA. Mr. Speaker, today I am introducing a resolution declaring April 1990 as "National Weight Loss Month." I invite my colleagues to recognize the health hazards of being overweight by joining me in cosponsoring this bill. For their benefit and for the American public, I would like to insert the text of this resolution at this point in the RECORD:

H.J. RES. 484

Whereas it is estimated that 68,000,000 adult Americans, one in every four, are overweight (defined as being 5 to 19 percent above one's ideal weight) and 34,000,000 adult Americans are obese (defined as being 20 percent or more above one's ideal weight);

Whereas overweight adult men and women are from all races, lifestyles, and economic and social strata;

Whereas the Report on Nutrition and Health, prepared by the Public Health Service, cites overconsumption of fats and certain other foods as a major national health problem;

Whereas obesity can cause serious illnesses, such as heart disease, high blood pressure, hypertension, strokes, diabetes, and some forms of cancer;

Whereas the Council on Scientific Affairs of the American Medical Association has determined that a comprehensive approach to weight loss and weight control must include a nutritionally balanced diet, behavior modification, and exercise; and

Whereas it is estimated that 43,000,000 adult Americans are making a serious attempt to control their weight: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That April 1990 is designated as "National Weight Loss Month". The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that month by learning more about the health problems associated with being overweight and attempting to become more conscious of the importance of proper diet and exercise.

MEDIA DISTORTION OF ISRAEL'S HUMAN RIGHTS RECORD

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 22, 1990

Mr. LANTOS. Mr. Speaker, yesterday the State Department's annual report to the Congress—"Country Reports on Human Rights Practices"—was released. Media reports on the contents of the document have given disproportionate attenton to Israel and its efforts to maintain order in the face of a Palestinian insurrection.

As we in the Congress consider this report, I would like to call to the attention of my colleagues an excellent article which appeared in yesterday's edition of the Wall Street Journal, which provides an extremely helpful perspective to some of the media coverage we are seeing regarding Israel's human rights record. The article—"The Intifada You Don't See on TV"—was writiten by Steven Emerson, formerly an editor at U.S. News and World Report and a well-known journalist who has authored a number of important books.

As Mr. Emerson points out, some 150 stories about violence in the West Bank and Gaza were broadcast by American television networks last year, but only half a dozen focused on the brutal phenomenon of Palestinians killng other Palestinians—despite the fact that nearly one-third of all Palestinians killed

last year in the West Bank and Gaza were murderd by their fellow-Palestinians.

Media coverage not only distorts reality through its selective reporting on events in the occupied Territories, but also its very presence creates events which it then can cover. We have a communications media counterpart to science's "Heisenberg Uncertainty Principle"—the very presence of Western journalists and television cameras distorts the events they seek to report.

Mr. Speaker, Steve Emerson's excellent article helps to provide balance and perspective on the Israeli Government's efforts in this whole area. In the context of yesterday's publication of the State Department's human rights report, I ask that his article be placed in the CONGRESSIONAL RECORD, and I urge my colleagues to give it careful and thoughtful attention.

[From the Wall Street Journal, Feb. 21, 1990]

THE INTIFADA YOU DON'T SEE ON TV

(By Steven Emerson)

Nearly one-third of all Palestinians killed last year in the West Bank and Gaza were murdered by fellow-Palestinians. Palestinian death squads roam the West Bank and Gaza, torturing and executing not only "collaborators," but also political rivals, moderates, criminals and women they consider promiscuous. The annual human rights report the State Department scheduled for release today might be expected to mention these facts. It does not. While the report devotes some 13 detailed pages to Israeli human rights abuse, it can spare just four paragraphs for Palestinian human rights abuses.

Perhaps the State Department has been watching too much television. It is from television that most Americans get their image of the intifada. And the U.S. networks have been complicit in a massive deception about the West Bank conflict.

U.S. reporters have acquiesced in Palestinian control over what gets filmed. "Fundamentalist groups never allowed us in certain areas in Gaza," says Amos Aynor, an Israeli crewman who has worked for CBS. Tali Goder, an Israeli cameraman who has also worked for U.S. networks, is even more blunt: "Every time a crew came to film the Palestinians, the rule was 'Once you are here, you will cover what we want. You will not dig too much.' We know that if we aim the camera at the wrong scene, we'll be dead."

These apprehensions are not unrealistic. A November CBS story about death squads in the Arab town of Nablus was one of the few television pieces to show the reign of terror imposed by Palestinian gangs. Soon afterward, Israeli troops raided the casbah, killing several gang members and capturing others alive. The Israeli Army passed a warning to CBS bureau chief, Michael Rosenbaum, that radical Palestinians had issued a death threat against the CBS crew. CBS did not report the warning.

NOT NEWSWORTHY

If reports of threats by Palestinian gangs against a network's own crew are not newsworthy, it is perhaps unsurprising that other sorts of Palestinian violence have been ignored. Since the beginning of the uprising in December 1987, more than 175 Palestinians have been killed by fellow Palestinians. More than 25 have been burnt to death; another 20 have been strangled, lynched or suffocated; and others have been decapitated, dismembered and otherwise mutilated. More recently, the ears of "collaborators" have been cut off. Israeli soldiers have killed 25 Palestinians in Gaza since September; Palestinian gangs have killed 47 Palestinians, according to Israeli military sources.

Israeli officials admit that one-third of the Palestinians killed by other Palestinians have assisted the authorities; the rest are people considered "impure" by the leaderships of the West Bank gangs or are people who have merely done business with Jews. In October, a Palestinian father of seven was knifed to death in Jericho for "collaboration." He had sold floral decorations to religious Jews building a ritual Succah.

"Death sentences" are kangaroo court killings by Palestinian gangs made up of classical juvenile delinquents and social outcasts who have suddenly found a legitimate way to kill. Homosexuals are frequent targets. Women who wear "too much" makeup or short skirts have been raped or burned with acid, if not killed outright. Yet in the more than 150 stories filed by U.S. networks from the West Bank last year, only half a dozen focused on the internecine killing of Palestinians by other Palestinians.

Amnesty International found the killing of Palestinians by other Palestinians so disturbing that in November it issued a strong condemnation of the "killing of alleged collabortors," noting that many had been "interrogated and tortured" by "special squads of Palestinians." Furthermore, Amnesty said, "Palestinians leaders have endorsed or failed to condemn the killing of collaborators."

Documents intercepted by Israeli intelligence—and whose authenticity has been confirmed by Palestinians themselves—indicate that the Palestine Liberations Organization approves and directs the killings of other Palestinians.

While Palestinian political terror on the West Bank fails to make the news, utter fabrications about Israeli brutality are reported uncritically. At the beginning of the intifida, for instance, the U.S. networks were called to el-Mokkasad hospital in Jerusalem to film a dying 15-year old Palestinian boy named Rami el Aluk. His Palestinian doctor showed the boy hooked up to life-support tubes, and claimed that he had been savagely beaten by Israeli troops.

The networks gave the story wide publicity. On Feb. 8, 1988, Peter Jennings introduced ABC's piece by announcing, "In the Middle East today, United Nations officials say that the Israelis have beaten another Palestinian to death in the occupied territories." CBS said the boy had "received a blow to his head," and then quoted his doctor: "I think he will die soon." NBC reported on a "doctor's helplessness and a father's despair as the 15-year-old dies of head injuries received in a riot."

But the story wasn't true.

According to the pathology records of Rami's autopsy and other medical records, the boy died of a cerebral hemorrhage caused by high blood pressure. He had been sick for more than a year.

Another example is the story of Amjad Hussein Jabril, a 14-year-old Palestinian-American. He was found shot to death in El-Bireh on the West Bank last August. CNN quoted Palestinians charging that the boy had been lost with Israeli soldiers. When his body was found, it showed signs of torture and mutilation.

Despite the army's denials, the State Department pressured the Israeli government into a formal investigation. The family refused to turn over the corpse, so the army exhumed the body. An independent Scottish pathologist selected by the boy's family performed an autopsy. No evidence was found of any torture whatsoever. Amjad had died of a single gunshot wound in the back—from a low-calibre, low velocity gun. The Israeli Army regularly uses military high-velocity rifle bullets and high-calibre pistols.

The autopsy records for these and other Palestinian killings are kept in the Institute for Forensic Medicine, in Jaffa. After reviewing a number of reports, I asked its director Dr. Yehuda Hiss whether any American reporters had ever come to interview him. "None." Even human rights organizations have not bothered to ask for his files. The International League for Human Rights sent two lawyers to interview him on an investigation into Israeli brutality. But Dr. Hiss said, "they came without any lists or names and left after an hour."

The networks prefer to get at truth by more dubious means. In the past year they have handed out at least 15, and perhaps as many as 25, Super-8 video cameras to Palestinians. These "cameramen" make their videos on their own and provide the networks with footage of riots, strikes and funerals. The cameras, according to a senior American television newsman "were distributed to the Palestinians on the basis that they bring us action. But I would be lying to you if I didn't admit that the whole thing makes me feel uneasy."

Asked about the practice of providing video cameras to Palestinians, ABC spokesman Scott Richardson said, "ABC will not confirm or deny that we give out cameras to Palestinians. However our general policy in the world is that from time to time, we have given out equipment to local citizens for safety, legal or political considerations."

In fact, except for Eastern Europe—where fewer than five cameras were given out and each for only a limited period—the networks have distributed cameras nowhere else in the world.

Because few if any American television journalists speak Arabic, it is only natural that the networks seek out Palestinians who speak the language and who can help supply stories. But according to Israeli court records, many of the Palestinian journalists on staff or consultants to the American networks are active participants in the intifada. There is absolutely no way to insure the authenticity of what is filmed nor is there any way to stop the cameras from being used as a tool to mobilize a demonstration.

"Cameras don't lie" is the familiar refrain issued by reporters when confronted with criticism about their coverage. And there is no disputing that cameras have shown Israeli soldiers viciously beating and shooting Palestinians, sometimes without justification.

ABC News broadcast in December footage showing Israeli troops wounding "Palestinian stone throwers" without firing warning shots, contradicting the Israeli Army's version of the episode. The Israeli Army later suspended the troops.

STRICT GUIDELINES

Yet the networks also realize that cameras can distort events. It is not well-known,

but each network has strict guidelines that are supposed to guide the use of cameras in civil disturbances.

CBS's Production Standards, which are typical of those used by every network, say that if "your presence is clearly inspiring, continuing or intensifying a dangerous, or potentially dangerous disturbance, cap your cameras and conceal your microphones regardless of what other organizations may do."

Furthermore, the guidelines warn reporters not to report "as factual, rumors, 'eyewitness' reports or statements by participants unless and until their accuracy has been separately and authoritatively confirmed."

In practice, television crew members concede, the guidelines are ignored. "When cameras are taken out, the crowd performs for us. The Palestinians know that we are their lifeline," says Mr. Aynor. "And the guidelines are good until your competitor gets the story you didn't. Then, it's get the story at all costs, forget the guidelines." ABC, in its guidelines, says it "would rather miss a story than mis-report it." If only ABC, or the other networks, truly meant what it said.

NATIONAL DRUG AND CRIME EMERGENCY ACT

HON. BOB McEWEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 22, 1990

Mr. McEWEN. Mr. Speaker, I rise in support of the National Drug and Crime Emergency Act which is being introduced today by my esteemed colleaged from Georgia. I am proud to be an original cosponsor of this needed legislation.

The American public has made it clear that drug use poses a major threat to our Nation. There is no doubt that we face an emergency caused by an enemy that is eating away at the core of our morals and values. Nowhere is that more visible than here in our Nation's Capital. Drug use rips apart the fabric of society and can no longer be tolerated.

This bill answers the call of the public for tough measures against the tyranny of drugs. This bill addresses both supply and demand. It sends a clear message that drug use—all illicit drug use is wrong—and that drug use will have negative consequences. All of the scientific evidence is not enough if we do not have the needed weapons to defend our family values and morals.

So-called casual users will think more than twice when they know the cost of using drugs could be loss of their driving license or their college grant.

And for those drug traffickers who are preying on our communities, this bill sends an unequivocal message. You will pay. You will do time. You will not escape from paying for your crime.

A CONGRESSIONAL SALUTE TO JUDY REVIS IN HONOR OF HER SELECTION AS PARENT OF THE YEAR

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 22, 1990

Mr. ANDERSON. Mr. Speaker, it is a pleasure to pay tribute to Judy Revis who will be honored on February 23, 1990, as the California Pools for the Handicapped, Inc.'s, Parent of the Year. This occasion gives me the opportunity to express my personal appreciation for her years of commitment and dedication to her son, Michael, and the rest of the handicapped community.

Unless you are the parent of a handicapped child, it is difficult to imagine the commitment that is made. Judy Revis, as the mother of an autistic child, knows firsthand. For 2 years she has brought Michael to the California Pools for the Handicapped on a weekly basis, missing only when illness struck. During the delivery of her third child, Ashley, now 11 months, Judy missed bringing Michael to rehabilitative swimming for only 1 week. No small feat for a woman recovering from a pregnancy.

It is not just to her son Michael that she is a shining example of motherhood; she also divides her time among two other children, Lyndsi and Ashley, and her husband, Larry. Her busy schedule centers around her family and includes duties relating to Brownies, dance, and sports for her oldest daughter; therapy, speech, and swimming for her son; meeting the needs of a small infant daughter; and babysitting. She also finds time to be a member of both the Parents of Teachers Organization at Lyndsi's school, and the Parents Teachers Association at Michael's school. From her listed activities as a parent, it is not hard to see why Mrs. Revis has been selected as the California Pools for the Handicapped, Inc.'s Parent of the Year.

My wife Lee, joins me extending our heartfelt congratulations to this caring and giving woman. She has dedicated her life to ensure the happiness of those around her. We wish, Judy, her husband, Larry, and their children, Lyndsi, Michael, and Ashley, all the best in the years to come.

TRIBUTE TO LEONARD BLACKSHEAR AND JOHN PETTY

HON. C. THOMAS McMILLEN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 22, 1990

Mr. McMILLEN of Maryland. Mr. Speaker, I rise today to pay tribute to Mr. Leonard Blackshear and Mr. John Petty, two very special members of my community, who have demonstrated their dedication and commitment to the preservation and promotion of African-American business development.

Mr. Blackshear and Mr. Petty have followed in the footsteps of earlier innovators such as Richard Allen who established the Free African Society in 1787 to promote self-help and support opportunities, and Booker T. Washington who organized the National Business League, which was the forerunner to the U.S. Chamber of Commerce, pre-dating it by 12 years. Through their various activities, both Mr. Blackshear and Mr. Petty have influenced the ways that minority businesses are developed and ultimately perceived.

For years to come, the dedication and commitment of both Mr. Blackshear and Mr. Petty will be remembered. Leonard Blackshear is the founder and president of Associated Enterprise Inc., in Annapolis, MD. As an officer with the National Business League of Southern Maryland, he was instrumental in structuring the reform of the organization's national focus and scope, shaping new directions which will put it on the cutting edge of the future. Mr. Petty, through his position with the State of Maryland Office of Minority Affairs, his chairmanships of the membership committee of the Minority Business Advisory Board for PortAmerica and the economic development committee for the Southern Coalition on Black Affairs, is making a difference and making inroads for African American entrepreneurs across the State.

Mr. Speaker, I commend these two gentlemen for their outstanding work and unprecedented commitment to justice and economic equality.

TRIBUTE TO BRAVE MILITARY DEPENDENTS IN PANAMA

HON. CLAUDINE SCHNEIDER

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 22, 1990

Ms. SCHNEIDER. Mr. Speaker, we have all heralded the bravery of our Armed Forces in Panama. Americans in uniform, however, were not the only citizens who took risks to ensure a successful operation in Panama. Today I wish to recognize those civilian dependents of military personnel in Panama who also showed great bravery.

The contribution and sacrifices of American military dependents all over the world are frequently overlooked. They are placed on the front lines of many dangerous situations without the equipment or training to protect themselves. Yet time and time again, these family members prove themselves to be worthy of our respect.

The courage of the American military dependent is perhaps the most overlooked contribution of any military mission. I feel it is appropriate to acknowledge their contributions to the mission in Panama. The bravery of military dependents deserves to be recognized.

One particular story has come to my attention by a Rhode Island constituent. Kathleen Crowley, wife of Capt. Stephen Crowley, spent the night of the attack on Fort Amador just a few hundred yards from the military target lying on the floor of her room.

An early evacuation of the civilians would have made a surprise attack impossible. I think it is appropriate to take this moment to thank those citizens who may have been overlooked, but should not go without mention.

Congratulations to Kathleen Crowley and others like her for their contribution to a successful operation in Panama.

CLAY INTRODUCES HOUSING TRUST FUND BILL

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 22, 1990

Mr. CLAY. Mr. Speaker, today I am introducing legislation to permit the establishment through collective bargaining of housing trust funds.

On December 1, 1988, local 26 of the Hotel and Restaurant Employees International Union and Boston's unionized hotels negotiated a provision providing for a jointly administered trust fund to assist employees and their families in meeting housing costs. The housing trust fund would provide financial assistance to employees to reduce downpayments, buydown the interest rate on mortgages, provide collateral for loans, and provide assistance for initial rental costs. The contract provisions establishing the housing trust are dependent, however, on the Congress acting by May 31, 1990, to permit the establishment of jointly managed housing trust funds.

On November 22, 1989, the Senate unanimously passed legislation, S. 1949, amending the Labor Management Relations Act [LMRA] to permit the establishment of housing trust funds as a permissive subject of collective bargaining. That legislation was jointly sponsored by Senator KENNEDY and Senator HATCH. The bill I am introducing today is identical to the bill passed unanimously by the Senate. I am pleased to be joined in this effort by the entire Massachusetts delegation as well as other Members of this body. It is my intention to seek House action on this legislation this spring.

