SENATE—*Wednesday, March 4, 1992*

(Legislative day of Thursday, January 30, 1992)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. BYRD].

The PRESIDENT pro tempore. As we address our petitions to the Supreme Governor of the world, the Senate will be led in prayer by the Reverend Richard C. Halverson.

Dr. Halverson, please.

PRAYER

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

Let us pray:

For what the law could not do, in that it was weak through the flesh, God sending his own Son in the likeness of sinful flesh, and for sin, condemned sin in the flesh: That the righteousness of the law might be fulfilled in us, who walk not after the flesh, but after the Spirit.—Romans 8:3, 4.

Almighty God, the Bible is quite precise that there are things law cannot do—not because the law is wrong, but because of human weakness. Not even God's perfect law can produce a just and orderly society because of the inadequacy of the flesh. Help those who legislate to comprehend this. They say the right words, mean what they say, make great promises which they plan to keep; but fragile humanity frustrates their best intentions. Drugs, violence, killings challenge as they increase, and leadership, having done all it can, faces a futile task. Until we remember that God can do what law cannot.

Gracious Heavenly Father, facing as we do the limitations of law, the weakness of sinful flesh, give us grace, people and leaders, to open our hearts to God's love and power and grace, to God's infinite adequacy. Help us to humble ourselves before the Lord, acknowledge our need, resist self-justification and excuses, and open our hearts to the mighty work of the Holy Spirit in ourselves and our society.

In the name of Jesus, Friend of sinners and Saviour from sin. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized under the standing order.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, am I correct in my understanding that the Journal of proceedings has been approved and that the time for the two leaders has been reserved?

The PRESIDENT pro tempore. The Senator is correct.

SCHEDULE

Mr. MITCHELL. Mr. President, this morning there will be a period for morning business extending until 12 noon. The time between 10 a.m. and 10:45 a.m. will be under the control of the majority leader or his designee. In the remaining period of morning business, Senators GRAMM of Texas, and DOMENICI will be recognized for 15 minutes each, and during that time other Senators will be permitted to speak to address the Senate as well. At 12 noon, there will be 2 hours for debate on the motion to proceed to S. 1504, the Corporation for Public Broadcasting legislation. Of that time, 10 minutes will be under the control of Senator INOUYE; 110 minutes will be under the control of the Republican manager of the bill or his designee.

When all that time is used or yielded back, a rollcall vote will occur on the motion to proceed to the legislation.

It is my hope that we can complete action on this bill today.

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

The PRESIDENT pro tempore. The point of no quorum having been made, 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 PRESIDENT pro tempore. Without objection, it is so ordered.

COMPREHENSIVE LEGISLATION FOR ECONOMIC GROWTH AND TAX FAIRNESS

Mr. MITCHELL. Mr. President, yesterday the Senate Finance Committee reported to the Senate comprehensive legislation for economic growth and tax fairness. I commend Senator BENTSEN, the author of the legislation, for the skillful leadership he demonstrated in drawing up the legislation and gaining majority support within the committee for it.

The bill includes each of the seven proposals made by the President in his so-called priority tax package. There are some modifications to each of those proposals, but, in concept, each of the seven points proposed by the President is included in this plan.

The principal difference between the President's plan and Senator BENTSEN's plan is that the President's plan would increase the deficit by $27 billion over a 5-year period because, while providing certain tax incentives, it offers no mechanism to pay for those. The result would be increased borrowing and an increase in the deficit of $27 billion over a 5-year period.

By contrast, Senator BENTSEN's bill includes the seven incentives but pays for them by an increase in tax rates on the top one-half of 1 percent of all American taxpayers, and since the amount raised by that increase is more than needed to pay for the incentives, the balance provides a tax reduction for middle-class American families.

I emphasize that the increases in rates included in the Senate bill affect only the top one-half of 1 percent of all taxpayers; 99.5 percent of all American taxpayers will be unaffected by the rate increase. Under Senator BENTSEN's plan, an individual with a taxable income of $150,000 and a couple filing a joint return with taxable income of $175,000 would be subject to the tax rate increase, and those above that level. Anyone below that would not be affected by the tax rate increase. I emphasize, also, that we are talking about taxable income. In terms of total income, it is about $200,000 for a single taxpayer and about $225,000 for a couple filing a joint return.

The President has repeatedly stated in the past week that the Democratic bill will affect taxpayers making $35,000 and above. That is simply incorrect. There is no basis for such a statement. The bill will apply only to taxpayers whose taxable income is $150,000 and above for single taxpayers, $175,000 and above for joint returns.

In addition, Mr. President, I point out on the subject of taxes that in the President's budget, the President himself has proposed a large number of tax increases. That budget was submitted to the Congress about a month ago, and there are many proposals by the President to increase taxes on many Americans. They are all contained in the budget. The budget is a public document available for every Member of the Senate to read and every member of the American public to see. No one should be under any illusion about tax increases. In his budget, the President has proposed a large number of tax increases on a large number of Americans for a variety of purposes.

Mr. President, I believe that we must act and act promptly to deal with the

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

economic problems confronting our country. I believe what we should be striving for is economic growth and fairness in our tax system. Senator BENTSEN'S bill achieves both.

In a spirit of bipartisanship, Senator BENTSEN'S bill accepts and incorporates each of the provisions proposed by the President as his growth package. Some are modified in ways which I believe improves them, but each is included. They are investment tax allowance, changes in the corporate alternative minimum tax, passive loss relief, changes in the rules governing pension investments and real estate, a tax credit for first-time home buyers, a differential in the taxation of capital gains provided for a lower tax rate on capital gains as opposed to taxes on ordinary income, and a penalty-free withdrawal from individual retirement accounts for home purchases.

Those are all included in the Senate bill. They all make sense in one form or another. Therefore, we believe the President should enthusiastically support this bill.

I emphasize the only difference is that while the President's bill would increase the deficit by $27 billion by not providing any mechanism to pay for these incentives, Senator BENTSEN'S bill does not increase the deficit and it pays for them by increasing tax rates on the very top one-half of 1 percent of all Americans. The balance that that raises over and above what is needed to pay for the tax incentives is provided in the form of tax relief. That is a reduction in taxes for a large number of middle-income American families.

We think it is fair. We think it promotes economic growth. We think it is what the country needs. We hope very much that the President will see his way clear to sign the bill.

Mr. President, I yield the floor and I designate Senator DASCHLE to control the remainder of the time that is available to me.

The PRESIDENT pro tempore. The Senator from South Dakota [Mr. DASCHLE].

Mr. DASCHLE. Mr. President, I yield myself such time as I may consume.

The PRESIDENT pro tempore. The Senator is recognized for such time as he may consume.