The LMRA—also known as the Taft-Hartley Act—includes provisions intended to prevent unwarranted collusion between union officials and management by restricting the ability of employers to provide financial assistance to unions and their officers. Exemptions to this general prohibition permit the establishment of certain enumerated employee benefits that may be provided through trusts jointly administered by unions and employers. As labor and management have sought to address issues of importance to workers, these provisions have been periodically expanded to provide for joint trusts to address emerging concerns. Current law permits the establishment of health benefits, life insurance, retirement benefits, vacation benefits, severance benefits, apprenticeship programs, scholarship funds, and child care assistance. The bill I am introducing will further amend the law to permit the establishment of housing trusts to address the increasing difficulty workers face in obtaining affordable, decent housing.

This legislation does not impact Federal revenue. Further, establishment of housing trust funds would be a permissive, voluntary subject of collective bargaining. As such, the subject could be raised at the bargaining table only when both parties were willing to discuss it. Neither party would be permitted to bargain to impasse or engage economic pressure over the establishment of a housing trust fund. Finally, such trusts would not only be jointly managed by labor and management, but would be fully subject to the regulatory requirements of the Labor Management Reporting and Disclosure Act—Landrum-Griffin Act—and the Employee Retirement Income Security Act [ERISA] as it relates to any other welfare plan.

As Senator KENNEDY stated during Senate consideration of this legislation:

Labor and management in Boston have agreed on an effective approach to better housing. They need no money from Congress for this trust fund to become a reality. All they require is permission to do so under the Labor Management Relations Act.

Mr. Speaker, in my view enactment of this very modest bill will further important public policies. The previous administration's neglect and abuse of public housing programs has jeopardized the ability of the Federal Government to address America's housing needs. Today, half a million Americans are homeless and in many areas of the country rising housing costs are placing the ability of workers to own their own homes beyond reach. This legislation promotes a private sector solution to the increasing difficulties workers face in obtaining affordable, decent housing. It deserves the support of the Members of the House.

I want to share with my colleagues an editorial from the February 6, 1990, issue of the Boston Globe and a letter from the Massachusetts delegation in support of this legislation.

The editorial and letter follows:

[From the Boston Globe, Feb. 6, 1990]

HOTEL WORKERS' HOUSING NEEDS

A pioneering housing plan by the Boston hotel workers' union needs help from Congress. The House should pass a law quickly so the hotel workers can get the housing they urgently need.

The plan, negotiated with the hotels a year ago, diverts five cents for every hour worked into a Housing Trust Fund. The money, already up to $1 million, is idle because the federal Taft-Hartley Law prohibits this kind of benefit.

Members of hotel workers Local 26 knew about that, but thought it would be easy to persuade Congress to amend the law. They set a contract deadline of May 30, 1990, little knowing of the lawmakers' leisurely pace.

Thanks to prodding by Sen. Edward Kennedy, the bill cleared the Senate in November. It must pass the House within the next four months to do any good.

Rep. Joseph Moakley has promised to help, but no one from Massachusetts sits on the Labor and Education Committee, which oversees the legislation. Committee members need to move the bill quickly, even though it does not immediately affect their constituents.

Although the bill will first help members of Local 26, its long-range impact could be as a precedent for contract negotiations in any community where housing prices have soared beyond the reach of union members.

The trust fund would provide the seed money to get hotel workers into housing most appropriate for their needs. Money from the fund will be used for counseling on the intricacies of home buying, as security deposits, or to reduce the interest rate on loans.

Unions are supposed to negotiate contracts that help meet the changing needs of their members—whether for higher wages, medical care or housing. Local 26 and the hotels deserve praise for setting up the Housing Trust Fund, and a helping hand from Congress to ensure it takes effect promptly.

HOUSE OF REPRESENTATIVES,
Washington, DC, February 7, 1990.

Hon. WILLIAM CLAY,
Chairman, Subcommittee on Labor-Management Relations, Rayburn House Office Building, Washington, DC.

DEAR CHAIRMAN CLAY: We, the undersigned members of the Massachusetts delegation, respectfully request that the Subcommittee on Labor-Management Relations initiate legislation which would amend Section 302(c) of the Taft-Hartley Act to allow for the negotiation of housing trust funds. Further, we offer our strong and active support of such an initiative and we ask to be included as original cosponsors.

We support a companion bill to S. 1949 which was passed by the Senate in November 1989 under the sponsorship of Senator Edward M. Kennedy. As you know, S. 1949 amends Section 302(c) of the Taft-Hartley Act to allow parties engaged in collective bargaining to negotiate for the establishment and administration of housing trust funds which can provide financial assistance for employee housing.

We submit our request on behalf of both union and management representatives of the Boston hotel industry. In December 1988, Boston hotel workers, represented by Local 26 of the Boston Hotel and Restaurant Employees, negotiated a contract which provided for the financing and implementation of a housing trust fund for direct financial assistance for eligible members.

As Congressional representatives of these workers, we applaud the efforts of Local 26 and commend this example of union-management cooperation. We believe that this innovative and unprecedented benefit represents an effective and tax-free method of attacking the serious problem of the lack of affordable housing. Moreover, the successful implementation of this trust fund at the local level will encourage its duplication nationwide and could become an integral part of a national strategy for addressing the urgent need for more affordable housing.

It is urgent that this matter be given immediate consideration to ensure the viability of this program. The union's original contract agreement imposes a deadline of May 31, 1990 for this adjustment. Without it, the money deposited into the trust fund will be diverted to cover traditional employee benefits. Since affordable housing is one of the most critical issues facing working men and women today, we sincerely hope that this severe time limit will not jeopardize the realization of this housing trust fund.

We thank you in advance for your cooperation and offer any assistance we could provide.

Sincerely,

Edward J. Markey, Barney Frank, Richard E. Neal, Gerry E. Studds, Joseph P. Kennedy II, Silvio O. Conte, John Joseph Moakley, Brian J. Donnelly, Chester G. Atkins, Nicholas Mavroules, and Joseph D. Early.

LET'S RECOGNIZE THE IMPORTANCE OF COMMUNITY COLLEGES

HON. LES AuCOIN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 22, 1990

Mr. AuCOIN. Mr. Speaker, today I am introducing legislation to advance the cause of community colleges across this country by increasing their profile in the U.S. Department of Education. A companion bill is being introduced in the Senate by my colleague from Oregon, Senator MARK O. HATFIELD.

Our bill will establish an Office of Vocational and Adult Education and Community Colleges within the Department of Education, to be administered by an Assistant Secretary of Vocational and Adult Education and Community Colleges.

The new office will replace the current Office of Vocational and Adult Education. It will administer Federal programs relating to vocational education, adult technical-vocational education, adult basic education, community colleges, and technical institutions. It will also serve to coordinate programs which address adult rural education and rural family education.

In changing the name of this office, Mr. Speaker, I intend more than a cosmetic change at the Department of Education. I want to change the reality. The fact is that the Department has failed to recognize the critical role community and junior colleges have come to play in building a competitive work force for the United States now and in the 21st century.

Why should the Department of Education pay more attention to community colleges? Between 1965 and 1975 enrollment in community colleges more than tripled as communities across the country built institutions to answer to the exploding demand. Since then enrollment has increased steadily to the present level of over 5 million students. In my district, Portland Community College now has a larger total enrollment than all of Oregon's 4-year institutions combined.

In growing as rapidly as they have, community colleges have responded to needs which are easily recognizable as basic requirements of a competitive work force and a strong economy. Basic education, technical training, upgrading of skills, and small business expertise are critical to our ability to deal with a rapidly changing world economy and world of work. Business leaders and their employees are sensitive to these changes and community colleges have been quick to offer programs at costs affordable to middle income and working people.

Community colleges have come to play a leading role in cooperating with secondary schools to enhance vocational education. They have contracted with industry to train and upgrade the skills of employees. They incubate small businesses. They increasingly offer services to Government agencies for training welfare recipients and underemployed workers so they can become more productive. As more women entered the work force many chose community colleges as their training point of entry; women now make up more than half of all community college enrollments. In many rural communities they are the only source of higher or technical education available to the local population. There is every sign that they are—and will continue to be—a major player in meeting the challenges and solving the problems which confront our society.

To recognize the increased role of community colleges does not in any way discount the importance of other institutions of higher education—universities, colleges, and graduate schools. Educating our citizens and our work force in a changing world is the job of many different kinds of institutions. But we need to recognize, and—where we can—enhance the contribution of community colleges to these major challenges. And I say this as trustee of one of the finest private universities in the country, my own alma mater.

Mr. Speaker, the bill we are introducing today will, I hope, be a first step toward the kind of recognition community colleges deserve from officials charged with shaping Federal education policy to address the needs of a 21st century work force. I urge my colleagues to support this effort.

In closing, I would like to submit for the RECORD testimony of Mr. Keith Skelton, chairman of the board of Portland Community College about the need for this legislation. Mr. Skelton presented this testimony to a hearing held by the U.S. Department of Education in San Francisco on November 15, 1989, on reauthorization of the Higher Education Act. The testimony follows:

TESTIMONY OF KEITH SKELTON

My name is Keith D. Skelton and I appear here as a representative of Portland Community College in Portland, Oregon, where I am Chair of the elected Board of Directors. I also appear representing and as a member of the Board of the Oregon Community College Association, a group made up of 16 community colleges having a student population of over 300,000 attendees. I commend the federal Department of Education for the timing of these hearings. These forums give all partners in the programs covered by the Higher Education Act, and especially in the Title IV programs, an opportunity to share ideas and problems that should be addressed in the reauthorization process.

I believe this procedure shows good faith on the part of the Department to meet college leaders in the field through this process, so that we may discuss the mounting difficulties colleges face in their good faith efforts to make the programs work under the multitude of massive regulations promulgated by your department.

I am a relative newcomer to the community college arena, having spent most of my life in 4 years college classrooms and courtrooms. I became involved in community colleges when my own son, a Navy veteran who appeared on the civilian scene with service acquired afflictions of alcohol and drugs, through the caring counselling and education of devoted faculty members in the community college I now serve he became a productive and valued member of main stream society, and that sold me on community colleges.

When I became aware of the national picture, however, I soon found that the immense federal Department of Education had no special area of application reserved for community colleges; so far as I can see, no person, group, or section in the Department speaks for our displays interest in the specialized area of community colleges. We have our detractors, especially involving default loans; however, I have yet to find any special pleaders among the 4 year college devotees who populate the offices and payrolls of the Department. I have resolved, therefore, that I will do what I can to see that Community Colleges are recognized in the Act, and if it takes legislation I am prepared to go that route if necessary. I am getting support from community colleges throughout the nation, and I believe that in the near future we will see a new interest in community colleges displayed in the Department of Education.

It is no secret that the community, technical and junior colleges of the United States are displeased with the general absence in the Department's executive ranks of professionals from two years colleges. This was, unfortunately, true in the U.S. Office of Education, and nothing much has changed since the Department was established. Moreover, we have yet to see any initiative of change today in the year of the President of Education.

What has made the omission all the more egregious in recent years, and all the more detrimental to both the department and our communities, is the fact that community colleges now have the largest enrollment of any segment of higher education. Let me remind you; community colleges today are not glorified high schools; we now serve the majority of American students starting college, and the proportion of total enrollment continues to grow. In Maryland, for instance, in the Departments own back yard recent data shows that ¾ of Maryland's freshman and sophomores are enrolled in community colleges. In Oregon the figure is well above 50%, and the college I represent has a larger total enrollment than all of the Oregon 4 year institutions combined.

In the Bush Administration, no official of presidentially nominated rank comes today from the recent ranks of community college professionals. Since the department has seen little disposition to rectify this omission we think it should be addressed in the reauthorization. I am sure that I speak for community colleges throughout this land when I urge here today that the reauthorization establish an Office of Assistant Secretary to manage community and technical college affairs, with responsibility for all postsecondary programs of subbaccalaureate level, including postsecondary and adult technical-vocational education, cooperative education, and adult basic education.

Such an office should play a vital role in helping mold federal training and educational programs into the kind of national human resource strategy that gives the nation a world class work force by the turn of the century. In addition to the irreplaceable role they play in providing 2 year transfer education, community colleges constitute the nation's largest network of formal adult training and retraining on technical skills levels, and yet they do not begin to be effectively utilized as they should be in meeting the employment challenge of global competition. Blame for this underutilization is federal Department of Education, as well as the Labor Department and the economic development agencies of the varous states.

* * * * *

Thank you for this opportunity to present my views and my proposal regarding increasing the role which community colleges play in the Department. I hope you will recommend my proposals to the Secretary.

DIGITAL AUDIO TAPE RECORDER ACT OF 1990

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 22, 1990

Mr. WAXMAN. Mr. Speaker, I am pleased to join my colleagues Messrs. SWIFT, COOPER, BOUCHER, OXLEY, FIELDS, RITTER, BRUCE, BARTON, and TAUKE on the Energy and Commerce Committee in introducing the Digital Audio Tape Recorder Act of 1990.

Digital audio tape [DAT], like compact discs, was developed with the state-of-the-art digital technology that has revolutionized the quality of music recordings available to consumers. While compact discs only allow prerecorded music to be played back, DAT goes one step further and allows it also to be recorded. And, unlike copies on analog tape, DAT copies, whether they are the first or thousandth generation, have the same master copy quality as the original recording.

This recording technology, which was developed a number of years ago in Japan and is just now being introduced to the United States market, has reignited the debate on copyright protections for creators and owners of music. Neither Congress nor the courts have addressed this issue. But as taping has increased, the men and women who write music have effectively lost their ability to protect their creative works. This is wrong. Congress must pass legislation that protects copyrighted material and properly compensates writers and artists when it is taped.

To understand the threat DAT poses to copyright holders, we need only look at the impact current recording technology has had on the music industry. Since cassette recorders were introduced more than 10 years ago, blank tape sales have grown by 345 percent. The recording industry estimates losses of approximately $1.5 billion annually in lost sales.

In 1987 I introduced H.R. 1384, the Digital Audio Recorder Act, to address the threat to copyright holders of the imminent entry of DAT machines into the United States. H.R. 1384 would have required all DAT machines sold in the United States, for one year after the bill's enactment, to contain a copy-code scanner system to prevent copies of prerecorded music from being made. This bill would have given Congress time to consider the best way to balance the benefits of home taping with the rights of copyright holders. Key provisions of H.R. 1384 were included in the omnibus trade bill but were removed for procedural reasons before it was considered by the full House.

After H.R. 1384 failed to pass, many Members of Congress encouraged the consumer electronics and recording industries to work to resolve their differences on copyright issues. Representatives of these industries worked together for almost 2 years to find a common legislative solution to copyright problems.

The negotiators could not agree on much. They did not agree, for instance, on whether consumers have a right to tape prerecorded music. Nor could they agree on whether a royalty system should be created to compensate copyright holders when their works are taped. They did, however, reach agreement on one major issue; The problem of serial copying, that is, copying from copies on DAT recorders. They also made joint recommendations to world governments on the format for DAT. The Digital Audio Tape Recorder Act, which my colleagues and I are introducing today, embodies this landmark compromise.

The Digital Audio Tape Recorder Act would require all DAT recorders to contain a serial copy management system [SCMS]. This technology would not prevent a DAT recorder from making first-generation digital-to-digital copies of original prerecorded music, but it would prevent serial copying. Home taping on conventional analog tape recorders would not be subject to this legislation.

Some members of the creative community have expressed concern that the enactment of the DAT agreement could implicitly establish a legal right to first-generation home taping. To allay these concerns, this legislation explicitly states that no new taping rights are created, and that this bill will have no effect on existing copyright laws as they pertain to home taping.

I have been a longstanding supporter of a royalty system as the fairest and most efficient way to compensate creators and owners of music for their copyrighted work. I know that many in the creative community are deeply disappointed that this bill contains no such system. I share that disappointment and wish a compromise were in hand. Unfortunately, it is not.

It may be that Congress will be ready to enact a royalty system in the near future. I certainly will do all I can to make that a reality. But in the interim, I believe this bill provides real and important protection to copyright holders. It is not a comprehensive solution, but it does guarantee that the creative community will be protected against unauthorized serial DAT copies of their copyrighted musical works.

The Digital Audio Tape Recorder Act represents the first time, after many years of debate, that the recording and consumer electronics industries have found some common ground on intellectual property rights. It also demonstrates that the protection of intellectual property can be possible without impeding the development of new recording technologies. I urge my colleagues to join me in cosponsoring this important legislation.

Printed below is a section-by-section description of the Digital Audio Tape Recorder Act.

SECTION-BY-SECTION DESCRIPTION OF THE DIGITAL AUDIO TAPE RECORDER ACT OF 1990

Section 1 sets forth the title of the bill.

Section 2 sets forth certain findings that help put the legislation in perspective. Most of the findings describe the development of the serial copy management system (SCMS) for digital audio tape (DAT) recorders and how this system works. Other findings indicate that—

Enactment of the legislation will fulfill the constitutional power of Congress to promote the progress of science and the useful arts by encouraging the development of new technologically advanced products while providing protection for creators of copyrighted works;

Congress expects representatives of the consumer electronics and music industries to discuss copyright issues resulting from new technologies, including recordable and erasable compact disc players, to study possible approaches, and to make legislative recommendations for applying SCMS or another system with greater copying restrictions than SCMS to these new technologies; and

Enactment of the legislation will not address or affect the legality of private home copying under copyright law and will not prejudice consideration of whether or not royalties should be levied for private home copying of copyrighted music.

As a group, the findings provide background helpful for interpreting the SCMS standards and specifications mandated for DAT recorders and help put congressional consideration of the legislation into context.

Under SCMS, the circuitry which controls the functions of a DAT recorder will be programmed to read certain coding information accompanying the source material and, based on the particular combination of codes it reads, will not prevent unrestricted copying, will not prevent copying but label the copy with a code to restrict further digital-to-digital copying, or disallow such copying. Under this system, a DAT recorder will not prevent the making of first-generation digital-to-digital copies of original prerecorded music and other material from compact discs, prerecorded DAT cassettes, digital broadcasts, and other digital sources entering through a digital input, but will prevent the making of second-generation digital-to-digital copies of the copies. In recognition of the fact that a DAT recorder is presently unable to determine whether original prerecorded music or other material entering through an analog input has been coded for copyright protection, a DAT recorder will not prevent the making of a first-generation and a second-generation digital-to-digital copy of the source material, but will prevent the making of a third-generation digital-to-digital copy of the second-generation copy. In the even that technological developments permit the circuitry of a DAT recorder to identify copyrighted material entering through an analog input, equivalent limitations on digital copies of copies should apply, but there will be no limitation on serial digital copying of analog material not coded for copyright protection.

Home taping on conventional analog tape recorders will not be subject to SCMS. Thus, home taping on analog tape recorders will remain unaffected by this legislation.

Section 3 governs the manufacture and distribution of DAT recorders and phonrecords. Subsection (a)(1) provides that no person may manufacture or distribute a DAT recorder or digital audio interface device that does not conform to the standards and specifications to implement SCMS set forth in the technical reference document or established under an order by the Secretary of Commerce. (For purposes of this section, "manufacture or distribute" is defined broadly in subsection (f) to mean to manufacture, assemble, sell, resell, lease, or distribute in commerce, or to offer to do any of these in commerce.)

Subsection (a)(2) provides that, if the Secretary of Commerce approves standards and specifications under section 4(b)(3) to imple-

ment SCMS for source material in the analog format, then no person may manufacture or distribute a DAT recorder or digital audio interface device that fails to conform to such standards and specifications. At present, a DAT recorder is unable to determine whether original prerecorded music or other material entering through an analog input has been coded for copyright protection. Industry representatives are at work, studying the technical feasibility of implementing a system that would carry the copyright code in the analog, as well as the digital, format. If they develop a technical solution and if the Secretary then makes the required determination, future models of DAT recorders will have to implement the new technology before they may be sold in the United States.

Subsection (b) proscribes circumvention of SCMS. It provides that no person may manufacture or distribute a device, or offer to perform a service, the primary purpose or effect of which is to avoid, bypass, remove, deactivate, or otherwise circumvent any program or circuit that implements, in whole or in part, SCMS in DAT recorders. Thus, the legislation is aimed at the sale of so-called "black boxes" and computer programs that will defeat the system, as well as at persons operating a service to circumvent the system.

Subsection (c) exempts professional model DAT recorders from the coverage of the legislation. This subsection contains a number of criteria for determining whether a particular device qualifies as a professional model. The intent is threefold: to ensure that recording professionals, such as musicians, recording studio engineers, broadcasters, and cable operators, may purchase DAT recorders that are not limited in their recording ability; to provide manufacturers with guidance for designing and marketing models for use by recording professionals; and to ensure that this exception does not become a loophole by which the unscrupulous seek to market "professional" models to consumers through traditional consumer outlets.

Subsection (d) provides that no person may encode a phonorecord of a sound recording with inaccurate information relating to the category code, copyright status, or generation status of the source material so as to improperly affect the operation of SCMS. This provision, however, does not require any person to encode a phonorecord so as to claim copyright protection. That remains a decision for each copyright holder to make.

Subsection (e) provides that a person who transmits or otherwise communicates to the public in digital form the copyright status of a sound recording must do so accurately. This provision does not require broadcasters or cable operators to transmit sound recordings in a particular digital format or to otherwise transmit information about the category code, copyright status, or generation status of a sound recording. Rather, it only requires that information about the copyright status of a sound recording be accurate if it is transmitted or othewise communicated.

Section 4 sets forth the mechanisms for implementing SCMS in DAT recorders and digital audio interface devices. Subsection (a) provides that within 10 days following enactment of the legislation, the Register of Copyrights must publish the technical reference document in the Federal Register. The proposed text of this document is attached to this section-by-section description. It is a technical reference document that adopts certain of the standards proposed to the International Electrotechnical Commission (IEC) in "IEC 958: Digital Audio Interface" and "IEC XXX Part 6: Serial copy management system for consumer audio use DAT recorders." Irrespective of how the proposals are treated by the IEC, the standards and specifications set forth in the technical reference document are intended to be determinative for purposes of defining the technical requirements of this legislation.

The technical reference document establishes two sets of standards and specifications. The first set governs the composition and specifications. The first set governs the composition of digital audio signals being sent to and received by a DAT recorder, known as the "Digital; Audio Interface Standard." The second set governs the recording functions of consumer model DAT recorders, to be known as the "Serial Copy Management System Standard" or the "SCMS Standard."

Subsection (b) contains three "safety valve" mechanisms, all triggered upon petition of an interested party, to implement SCMS differently than provided for in the technical reference document. Upon receipt of a petition and before issuing an order under this provision, the Secretary of Commerce must consult with the Register of Copyrights. The first mechanism provides the Secretary with the authority to issue an order permitting in commerce DAT recorders that possess the functional characteristics of SCMS and are compatible with SCMS as prescribed under the technical reference document, but which do not meet all of the standards and specifications set forth in the technical reference document. The intent is to have a mechanism by which the Secretary can remedy any technical problems that develop in implementing SCMS using the technical reference document and to permit other technologies which may be developed which implement SCMS in some other way. The second provision gives the Secretary the authority to issue an order permitting in commerce DAT recorders that meet a new set of standards and specifications to implement SCMS, in the event that the overall standards for DAT recorders or digital audio interface devices are no longer applicable and are revised in the future. The third provision provides the Secretary with the authority to approve standards and specifications for applying SCMS to source material in the analog format in an equivalent manner as source material in the digital format.

Section 5 establishes remedies for violations of the legislation. Subsection (a) provides that an aggrieved person or the Attorney General may bring a civil action to redress a violation of section 3. Subsection (b) provides the court with authority to grant injunctions, award damages, direct the recovery of costs, and grant such other equitable relief as it may deem reasonable.

Subsection (c) sets forth mechanisms for calculating damages, subject to a limit of $1 million per judgment as established under paragraph (1). An aggrieved person has the option of recovering actual damages or statutory damages, subject to this limit. Paragraph (2) provides the court with the authority to make an additional award of damages, up to a maximum of an additional $5 million, if it determines that a violation of section 3 was committed willfully and for purposes of direct or indirect commercial advantage or private financial gain. Paragraph (3) gives the court the discretion to lower the damage award to $250 if it finds that the violator was not aware and had no reason to believe that his or her acts constituted a violation of section 3.

Subsection (d) provides the court with authority to impound devices that the court has reasonable cause to believe do not comply with section 3.

Subsection (e) limits the authority of a court to issue a temporary or preliminary injunction against the distribution of DAT recorders labeled as professional models. The court only may do so if it finds that the labeling and distribution of the devices by a manufacturer were without a reasonable basis or not in good faith. The intent is to permit a manufacturer to continue to distribute devices in commerce pending resolution of the case, unless it is clear that it could not reasonably or in good faith have labeled and distributed a device as a professional model.

Subsection (f) permits the court to order the remedial modification of any device or phonorecord that does not comply with section 3. The court also is given authority to order destruction of any device or phonorecord that does not comply with section 3.

Section 6 defines terms used in the legislation. Of these definitions, the most important one defines a DAT recorder. The intent is to limit the applicability of this legislation only to devices that are intended or marketed to consumers for the primary purpose of making a sound recording in a digital format on magnetic tape. The "primary purpose" test is intended to ensure that only those products expected to be used principally for making audio recordings contain the circuitry or program to implement SCMS. In addition, by stating that the legislation covers devices included with or as part of some other device, the bill is intended to cover devices like "boom boxes" and to ensure that the requirements of the legislation may not be avoided merely by incorporating a DAT recorder into another device.

The bill defines a digital audio interface device as any machine or device, whether or not developed as of the date of the enactment of the Act, and whether or not included with or as part of some other device, that supplies a digital audio signal through a "non-professional interface" as that term is used in the Digital Audio Interface Standard in Part I of the technical reference document or in an order of the Secretary of Commerce pursuant to section 4(b)(1) or (2).

For drafting simplicity, the bill refers to the "technical reference document," the document appearing in the Congressional Record that sets forth the standards and specifications for implementing SCMS in DAT recorders and digital audio interface devices.

Finally, this section states that all other terms in the bill will have the same meanings as those set forth in the Copyright Act of 1976, as amended. Such terms as "phonorecord" and "sound recording" appear throughout the bill. These and other terms have developed particular meanings through statutory amendments to the law and through judicial precedent. This provision preserves the interpretations developed under the Copyright Act.

Section 7 provides that the legislation is not intended to affect any right or remedy, or any limitation on any such right or remedy, held by or available to any person under the Copyright Act of 1976, as amended. Section 7 also provides that nothing in the legislation creates or affords any greater or lesser rights with respect to private home

copying of a copyrighted work than any rights afforded under the Copyright Act.

Section 8 amends the Copyright Act to include the language set forth in section 7 in statutory form.

Finally, section 9 of the bill establishes the date of enactment as the effective date for the legislation, but specifies that the requirements for implementing SCMS do not apply to devices or phonorecords manufactured or assembled prior to that date. Thus, all devices and phonorecords currently in the hands of consumers or in the chain of distribution prior to enactment of the legislation will not be subject to it.

DIGITAL AUDIO TAPE RECORDER ACT OF 1990

HON. AL SWIFT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 22, 1990

Mr. SWIFT. Mr. Speaker, I take great pleasure in joining my friend and colleague Mr. WAXMAN and our House colleagues in introducing the Digital Audio Tape Recorder Act of 1990. He and I came to this proposal from different directions, but we agree that it is both necessary and important.

Two years ago we were on different sides of a knock-down, drag-out legislative battle. Ultimately, we did not legislate on DAT in the 100th Congress. However, as a result of our activity, several House Members, including my friend, the gentleman from Wisconsin [Mr. KASTENMEIER], suggested to the recording and consumer electronics industries that perhaps the best legislative approach to DAT might be arrived at through negotiation between these two industries. We were not the only ones. In the other body and, indeed, around the world, leaders of government and industry made the same request: Won't you please work something out on DAT?

I am pleased to be able to join my colleagues in introducing a bill based on the compromise that these industries reached. The heart of this compromise is agreement that a circuit called the Serial Copy Management System, or SCMS, should be legally required to be built into every DAT manufactured after the effective date of the legislation. Very simply, the SCMS would not interfere with the ability of DAT's to make pure digital copies of albums, but would not allow these copies to be themselves copied digitally. This provides protection from chain-letter type duplication of the recording industry's very valuable digital master tapes, but, in my view does not materially interfere with the legitimate needs of consumers. I say this as an avid home taper myself.

I very much hope we can pass this legislation this year. While the technology is a bit complicated, I think expert testimony will show that for engineers it is fairly straightforward and quite feasible. I think there has been regulatory uncertainty about DAT long enough. Consumers are entitled to the newest technology while it is still new.

Some who applauded my stand 2 years ago have wondered why I should support any legislation now. After all, they point out, the restrictive legislation of 2 years ago never passed. Why regulate a product that I believe is already legal?

First, even if DAT's with SCMS built in may soon be available for purchase, the only sound course is to support this bill. What this product needs is confidence and stability. The only agreement between these industries was to recommend measures to governments. If the compromise is never officially adopted, there is nothing to prevent either its lawful circumvention by those who would sell machines without SCMS protection, or the ultimate adoption of measures inconsistent with SCMS. Moreover, consumers might be hesitant to invest in a format that remains controversial.

Second, we should recognize that while this bill is very narrowly drawn so as to regulate DAT only, its significance extends well beyond its scope. For years, we in Congress have held hearings and commissioned studies about the march of technology and our inability to keep the law abreast of it. In this instance we asked the industries that developed the techology to work out a reasonable compromise on some very difficult issues, and they actually have done so. They did it in a commendably specific way: This bill does not change the copyright law as it pertains to any product, including DAT; nor does it theoretically or specifically impinge on other advanced technologies. In other words, this bill represents a noble yet safe experiment. Those who care about applying the law to advanced technologies have every reason to wish it to succeed.

I look forward to working with my colleagues to have this legislation expeditiously enacted into law.

ANTI-SEMITISM: THE RETURN OF A RUSSIAN NIGHTMARE

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 22, 1990

Mr. LANTOS. Mr. Speaker, last Sunday the Washington Post published an outstanding article on the rise of anti-Semitism in the Soviet Union. The author is Vitalii I. Goldanskii, a prominent Soviet scientist and the director of the Semenov Institute of Chemical Physics of the Soviet Academy of Sciences. Academician Goldanskii is also a member of the Council of People's Deputies—the Soviet parliament—and a member of the parliament's foreign relations committee. To my knowledge, this article is the sharpest public criticism thus far of the alarming rise of anti-Semitism in the Soviet Union.

Mr. Speaker, I ask that this outstanding article be placed in the CONGRESSIONAL RECORD, and I urge my collegues to give it serious and thoughtful attention. We in the Congress must take the lead in criticizing, condemning, and calling the attention of the world to this inhuman, racist violence against innocent men, women, and children. This article is an important first step in publicizing this vicious, spiteful, and dangerous nightmare.

[From the Washington Post, Feb. 18, 1990]

ANTI-SEMITISM: THE RETURN OF A RUSSIAN NIGHTMARE

(By Vitalii I. Goldanskii)

Supporters of President Gorbachev's perestroika are increasingly alarmed by the possibility that this program of restructuring and reforms may collapse. Should this occur—and it cannot be ruled out even in the near future—it would be a disaster not only for the Soviet Union but for all humankind.

Many of the difficulties being encountered by perestroika are well known outside the Soviet Union, as are some of the potential consequences if perestroika fails. But too little attention has been given, until now, to the special dangers posed by the growing aggressiveness in the Soviet Union of extreme right-wing, virulently anti-semitic groups that seek to subvert perestroika, to blame the country's past and present problems on the Jews, and (as some of their propaganda states explicitly) to "finish what Hitler started."

These extremists are flourishing in the climate of spite, envy, scapegoating and hatred associated with the increasingly severe difficulties in the Soviet economy and growing ethnic tensions. They are perhaps already the strongest, and certainly the fastest growing, of the divisive forces pushing the country toward bloodshed and civil war.

The extremist groups go by a variety of innocuous-sounding names, of which the best known outside the Soviet Union is the "National Patriotic Front Pamyat" (pamyat means "memory"). A number of them recently entered into a confederation under the title of "Bloc of Social-Patriotic Movements of Russia." I prefer to call them Russian monarcho-Nazis (or monarcho-fascists), to reflect their combination of deep reverence for the autocratic csarist Russian empire and ferocious hatred of Jews.

Incredibly, the Russian monarcho-Nazis openly and widely condemn the Jews as the main culprits in all of the troubles of Russia from the October Revolution of 1917 up until the present—including genocide against the Russian people in the form of the millions of Russian deaths in civil war, collectivization and various purges; destruction of tens of thousands of Russian churches and historical monuments; and spiritual poisoning of the people through the introduction of decadent and corrupt Western culture alien to Russian tradition. They even accuse the Jews of ritual murders and a worldwide conspiracy against humankind, making reference to the disgraceful hoax, "The Protocols of the Elders of Zion."

There is striking similarity, in fact, between the views, programs and intentions of the Russian monarcho-Nazis and the original Nazi platform as laid out in Hitler's "Mein Kampf" and other infamous documents of the German Nazi period. This similarity, and the resemblance of the general situation in the Soviet Union in 1988-90 to that in Germany in 1931-33, have been publicized by progressive Soviet mass media. The newspaper Soviet Circus, for example, has printed a point-by-point comparison of Pamyat's manifesto with the program of the Nazi Party of the 1930s.

The main organization serving as a coordinator of the monarcho-Nazi forces is the Union of Writers of the Russian Federation (RSFSR). As outlets for their propaganda they have at their disposal such newspapers and journals as "Literaturnaya Rossiya"

(Literary Russia), "Nas Sovremennik" (Our Contemporary), "Molodaya Gvardija" (Young Guards) and "Moscow." The leaders of this movement include many notorious writers, some scientists, some artists and others.

The Nazi-type speeches and publications of these groups are becoming routine features of everyday life in the Soviet Union. Their form and content were analyzed by Prof. Herman Andreyev from Mainz University in West Germany in a recent issue of the weekly magazine Ogonyok. He concluded that in Western European countries such statements would be treated as unconstitutional, the persons propagating them would be called to account and the organizations supporting them would be dissolved.

Yet the monarcho-Nazis seem to be meeting no serious opposition—indeed, more often sympathy and connivance—from important party and government leaders of the U.S.S.R. It is instructive, for example, that in the platform of the Soviet Communist Party on ethnic problems published in August 1989, not a single word was said about the anti-semitic campaign against so-called cosmopolites (1949), the shooting of leading Jewish writers and artists (1952), or the disgraceful "Doctor's plot" (1935), while many other Stalin-era crimes against various nationalities of the Soviet people were scrupulously mentioned.

Similarly, an appeal by more than 200 people's deputies of the U.S.S.R. to the Presidium of the First Session of the Congress of the People's Deputies in June 1989, expressing concern about the "growing wave of anti-semitic activities, including open calls for violence that could lead to irretrievable consequences," went unanswered. That was also the fate of a letter written to Gorbachev on this subject by 10 distinguished scientists and writers in September 1989.

The explanation of such passivity on the part of the authorities seems quite simple. In addition to the evident sympathy of many authorities on different levels to the views of the monarcho-Nazis, others who do not sympathize nonetheless hesitate to act because of the way the growing aggressiveness of the monarcho-Nazis is linked to the bloody ethnic conflicts and intensifying separatist movements in nearly all of the outlying districts of the Soviet Union.

Specifically, this situation offers the monarcho-Nazis considerable opportunities for blackmail and intimidation of Gorbachev and his closest advisers, through the claim that, in conditions of the "decline of empire," the Russian heartland and her "genuine sons" constitute the only reliable basis for the preservation of Gorbachev's power. Such arguments are being used to push Gorbachev toward the right and to divide him from his true supporters on the left—the liberal intelligentsia. The result could be a repetition of the circumstances that produced the downfall of Khrushchev in 1964.