Mr. DASCHLE. Mr. President, first let me commend the majority leader for a very excellent statement. He speaks very eloquently and convincingly for so many of us on the floor as we address this issue. He has touched on a number of the salient points that many of us hope to make over the course of the next week or 10 days.

I think it is imperative that people understand our desire to work with the administration, to work with those on the other side of the aisle who clearly want what we want: a plan, an approach, a strategy to get this country moving again.

Let me also commend the chairman of the Senate Finance Committee for a remarkable demonstration of leadership in what he has been able to do over the course of the last couple of weeks. I must say in the time I have been in the Senate I do not know that I have ever seen a clearer demonstration of leadership, a clearer demonstration of ability to bring sides together as he so capably exhibited over the last couple of weeks. He convincingly demonstrated again yesterday his ardent desire to work with all sides to accommodate the needs of this country, to accommodate the concerns of the administration, to accommodate the many concerns that all of us have with regard to addressing this problem effectively.

Were he here, I would personally again draw attention to the fact that were it not for his leadership, I doubt that we would be at this point today.

As we look to the debate about this issue over the course of the next week or so—and I am sure that within a week we will have the opportunity to come to the floor to take up for consideration the bill passed by the Finance Committee yesterday—I hope that four points in particular will be kept in mind.

The first of the four is a point made so well by the majority leader just moments ago. This truly is an effort on the part of Democrats to work with the administration on those issues the administration feels are the cornerstone, the crux of what would move this country forward. It is the kind of approach that, through tax changes, would assist our industries and our whole economy in coming up with the means and financial tools with which to address the problems we all know exist.

The President has made a substantial investment over many years in his advocacy of a capital gains reduction. This bill has a capital gains reduction. The President has talked about the need for an investment tax allowance. This bill has an investment tax allowance. There has been talk about the need for AMT changes, enhancement and simplification of the alternative minimum tax. This bill has alternative minimum tax simplification and enhancement.

Easing of the passive loss rules is something realtors and home builders and a broad array of investors have come forth to discuss and advocate as one way to get the real estate industry turned around. They have argued that, if we cannot deal with the real estate industry, we will not be able to deal with the savings and loan industry or the whole financial community; that, if we are going to get this economy moving again, a very significant step has to be in the area of changing the passive loss rules; that perhaps we overreacted in 1986 by not only changing accelerated depreciation but by putting in place the passive loss rules which had a devastating effect in some sectors of the economy, especially real estate. As a result, this bill addresses the passive loss rules.

This bill contains a $5,000 credit for first-time home buyers, something the President spoke so passionately about in his State of the Union Address. He spoke of the need to encourage home buyers to get out there and invest for the first time in something they believe would be the American dream, something we have associated with the American dream throughout history.

The next provision supported by the President and included in this bill is one that has broad-based appeal in the Senate—the expanded deduction for contributions to an individual retirement account. Everyone realizes the need for savings. Everyone realizes the impact the IRA contribution deduction has had in the past on encouraging people to save. This bill has perhaps the finest individual retirement account program that we could fashion. So it responds to that need for savings. It tells investors it is time once again to save. We are going to put an emphasis, a premium, on the need to save in the future.

Finally, we have included provisions to promote real estate investment through pension funds. The President advocated this step in his plan, as well.

So, Mr. President, in elaborating on each and every one of these provisions, I am simply making as strong a case as I can that there are a large number of similarities between what the President has proposed and what the Democrats are proposing with regard to moving the economy ahead. Using tax tools, to the extent that we can, to the extent we can afford to use them, is something we both understand and both want to do. We both realize this is a very significant aspect of our overall strategy to get this economy moving again.

The second point that needs to be made, however, is that, in spite of all the similarities, there are two significant differences. And, again, the majority leader addressed those quite well.

The first of the two differences is that we pay for our plan. There is no easy way to do this. That is why we have a $400 billion anticipated budget deficit this year.

It is not easy to come up with revenue for expenditures, either tax expenditures or direct expenditures, and no one knows that better than the President pro tempore who is faced with these challenges each and every year in the Appropriations Committee. But we did come up with a mechanism to pay for all the tax tools that we have incorporated in this economic strategy. It probably ought not to be much of a surprise to anyone that the President has chosen not to pay for the proposals he has advocated.

Yesterday, in a very enlightening exchange between the majority leader, on the one hand, and our tax accountants, attorneys, and staff in the Finance Committee, on the other hand, it was clear that the revenue from the accrual accounting changes the President is using as a means to generate somewhere in the vicinity of $17 billion, if I recall, is simply not there. Everyone acknowledged that before the Finance Committee yesterday. It is not there. It is created out of thin air.

There is no $17 billion to be generated from any kind of accounting change, No. 1; and No. 2, it robs us of funds we are going to need in the future. So, for the President to use that approach is understandable but unacceptable.

He took some heat, of course, in the course of the last few weeks in the primaries. I noticed with some interest this morning in the Wall Street Journal that the President was quoted as saying he now regrets some of the decisions he made a couple of years ago as part of the so-called budget agreement.

Interestingly, he regrets them not because of the pressure to reduce the deficit. At that time he made some very compelling statements about the need to reduce the deficit. But, today in the Wall Street Journal, he said he regrets the fact that he agreed to the tax increases in the budget agreement because, he said, "Look at all the flak it is taking."

Then the paper quotes him as saying: "Anytime you get hammered on something, I guess you want to redo it." I do not know what that means. But, I tell you, that is not a very good demonstration of leadership.

Anytime you get hammered on something you want to redo it? If that were the gauge by which we decided what was right and what was wrong—that is, by how many times we got hammered on something—I wonder what this country would do faced with the difficulties, the challenges, that we have on a weekly basis in this country. We get hammered each and every day for making tough decisions, and making policy in this country.

Now, to say it is time to redo it because you are getting hammered is not a demonstration of leadership, and it is very regrettable. The President should be faulted for not demonstrating leadership, for simply looking at the prevailing winds in order to make decisions with regard to economic proposals and a whole range of things.

Now, the President's statement on an issue on which people admired him for taking the flak—"I guess it was a mistake because I am getting hammered on it"—reveals, once again, that the President lacks leadership, lacks conviction, lacks direction, and lacks a philosophical approach to Government. And that will be evidenced, I am sure, as we debate this particular bill.

So there is a big difference. We pay for ours. He does not.

The second big difference is that we recognize the need for fairness. We talked a lot about fairness yesterday. The fact is that it is absolutely essential. Most people recognize now the essential need for us to begin to restore fairness.