In parallel with their attempts to intimidate Gorbachev, the monarcho-Nazis have been openly attacking his foreign policy. They even have accused Gorbachev of being an agent in the service of the CIA and the Israeli intelligence service, the Mossad. With this two-pronged strategy of intimidation and direct attack, the Russian monarcho-Nazis hope to attain either a decisive influence over Gorbachev's policies or his removal and replacement at the seat of power by supporters of their movement.

What would that mean for Soviet Jews? The answer is all too clear from the similarity of the monarcho-Nazis' program to that of Hitler. The Russian monarcho-Nazis already possess their equivalent to Hitler's SA and SS, in the form of the Pamyat movement. This movement does not disguise its intentions to carry out pogroms against the Jews, to whom it refers using the insulting word "zhidy" (yids). In fact, members of Pamyat have been organizing well-attended meetings all over the country to call for pogroms—even in Moscow's Red Square on Nov. 12, 1989—and no one has stood in their way.

Hitler treated as Jews those who have more than one-quarter Jewish blood. Pamyat goes further. It has announced its intention to search for Jewish progenitors back to the 10th generation. New recruits to Pamyat are required to prove their "racial purity" and to provide to the organization the home addresses of five Jews—no doubt for the purposes of the pogroms to come. Opponents of the monarcho-Nazi movement who happen to be "racially pure" or "Aryan" are characterized, along with all liberal intelligentsia, as "masons" (or "zhidomasons," i.e., supporters of Jews); and these are also the targets of pogrom propaganda.

The brazenness of monarcho-Nazi threats against Soviet Jewry has been increasing. In addition to anti-semitic rallies and the desecration of Jewish cemeteries around the country, which have been going on for some time, it now seems that meetings of liberal intellectuals are no longer safe from disruption by Pamyat thugs.

On the evening of Jan. 18 of this year, for example, a meeting of the progressive "April" group of writers at the Central House of Writers in Moscow was invaded by some dozens of Pamyat monarcho-Nazis with megaphones. They roughed up some of the writers, forcibly ejected others from the hall, shouted anti-semitic slogans and announced that their next visit will be with automatic weapons. They also designated St. George's Day, at the beginning of May, for a pogrom. The police were called but took their time in arriving, and there were no arrests.

Further increases in anti-semitic activities (especially, of course, actual violence) surely will lead to a mass exodus of Jews, people of partly Jewish extraction and "racially pure" liberal intelligentsia. This new wave of emigrants—refugees from monarcho-Nazi power—could reach several millions and would represent a serious brain-drain from the U.S.S.R.

As for the possibility of another Holocaust, it certainly could not reach the scale of earlier Nazi crimes: The world has changed too drastically in the last half century for that. But a wave of pogroms more or less along the lines of the infamous "Kristallnacht" cannot be ruled out—weaker if a government like the present one tries to oppose them, stronger if a successor government of the monarcho-Nazi stripe sympathizes with the pogrom lust.

What should be done? As a start, the world public should be informed of the activities and intentions of the new followers of Hitler in the Soviet Union and should be told their names. The famous "Brown Book" published by anti-fascists in 1933, after all, was the first important step in the exposure of the Nazi crimes of that era. Clearly, the publishers of newspapers, journals and books, and producers of electronic media, have an important role to play.

The stakes are high. If the monarcho-Nazis prevail and perestroika collapses in an orgy of chauvinism and racism, the results are likely to include not only a rapidly growing degree of anarchy in the Soviet Union but even the outbreak of civil war. In a country still laden with tremendous stockpiles of nuclear and chemical weapons, as well as a widespread network of nuclear power plants, such a chain of events could quickly become not just a national but an international catastrophe.

A CONGRESSIONAL SALUTE TO JOANNE HILL CRONIN IN HONOR OF HER SELECTION AS WOMAN OF THE YEAR

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 22, 1990

Mr. ANDERSON. Mr. Speaker, it is my pleasure to pay tribute to Joanne Hill Cronin who will be honored on February 23, 1990, as the California Pools for the Handicapped, Inc.'s, Woman of the Year. I would like to take this opportunity to express my personal appreciation for the years of dedication to cause that this award represents.

Joanne Hill Cronin has been an active and committed member of this community for nearly 60 years. After moving to Long Beach in 1933, Ms. Cronin attended St. Anthony Grammar School and High School and then did her college work at UCLA. On September 25, 1954, she married her husband Paul. From their loving relationship sprang two children, Paul Cronin and Kathleen Dyke, and now she has three grandchildren, Matthew, Anna, and David Cronin, to brighten her life.

Joanne has set new standards for community activism. There can be no doubt her standards of involvement are those we all should aspire to. She is deeply involved with St. Barnabas Catholic Church as president and member of the parish council, and has been a finance organizer of the parish festival for the past 12 years. A 19-year member of the St. Mary's Hospital Guild, she has held numerous board and committee positions, including the position of president. Joanne has also been a committee member of the St. Mary's Hospice Auction, chairing and overseeing its success. She is also a member of the Long Beach Civic Light Opera Diamond Terrace, member of the Women's Heart League, and member of the board of directors of The Shepard's Center. The list of her accomplishments and services to others seems never-ending.

My wife, Lee, joins me in extending our heartfelt congratulations to a kind, giving, and generous woman. An award like this only begins to speak of all we owe Joanne. Your efforts can never fully be rewarded, but I hope this award shows our community's deep appreciation. We wish you all the best in the years to come.

CONGRESSMAN FISH RESPONDS TO RELEASE OF NELSON MANDELA

HON. HAMILTON FISH, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 22, 1990

Mr. FISH. Mr. Speaker, this past Saturday, February 17, 1990, I had the honor of speaking at the Vassar College Chapel in Poughkeepsie, NY, at the college's "Welcome Home Nelson Mandela" celebration. Also speaking on the occasion were Tebogo Mafole, Chief U.N. Representative of the African National Congress, and Patrick Lekota, publicity secretary of the United Democratic Front. At this point I would like to insert into the CONGRESSIONAL RECORD the text of my remarks:

REMARKS OF HON. HAMILTON FISH, JR.

I am honored to speak to you in one of the most remarkable periods of African and world history. I cannot begin to match the expertise of those present on South Africa and that of the faculty panel to follow and hope to learn from you today.

This week has left us all breathless. Events are moving so fast that what happens one day is old news the next. This time a week ago, Nelson Mandela remained where he had been for more than 27 years, in a prison cell. Today, he's a free man.

We hope history will record that last week's events signaled a new era for South Africa. There are promising signs in addition to Mandela's release—the recent lifting of the ban on all political parties and allowing some peaceful demonstrations.

Several political prisoners in addition to Mandela, including Walter Sisulu, have been freed, and although a modest step, South African beaches have been ordered to admit blacks.

What accounts for these dramatic changes? Several things. Withoug a doubt, the key factor has been the dedication, patience, and perseverance of the many South African black leaders, other anti-apartheid activists and ordinary citizens who have struggled over the years for equal rights.

It hasn't been easy. Many of these heroes and heroines have sufferd greatly for their cause and some, like Steven Biko, have given their lives in the hopes of creating a new South Africa.

No individual, however, has loomed as large as Nelson Mandela. As the principal force behind the free South Africa movement in the early 1960's and a prisoner of the very system he sought to abolish, Mandela, from his prison cell, has been an inspiration to those in the liberation campaign.

Even though he was shut off from the outside world for nearly 30 years, the black people of South Africa never lost sight of Mandela's vision of a nation in which black and white children could go to school together, where black could live where they want, and could aspire to all the dreams of men and women in free societies

His ideal can be summed up in his own words, taken from the speech he delivered at his sentencing more than 25 years ago and repeated in part last Sunday. He said:

"I have fought against white domination, and I have fought against black domination. I have cherished the ideal of a democratic and free society in which all persons live together in harmony and with equal opportunity. It is an ideal which I hope to live for and to achieve. But, if need be, it is an ideal for which I am perpared to die."

He should, and I hope will, play a key role in the development of a new democratic system that will include all races.

Another force behind the emerging freedoms in South Africa is the country's new President, F.W. de Klerk. He deserves credit for positive developments which can lead to negotiations.

The National Executive Committee of the A.N.C. calls these steps important in creating a climate conducive to negotiations, and evidenced a willingness to negotiate a suspension of hostilities by both sides.

Recent changes in the rest of the world help us understand why Pretoria has taken these steps. For one, there has been a decline in military adventurism by the Soviet Union. I understand Pretoria, in the past, has justified its repressive policies on this fear. Whereas, in reality, an indigenous uprising was more likely.

Also, the December 1988 Namibia-Angola agreement effectively ended the conflict there. Trade and investment opportunities are opening up in other African countries.

So, with the world picture looking brighter, South Africa can address its pressing needs at home.

Another reason for the recent changes is that many white South Africans, especially those in business, are fed up with apartheid. It's unprofitable. They are frustrated by the difficulties encountered in attracting loans and investments from firms reluctant to do business with their country. This disenchantment has been long in coming. It is what we hoped our sanctions would encourage.

We in Congress have stood with you in your cause over the years. Four years ago, I was an original Republican sponsor of the House-passed Anti-Apartheid Act of 1986. That law banned imports from South Africa, limited American exports and banned new American loans and investment in that country. In 1988 we passed a comprehensive ban on trade and investment.

The sanctions were more effective than even we in Congress expected. The law also proved to Pretoria that the United States meant business, that America, perhaps the most prominent symbol of liberty in the world, would not be for such injustice, for State-sponsored violence and suppression.

Pleased as we are with Mandela's release and other positive developments, we must remember that much remains to be done. For example, it is ironic that Mandela, the most revered figure in South Africa now and one of the most admired in the world, cannot vote because of his skin color. That must change.

The state of emergency, which allows police to detain people indefinitely, send troops into black townships and censor the press, must be lifted. And all, not just some, of the estimated 2,000 to 3,000 political prisoners should be released.

These are the demands Mandela articulated on his first day of freedom as conditions to negotiating a non-racial society, and they should be addressed promptly. To these the A.N.C. has added amnesty for exiles.

Furthermore, the Group Areas Act, which keeps blacks and whites apart, and the Population Registration Act—the two pillars of apartheid—are still law. So are the land acts, which reserve 87 percent of the country for whites, who make up just 14 percent of the population.

All of these laws, which form the backbone of apartheid, must be stricken from the books.

The Internal Security Act, still in place must not be used to prevent an atmosphere of political freedom.

The white government must negotiate with the A.N.C. and other black opposition groups to form a democratic, non-racial form of government in which all people may participate.

I pledge to you that I shall join like-minded colleagues in Congress to keep the heat on Pretoria until all these changes have been made and South Africa has been transformed into a truly democratic nation. At this time, I do not believe the economic sanctions we have imposed should be lifted. By law, relief is conditioned upon realizing many of the changes and actions called for by South African black leaders.

Unknown at this time is whether President F.W. de Klerk is going the distance. Will he be constrained by his constituency and the limits of his own thinking? We just don't know. We do know that the concept of group rights—the white veto—has not been addressed.

Ending apartheid will have a liberating effect, not just for blacks but for whites as well. Today we celebrate the beginning of that end—for surely that will happen, peacefully I pray but it will happen.

Welcome home Mandela.

IN HONOR OF WILLIE HALL

HON. JULIAN C. DIXON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 22, 1990

Mr. DIXON. Mr. Speaker, I rise today in recognition of the career achievements of an individual whose extensive involvement with and service to the black and Asian communities of my district has facilitated the efforts of one corporation to become a positive force in the community. Last year, Willie D. Hall retired from a productive and beneficent professional career with the Seven-Up/Royal Crown Bottling Co. after 25 years of dedicated service to his company and to the community it serves.

Willie joined the Seven-Up/Royal Crown Bottling Co. as a driver salesman trainee in 1963 and has since advanced through numerous positions, including driver salesman, divisional supervisor, branch manager, special field service consultant, ethnic markets manager and community relations manager. In March 1988, Willie was promoted to director of community affairs at Seven-Up/Royal Crown, in which capacity he continued his focused involvement with the black and Asian communities.

Willie has served as president of the Los Angeles Chapter of the National Association of Market Developers [NAMD], the Crenshaw Chamber of Commerce, the Greater Crenshaw Revitalization Agency and the Crenshaw Citizen's Advisory Committee. He has also served on numerous boards and committees, among them: the board of the Crenshaw Y.M.C.A., the Western States Black Research Center, the Ruth More Service Volunteers, Avalon Carver Center Senior Companion Program, and the Chinatown Service Center. Willie is a member of the Hollenbeck Police and Businessmen Association, National Association of Market Developers [NAMD], the

Urban League and the National Association for the Advancement of Colored People [NAACP], and was instrumental in founding the Crenshaw Merchants Association and the Santa Barbara Avenue Property Owners Association.

Born in Groveton, TX, Willie settled in the Los Angeles area in 1962. He studied electronics at the National Trade School of Los Angeles and marketing and photography at Harbor College in Harbor City. He also obtained several certificates from Biola College in Evangelical Teacher Training and attended Talbot Theological Seminary in its Master's Program. In addition to his various civic and corporate activities, Mr. Hall is currently an Associate Minister of Tabernacle Faith Baptist Church.

Throughout his career, Willie Hall demonstrated his dedication to the revitalization of the Crenshaw area and a genuine commitment to helping those community residents most in need. His involvement with civic and community groups encouraged the establishment and maintenance of minority owned businesses in my district, and his support of local charities and causes has been both visible and significant. As director of community affairs, Willie was point man in the Seven-Up/Royal Crown Bottling Co.'s effort to become "an integral part of the social fabric which makes up the community." Undoubtedly, Willie Hall's involvement with Seven Up's community outreach programs ensured the integrity of his company's civic commitment.

Thus, on the occasion of Seven-Up's Retirement Salute to Willie Hall, I ask you to please join me in congratulating Mr. Hall on his long list of achievements and noteworthy contributions, and in extending to Willie, his wife Johnnie Mae, their four children and three grandchildren best wishes for continued good health and happiness in the years ahead.

THE BUTTER COMPETITIVENESS ACT OF 1990

HON. JIM MOODY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 22, 1990

Mr. MOODY. Mr. Speaker, I am pleased to introduce the Butter Competitiveness Act of 1990, legislation that allows for the creation of a new dairy product, reduced fat butter—a pure dairy alternative to margarine. This bill is intended to help the dairy industry move competitively into the 1990's by allowing greater responsiveness to consumer demand and market trends.

While health-conscious consumers have been shying away from high-fat foods, many dairy products—some of the Nation's purest and most natural foods—have been unfairly left in the lurch. Butter in particular has been held hostage to a 1923 statute that defined "butter" as containing not less than 80 percent butterfat by weight.

My bill will retain that statutory definition of butter, but will also permit a dairy product called reduced fat butter. This new reduced fat butter would have to be 52 percent butterfat by weight to be produced and sold.

Over the years Americans have become more and more aware of the health consequences of the food we eat. We have seen the introduction and rising consumption of lower fat frozen yogurts, high fiber breads, diet and caffeine-free sodas, low-sodium products, reduced fat and cholesterol mayonnaise and salad dressings, and so on. Consumption of these products has risen dramatically as people are responding to recommendations by doctors and nutritionists that a lower fat diet can help to reduce the risks of heart disease and contribute to all around better health.

Patients with high cholesterol rates and/or high blood pressure are often told to switch from whole or 2 percent milk to skim milk, to lower their salt intake, and to switch from butter to margarine or some type of vegetable oil spread flavored with buttermilk. Consumers have not had the option of switching to a lower fat butter, a pure dairy alternative to oil-based margarines and spreads.

This bill will accomplish several things at once:

It will give consumers across the Nation a choice to opt for a reduced fat dairy product instead of nondairy margarines or spreads. Our message to margarine users will be "come home to butter."

Dairy farmers will benefit because the increased demand for butterfat that this may generate is expected to lower CCC purchases of butterfat. Butter is currently the only dairy product in large surplus, so much so that last year's CCC purchases of butter caused the support price for milk to be lowered 50 cents this past January 1. A reduced fat butter could thus stem the decrease in the support price for milk by lowering CCC purchases of surplus butterfat; more butterfat will be used up commercially by the expanding butter market created by this lower fat alternative.

It will benefit dairy manufacturers by increasing their market share. Over the years increased consumption of margarine and other nondairy spreads has unfairly hit the dairy industry. This bill is intended to help butter manufacturers aggressively pursue a bigger share of the national market for butter and spreads because there will now be a real dairy alternative to compete with oil-based margarines and spreads.

This bill is a starting point. In my discussions with consumer groups, dairy farmers, and industry representatives, some have expressed a strong preference for this new butter to be called light butter, while others have recommended reduced fat. Strong arguments can be made for both sides, but I have chosen reduced fat for introduction purposes. I want to open the discussion on this issue and get the ball moving. Input from the dairy industry, farmers, and consumers toward resolving this and arriving at a mutually acceptable term is very much welcome.

The bottom line of my bill is twofold: I want to protect the integrity of butter as a pure dairy product while at the same time giving the dairy industry the chance to respond to consumer demands for lower fat foods.

Mr. Speaker, I hope my colleagues will join me and original cosponsors STEVE GUNDERSON, BOB KASTENMEIER, DAVE OBEY, MATTHEW MARTINEZ, GERRY KLECZKA, TOBY ROTH, THOMAS PETRI, JIM SENSENBRENNER, and LEW ASPIN in cosponsoring this important legislation that will benefit both the dairy industry and health-conscious consumer demand.

TAX DOLLARS DID FUND ANNIE SPRINKLE

HON. DANA ROHRABACHER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 22, 1990

Mr. ROHRABACHER. Mr. Speaker, it appears that Annie Sprinkle, the Kitchen Theatre, and the New York State Council on the Arts have changed their tune.