The 1980's were cruel on the middle class. There is no question about that. The 1980's represented a decade where the wealthy did quite well. In fact, those in the top 1 percent of income earners saw a reduction in taxes, I am told of approximately 15 percent, while the middle class saw an increase in taxes by about 8 percent. So the richest 1 percent saw a reduction in taxes of 15 percent. The middle class actually saw an increase in taxes by more than 7 percent.

We have to begin to look at the Tax Code not only for how we can spur the economy, for how we can do things that will move this economy along, but also for how we can restore fairness and bring about some responsibility in the Tax Code based upon the ability to pay. That is what this bill does.

So recognizing the need for fairness, but also recognizing the need to pay for the things that we are doing in this bill are the two essential differences between the President's approach and the Finance Committee approach passed yesterday.

The third point that needs to be made is that this is really the initial step. Economist after economist has come before the committee, and come before the Congress, to tell us that, regardless of what tax tools we utilize to get this economy moving again, there is no way we can create the kind of incentive package through the Tax Code alone that will do the entire job. We recognize that. So it is essential that everyone understand this is only the first step.

The next step is going to be in the hands of the architect sitting in the chair. The chairman of the Appropriations Committee and all of those associated with the appropriations responsibility in this country truly will give us the second phase of this most important strategy; that is, investment, investment in our country and in a broad array of different opportunities that we have only through the appropriations process.

Economists have told us time and again that the single best thing we can do for this country to get it moving again, not in the short term but in the long term, is to reinvest in this country. They say that investment is too low, that we have to make some fundamental changes with regard to our investment strategy. We must invest not only in infrastructure and in all the traditional areas, but in our work force, in strengthening that work force, and especially in our children. That is certainly something we have to face this year.

So indeed, this is just one step, a first and important step, we must take if indeed we are going to move this economy forward.

The final point to be made has to do with deficit reduction. There is not a person in this Chamber that has not made a speech about the need for deficit reduction. I think, as we consider all of our priorities, that, too, must be an essential element in the mix. We all recognize that. The question is, How do we do it?

I think that you will find overwhelming agreement that it must have priority; that deficit reduction in the longer term must be addressed. Obviously, by moving the economy forward and generating greater economic growth, we are going to reduce the deficit simply through the additional revenues coming in, but that alone will not do it.

There are ways that we, as Democrats, and I am sure as Republicans alike, can do this within the process, through our investment strategy, through the appropriations process, and ultimately through coming to grips with the challenge that lies before us. We must find ways to meet our needs, but also recognize that we simply cannot pay the interest on the debt that we continue to pay in the budget. We can make that an integral part of this process, and realize its importance, too.

It does not have to be a middle-income tax cut or a deficit reduction package. It does not have to be utilizing financial tax tools or using the peace dividend for investment strategies. We can find a way in which to ensure that each one of these needs are addressed by careful evaluation of its impact, by recognizing the importance of putting priority where priority belongs.

So, Mr. President, I am very pleased with the action taken by the Senate Finance Committee yesterday. Again, I commend the chairman for his remarkable leadership. I would hope that this is not only the first step to economic progress but also the first step to a bipartisan approach to addressing that progress in an effective way, in a way that sends the right message to the American people, in a way that will ultimately bring about the confidence that we are going to turn this economy around.

I yield the floor.

Mr. DOMENICI addressed the Chair.

The PRESIDENT pro tempore. The majority leader's designee controls the time until 10:45 a.m. today.

Mr. DOMENICI. Mr. President, I wonder if I might ask the representative of the majority leader whether; Do I have time in morning business?

The PRESIDENT pro tempore. The Senator under the order has 15 minutes.

Mr. DOMENICI. And whether I can proceed now rather than just chalk up some time.

Mr. DASCHLE. Mr. President, I have no objection if the Senator wishes to go ahead. We will retain the remainder of our time and allow the Senator to go ahead.

The PRESIDENT pro tempore. The majority leader has 15 minutes remaining. Without objection, 15 minutes will remain under the control of the majority leader or his designee until the hour of 12 o'clock has arrived.

The Senator from New Mexico [Mr. DOMENICI] is recognized for 15 minutes.

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

Mr. President, I, today, was going to spend my 15 minutes on these two charts but frankly the bill or bills that the Finance Committee reported out yesterday have become so important to the Senator from New Mexico that I am going to use a very brief time on this, and then return quickly and give my analysis of the Senate Finance Committee bill.

Mr. President, there has been a lot said about what has the President done in the last couple of years with reference to the economy and other matters of importance. I want to remind everyone who might be interested in what I am saying that in the U.S. House of Representatives, the Democratic party has 102 more Democratic representatives than Republican, and then there is an Independent from up in the Northeast, and he votes with the Democrats, so essentially, 103 more votes than the Republicans.

In our body, it goes without saying that the Democrats are in control, both of the committees, and they are in the majority by a substantial margin.

So it seems to me that we ought to square with the American people about what that majority in the House and that majority in the Senate, in terms of legislation, has been busy about for the last couple of years.

Somebody came to the floor a while ago and said, "It has been 494 days since the recession started, and what has the President done?" I think the distinguished Senator from Iowa who sits here, was here then.

Well, today, let me suggest that I made a list of all the initiatives the President has asked Congress to enact. I am going to tick them off. He asked the Congress to help the cities by providing jobs through enterprise zones. 1,119 days ago; nothing has happened. Capital gains tax. It is as if he just asked for that in his last State of the Union; but he has requested it over and over. It is 1,119 days overdue. Not yet law. Making the research and development credit permanent for competitiveness and jobs; 1,119 days overdue; not yet the law.

Restructure of the education system. We passed an education bill in the Senate here. It was not very highly touted when one considers how much education is being talked about in America. But essentially, there were three provisions that the President of the United States asked that Congress enact. These include choice, and model schools et cetera the Education 2000 proposals. I think the American people think these proposals were thought a pretty good idea. Well, he had not received that yet—a little tiny piece of it, but no law. That is not as long overdue; only 1,067 days.

And then the next one is an interesting one. Crime, the habeas corpus, exclusionary rule, and death penalty within the Federal system, which is getting more and more important, because it is handling more and more drug crimes. He asked for the death penalty, habeas corpus reform to eliminate delays, exclusionary rule to allow our law enforcement people to get more evidence in. No law, 986 days overdue.

Family savings accounts, something people think is good; something for Americans to use for the purpose of college education, major medical expenses, and other things. That has been up for 763 days at the President's request; overdue.

The President asked in the State of the Union for a withdrawal of IRA's for first-time home buyers and other purposes. Actually, that is not new either. The President asked for that 736 days ago. Zero.