But don't be fooled—the Annie Sprinkle show did receive Government money—not once but twice.

First, the Kitchen Theatre in New York City, which hosted 12 performances by Annie Sprinkle, received $60,000 directly from the National Endowment for the Arts for operating expenses.

Second, the New York State Council on the Arts, which receives $500,000 in unrestricted funds from the NEA every year, funded a performing art series at the Kitchen Theatre which included Annie Sprinkle.

The Kitchen Theatre applied for $30,000 from the NYSCA to produce 36 shows in the series. The Kitchen's grant application to the NYSCA describes Sprinkle as a feminist post-porn modernist who "* * * uses her experiences within the pornography industry to comment upon gender roles and sexual identity in contemporary society." The NYSCA disbursed a partial grant of $25,000, 32 performances worth, but did not stipulate which shows were excluded from funding.

Here is what the key players initially had to say about the Annie Sprinkle show:

On stage during performance, Annie Sprinkle announced, "Usually I get paid a lot of money for this, but tonight it's government funded."

On January 21, 1990, Bobby Tsumagari, executive director of the Kitchen Theatre in New York, confirmed Ms. Sprinkle's claim. "What NYSCA looks for from the Kitchen is a kind of risk taking, experimental programming and that is predominately what they fund us for," Tsumagari said. She added that a list of programming was submitted to the NYCSA "which did in fact represent what we were doing this year. They could have easily chosen not to fund these 12 productions."

A few days later Tsumagari said, "One interpretation is because of the way that contracting works with the NYSCA, there is no State council funding, as they are only funding 32 of our 54 performances. Another interpretation is that a list of programming was submitted to them which did in fact clearly represent what we were doing this year." But, because the council did not specifically tell the Kitchen which four performances it was not funding, Tsumagari added, "it really is a matter of how one wants to interpret the facts."

On January 21, NYSCA spokesman Tim Mulligan confirmed that the council gave

$25,000 to the Kitchen for a "performance art series" that included 12 performances of Annie Sprinkle. A few days later he added, "You can't say one way or another" if 4 performances of Sprinkle were part of the 32 which the council eventually approved.

The chairman of the NEA, on February 2, 1990, when asked about the Ms. Sprinkle show, said, "The point is, we are not the moral arbiter of this country. We're not going to run around and respond just because something happened somewhere that someone didn't like."

Two weeks after the story broke and after the public expressed its opinion of Government funds going to Annie Sprinkle, people began to change their stories.

On February 7, the Kitchen claimed that it "did not utilize funds from the NYSCA to present these performances." The NYSCA chairman said "we specifically limited our funding because the council felt the Annie Sprinkle presentation was not of artistic quality to warrant council support." Nevertheless, despite their denials, the NYSCA has yet to produce any evidence that they excluded Annie Sprinkle from their grant or that they informed the Kitchen prior to the Annie Sprinkle performances that they were not to use their grant for that purpose. In fact, it's now clear that the NYSCA kept any misgivings they may have had about Ms. Sprinkle to themselves. As Mr. Mulligan explained in a recent Village Voice article, "The council didn't want to fund Annie Sprinkle but we didn't say it because that gets into censorship."

Make no mistake about it, the NEA, the NYSCA and the Kitchen are playing a shell game with taxpayer dollars. The NEA gives more than $500,000 to the NYSCA which, in turn, gave $25,000 to the Kitchen and Annie Sprinkle. Tracing the report from its source to its ultimate destination—no matter how the NEA tries to hide behind front groups—Federal dollars are going to XXX-rated pornography. Mr. Speaker, this must cease. Later this session, I will offer an amendment to the Interior Appropriations bill to end Government funding for the National Endowment for the Arts. I urge my colleagues to support my amendment. I also ask that my colleagues take a moment and read the following editorial which appeared in the Washington Times. Furthermore, I would like to place in the RECORD articles from the New York City Tribune, which broke the Annie Sprinkle story, along with their editorial on the subject.

PUBLIC FUNDING OF EROTIC SHOW STIRS NEW FUROR, ART VS. SMUT DEBATE

(By Walter Skold)

A new fight in the battle surrounding public funding of controversial art has erupted over a show in Manhattan that is called avant-garde by defenders but labeled pornographic by its critics.

Critics feel that the show, Annie Sprinkle: Post-Porn Modernist, may actually be in violation of state and federal anti-obscenity laws and think that Manhattan District Attorney Robert Morgenthau should launch an investigation.

The show, which contains very explicit sexual acts and images, was performed 12 times over the last 2 weeks at The Kitchen, a theater at 512 W. 19th St. in the Chelsea section of Manhattan. The show was part of a 32-performance series funded by a $25,000 grant from the New York State Council on the Arts (NYSCA).

Last night was the final performance of Annie. A new show will replace it, continuing the state-funded series.

Annie's main writer and only actor is Annie Sprinkle, a self-proclaimed "feminist-porn activist" who has previously appeared in more than 150 X-rated films, according to a press release put out by The Kitchen. She now says that: "porn is dead" and calls herself an artist who performs "post-porn modernism."

Her critics say that if what she did is considered art, it is "obscene" art that should not have been funded at taxpayers' expense.

As part of her performance last Thursday evening, Sprinkle did the following:

Masturbated with various "sex toys" until she supposedly experienced orgasms.

Invoked the spirits of "ancient, sacred, temple prostitutes" into the theater.

Performed oral sex on rubber penises (dildoes) and invited the audience to massage her breasts and photograph her scantily clad body.

To conclude her performance, she opened her vaginal canal with a gynecological tool known as a speculum and invited the audience to the stage to inspect her cervix.

After the show, some 50 men and women paid $5 apiece to have a picture taken with Sprinkle's large breasts resting atop their heads.

Efforts to find out who at NYSCA approved the funding for Annie and whether those involved in the decision were aware of the show's controversial content were unsuccessful.

$25,000 PROVIDED

Tim Mulligan, a spokesman for NYSCA, said that top council officials were not in the office Friday to make any comments. He did confirm that the council gave $25,000 to The Kitchen for a "performance art series" that included the 12 performances of Annie.

Mulligan said he was unsure exactly how much of the $25,000 went specifically to fund Annie.

"How somebody in a decision-making position from the state could say, 'Oh boy, let's go with that,' is beyond me," said Joseph Riley head of Morality in Media (MIM).

"You know, Gov. Cuomo is talking about no possibilities to bring the budget down further," said Riley, "but it it seems to me that this could be one of the first things to go."

This latest controversy comes in the wake of numerous political and cultural controversies last year which eventually led to the passage of a congressional amendment prohibiting the National Endowment for the Arts (NEA) from funding "obscene art."

The issue exploded when the New York City Tribune reported last year that artist Andres Serrano had received NEA funding for his Piss Christ, a photo of a crucifix in a jar of urine.

Shortly afterward, photographer Robert Mapplethorpe stirred debate over an NEA-funded exhibit built around homo-erotic pictures that were considered obscene by critics both in and out of Congress.

The incidents and the ensuing legislation have sparked a heated debate within both the political and artistic communities as to what the proper relationship between the artist and the state should be.

Sprinkle herself made reference to these events during her performance last Thursday.

At one point, after purportedly inducing the first orgasm with her favorite "sex toys," she smiled and said to the audience. "Usually I get paid a lot of money for this, but tonight it's government funded."

Most of the 200 men and women in the audience roared with laughter, but others failed to see the humor.

"That an indictment could be gained from a grand jury, I have no doubt," Riley said, "and what would happen at a trial is a very good question."

Riley, whose group fights obscenity nationwide, said that Morgenthau should consider investigating the performance for possible violations of the state's anti-obscenity laws.

"It is ironic that, at a time of supposed frugality, the state is funding what is arguably an obscene performance by someone who admittedly has appeared in 150 porn films."

"It's also ironic that Mr. Morgenthau was sworn in again, yet this sort of thing goes on under his jurisdiction, when to the best of my knowledge he has not sought an obscenity indictment in about a decade."

"Look we have an $8-billion porn industry which is controlled by organized crime, according to the California Department of Justice," complained Page Mellish, president of Feminists Fighting Pornography (FFP).

"Why is tax money being used to present this pornography?" she asked.

Bobbi Tsumagari, The Kitchen's executive director, told the New York City Tribune that critics should not castigate the show without having seen it first. She fears that a "simple, verbal description" of certain parts of the show, without seeing it performed in context, could indeed make Annie sound like pornography.

Riley and Mellish did not see the risque show, but they made their comments based on the descriptions of others and a review in the latest edition of Screw magazine.

The Screw review said, "Sprinkle has always inhabited the extreme edges of the sexual underworld . . . to exploit the revolutionary, or at least irreverent, aspects of pornography."

"The piece itself is not pornographic," said Tsumagari, "but it does question, as much as contemporary art does, what is appropriate material for artists, and what is a public and a private act."

She also said it "comments on the sex industry in a very stringent way, from a first-hand point of view."

Tsumagari may have been referring to one scene that graphically and gruesomely depicted the violence and abuse often associated with pornography. At the beginning of the skit, called "100 Blow Jobs," Sprinkle becomes very angry and despondent, and admits she "met a lot of rotten people" in her career.

Then, with a background of the loud voices of demanding men shouting curses and insults at her, she proceeds to give frantic oral sex to various dildoes, which represent abusive sex partners.

"Sprinkle can claim that it's art," said Mellish, "but you can go to 42nd Street right now, and put a couple of bucks in a machine, and have the same interaction with a woman.

"Now, I don't know if those women claim [what they are doing] is art, but very few people would claim that it is not pornography," she said.

"What she is doing is no different than what is inside Playboy, Penthouse and in booths on 42nd Street," added Mellish.

Screw magazine said, "By casting her act in the form of a Tony 'performance piece,' Annie snares all the artsy nabobs who might otherwise turn up their noses at a six-shows-a-night Show World stand."

Show World is a pornographic theater in Manhattan that has movies, private booths and live-sex acts. Sprinkle herself first developed and performed some of her skits in burlesques, strip joints and in live-sex theaters.

"Some avante-garde people may consider this art, but a jury may not agree," said Robert Peters, an attorney with MIM.

He said that most people are not aware of the state's obscenity laws, a situation he blamed on a "very successful public relations campaign by the American Civil Liberties Union [ACLU]."

"The ACLU always talks about the First Amendment," said Peters, "but the fact is, the First Amendment does not protect" pornography if jurors judge it to be obscene.

MORGENTHAU CRITICIZED

Peters also criticized Morgenthau for not enforcing New York's obscenity laws against the state's booming pornography industry. He thinks convictions can be obtained if "enough political pressure is brought to bear" on the district attorney, but he said many people are tired of complaining because "they get no response."

Tsumagari disagrees with critics who say the show is obscene. "This show encourages you to think about something that you think you know about," she said, "and makes you see the issue of pornography in a new light.

"Frankly, real pornography doesn't do that, which is one of its pernicious influences," she said.

A "Post-Porn Modernist Manifesto," which is printed in the show's program and is signed by more than 20 people, describes the philosophy of such modernists who "celebrate sex as the nourishing, life-giving force."

It states, "We embrace our genitals as part, not separate, from our spirits," and adds, "We utilize sexually explicit words, pictures and performances to communicate our ideas and emotions."

The signers also "denounce sexual censorship as anti-art and inhuman."

The widespread disagreement over Annie seems to illustrate the clash between personal philosophies and public opinions that often occurs when people try to draw the line between "art," "pornography" and "obscenity."

The state obscenity law at one point describes obscenity as "patently offensive" descriptions of sexual acts like sodomy, masturbation, sadism, excretion or the rude exhibition of the genitals.

It also stipulates that material or performances judged to be obscene must, as a whole, lack "serious literary, artistic, political and scientific appeal."

Annie does contain masturbation, excretion and the displaying of genitals, but its defenders say it cannot be considered legally obscene because the show is primarily artistic in content and form.

"The current legislation [initiated by Sen. Jesse Helms, R-N.C.] uses a definition of obscenity which used the phrase 'without artistic merit,'" pointed out Tsumagari, "but this show, in our estimation, has a lot of artistic merit."

Steve Cain, a talk show host on WABC-AM radio, saw the show with his wife, and found it to be "enjoyable," not objectionable.

"It was artistic, enjoyable and provocative, but not pornographic," said Cain, who said he felt the show's main message to be "that society is too hung up about sex."

Mellish said her group won't "get into what is and isn't art," and Riley asked, "Is this art or garbage?"

Regarding a clear-cut, definitive answer, he said, "It's very hard to say."

Still, he and Peters said that Albany legislators should consider whether the funding of the show was a violation of the new federal regulations regarding the NEA.

The state council receives large grants from the NEA every year. Under the new regulations, the federal arts agency is not allowed to fund "obscene" material directly or indirectly.

"Obviously, I'm very much concerned about the move to restrict the NEA from using its best resources to evaluate the merits of programs," said Tsumagari. "And that is essentially what the Helms legislation is about."

She said the legislation "is not really about people stopping shows, its about people trying to prevent public funds from going to these shows, which is a different issue."

"These are the very same principles which were involved in the Mapplethorpe controversy," agreed Cain, who said the state should attempt to develop criteria for funding art "based on what is credible."

"If the state is going to fund the arts," said Cain, "it should not be able to censor the content, but should give to legitimate artists equally."

Many observers, however, have said that it is probably impossible, and maybe not even appropriate, for the state to decide just what is "legitimate" art.

The Kitchen has a tradition of presenting works that "test certain boundaries of art forms and of public acceptability," said Tsumagari, "and let's face it, that stage of public acceptability changes."

She said that what NYSCA "looks for from The Kitchen is a kind of risk-taking, experimental programming, and that is predominantly what they fund us for."

Tsumagari said a list of programming was submitted to NYSCA. "We did in fact represent what we were doing this year."

"They could easily have chosen not to fund these 12 productions" of Annie Sprinkle, she said.

She adamantly defended the grant however, saying, "You need to look at all the programming here, not just our show, so you can filter it into a balance across the board."

Mulligan was able to tell the City Tribune what the Kitchen application said about the show in question.

It described Sprinkle as a "self-described feminist post-porn modernist who "uses her experiences within the pornography industry to comment upon gender roles and sexual identity in a contemporary society."

"Her work is particularly concerned with developing physical and psychological states of health and well-being and in some of the oppressive qualities of everyday life, as well as the AIDS epidemic."

Sprinkle was not available for an interview, but the show's press release program and previous interviews give an idea of how she sees herself and her work.

A Kitchen theater release said, "The work charts writer/performer Annie Sprinkle's personal odyssey through the worlds of art and ideology, commerce and pornography, a journey which leads her to alternative models of sexual health and well-being."

FAST-PACED AND WITTY

The show's program says Sprinkle "has constructed a fast-paced and witty show which draws on her own experience as a sex researcher who has explored her own and society's sexuality in depth through work in pornography and prostitution."

It also describes Sprinkle as someone who "understands sex as her hobby, politics, spiritual discipline, expertise, main source of income, only subject matter, foremost topic of thought and conversation and the key to her great health and happiness."

During the performance, Sprinkle said her sexual obsessions are "new age" spirituality, and likened her art to ancient sacred prostitutes and Taoist masters who could lengthen their orgasms. She also prayed with the audience to invoke the spirits of past sex goddesses.

"I like to evoke spirits," she told the crowd, "they love having sex."

At one point, she mounted an altar of candles and lit them in honor of former friends and lovers who had died from AIDS. She then prayed to their spirits, lit incense, and, with the audience chanting along and applauding, induced an orgasm with a vibrator.

That skit was called "Sex Heals," and in an interview with New York Native last year, Sprinkle called such techniques "ecstatic mind altering masturbation rituals."

Riley agreed that there are similarities between ancient sexual/religious rituals and what is presently considered pornography. "But," he said "For her to talk today in that same kind of reference, is the same kind of con that Al Goldstein uses in claiming first amendment protections for what he does."

Goldstein publishes the pornographic magazine Screw and produces the cable show "Midnight Blue," which Sprinkle has often appeared on.

"What we have here is a uni-sex P.T. Barnum," said Riley. "Barnum said there is a sucker born every minute, only in this case it is almost literal."

Goldstein and Riley have clashed for years over pornography and have both become national symbols for those who either want to enforce or abolish state and federal laws restricting obscenity.

[From New York City Tribune, Jan. 31, 1990]

DISPUTE GROWS OVER WHETHER NEW YORK FUNDED SEX SHOW IN CHELSEA THEATER

(By Walter Skold)

A controversial performance by a famous pornography star who participated in a series of state-funded performances has lawmakers and artists arguing again about government and corporate funding of "obscene art."

Based on interviews with officials at the New York State Council on the Arts (NYSCA), and with the director of the Kitchen theater in Manhattan's Chelsea section, where the shows were performed, the New York City Tribune reported last week that public funds made possible a show that some critics called "patently obscene."

Now NYSCA denies having funded the performances of Annie Sprinkle: Post-Porn Modernist. The Council this week released a statement calling the show "not of an artistic quality." However, officials said internal records that could prove exactly what they did or did not fund are not available to the public.

Critics say NYSCA is playing a "shell game" and maintain that Sprinkle was in fact funded, because the state was the major funding source for the series in which the show appeared.

The show featured graphic and explicit sexual scenes that included masturbation, oral sex, urination, orgasmic ritual dances and the inspection of Sprinkle's vagina by some members of the audience.

Assemblyman Joseph Pillittere (D-Niagara), the chairman of the Assembly's Tourism, Sports, and Art Committee, was shocked at the content of Sprinkle's performance and said that "based on what she did in her last performance, I would not want the state to fund anything that she is involved with" in the future.

He called NYSCA's funding of the series a mistake but said the nature of the agency's funding procedures make it possible for such things to happen occasionally.

He said the funding of such events "is almost impossible to control unless you have total censorship and demand that everyone who gets state money has to predetermine what their exact performance is going to be."

Presently, contracts and applications between NYSCA and institutions are so vague, critics say, that the facts of just what the Council is and is not funding is often a matter of interpretation.

In a statement sent to the Tribune, NYSCA Chairperson Kitty Carlisle Hart said that "council contracts are drawn in broad terms for a simple reason: to avoid the slightest hint of censorship."

But critics say the cry of censorship is a smokescreen for the fact that public funds are used to sponsor art production series that include objectionable material.

"The bottom line is that if taxpayers' dollars were taken out of the formula, the show would not have been funded," said an angry Dana Rohrabacher, a congressman from California who has been extremely critical of the National Endowment for the Arts (NEA).

"The fact that artists are able to get their hands on tax dollars and use it to fund obscene and sexually graphic presentations," said Rohrabacher, "suggests there is something pretty wrong with the system."

The circumstances surrounding the performance of Sprinkle at the Kitchen seem to provide a good example of just how the sometimes complicated funding process works.

The Kitchen originally applied to the state for $30,000 to produce 36 shows in its performance art series. NYSCA only gave the Kitchen $25,000 to put on 32 performances, but it did not stipulate just which shows it was not funding.

The original application from the Kitchen included 4 performances of Sprinkle, but the show was actually performed 12 times. This happened because the Kitchen, as is often the case with theaters, added 22 more performances to its schedule after the application was submitted.

Barbara Tsumagari, the executive director of the Kitchen, said when first contacted that "one interpretation is, that because of the way that contracting works with NYSCA, there is no state council funding as they are only funding 32 of our 54 performances."

"Another interpretation is that a list of programming was submitted to them which did in fact clearly represent what we were doing this year," added Tsumagari.

But because the Council did not specifically tell the Kitchen which four performances it was not funding, she said "it really is a matter of how one wants to interpret" the facts.

When first contacted, Jim Mulligan, a NYSCA spokesman, said "you can't say one way or the other" if the 4 performances of Sprinkle were part of the 32 which the Council eventually approved.

Neither Hart nor NYSCA director, Mary Hays, were in the office when Mulligan first spoke with the Tribune however, and after the first story was published, NYSCA then said that the Sprinkle performances had in fact been turned down.

Part of the reason for the confusion is because nowhere on the approved contract with the Kitchen does it specify that the four controversial performances were being denied funding. This decision was an internal one made by the panel of artists who make recommendations on funding requests.

Still, the Council will not release these internal records because they say the decisions are meant to be confidential to protect the panelists.

"As a corollary," to not telling recipients just which shows are being denied, said Hart, "we believe that a reduced amount from requested funding is a very clear comment to the agency involved that, while much of their effort is worthy of public funding, some clearly is not."

She reiterated that "We wish to avoid the slightest appearance of censoring any artist," and claimed that "over the years, the State legislature, in every examination and reexamination of our funding process, has strongly supported this viewpoint."

While Pillittere is upset over the Sprinkle performance, he is sympathetic with the Council. He said he has talked about this funding problem with Hart and Hays and agreed that "it is almost impossible to control every aspect of the total fiscal budget."

He said the Council has a good overall record and that the Council record is good and that "Out of the total budget, this is one of the few of this type of performances that the state has been involved in" that is objectionable.

But John Mashburn, a legislative aide for Senator Jesse Helms, said that is "like saying the Exxon Valdez is only one of a thousand ships that wrecked."

Mashburn said "People are being fast and loose with just who is funding who," and added that many governmental art agencies "know who they give it too, but they don't necessarily know what the entity does with it once they get the funds."

"We are not saying that they can't do it," said Mashburn. "They can call it whatever they want to, but don't tax the American public is what we're saying."

[From New York City Tribune, Feb. 8, 1990]

WHO PAID ANNIE SPRINKLE TO DO THOSE DIRTY THINGS?

Did the National Endowment for the Arts (NEA) and the New York State Council for the Arts (NYSCA) fund a public show in which porn star Annie Sprinkle masturbated with a variety of sex toys and invited the audience to examine her vagina with a flashlight? Or were we wrong?

On January 22 the New York City Tribune reported that the Council gave a $25,000 grant to The Kitchen theater for a series of performances that included a show called Annie Sprinkle: Post-Porn Modernist. In his original story, City Tribune reporter Walter Skold quotes a spokesman for the state council, the director of The Kitchen and Spinkle herself as saying that the performances were funded by the NYSCA. The council, we noted, is funded by the NEA.

Now, in the wake of a blistering attack from Congressman Dana Rohrabacher, R-Ca., the NEA, the NYSCA and The Kitchen all say in published interviews that we got the story wrong. It's amazing how a little heat from the right person can jog one's memory.

The NYSCA says it never intended to fund the Sprinkle performances because they were deemed to be lacking in artistic merit. And the spokesman said he was mistaken when he originally spoke to our reporter. However, for more than two weeks the council has refused to provide us with documentation that could easily validate this claim. Surely, if the council reviewed the application from The Kitchen and decided not to fund Sprinkle, there must be some letter to that effect.

Is the NYSCA stonewalling us? If no letter exists then how was The Kitchen to know that the $25,000 shouldn't go to Sprinkle? The more likely scenario is that the council is in the habit of pouring tax dollars down a black hole.

Sprinkle says she was only kidding when she interrupted an orgasm to thank the government for funding her show.

The program for Sprinkle's show lists the NYSCA as a funder as well as a number of non-profit organizations that probably thought they were helping some kind of legitimate theatrical performance.

The NEA says based on press accounts, it would not have funded the Sprinkle show although it admits to giving $60,000 directly to The Kitchen for operational expenses. Their position seems to be it's not the NEA's problem if the theater happens to put on live sex shows.

In a letter to NEA Chairman John Frohnmayer, Rohrabacher, correctly notes, "No other government agency would have the gall to hold itself unaccountable for the ultimate destination of the tax dollars it disburses."

Most Americans would be shocked to know their tax dollars are wasted on the kind of pornographic anti-religious trash consistently funded by the State Council for the Arts and the NEA. The refusal of the agencies to take responsibility for their remarkably bad judgment is distressing.

These agencies have become the Exxon Valdez of American culture. They were created for good purpose, but, oh my, what pollution they have caused.

[From the Washington Times, Feb. 12, 1990]

THE WELL-ENDOWED MS. SPRINKLE

The Greek philosopher Diogenes used a lantern in his unavailing search for an honest man. Porn artiste and ex-prostitute Annie Sprinkle uses a flashlight, and the taxpayers have to shell out for it.

Actually, it's not clear whether the flashlight that serves to inspect the interior regions of Ms. Sprinkle's anatomy is funded by the American taxpayer, but parts of her bizarre stage act may be. Several newspapers in the last week have documented the passage of public money from the taxpayers through the National Endowment for the Arts to the New York State Council on the Arts to The Kitchen, one of Manhattan's

steamier nocturnal haunts, where performs the incomparable Ms. Sprinkle.

What Ms. Sprinkle does on your nickel makes the homoerotic and excretory concoctions of Robert Mapplethorpe and Andres Serrano look like finger painting by the Mouseketeers. Her act includes masturbation on stage, urinating in a toilet and asking members of her audience if they'd like to peer up her nether body openings by means of the flashlight. Whatever spectators find when they accept her invitation, it's probably not an honest man.

Barbara Tsumagari, executive director of The Kitchen, denies that Ms. Sprinkle's contributions to the lively arts are financed by the NEA. She says the 12 shows Ms. Sprinkle is putting on are only part of a series of 54 performances, and taxpayers had to swallow the tab for a mere 32 of them. But the publicly funded New York State Council on the Arts spewed up $25,000 for the series and receives $500,000 annually from the NEA. The Kitchen's share of the NEA booty is $60,000 for operating expenses. Ms. Sprinkle herself, during her performance, says, "Usually I get paid a lot of money for this, but tonight it's government funded."

Meanwhile, The New York Post, The New York City Tribune and other papers have disrobed several other well-veiled instances of weird funding by the NEA: A San Francisco gallery that offers a video on "genital openings"; an excursion into "woundings and cuttings by women as a healthy response to a sick society"; and $20,000 to three lesbian writers "known for the homoerotic content in some of their works," according to The Washington Blade. Then there's Ms. Sprinkle's fellow aesthete, Johanna Went, whose performances with excrement, menstrual products and male genitals transcend the imagination of even Ms. Sprinkle and were partly funded by the NEA and the NYSCA in the 1980s.

Critics of the NEA like Sen. Jesse Helms and Rep. Dana Rohrabacher are properly volcanic over the agency's apparent inability to refrain from funding human waste products. Last year, when the Mapplethorpe and Serrano controversies broke, these and few other lawmakers proposed drastic remedies, but their colleagues overrode them with more modest measures. As a result, we find ourselves still encumbered with the likes of Ms. Sprinkle, Ms. Went and other "post-porn modernists" as these fraudulent weirdos bill themselves.

Not too long ago the whole lot of them would have been locked up by the vice squad or scooped up by the garbage trucks. Today literati and legislators solemnly pronounce them to be heralds in the vanguard of beauty, rush to champion their rights of free expression and ladle up largesse so they can indulge their tiny imaginations in comfort.

The moral here ought to be clear. Federal art almost always will be bad, small-minded stuff, and the Annie Sprinkles will always find ways to get their hands on the federal loot. Everyone hereabouts knows this political fact, but few will confess the awful truth. You can use a lantern or a flashlight, but when you peer into the bellies of Congress or the NEA, you won't find many more honest men than Diogenes did.

TRIBUTE TO U.S. CUSTOMS SERVICE AGENT TIMOTHY C. McCAGHREN

HON. RONALD D. COLEMAN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 22, 1990

Mr. COLEMAN of Texas. Mr. Speaker, it is with sadness and a heavy heart that I rise to pay tribute to America's latest casualty in the war on drugs, U.S. Customs Service agent, Timothy C. McCaghren.

Agent McCaghren was killed in a suspected drug-related incident near El Paso, TX, at the Zaragosa Bridge Border Station. He had stopped a van and was questioning the driver when the vehicle accelerated, dragging him along the ground and mortally injuring him.

The story of Agent McCaghren brings home the reality of the war on drugs. Beyond all the news conferences, press releases, and promises, it always comes down to the brave, dedicated men and women on the frontlines of the war on drugs. It is ironic, Mr. Speaker, that every year the administration tells the Congress that customs inspectors are not law enforcement officials, and indeed, attempts to cut the Customs Service. But it should not take tragic events such as this one to demonstrate how dangerous a Customs Service agent job can be—not to mention the extent of these agents' dedication to their duty.

If anything positive comes out of this tragedy, I hope it jars the attention of Washington to the needs of the men and women on the frontlines of the war on drugs. They are real people with real considerations and concerns. They do their jobs 24-hours a day, serving this Nation and its people. They deserve more support from us. We should take this opportunity to reflect upon the role of border law enforcement agents such as those of the U.S. Customs Service and what they mean to our communities and our future.

We should also take a moment to pray for the family of Agent McCaghren. The U.S. Congress and indeed, the entire Nation will never forget his ultimate sacrifice for his country, just as we will never forget another fallen hero, Kika Camarena of the Drug Enforcement Administration. When you see the flags flying at half-mast around El Paso, it means more than sadness, more than compassion, more than condolences; it means pride, too; the people of the 16th Congressional District of Texas are proud of Agent McCaghren and what he stands for.

But let us now take steps to ensure that his death is not in vain. Let us redouble our efforts at all levels in the war against drugs. Let us push forward with education and preventative measures to keep future generations of young people from becoming involved in the scourge of narcotics. And let us never, never forget the courageous and stirring example of U.S. Customs agent, Timothy C. McCaghren, a man who gave his life in the service of his country.

HONORING DR. LARRY GENTILELLO AND DR. BARRY FISHER

HON. JAMES H. BILBRAY

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 22, 1990

Mr. BILBRAY. Mr. Speaker, it gives me great pleasure to rise before this esteemed body today and recognize the work of Dr. Larry Gentilello, a trauma surgeon and professor with the University of Nevada's School of Medicine, and Dr. Barry Fisher, chief of surgery at University Medical Center at Las Vegas, NV. Together they have developed a blood-warming therapy that recently saved one Las Vegan's life and promises to redefine modern medical procedure.

On January 17, 1990, Murray Brown, a 26-year-old ceramic tile setter was driving his Jeep in Las Vegas when it plunged into a draining channel during a torrential rainstorm. Submerged in freezing flood water for 30 minutes, Mr. Brown's body temperature had dropped to a low 85 degrees. The blood-warming technique pioneered by Drs. Gentilello and Fisher saved him from acute hypothermia. By heating his blood with the continuous arterial-veinous rewarmer, the physicians were able to quickly raise his body temperature.

Until now the patient had to be warmed from the outside, putting tremendous strain on the heart and body. With this medical breakthrough the blood itself slowly rewarms the organs, reducing the risk of acetic buildup which can damage vital organs. Without the blood-warming machine, Mr. Brown would have had no chance of surviving. He is the first human the machine has ever been used on and, I am pleased to announce, is making a remarkable recovery.

Mr. Speaker, I thank my colleagues for this opportunity to commend the work of Dr. Larry Gentilello and Dr. Barry Fisher in the permanent record of this body. It is both an honor and a privilege.

CELEBRATING AMERICAN CHOCOLATE WEEK

HON. ROBERT S. WALKER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 22, 1990

Mr. WALKER. Mr. Speaker, Pennsylvania, I am proud to say, manufactures more chocolate than any other State in the Union. In my own District, the 16th, Lititz, PA is the home of Wilbur Chocolate Co. M&M/Mars has a large chocolate facility in Elizabethtown. Other Pennsylvania chocolate companies are Hershey Foods Corp., including Luden's Inc., and H.B. Reese Co.; Whitmans Inc.; the Blommer Chocolate Company; Leaf, Inc.; Cherrydale Farm, Inc.; Goldenberg Candy Co.; R.M. Palmer Co.; and Pennsylvania Dutch Co.

The week of March 12–17 is the first annual American Chocolate Week. This week did not require a costly congressional resolution. Rather, it grew out of the honest sentiment of

chocolate lovers nationwide. Chocolate makers in Pennsylvania will join with chocolate lovers throughout the U.S. to celebrate what an October 1989 Gallup poll discovered is America's favorite flavor.

As ranking member of the House Science, Space, and Technology Committee, I'm pleased to report that chocolate has been included in the menus of all American and Russian space flights because it's a morale booster, as well as a source of nutrients.

In Pennsylvania we truly believe that the quality of American chocolate products equals or surpasses that of any other country's products. I'm pleased to join in the celebration of American Chocolate Week.

MENTAL ILLNESS AWARENESS WEEK

HON. RON WYDEN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 22, 1990

Mr. WYDEN. Mr. Speaker, today I am introducing, with the support of over 70 of my colleagues, a joint resolution to authorize the President to designate the week of October 7-13, 1990 as "Mental Illness Awareness Week".

Mental illness is a problem of staggering proportions. One in five American families will be affected by serious mental illness. Mental illness all social levels and all ethnic groups in equal proportion.

According to the American Psychiatric Association, 15 to 25 percent of the elderly suffer from significant symptoms of mental illness. In addition, approximately 12 million children under the age of 18 suffer from mental disorders such as depression, hyperactivity, and autism. About 15 percent of Americans will suffer a major depressive episode. One-third of the homeless on our streets are victims of mental illness.

But many people with mental illness are suffering needlessly. Many mental disorders are diagnosable, treatable, and even curable. But fewer than one-fifth of those who have mental disorders seek or receive the treatment they need. Many do not even realize that they have an illness can be effectively treated.

Nine out of 10 patients suffering from major depression or anxiety can recover; 7 of 10 suffering from manic depression can return to normal lives; 1 in 4 with schizophrenia can recover.

We can help turn this problem around by letting people know that help is available for mental illness. Of all the resolutions that will be considered by Congress this year, I hope you will agree that Mental Illness Awareness Week has particular merit. Its passage will help bring much-needed attention to the fact that so many mental disorders can be attacked and conquered.

The inspiration for Mental Illness Awareness Week comes from such groups as the American Psychiatric Association [APA] and the National Alliance for the Mentally Ill. APA members conduct research and provide treatment necessary for those suffering from mental illnesses. The Alliance, which was formed in 1979 for families of the mentaly ill, supports education, advocacy, and research in the mental health field.

Few diseases have the potential which mental illness has to disrupt the lives of the sufferers, and their families and friends. And no other disease is more clouded by misunderstanding.

Only through an increased understanding of the causes and treatments available will the fear and ignorance surrounding mental illness become a thing of the past.

Mental Illness Awareness Week provides us with an opportunity to reach out and help fellow Americans understand this disease and encourage those afflicted to seek appropriate care. I urge my colleagues to join me in cosponsoring this important resolution.

DAT RECORDING AGREEMENT

HON. JOE BARTON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 22, 1990

Mr. BARTON of Texas. Mr. Speaker, today, it gives me great pleasure to join my colleagues in introducing the Digital Audio Tape Recorder Act of 1990. This legislation embodies a compromise that addresses introduction in the market of one of the newest sound recording devices, the digital audio tape [DAT] recorder. I am particularly pleased to report that this legislation is supported by Tandy Corp., one of the leaders of the consumer electronics industry and a company that has made great contributions to the Sixth District of Texas.

As my colleagues know, this legislation is the result of years of consideration and months of negotiation. After an unsuccessful attempt in 1987 by the recording industry to limit digital copying by DAT machines, the recording industry followed the suggestion of Members of both Houses of Congress and joined hands with the consumer electronics industry to seek a solution. Last summer, executives from both the recording industry and audio component manufacturers convened to discuss the problems involving digital recording.

From these negotiations emerged an unprecedented pact among historical adversaries. This pact proposed legislative action on a technical effort to limit digital copying of copyright protected material on DAT machines. These industry leaders agreed to recommend the implementation of a standardized electronic circuit called the serial copy management system, or SCMS, into machines. SCMS is a system by which DAT machines can be used for digital-to-digital copying but will be precluded from digital copies of copies.