Product liability reform. It has not even been seriously debated in the Senate yet almost all of America's business suggests that too many lawsuits is an enormous impediment to competitiveness, and Americans would like to make it more fair. Nothing has been done. The energy strategy has been a long time in the making. A lot of work on the report and recommendations. Then legislation, hearings, and deadlock. The actual legislation is only 308 days overdue. The Senate has acted but more delay is expected in the House. The next one, not yet overdue, is the President's growth tax package. It is not overdue. We have 16 days until it is due.

Mr. President, that would be enough to talk about, excepting I thought I might say, since we were not able to do any of these, we must be really busy doing some important things.

Here is a little list of the wrong agenda. Look at it. If it has anything whatsoever to do with jobs, growth in the American economy, then I say to the American public I do not understand that term jobs or its meaning.

We have campaign finance reform, so we can use the taxpayers' money to finance elections. That has been a part of the wrong agenda agenda. Repeal the Hatch Act, so that our public servants have a different relationship to partisan politics, whether one likes it or does not. It really has nothing whatsoever to do with the problem that the American people say we should have been addressing.

Motor voter. That is an interesting one. That is so Americans can register to vote when they get a drivers license. That is an interesting idea. That does it have to do with economic growth or jobs?

We spent time debating a Lumbee Indian Recognition Act recently. Establish regional primaries, striker replacement prohibition, and dairy price dairy price supports, and gun control.

The question is not what has the President stood for and wanted for the country, but rather what has the democratically controlled Congress been busy doing the last couple of years? Let us see what they were busy doing.

Mr. President, I have not heard the speeches this morning from the opposite side with reference to the Finance Committee and the bill they reported out yesterday, but I heard enough to wonder if I and my staff read the same bill. I heard it said that the Finance Committee bill is almost what the President asked for.

Well, let me suggest that if it is what the President asked for, it might look like some of the President's ideas from a distance when you can't see the detail. Some have suggested that seven of the provisions for growth are very similar to what the President asked for; that is, a twin of the President's proposals. I assure you, Mr. President, if you want to use that analogy, the Finance Committee bill is the evil twin, without any question. I hope in the next few minutes to tell you and the Senators how it differs from the President's package in innumerable ways—some small, some big policy.

Let me summarize the bill—and I am going to keep saying bill or bills, because essentially it looks like two bills, and that is technical, but they had to do that in order to get their procedure right. They may merge them on the floor. I do not want to make too much about it. The package does the following in general terms: It raises the deficit. And I defy anyone, on budget practices that we have been using, to say it does not.

It creates a sequester, Mr. President. It will cause a sequester on the entitlement side of this ledger. I defy anyone to say it will not. It increases taxes, and while it is touted to increase taxes less than the House, that is an interesting one. The House's taxes are over 6 years. Finance Committee's bill is over 5.

So the 5-year taxes are less than the House's 6. But interesting enough, if you take the same timeframe, they are identical. So I am going to conclude that the tax increases are at least as much as the House, and if they are not, they are off by a very, very slight amount.

It increases spending, and, yes, the occupant of the Chair might be interested in knowing that it creates a new entitlement program to experiment with a new way of direct lending for college attendees in the United States. It was just dropped from the bill the other day because some of us did not think we needed a new entitlement. But it reincarnated. And I conclude unequivocally it does little or nothing, little or nothing, to stimulate the economy.

Now, having said, that I want to proceed and discuss what I found. I want to say I think American people believe that the $5,000 credit for first-time home buyers is a very, very important part of this recovery plan. And it is touted as being the same as the President's. It is not. The President's proposal allows the credit for first time home buyers of new or existing homes. If you find a home that fits you and you are a first-time home buyer you get the credit if it is the first home you buy. The Finance Committee bill only applies to new construction. A big difference.

The new deduction for children. The President wanted a $500 deduction. The Finance Committee bill includes a $300 credit. But, more importantly, for a bill that is touted to be for the middle class, it is capped, and if I understand it right it is capped at between $50,000 and $70,000, I believe. In any event many of these so-called middle-income Americans are left out of that.

The President says if you have a child and you are raising the child and you are a tax-paying American, you get a $500 additional deduction. You do not have to draw lines with reference to how much income you are taking in.

The investment tax allowance. Many think we should have had one of the old-time investment tax credits in this bill. But the President said let us have a 15-percent investment tax allowance. This Finance Committee bill has 10 percent instead of 15 percent. One might say that isn't much of a difference. Well, it is a big difference because, frankly, the 15-percent investment allowance, barely made it as an economic stimulus. It is approximately equal to a 5-percent investment tax credit. I assume that we are providing very little incentive when it gets down to 10-percent allowance.

Now, almost every provision that is touted as being the twin of the President is different. Capital gains, substantially different. Yes, a capital gains, but somebody else's version. In fact, a very targeted capital gains as to what you can use it for. And most people assume if you put that in, it will not be long until you change it because legislative distinctions drawn as of lines will not work.

Where is the fairness that was touted, where is the fairness in this bill? The good twin was switched for the bad one. I only find fairness attempted in the $300 deductible for children. I do not know if it is fair to cap that at less than what is commonly thought to be the middle income in America and then tout fairness. Having said that, let me proceed with some of the other interesting things.

The President would pay for his $500 deduction for children by saying let us use the peace dividend, the new peace dividend in his new reductions in defense to pay for that. I am not sure whether the occupant of the Chair supports that. In fact, I would assume he did not. But essentially what this bill says is do not use any of the peace dividend to help the taxpayers. The President says use it all to help the taxpayers. I think that means that somebody plans to spend the peace dividend. In fact I know some people do. I know some want to spend it all. Others want to spend half.

Let me repeat: The President said you give it to the taxpayers. This bill says do not touch it, leave it there so Congress can spend it.

I do not believe that the peace dividend ought to be used to increase dramatically spending on programs in this country, domestic programs, especially since we have only canceled three domestic programs in 11 years. It cannot be that all these domestic programs have eternal life. Three have been canceled. And the huge inventory in the hundreds and hundreds of programs is left intact and this would say put that money, that defense money, into that allocation process and spend it for that kind of domestic program.

Some would say no, we will not; we will spend it elsewhere. But I am saying Congress will be permitted to spend it that way.

Let me proceed with a couple of specifics that we have found beyond what I have just talked about. This is not a normal bill. This is not a normal year. The Finance Committee——

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

Mr. DOMENICI. Mr. President, I assume that the majority leader's time is going to be reclaimed. Is that correct?

Mr. DASCHLE. That is correct.

Mr. DOMENICI. OK; I have some additional remarks.

The Democrats on the Senate Finance Committee have reported a package that raises the deficit, creates a sequester, increases taxes, increases spending, creates a new entitlement program, and does little to stimulate economic growth.

Any normal bill that did all these things I have just mentioned would obviously run afoul of the Budget Act and require 60 votes to be seriously considered.

But this is not a normal bill. This is not a normal year. And the Democrats on the Finance Committee have cleverly stretched the rules to avoid the embarrassment of having the bill fail here on the floor of the U.S. Senate.

They do not want a bill. They want a political issue. They want a veto. Well, they will get it and we will have wasted 2 months when we should have been doing something for the country.

Fortunately, the economy seems to be improving now, even in spite of our inaction.

There is no way to deny these facts. I look forward to the Senate Democratic leadership's explanation.

Let me be very specific.

First, the Democratic package increases the deficit this year. Procedurally, this will become evident when you learn that they did not report one bill yesterday but two.

The deficit will increase each year, 1992 through 1995, under the package reported yesterday. The deficits increase at least $2 billion this year, and similar amounts each year after.

I am sure the chairman of the Finance Committee will say this is not so. But it is. The Senate Finance Committee has already added more than $4 billion to the deficit this year, and is prepared to add $2 billion more.

There is no question that a Budget Act point of order lies against this package for exceeding the maximum deficit amount we agreed to in last year's budget resolution. I will offer that point of order when the bill is before us.

The Democratic leadership will have to argue to waive the point of order to protect the bill from failing. As such they will be admitting that the bill does raise the deficit. Unfortunately, that point of order can be waived with a simple majority, but make no mistake about it, this package increases the deficit.

Second, the Democratic tax and spend package if it becomes law will trigger this fall an automatic sequester—cuts of $4.0 billion in Medicare, farm payments, student loans, and unemployment benefits.

There is no question this would happen. I challenge the Democratic leadership to come to the floor and tell the American public that what I have said is not true. They cannot do it. I am right.

Third, you will shortly see that in order to game the complex and confusing budget system—created in no small part from the Democrat's reserve funds put in last year's Democratic budget resolution, one which I did not support—you will see that two bills were reported yesterday, not one.

This is so that spending increases in the bill for Medicare expenditures totalling nearly half-a-billion, and the creation of entitlement spending for student loans, can be cherry picked with some of the bill's revenue increasers to appear deficit neutral.

The spending increases were needed to buy votes for the package. The two

bill's approach is to allow the chairman of the Budget Committee to come down here and give the Finance Committee more spending allocation from the reserve fund and avoid a 60-vote point of order that would normally lie against the bill.

The system is being gamed royally.

Mr. President, the 1992 budget resolution clearly permits the use of reserve funds. And I do not deny the rights of the chairman of the Budget Committee from coming here to the floor and changing the spending allocation to the Finance Committee to accommodate the new spending being proposed.

Mr. President, should the chairman of the budget Committee propose spending allocation adjustments to the Senate Finance Committee as it relates to the consideration of either of the two bills reported from that committee yesterday I ask that the allocation change not take place until such time as the Republican leader or his designee have an opportunity to review the changes and comment on them.

And we are creating an entitlement in spending with a new student loan program, exceeding $2.5 billion in over the life of this bill. What audacity with deficits running at historic highs.

Interestingly, someone might ask how could you create entitlement spending that costs this much and not pay for it.

Well, the same accrual accounting rules that the majority leader has been so quick to criticize the administration's proposed changes to the Pension Benefit Corporation, are being used to show small costs for his committee's new student loan program.

Finally, the package increases taxes nearly $57 billion—over the period ending in 1996.

Very interesting, some Democrats say well this is less than the House bill. The House bill's tax increases of $78 billion ran through 1997 not 1996. We are not comparing apples and apples. If we were, I think you will find that this bill increases taxes just as much as the House bill—nearly $75 billion.

Nevertheless, we should not be talking about tax increases. That is nonstarter.

The Democrats want to raise taxes because they cannot find it in their hearts to reduce spending.

Remember the President's tax cuts for families with children were paid for with reduced spending—defense outlays were cut by nearly $30 billion, entitlement spending excluding the proposed and needed reforms to the Pension Benefit Corporation were cut $38 billion, all estimates made by the Congressional Budget Office.

And finally, let's be serious, the capital gains proposal in the Finance Committee's package is not the President's—it will not do what the President's proposal will do to stimulate investment and growth.

More importantly, the Finance Committee's package does not do that much for investment, their investment tax allowance would run only through the end of the year, the President's plan was twice as long.

The President's tax R&E extenders were permanent, the Finance Committee's R&E are long enough to get us to the next congressional election.

For all these reasons, Mr. President, the Senate Finance Committee package is wrong and should be defeated. If not I am sure it will be vetoed and the veto upheld.

The PRESIDENT pro tempore. The Senator from South Dakota [Mr. DASCHLE].

Mr. DASCHLE. Mr. President, I yield myself such time as I may consume.

The PRESIDENT pro tempore. The Senator from South Dakota [Mr. DASCHLE] is recognized for such time as he may consume under the time under his control.

Mr. DASCHLE. I thank the President.

Mr. President, I find it interesting that the Senator would find fault with the Finance Committee plan, first, because he says it raises the deficit and, second, because he says he does not think it goes far enough. I am intrigued by that paradox, and I am amazed that the Senator would find fault with our plan by claiming that it raises the deficit. He says he defies someone to prove otherwise. I challenge him to demonstrate to us how he sees this as raising the deficit.

We clearly have an offset. The Joint Committee on Taxation has laid out in no uncertain terms that the revenue generated more than covers the expenditures provided within the bill. So there is absolutely no way that this bill could be accused of increasing the deficit one cent. We pay for every single thing that we have provided within that bill.

It is interesting to me that anyone would challenge our bill on the basis of raising the deficit when the President's own plan, yesterday, without any question, convincingly demonstrated that it falls short by at least $17 billion, in this fancy accrual approach that the President has acknowledged as his source for revenue to be used in offsetting some of the costs in his plan.

So on both counts, No. 1, because the Joint Tax Committee has so clearly pointed out the adequacy of our offsets and, No. 2, because the President himself has used a fancy method of accrual to come up with the smoke-and-mirrors offset that was discussed yesterday, I find his charge of raising the deficit absolutely in error.

Mr. DOMENICI. I wonder if the Senator will yield for a question.

Mr. DASCHLE. I yield.

Mr. DOMENICI. I raise the point and ask the question. The Senator asked if the Senator from New Mexico would demonstrate that the bill is not deficit neutral.

Mr. DASCHLE. That is right.

Mr. DOMENICI. I would suggest that I would be glad to answer right now, but will wait until the bill is on the floor. I will be glad to ask the Parliamentarian. A point of order lies against the bill as currently drawn because the cap on the deficit, the amount of the deficit has to be raised. I believe the answer is the Parliamentarian will say yes, it is subject to a point of order. So I believe that is pretty good proof, when you raise the deficit amount a point of order will lie under the Budget Act that indeed you increase the deficit.