The DAT machine takes a quantum leap in the realm of taping technology. These machines will enable music listeners to audibly appreciate the symphonic quality of sound recordings previously apparent only to audiophiles with the most advanced analog tape recorders. Now, American consumers should finally have access to the technological advancement in sound recording for which they have long awaited.

Let us leave the day of the dinosaur and proceed toward a new and more innovative technological future by enacting this legislation. I encourage my colleagues to expeditiously enact this historic compromise.

INTRODUCTION OF LEGISLATION TO EXTEND THE SUSPENSION OF THE IMPORT DUTY ON SYNTHETIC RUTILE

HON. BENJAMIN L. CARDIN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 22, 1990

Mr. CARDIN. Mr. Speaker, today I introduced legislation to extend the suspension of the import duty on synthetic rutile. Few have heard of synthetic rutile, but this titanium bearing mineral, used as a feedstock in the production of titanium dioxide, is vital to the paint, plastics, and paper industries in the United States. Titanium dioxide is used as a nontranslucent ingredient in almost all paints, all printing papers except newsprint, and a wide variety of plastics and other products. As a principal feedstock for the production of titanium dioxide, synthetic rutile is a commodity vital to a large and important industry employing thousands. SCM Chemical, with a large facility in Baltimore, is a major producer of titanium dioxide.

Beginning in 1974, the import duty on synthetic rutile has been suspended by Congress. There have been a series of extensions of this suspension, with the most recent due to expire in 1990. For the reasons set out below, I believe the duty suspension for synthetic rutile should be extended again and I ask for my colleagues' support.

The most obvious reason for the suspension of duty on synthetic rutile is its inconsistent treatment under the harmonized tariff schedule of the United States. All other feedstocks for titanium dioxide—natural rutile, ilmenite, and titanium slag—are listed as duty-free. Only synthetic rutile is subject to duty, apparently for the sole reason that it was not a commercially available product when the tariff schedules were originally written. There is no logical reason for such disparate treatment of only one of four substances which are all put to the same use. This illogical distinction results only in an unfair and anticompetitive hardship on titanium dioxide producers dependent on synthetic rutile.

The producers who use synthetic rutile would suffer both in terms of production and employment as a result of any duty. There is currently only one domestic producer of synthetic rutile, Kerr-McGee Chemical Corp., and it is unable to supply the total domestic demand for the feedstock. Furthermore, as the economic outlook for major users of pigments has improved, domestic demand and worldwide competition for feedstocks has increased substantially. The cost/price squeeze caused by reliance on imports of synthetic rutile and the costs of any duty on such imports would threaten the economic health of much of the titanium dioxide industry and those it employs.

Continuation of the duty-free status for synthetic rutile would help protect an important domestic industry—not by erecting trade barriers, but by removing them. I look forward to the support of my colleagues for this measure.

THE DIGITAL AUDIO TAPE RECORDER ACT OF 1990

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 22, 1990

Mr. RITTER. Mr. Speaker, I rise today to announce my support for the Digital Audio Tape Recorder Act of 1990. Like many of my colleagues on the Energy and Commerce Committee, I think this legislation embodies a fair and appropriate response to a significant advancement in sound recording capability, the digital audio tape [DAT] recorder. In my view, this bill strikes an acceptable balance between many competing interests, including the needs of consumers, manufacturers, and the creative community. Equally important, this legislation sets the stage for the continuing rational discussion of economic rights of hardware and software producers regarding the development of future technologies.

As my colleagues know, this bill addresses an issue that has been the subject of substantial scrutiny and arduous negotiation. In 1987, the recording industry urged legislation that would have kept DAT machines out of the United States until the machines recording capability was limited. With the demise of that legislation, which I personally supported as giving appropriate weight to the United States value-added software producers, Members of both Houses of Congress encouraged the recording and consumer electronic industries to negotiate a compromise amongst themselves, and finally we have that compromise. Now that these two parties have jointly recommended this proposal to us, it is incumbent upon us to act.

In 1989, the worldwide recording industry and audio component manufacturers signed an agreement which recommended legislative action on a technical proposal to limit digital copying of copyright protected material on DAT machines. They agreed to recommend implementation of a standard circuit called the Serial Copy Management System, or SCMS. Under this system, DAT machines can be used for digital-to-digital copying, but will be precluded from making digital copies of copies. The bill I rise today to support as an original cosponsor will incorporate SCMS into every DAT machine manufactured after the effective date of this legislation.

The DAT machine revolutionizes the existing audio taping technology. These machines capture and preserve recordings with very high-quality fidelity. SCMS will prohibit the misuse of this medium to the detriment of our entertainers and our recording industry. The Digital Audio Tape Recorder Act of 1990 is a major step forward in bringing advanced technology into the home of American consumers while respecting the important jobs and economic activity of a major American industry, the recording industry.

I, therefore, urge my colleagues to consider seriously, and support this unique legislative response to one of the most exciting technological advances of our time.

HOSPITAL RELIEF

HON. LEON E. PANETTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 22, 1990

Mr. PANETTA. Mr. Speaker, I rise today to introduce two bills which will provide much-needed relief to hospitals which serve communities devastated by the great quake of 1989. One such hospital is Hazel Hawkins Memorial Hospital in Hollister, CA.

Like most rural hospitals, Hazel Hawkins was struggling to make ends meet even before the earthquake. Under today's Medicare reimbursement policies, rural hospitals are reimbursed for Medicare patients at rates which make it virtually impossible to compete with nearby urban facilities. With less money, they cannot provide a full range of services or attract topnotch staff. Yet small hospitals provide essential services to otherwise underserved communities, like Hollister. The residents of these communities will have no where to turn for adequate medical care in an emergency if these facilities are allowed to close.

In the case of Hazel Hawkins, the earthquake was the final straw. Because the hospital must treat many people in the area who have lost jobs and businesses, it is providing more and more care to people who cannot pay their bills. The situation is approaching crisis proportions, and the hospital board is now considering closing the intensive care unit due to inadequate funds. Hazel Hawkins needs help immediately in order to continue providing care to the people of San Benito County.

These bills can provide short-term financial assistance to hospitals like Hazel Hawkins Memorial allowing them to get back on their feet after the disaster. The first bill would authorize the Secretary of Health and Human Services to make available four grants of $500,000 each to small hospitals in the disaster area with a defined indigent case load. The second bill liberalizes requirements for assistance under the Medicare-Dependent Small Rural Hospital Program, which allows hospitals with high indigent case loads to change their reimbursement calculations. Together, these measures will allow rural hospitals to survive the current crisis so they may continue to serve communities in dire need. I strongly urge my colleagues to support swift passage of this legislation through the committee review process in response to an emergency situation.

TRIBUTE ON THE RETIREMENT OF BLAINE CORNELL-SUPERVISOR OF THE STANISLAUS NATIONAL FOREST

HON. RICHARD H. LEHMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 22, 1990

Mr. LEHMAN of California. Mr. Speaker, over the past 7 years, I have had the pleasure of working with a fine public servant, Blaine Cornell, who until recently was the supervisor of the Stanislaus National Forest. Blaine made the decision last December to retire after a Forest Service career which has spanned 38 years.

Blaine began his career on the Payette National Forest in Idaho as a seasonal employee working on fire control, trail maintenance, and timber management. After graduating from the University of Idaho with a bachelor of science degree in forest management, he returned to the Payette National Forest as a ranger on two different districts. Later, he moved on to the Teton National Forest in Wyoming and the Boise National Forest in Idaho. Blaine went to Nevada in 1964 to take a job as timber/fire staff on the Toiyabe National Forest. After holding that job for 5 years, he was promoted to deputy forest supervisor. Then in 1971, Blaine transferred to California to take over the supervisor's position in the Mendocino National Forest. Finally, Blaine made his final career move by coming to Sonora, CA, to become the supervisor of the Stanislaus in 1976.

My association with Blaine began in 1982 when I was elected to Congress from California's 18th district which includes part of the Stanislaus National Forest. Our work began in earnest when legislation to include the Tuolumne River in the National Wild and Scenic River System was being considered by Congress. Although we did not always agree on everything through the years, one could never doubt Blaine's sincerity and commitment to do what he thought was in the best interest of the forest.

I wish Blaine and his lovely wife Greta the best in their much deserved retirement. And no matter where they may go, I hope they will always consider Sonora and the Stanislaus National Forest their home.

TRIBUTE TO NELSON MANDELA

HON. GEO. W. CROCKETT, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 22, 1990

Mr. CROCKETT. Mr. Speaker, a few short days ago, Nelson Mandela, the symbolic and real hope of justice and freedom in South Africa, left the confinements of the South African prisons where he has spent the last 27 years.

Like all freedom-loving peoples of the world, we rejoice in this step for Mandela, and for all the people of South Africa. His statesmanship,

wisdom, and leadership will be crucial in the difficult negotiations that lie ahead.

But while he is no longer behind barbed wire gates, Nelson Mandela is not yet a free man. He, and 23 million other black South Africans remain imprisoned by the racist system of apartheid.

Mandela was not let out because of some miraculous change of heart on the part of the South African Government. He was freed because of the pressure brought to bear on that government by millions of South African blacks refusing to put up any longer with the status quo, and by the economic and political pressure from sanctions imposed by the United States Congress over Presidential veto.

Mandela's freedom is not the end, it is the beginning of the course to justice in South Africa. Now is not the time to relax sanctions. It's time to keep their feet to the fire until Mandela—and all of South Africa—are truly free.

ACREAGE BASE AND PROGRAM YIELD FLEXIBILITY ACT OF 1990

HON. CHARLES W. STENHOLM

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 22, 1990

Mr. STENHOLM. Mr. Speaker, I am pleased to join my colleague from Kansas [Mr. ROBERTS], in introducing the Acreage Base and Program Yield Flexibility Act of 1990.

Nobody knows yet what next year's farm legislation will look like, but whatever the new law does, it will almost certainly have to assign acreage bases and yields to participating farmers. We'll need some way to measure how many acres a farmer normally plants and what productive capacity is associated with those acres.

This bill maintains the current basic formulas, but provides additional flexibility to allow producers to make some modest adjustments in their management decisions. This legislation would not overhaul the whole machine; but rather, fine-tune what we already have—and know works—to make it run a little better.

By allowing producers to swap up to 20 percent of their program bases, farmers are provided a flexible and equitable system for making sound management decisions based on the ever changing circumstances that Mother Nature, markets, and Congress can create. Without this flexibility, many producers are forced to farm and manage the program instead of their operations.

In addition, this legislation provides equity to producers by allowing them to prove their yields upward before getting locked into another 5 years of farm programs. Too many farmers are locked into predetermined yields that are outdated by technology and improved farming practices. Allowing producers to make this adjustment will return commonsense management and marketing strategies to farm country.

The net result would be a more market oriented agriculture at less long-term cost to taxpayers. I urge my colleagues to support this legislation.

ANGOLA NEEDS PEACE

HON. JOHN M. SPRATT, JR.

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 22, 1990

Mr. SPRATT. Mr. Speaker, I am rising to express my concerns about the latest developments in Angola. Last year, the prospects for peace in Angola seemed much brighter after 14 bloody and destructive years of civil war.

The MPLA government and the leaders of UNITA came together in a summit meeting of African leaders in Zaire. At this summit in Gbadolite, the two leaders agreed to a cease-fire and negotiations for national reconciliation. Although difficult negotiations remained, the years of bloodshed seemed to be ending. However, the peace talks stalled and eventually fell apart. Then, last December the MPLA launched an offensive against UNITA-held territory. According to some reports, the latest offensive by the MPLA includes the use of significant numbers of tank companies, mechanized companies, and artillery companies. Hundreds of soldiers on both sides have already been killed and the end of the bloodshed is nowhere in sight.

The Bush administration has called upon "Luanda and the Soviet Union to stop the offensive immediately and concentrate instead on the peace process." I call upon my colleagues to join with me in asking for an end to the fighting so that peace can come to that violence ridden nation.

Whether you support UNITA or the MPLA is not the issue. The critical issue is to support an end to the 15-year-long civil war which has caused so much tragic bloodshed and death. Both Democrats and Republicans should urge both sides to the conflict to reach a cease-fire agreement and a national reconciliation agreement. Without national reconciliation and subsequent elections, the carnage and bloodshed will continue.

THE DRUG SUMMIT: A NEW ERA IN THE WAR ON DRUGS

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 22, 1990

Mr. BROOMFIELD. Mr. Speaker, I salute President Bush for keeping his promise to the American people to win the war on drugs. I also commend him for undertaking a potentially dangerous mission to the Cartagena drug summit. Thanks to his determined efforts, the summit was successful and the United States has cemented a regional alliance with Peru, Bolivia, and Colombia. While the drug war is not over, we have made some real progress and I believe the administration's approach to solving this problem is sound. I encourage my colleagues in the Congress to help the President keep the promises he made at the summit by supporting his overall Andean strategy.

At the Cartagena meeting, the President and the leaders of Colombia, Peru, and Bolivia committed themselves to a cooperative antidrug strategy. They formed the first antidrug cartel. While in Colombia, the leaders signed agreements to reduce cocaine consumption, production, and trafficking by increasing their governments' efforts against the cocaine trade. Already, the administration has requested a $2.2 billion 4-year regional aid program for the Andean states.

At the drug summit, our Chief Executive supported the need to help coca growers in the Andean countries find substitute crops. The U.S. Government is prepared to finance economic activities designed to generate alternative sources of income to make Andean nations less dependent on coca. Unfortunately, cocaine production has become the mainstay of the weak economies of the Andean nations. Coca cultivation and drug production reportedly provide those Andean economies with $4 billion a year in profits. Coca production creates jobs for about 1.5 million farmers who cultivate coca plants. The Presidents of the Andean nations also agreed that they must improve their governments' law enforcement capabilities, enhance their antinarcotics efforts and do more to control this illegal trade.

America must do its share in this war on illicit substances. We must be part of an international united front in the offensive against cocaine trafficking. We must cure our Nation's insatiable appetite for these illegal drugs. Demand reduction is one of the keys to eliminating the drug problem. We must also control the export of weapons to Latin America and keep the drug barons and their henchmen from terrorizing those nations with arms "made in America." Finally, we must stop the flow of precursor chemicals from the United States to Latin America for the production of narcotics.

At his inaugural address, the President promised to confront the drug problem. He told us that he would complete this important antinarcotics mission. He launched his attack on the drug problem by issuing a battle plan describing how America's war against the drug threat would be fought. The overall U.S. approach, the national drug control strategy, focuses both on domestic and international drug issues. The Andean strategy is particularly important. In carrying out that phase of the strategy, some progress has been made. General Noriega, who turned Panama into a money laundering and drug transit country, is facing drug charges. With United States support and encouragement, Colombia declared war on the drug traffickers. The Medellin cartel is in disarray. Jose Gonzalo Rodriguez Gacha, a drug baron, was killed in a shootout. Another drug kingpin, Pablo Escobar, was forced into hiding. Six months ago, the drug lords looked 10 feet tall. Now, they are asking for a truce. The Colombian offensive disrupted supply networks and drove down the price of coca leaves. So far, this part of America's antinarcotics strategy has produced results.

President Bush has also boosted funds for the war on drugs by 69 percent and the fiscal year 1991 budget calls for spending $10.6 billion on antidrug efforts. Some positive results are already visible. Consumption is down in the certain sectors of our society. Our President is following his strategy and keeping his

commitment to take action, and not use mere rhetoric, against the menace of drugs.

The drug summit was a tentative first step toward other more concrete agreements between the Andean states and the United States. Another summit is planned in 6 months. This summit was a major step toward expanded antinarcotics cooperation. We must comply with the understandings reached in Cartagena by providing assistance to those Andean nations. The role of Congress is critical in this regard. I am confident that the administration will keep its promises and continue the battle against the scourge of illegal drugs.

STATE RAIL SAFETY PROGRAM ENHANCEMENT ACT OF 1990

HON. BOB CLEMENT

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 22, 1990

Mr. CLEMENT. Mr. Speaker, today I am joined by Representative JIM COOPER and Representative HOWARD NEILSON in introducing bipartisan legislation which we believe will have a significant effect on the safety of our Nation's railroads.

As many of our colleagues know, under the Railroad Safety Act of 1970, certified State agencies are entitled to receive Federal grants of one-half of their costs of policing railroads' compliance with Federal railroad safety standards. Unfortunately, the Federal Government has not lived up to its half of the bargain.

After substantial cuts, funding for the grant program was zeroed out in fiscal year 1989, and not funded in fiscal year 1990, despite the fact that the Federal Railroad Administration [FRA] continues to rely on the participation of 111 State inspectors in its safety program. While the State of Tennessee has been able to continue funding its State inspection program through higher inspection fees, without the grants, some States may lose their incentive to participate in rail safety efforts. Last June, for instance, the Alabama Public Service Commission announced its intention not only to leave the FRA safety program, but to close its entire railway safety section because of the loss of Federal funds. There is nothing special about Alabama's case. At risk is over one-third of the Nation's entire rail safety inspection capability.

In addition to inadequate funding, State enforcement agencies have become increasingly frustrated with the system of reporting the safety violations they detect to the FRA. The FRA is inclined to lump together a railroad's violations and negotiate the fine. In many cases, the States reporting violations never know whether any enforcement action has been taken against the infringing railroad at all.

When States have taken rail enforcement matters into their own hands, the law has not been clear. For example, 3 years ago the State of Louisiana began inspecting rail vehicles carrying hazardous materials which were in rail yards awaiting shipment. Upon finding violations, the State placed monetary sanctions against a few carriers. Subsequently, the State of Louisiana had been served suit by a railroad company in which they contend a preemption of States by Federal regulations as they relate to the transportation of hazardous materials by rail. The suit is still pending. Certainly, States have a legitimate enforcement need when the public health and safety is at risk.

If the FRA continues with what has been aptly characterized as its laissez-faire attitude toward rail safety, and if the States can no longer afford their safety programs, the railroad industry will be largely left to regulate itself, which is most certainly not in the public interest.