So I just wonder if the Senator agrees that, if this is the case, indeed it does raise the deficit or else why would one need to raise the deficit cap.

Mr. DASCHLE. We will get into that in much greater detail when we debate the bill because, as the former chairman of the Budget Committee knows, there are all kinds of reasons because of the rules of the Senate which require us to take that approach.

As the Senator from New Mexico is aware, the leadership is making an extensive effort to see that this legislation is passed by the March 20 deadline proposed by the President. The only way to do that is to bring this bill to the floor under rules that will prevent members from using it as a vehicle for scores of unrelated amendments. Therefore, in drafting this measure, the committee relied upon a $3.5 billion surplus in revenues since the last budget resolution was passed. The effect of this is that members who offer amendments on the floor that would reduce revenues will find their amendments subject to a 60-vote point of order.

Let me also point out to the Senator from New Mexico that, in terms of increasing the Federal budget deficit with regard to possible sequestration, the President's Office of Management and Budget has not yet made any determination as to the impact of the entire bill on the budget deficit.

But I think that the former chairman would clearly recognize that the dollars that we raise in that bill provide the offset necessary that would not require a budget waiver for those expenditures. So we will address that point and I will be happy to discuss it at greater length whenever he wishes to do it. But he certainly, I think, has absolutely no grounds with which to make the charge that this raises the deficit.

Second, with regard to caps, the reason we are concerned about caps, the reason we do focus these funds specifically as we have is because we are concerned about the deficit. We do want to find the adequate offset, No. 1. And No. 2, we do not want to give windfalls to the wealthy. We have done that too much in the 1980's. This is our re-

sponse, in an effort to provide a kind of fairness.

The Senator talks about the middle-income tax cuts and its lack of necessity. And I might emphasize again for those who may have missed the points raised yesterday and on many occasions here on the Senate floor, the fact is this represents, for someone making $35,000 a year, a 25-percent reduction in the income taxes that they are going to have to pay, a substantial reduction, and that is for an average family of four. If a middle-income family has more than two children, it represents an even greater reduction in their tax liability for the coming year.

So for those in the middle class, there is a substantial opportunity to see their taxes reduced. And there is a substantial opportunity for us to incorporate an element of fairness in the Tax Code that we have not seen in at least 6 years.

Finally, with regard to the use of the peace dividend, I think if there is one thing that Democrats feel strongly about, and I would say are unanimously for, it is that we ought to use the peace dividend for investment in our future, for strengthening this country, for finding ways with which to ensure that we can provide the economic growth and vitality we all want, not only in the short term but in the long term.

Simply to use that peace dividend for greater hand-outs to the wealthy, as the President has proposed, is the wrong way to go. Expert after expert, witness after witness, who came before the Finance Committee said: If you are going to use the peace dividend, use it for something that will do some good; use it in ways that will ensure growth and vitality in the economy in the future; use it, if you will, to reduce the deficit. But do not use it to change the Tax Code. They say that, if you are going to change the Tax Code, create the kind of economic fairness that the Democrats have presented in their bill. Find a way to pay for the tax tools that we create in this legislation.

So that is what we do. We separate the two. We create fairness in the Tax Code by asking the seven-tenths of 1 percent of the taxpayers at the very top of the roster to pay for the kind of tax tools that will create the economic incentives we provide. And then we take the peace dividend and say to the country: Look, we recognize the importance of savings. We recognize why investment is so essential. We are going to take those peace-dividend dollars and use them in the wisest way we possibly can for our future, for investment in infrastructure and our children, and for deficit reduction.

Mr. President, there is good reason why we separated the two. I believe, as we debate this issue in the coming weeks, we will have the opportunity to lay out in even greater detail the fiscal responsibility we demonstrated yesterday and will continue to demonstrate in the appropriations process; and the need for equity that this bill calls for in so clear a fashion.

I look forward to that debate.

Mr. President, I yield to the Senator from Louisiana.

The PRESIDENT pro tempore. How much time does the Senator yield?

Mr. DASCHLE. Such time as the Senator may consume.

The PRESIDENT pro tempore. The Senator has remaining 7 minutes, and 25 seconds. The Senator from Louisiana [Mr. BREAUX] is recognized.

Mr. BREAUX. I thank the Chair, and I thank the Senator from South Dakota for yielding me some time.

Mr. President and my colleagues who may be watching, the Senate Finance Committee, under the leadership of Senator BENTSEN of Texas, presented a bill to the committee yesterday which addresses the two main concerns which the American people, I think, are demanding of Congress.

I said to our committee colleagues yesterday that yesterday in New Orleans, hundreds of thousands of people lined the streets with their hands reached out, yelling at masked men riding on floats to throw them something, a tradition of Mardi Gras.

I think the American people are reaching out to the Congress, not to throw them anything, but rather to do something; to do something about the economic conditions in this country, the recession, the number of people who are unemployed. What I think the American people are demanding is not that we do something that solves all their problems without any pain, but they are asking Congress to be realistic, to be honest, to try to be a little bit unpolitical, even in a political year.

And I think the product that the committee produced addresses two of the major concerns the American people are demanding that we address: No. 1 to do something about tax fairness; and No. 2, to do something about jobs and economic growth in this country. I think the bill does both of those things.

No. 1: Something happened in the 1980's, Mr. President. All the graphs and all the charts and all the statistics and all the evidence are now in. What happened in the 1980's is very disturbing. It is very disturbing, particularly for middle-income people in this country, for middle-income people saw all the things that were good for them go down and all the things that were bad for them go up.

To give you an example: The Congressional Budget Office said that real after-tax income, which is what a family has to look at, how much income do they have after taxes, during the 1980's, for the top 1 percent of the people in this country—for the top 1 percent, the most wealthy of the wealthy in America—their after-tax income more than doubled during the 1980's, rising by $243,400 apiece for the wealthiest among us. They did extremely well.

But in contrast, for the middle-income Americans, the decade of the 1980's saw their after-tax income go down by $747; $747 less in 1991 than they got in 1980.

A second example: When it comes to cutting taxes, the top 1 percent of Americans saw their taxes reduced by $42,300 apiece, while during that same period, middle-income Americans saw their taxes go up by $436 apiece.

So, Mr. President, the American people are demanding that we do something about tax fairness. It is not fair to see those types of tremendous gains by the wealthiest among us, and yet the middle-income families, who now have both parents working and trying to put the kids through school, have their income go down. So this tax bill has a $300 credit given to children of middle-income families.

I have seen some people pull out a dollar bill from their pocket and hold it up—candidates, some of my party, going around the country, saying: This does not mean anything, a dollar a day.

Mr. President, let me tell you that for that median-income family in America, which is a family that makes $35,000 a year—and I assure you, we have a lot of those in Louisiana—the Congressional Budget Office tells us for that median-income family making $35,000, which has two children, that this is a $600 tax credit. This means that at the end of the year, when they go to file their taxes—and that average family pays $2,400 in taxes under this bill—that family will be able to deduct $600 off those taxes that he has to send to Washington.

Mr. President, it may not be a lot for a lot of people, but for that family that makes $35,000, that is a 25-percent tax cut. A 25-percent tax cut for middle-income families is a significant reduction from what they have to send to Washington. It is not just waving $1 around. It is a significant reduction in the families' taxes who need it the most.

Mr. President, I think that this bill also addresses the concern about jobs and economic growth. Is it perfect? Of course not. Is there something you can find wrong with it? Of course. I tell you, when you put seven of the seven requests of President Bush in an economic jobs bill, you are doing, I think, a lot that should make the administration think that this bill is a good growth bill.

We took the ideas the President had—not word for word; of course not. That is not the role of the Congress, and it is not the role of the Finance Committee.

But we included seven of the proposals the President thought were important in this bill. There is a capital gains tax reduction, not as much as I

would have liked, but significant. It will allow for venture capital growth in new companies, creating new jobs, and that is what the President said he wanted. I happen to believe it is a step in the right direction.

There is also a progressive capital gains tax, which will allow for those families who need help the most to get the most in reduction of their capital gains taxes.

We have a youth skills training program, something that I think is incredibly important, Mr. President. I have spoken about it on the floor before. Americans can be more productive. They can be more productive, but it is high time we start paying attention to the kids who are not going to college. Right now Congress spends only one-seventh of the money we spend on educating young people in this country on those who are not going to college. Most of the money is spent on those who are going to college. What about the pipefitters and the bricklayers and the carpenters and the electricians and the mechanics, who are not going to Harvard or Stanford or Yale or LSU or the University of Texas or what have you? We are neglecting those young people in America.

This bill will have some tax incentives to encourage businesses to work with high schools to train these youngsters who, in fact, are not going to college so that they may, in fact, be more productive and America may be more competitive.

So, Mr. President, I simply say that I think it is not too much to ask the wealthiest to pay their share and that the middle income get a break and we do something about growth. This is what this bill does, and I commend it to my colleagues.

The PRESIDENT pro tempore. The Senator from Texas [Mr. GRAMM] has up to 15 minutes under the order. He is recognized.

Mr. GRAMM. Mr. President, I appreciate the recognition. I want today to begin talking about the tax debate. I want to talk about this fairness issue and about the House bill which has been adopted. I want to talk about the Senate bill, which is now in committee. And I basically want to make two points.

We are down to a hard decision as to where we go as a nation. Do we want to try to redistribute wealth? Do we want to follow the blueprint of Eastern Europe or the Soviet Union? Or do we want to create wealth?

Second, there are many issues that are going to be debated here that are fraught with political danger, but what I want to do is begin looking at the long-term future of America as we ask ourselves what we should do in this tax debate and what we want to do in terms of trying to create jobs for Americans.

For the last 4 months, the Democratic leadership of the House of Representatives has trumpeted all over America the idea that they were about to redistribute wealth, that they were going to raise taxes on rich people, that they were going to give that money to the middle class, that they were out to buy the vote of the middle class. And I guess, like most people, I believed them. I expected the House Democratic leadership to come forward with a plan that raised taxes on rich people, that cut taxes on the middle class and in the process that redistributed wealth.

In fact, what the House Democratic leadership was saying was that the economics and politics of the class struggle may have failed in Eastern Europe and in the Soviet Union, but it is still working in Havana, Cuba, and it could still work in Washington, DC.

I believed them. I should have known better.

Mr. President, when the Democrats came out with their plan, they did not try to buy the vote of the middle class. In a miraculous sleight of hand, they tried to rent the vote of the middle class in this election year. Let me explain it.

Basically, the House bill raises taxes permanently by $93 billion over a 5-year period. It defines as "rich" anybody who earns $85,000 a year or more. That is going to come as a shock to some Americans. But in the mind of the House Democratic leadership, those are the rich people whose money rightfully belong to the Congress. So they propose raising taxes over the next 5 years by $93 billion, and those taxes will last forever. That part of their promise they delivered on.

But when it came time to give that money back to the middle class, when it got right down to it, the House Democratic leadership could not serve two masters. It could not cater to the middle class and cater to Government at the same time, and when it had to choose, the Democrats chose government. They proposed, for a family of four, a 25-cents-per-person, per-day tax cut through the election. Then, when the election is over and all the votes are counted, at the end of the 2-year period they take all those tax cuts back.

Now, what do they do with the $93 billion tax increase that is forever? They spend it. What happened to this peace dividend that the President proposed, where we build down defense by $50 billion over 5 years, and which the President proposed returning to the middle class? What do the Democrats do with that $50 billion? They spend it.

So, what the House Democrat leadership has proposed and what the House has adopted is not a tax cut. It is a rent-a-vote scheme through the 1992 election that gives virtually nothing of substance to the middle class, but permanently raises taxes on people who make $85,000 a year, all to fund $143 billion worth of new Government spending.

What is significant about that? What is significant, Mr. President, is that it does redistribute wealth, but from working people to the Government. When it came right down to it, the Democratic leadership in the House does love Government, has always loved Government, and will never ever put middle-class Americans in front of Government.

Mr. President, I think it is fair to say that we are going to fight that proposal and we are going to defeat that proposal.

The Democratic leadership in the Senate has come up with their own plan to redistribute wealth. Let me say that they have come closer to living up to their party's advertising than their brothers and sisters in the House. In fact, it remains to be seen what the mating of these two bills will produce.

What does the Senate bill do? The Senate committee bill proposes to raise income tax rates by $43 billion over a 5-year period. It proposes to impose a 10% surtax on high-income people of $8.5 billion. It then proposes a little sleight of hand that raises $3.7 billion in taxes by eliminating personal exemptions and itemized deductions for high-income people. At the bottom line, it effectively raises the tax rate on upper-income Americans from 31 percent to a minimum of 36 percent, a 16 percent increase in tax rates. But by phasing out the personal exemption and itemized deductions, it raises the effective tax rate on many American families to about 40 to 46 percent.

Mr. President, I do not know what the Democratic members of the Finance Committee think will happen when they raise people's marginal tax rates from 31 percent to effectively over 40 percent. But I think I know what is going to happen. What is going to happen is that Atlas is going to shrug. I think that people are going to stop investing and stop creating jobs. And why I am so mystified by this is not that it is not good politics, but it is disastrous economics that sets into place a policy that the rest of the world is rejecting.