The State Rail Safety Program Enhancement Act of 1990 will restore the commitment to vigorous safety enforcement that Congress intended when it reauthorized the grant program in fiscal year 1989. Our bill would allow State agencies which have been certified by the FRA, to impose fines on railroads they find to be in violation of Federal safety regulations. Our legislation will provide an incentive for States to continue their rail safety efforts without the Congress having to appropriate any Federal funding. It will also have the desirable effect of increasing the enforcement actions taken against unsafe railroads. However, the bill does not allow States to promulgate any new regulations of their own or impose fines in excess of the Federal fine schedule.

This legislation is supported by the National Association of Regulatory Commissioners. I invite my colleagues to support our sensible effort to make our Nation's railroads safer.

TRIBUTE TO MARY JAYNE BRONCATO

HON. GEORGE E. SANGMEISTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 22, 1990

Mr. SANGMEISTER. Mr. Speaker, it is with great pride that I rise to pay tribute to an exemplary educator, Mary Jayne Broncato, a constituent and a friend from my home district.

Mary Jayne Broncato recently added to her long list of professional achievements with her appointment as assistant superintendent of public education in Illinois. She brings to her new post 29 years of experience, including more than 20 years in Joliet School District 86, most recently as district superintendent.

Mary Jayne began her career of improving young minds in 1961 as a literature teacher at St. Francis High School in Wheaton, IL. From there she returned to Will County, teaching in Romeoville, IL, public schools from 1962 to 1967, before coming to District 86. Her full-time service to Joliet schools was only interrupted by appointments to the faculty of her two alma maters, Lewis University and Northern Illinois University in the 1970's.

In addition to her dedicated work as an educator, Mary Jayne is a devoted wife and mother who, together with her husband, Jacob, raised two sons, John and Patrick.

Mr. Speaker, Mary Jayne has also set a fine example by her dedication to community service. She was an active member of the board of directors of the United Way of Will County. In 1986 she served as campaign chairperson for the annual United Way Fund Drive, which that year raised a record amount under her leadership. Just last month she successfully completed her term as United Way Board President. She also unselfishly donates her time to the Boy Scouts of America, the American Cancer Society, and Joilet Project Pride serving on their respective boards of directors.

Mr. Speaker, the residents of Joilet are losing an outstanding educator, an involved and conscientious citizen, and a friend. However much we may miss her, our district will still benefit from her new position with the State of Illinois. On behalf of my constituents, I thank Mary Jayne Broncato for her service and wish her well in the future.

INTRODUCTION OF NEW HEALTH CARE INITIATIVE

HON. EDWARD R. ROYBAL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 22, 1990

Mr. ROYBAL. Mr. Speaker, today, I am pleased to be part of a new health care initiative which, if enacted, will bring much-needed relief to Americans of all ages. This bill, called Lifecare, marks an important advance in the Government's support of long-term care. Lifecare would provide home and community-based care and nursing home care for the impaired elderly, for disabled children and for disabled, Medicare-eligible adults under age 65. I commend my Senate colleague, the honorable EDWARD M. KENNEDY (D-Mass.) for his tireless work to bring this bill to fruition—he is the sponsor on the Senate side. And I am honored to join my colleague on the Aging Committee, the honorable MARY ROSE OAKAR (D-Ohio), in introducing this bill in the House.

In poll after poll, senior citizens have pointed to long-term care as their No. 1 health priority. Children with birth defects, or who are born prematurely, or who are victims of accidents, also are in sore need of long-term care to assist them with activities of daily living. Frail and disabled Americans need not be elderly—they can be any age. Long-term illnesses do not discriminate on the basis of age.

Unfortunately, our health care system does discriminate on the basis of the type of illness a person has. If it is an acute problem—something short-term, like a broken arm or an appendectomy—our health care system, public and private, usually does a good job of treating it and paying for the care. However, should a patient have the misfortune of contracting a chronic illness such as Alzheimer's disease, Parkinson's disease or Multiple Sclerosis, or suffering a serious injury or stroke which leads to lifetime injury, there is little or no assistance. Only Medicaid, the Federal-

State health program for the very poor, will pay for long-term care.

According to my subcommittee's estimates, some 1 million Americans annually become impoverished trying to meet the costs of long-term illness and injury each year. This is a startling statistic in a country as rich as ours.

In an attempt to address that problem, last year, the late Congressman Claude Pepper, who recognized long-term care as the most serious gap in the U.S. health care system, and I introduced legislation, H.R. 2263, to cover long-term care under medicare. Under the terms of that measure, chronically ill elderly, disabled persons and children could receive long-term home care benefits under Medicare after having been certified to be unable to perform two or more normal activities of daily living. Our bill focused on efficiency and appropriateness of care, too, establishing a professional case management team to determine needs and assign appropriate services. Quality of care is also a prime concern.

H.R. 2263 is still pending in committee. Since its introduction, a whole host of long-term care bills have been introduced in the House and the Senate.

Some of these measures have serious gaps in coverage, however. Many do not cover children or the disabled, which I consider a big mistake. The long-term care bill which is finally enacted by Congress must cover all Americans. Also, it is important that eligibility be based not on income but rather on the individual's functional limitations, as was true in the Pepper-Roybal bill. I am pleased that the initiative we introduce today, the Kennedy-Roybal-Oakar bill, meets that important test and will cover children and the disabled.

The financing of any long-term care proposal should be simple, and based on the principle of social insurance. The Pepper-Roybal bill identified one source of financing—removal of the ceiling on income subject to the Medicare payroll tax—and the financing mechanism was supported by the American public. I can note with pride that Senator KENNEDY has expressed this intent to pursue the same financing plan in our new bill. We will also adopt other appropriate social insurance methods as needed.

The new bill we introduce today builds upon the Pepper-Roybal bill in an important way—it would provide coverage for custodial care in nursing homes. I still believe, and I know the majority of Americans share my view, that one's home is the preferred setting for delivery of long-term care services. But when home care is no longer beneficial and nursing home care is unavoidable, we would make that type of care available.

I look forward to cooperating with my colleagues, Senator KENNEDY and Congresswoman OAKAR, on this bill and urge my other colleagues in the House and Senate to join us. Americans, more than even before, are looking for leadership in dealing with the problem of long-term care, a problem which will only get worse as our population ages. Let us take advantage of this opportunity to enact meaningful legislation to address the problem now.

CUDAHY VETERANS PROUDLY DEDICATE WAR MEMORIAL

HON. GERALD D. KLECZKA

WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 22, 1990

Mr. KLECZKA. Mr. Speaker, on Memorial Day, Monday, May 28, 1990, the Cudahy War Memorial Fund, Inc., in conjunction with the Allied Veterans Council of Cudahy, will be dedicating a memorial to all the veterans who served in foreign wars. They will be paying special tribute to those who gave their lives in the ultimate sacrifice.

The monument will be a massive 9 feet high by 7 feet wide black marble structure that has been designed to coordinate with the architectural layout of the site donated by the county government. The monument will be located in Cudahy on the southeast corner of Layton Avenue and Lake Drive, in Sheridan Park.

Seven short months ago, the veterans of Cudahy decided it was time to pay a fitting tribute to their fallen comrades. Once marshaled, the veterans responded in record time. While other communities have tried for years to raise the funds necessary to honor their veterans, Cudahy started, organized, funded, and will complete, and dedicate theirs in less than a year.

The dedication will take place after what is shaping up to be the largest parade ceremony in the history of the city. Even the neighboring communities have planned their Memorial Day activities so they can join in Cudahy's parade and dedication. From all indications, it will be the most successful community undertaking in the history of the city, and it will not cost the taxpayers one cent!

It is refreshing to see a community take the initiative to start and complete a project without State or Federal aid. In fact, the Cudahy War Memorial fund is projected to be in the enviable position of being overfunded. That Cudahy cares, is not just a slogan, it's a way of life the community practices.

The generous contributions received from the Patrick Cudahy Co., the Ladish Foundation, the Patrick and Anna M. Cudahy Foundation, the Cudahy Lions Club, the Cudahy Kiwanis Club, and the city of Cudahy have already assured the success of the project. Additional contributions will provide for the perpetual care of the monument.

Generations to come will be reminded of the courage and patriotism which motivated these gallant men and women when their country called them to duty. Cudahy echoes the sentiments expressed in the Cudahy Brothers Co., newsletter, "Peacock Feathers," after World War II that still rings true today: "Each and everyone of those men and women should be honored and remembered for time immemorial, for theirs was a heroic sacrifice, which benefited all the world."

The board of directors and the officers of the Cudahy War Memorial Fund, Inc., were the driving force behind the monument. The chairman of the board is Richard Bartoshevich, and the directors are Erwin Bud Bessler, Joseph P. Farina, George Dawidziak, Lloyd Buttke, Robert Felle Jr., Alexander Haidarian, Joseph Macek, Anthony Luljak, and Donald Jankowski. The officers are Frank Chovanec, president; Donald Arthur Jensen, vice president; and Daniel R. Furdek, secretary/treasurer. Each and every one deserves a heartfelt thanks for the effort they made on behalf of their community.

There are countless others, from local, State, and national officials to local individuals and family members of the deceased veterans who have contributed to make this a success and a showcase event for the community. This is truly a dedication that the whole community takes pride in. Congratulations Cudahy, on a job well done.

INTRODUCTION OF NURSING HOME ACCESS TO RESPIRATORY THERAPY ACT

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 22, 1990

Mr. VENTO. Mr. Speaker, I am introducing legislation today to improve the health care of our Nation's elderly by preserving respiratory therapy services at nursing homes.

In the wake of the repeal of catastrophic health insurance, we must find low cost ways of fine tuning the Medicare system to improve health care for the elderly. My bill would make a technical change in Medicare to assist elderly Americans in need of respiratory care, particularly those living in medically underserved areas such as inner cities and rural communities.

Growing numbers of our senior citizens suffer from both chronic and severe respiratory illnesses such as emphysema and asthma. There is an increasing population of elderly who are dependent upon mechanical ventilators to breathe for some part of the day. Years ago these patients would have remained confined to the hospital. The advance of medical technology and the advent of the Medicare prospective payment system has had the effect of transferring many of these respiratory patients out of the hospital and into alternative care sites such as skilled nursing facilities [SNF's].

Over the past 10 years, respiratory care in SNF's has been delivered by a variety of entities, including the transferring hospital, independent respiratory care companies, or by the nursing home. The system has worked well until recently, when Medicare began to enforce an outmoded and little-known provision which requires that only a hospital with a transfer agreement with a SNF may provide respiratory care personnel to the SNF. Furthermore, only full-time employees of that hospital may be sent to the nursing home. This provision was enacted in 1965 when respiratory care services were almost always limited to the hospital.

Medicare, until recently, has not enforced this rule. However, Medicare intermediaries in Ohio, Florida, and New Jersey have now revived it, and the consequences for SNF patients could be devastating, particularly in rural areas and inner cities.

Many rural hospitals are having severe manpower shortages, and must rely on tem-

porary agencies or contract service employees. Regardless of the qualifications of the respiratory personnel, these individuals may not provide reimbursable respiratory care simply because they are not full-time hospital employees.

Many small hospitals cannot afford a fully operational respiratory care department and must rely on contract personnel to deliver care to the respiratory patient population. Care to SNF patients again would be prohibited.

There are currently 6,000 vacancies for respiratory therapists in the country. The Institute of Medicine has predicted that by the year 2000 the demand for respiratory therapists will exceed the supply by 34 percent. The resurrection of this rule my Medicare would further limit respiratory care at SNF's already suffering from personnel shortages.

The legislation I am introducing today would rectify this problem by including respiratory therapy as part of extended care services in a skilled nursing facility. Since the legislation simply codifies the previously exisitng method of providing respiratory care services through a variety of practitioners, it is expected to have little or no budget impact. It simply allows patients afflicted with respiratory illnesses to continue to receive the needed and appropriate respiratory care, regardless of the care site.

Mr. Speaker, I am pleased that Representatives ROE, FAUNTROY, PENNY, COLLINS, WYDEN and CHAPMAN have joined me as original cosponsors of this legislation to improve the quality and increase the access to respiratory care services available to our nation's elderly. I am hopeful that this legislation will be enacted quickly so that the negative consequences of the enforcement of the outdated Medicare provision will be avoided. I urge other colleagues to join me in this important effort.

FLORIDA SHOULD NOT HAVE TO PAY FOR FLAWED FEDERAL POLICIES

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 22, 1990

Mr. FASCELL. Mr. Speaker, I rise to express my concern that, in implementing its policies, the Federal Government is abdicating its responsibility to finance its decisions. Good businessmen try to maximize their production while minimizing their costs; however, this is a practice, it seems, that is not transferable to the Federal Government. It is irresponsible for the Federal Government to continue to produce policies and, in the process of minimizing its costs, pass the bill on to State and local governments. Immigration is a prime example of policy by abdication being practiced [in south Florida] these days, and recently it was hinted that the Federal Government's Outer Continental Shelf Oil and Gas Development Program would soon follow suit.

I am dismayed over recent newspaper reports that the Secretary of the Interior would like Florida to buy back offshore oil exploration leases in the waters adjacent to the Florida Keys and Everglades National Park. The State of Florida did not encourage the sale of these leases nor did it benefit financially; the State of Florida should not have to pay one dime of the cost of buying back these leases. The statements of Secretary Lujan, however, indicate an increasingly standardized practice of the previous and current administration: the Federal Government asks State and local governments to supply the soap, the mop, and the elbow grease to clean up the mess caused by their policies.

Secretary Lujan was recently quoted as saying that "I can't start the practice of canceling leases, but maybe we can start getting States to buy those leases." I commend the Bush administration for trying to find a solution to this problem of great concern to all Floridians, but it is wrong to expect Florida to bail it out of this one just as it is wrong to ask States to pay for absorbing the costs of Federal immigration policies. It was irresponsible for the Department of the Interior to sell these leases while the area was protected by a moratorium, and it is unfair to ask the State of Florida to pay for refunds to the purchasers. It is equally unfair to ask high-impact States to pay the costs of inconsistent immigration policies which are an overwhelming burden for many local communities.

Federal immigration policies are a failure to control our borders and a definite failure to provide our communities with anything like adequate assistance to deal with the problem. A dangerous "gee whiz, tough luck" precedent has been set for one flawed Federal policy; why not apply it to another?

The people of south Florida do not have a foreign policy, a border patrol, or an immigration policy. What they do have are attractive and hospitable communities with a tradition of doing their best to welcome newcomers. They also have a major financial and community services problem.

South Florida has already expended well in excess of $100 million to deal with Federal refugee problems and faces additional millions in expenditures. This is just to take care of the refugees who are already here, not to mention the new wave looming on the horizon. Aside from the staggering sums involved, all south Floridians pay in the quality of education and health care for everyone because a crisis in priorities has been created. The Federal assistance that characterized past immigration emergencies has been replaced by a policy of Federal indifference.

We all recognize the acute strain the Federal budget deficit has placed on other levels of government, but this kind of taxation by abdication cannot go on. Federal immigration policies and Secretary Lujan's recent comments indicate a willingness to increase the financial burden for States for Federal policies. In each of the past few years, the Federal commitment to State and local governments absorbing new immigration populations has gotten smaller and smaller. The logic is simple; let's apply the Federal Government's commitment to immigration policies to finding a solution to the offshore drilling dilemma in Florida. Before we consider the capital gains tax, we need to look a the "Federal pains" tax. In south Florida, those rates are already too high to add the Outer Continental Shelf oil and gas exploration folly.

REMARKS ON BEHALF OF PAUL WILLIAM HILLYARD ON THE OCCASION OF HIS RETIREMENT

HON. D. FRENCH SLAUGHTER, JR.

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 22, 1990

Mr. SLAUGHTER of Virginia. Mr. Speaker, today, I pay tribute to a man who has done nothing more or less than serve his community faithfully for better than 50 years. Today, I wish to recognize Mr. Paul William Hillyard on the occasion of his retirement.

"Soup," as he is known, has been working for the Winchester, VA, school system for the last 30 years. He began his teaching career as a physical education teacher and for the past 15 years, he has served Daniel Morgan Middle School in an administrative capacity as assistant principal. In fact, Mr. Hillyard has been the assistant principal there since Daniel Morgan opened its doors in 1974.

Friday, February 23, 1990, may be the day Paul Hillyard retires, but I am sure that Daniel Morgan Middle School will carry forward many of his ideas for years to come. Also, I am confident that his spirit of contribution and participation will remain with the school as a legacy in its own right.

The secrets of "Soup's" success are not too difficult to find. To begin, he has a wonderful family. He is married and has three children, a son and two daughters. He also has two grandchildren, a granddaughter, and a grandson. Mention of his family would not be complete either without acknowledgement and respect paid to Mrs. Opal Hillyard, "Soup's" mother.

The Braddock Street United Methodist Church has seen four generations of Hillyard family members. Remarkably, those four generations continue to worship there, as I understand that Mrs. Opal Hillyard is still an active member.

Clearly, family and faith are two outstanding features of "Soup's" life. Community involvement is another. "Soup" is a member of the Gainesboro Volunteer Fire Department and the Ruritan Club. He has been a referee on both the college and high school levels. Further, he has served as a little league football referee. This kind of volunteerism is precisely the sort that President Bush has highlighted and applauded in speeches throughout the country.

Before concluding my remarks I want to say that contrary to the opinion of some it is not old fashioned, or otherwise out of date, to be a pillar of community or to serve others. It is not old fashioned to belong to the church where you and generations before and after have worshipped. Part of what makes our country so strong is its commitment, through the generations, to family, faith, and community. Values are what makes the difference in terms of quality of life.

Mr. Paul Hillyard, "Soup," built his life around the traditions of family, faith, and community service. While I am sure he will be missed at work, I am equally confident that his strong presence in the community will continue.

"Soup," I hope the years ahead are as rich as those behind you. Congratulations on your retirement.