Mr. President, why is it that other than in Havana, Cuba, this is the only place on Earth where we are debating the redistribution of wealth? Why is it that in this great land built on entrepreneurship and individual freedom, we are not talking about creating jobs rather than destroying them?

We just had one of our colleagues talk about the rich people and about taxes.

(Mr. ROBB assumed the chair.)

Mr. GRAMM. Mr. President, I made up a chart and I tried to make it as simple as I could so that nobody could be confused. This chart asks a very simple question in a way that cannot possibly be distorted. It looks at all

taxes that are paid by Americans—and nobody else pays American taxes except us—and on money made here. It asks the following question: How much of the total tax burden on taxes is paid by the top 1 percent of all income-earning families?

In other words, of the 1 percent of families who are making the most money, what percentage of the total tax burden do they pay? What percentage of the total income tax burden is paid by the top 5 percent, the top 10 percent, the top 20 percent and then the bottom 60, the bottom 40 and the bottom 20 percent?

What I thought would be instructive, Mr. President, is to look at the day before Ronald Reagan became President. We had a Democratic President; we had a Democratic majority in both Houses of Congress. If the Democrats thought taxes were unfair, they had the absolute ability to change it. Presumably they did not think so, so this represented their concept of fairness.

The top 1 percent of the people in America earning income were paying 18.2 percent of all taxes being paid, the top 5 percent were paying 36 percent, the top 10 percent were paying 48.8 percent. It gives you a little pause when you realize that 10 percent of the people in this country, as much as many of our colleagues appear to hate these people, were pulling 50 percent of the wagon, paying half of the taxes, in 1980 before Reagan came to town and changed everything. The top 20 percent were paying 66 percent of taxes. The bottom 60 percent were paying less than 14 percent. The bottom 40 percent were paying 3.6 percent, and the bottom 20 percent, by various types of incentives paid and earned income tax credits, were actually getting money back. That was the world before Ronald Reagan.

We have changed the tax system since that time so now the top 1 percent of all income-earning families, who were paying 18.2 percent of all taxes, are now paying 25.4 percent of all taxes. The top 1 percent of the people in America in terms of family income are now paying 25.4 percent of all the taxes. So in the time that Ronald Reagan and George Bush have been in the White House, the taxes paid by the top 1 percent in terms of taxes has gone up by 40 percent.

Do you know what is miraculous? They are better off. They are paying 40 percent more taxes and they are better off because we lowered marginal rates, we provided incentives for people to get out of tax dodges, to take ordinary income and to make investments. As a result, they are paying 40 percent more taxes.

What our Democratic colleagues are saying is that these people are not paying enough. That is the case of this whole debate. My point is this: From the day that the Democrats last controlled the White House until today, these people are paying 40 percent more of their share of total taxes paid. The top 5 percent has gone from paying 36 percent of the taxes to 44.1 percent, or their tax burden has gone up by 23 percent. The top 10 percent, their tax burden has gone up by 15 percent. The top 20 percent, the tax burden has gone up by 9 percent.

And let us look at the American middle class. In 1980, the bottom 60 percent of all income-earning families were paying 13.8 percent of all taxes. They are now paying 11 percent, so their tax burden has declined by 20 percent. From 1980 to 1990, the tax burden for the bottom 40 percent of all income earners has gone down by 33 percent, and for the bottom 20 percent the tax burden has gone down by 150 percent because they are now getting big earned income tax credits.

Mr. President, are we to believe that when the Democrats control both Houses of Congress and the Presidency, they called this fair? Now all of a sudden with higher income people paying more, it is unfair? Mr. President, I never try to question anybody's motives, but I do not understand that logic.

I want to say a little bit about the details of the Democratic plan, and then sum up. First of all, we hear our colleagues say, well, they cut capital gains; they are providing incentives, but look, by raising the marginal tax rate to 36 percent, even by cutting capital gains tax rates, the effective rate miraculously ends up at 28 percent for higher income people, which is exactly what it is today.

Mr. President, capital gains is important to me personally. Some day I am going to sell my house and I am going to be affected by it. It is important to me in that my wife's father left a little stock to help pay for my children to go to college and they may get a capital gain on it.

But the plain truth is that I spend my income on groceries, not assets that produce a capital gain. I am not going to put Americans back to work by changing my grocery consumption pattern. America requires a quarter of a trillion dollars of new investment in the next 3 months. Is any of that money going to come from PHIL GRAMM? No, none of it is going to come from me. It is going to come from wealthy people who have the money to invest, if we can get them to put it to work.

I submit, Mr. President, that we are not going to solve this Nation's problems my raising taxes, by redistributing wealth and crushing new investment. We need to be creating wealth and I am not going to vote to raise anybody's taxes. I thank the Chair.

The PRESIDING OFFICER. The time allocated to the Senator from Texas has expired.

Mr. SYMMS addressed the Chair.

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

Mr. SYMMS. Mr. President, are we now in morning business?

The PRESIDING OFFICER. The Senator is correct. The period for morning business is to extend under the previous order until 12 o'clock.

Mr. SYMMS. I ask unanimous consent to speak for 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator is recognized for up to 10 minutes.

I LOST A FRIEND—SENATOR SAM HAYAKAWA

Mr. SYMMS. Mr. President, I lost a friend, a friend to many in the Senate, the late Senator Sam Hayakawa. He used to sit right down there where the distinguished senior Senator from Iowa is sitting now, and I sat in the next to him my first 2 years in office. We became very good friends.

Then, after he left the Senate, Sam Hayakawa used to come back and use my office as a place where he could hang his hat and coat and make some phone calls and touch base with people on issues he was still involved in and still working on. I found him to be one of the superior intellects that ever served in the U.S. Senate. Oh, I know oftentimes the perception was that he nodded off to sleep at meetings and so forth, but he had a tremendously keen intellect and tremendously keen insight into the issues that faced this Nation. I think we all lost a great American and he left an indelible mark in my memory. I extend my sympathies to his family and say that they lost a father and a husband and those of us in the Senate who had the privilege to work with and know him, know of his great achievements.

When I think back to 1942 and 1943, he was writing books about the importance of the English language and semantics in this country because he understood that the way the language is used could have such an impact on the future of public policy.

I ask unanimous consent that the obituary from Friday, February 28, from the Washington Post be printed in the RECORD.

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

OUTSPOKEN U.S. SENATOR S.I. HAYAKAWA DIES AT 85

(By J.Y. Smith)

S.I. Hayakawa, 85, a noted semanticist whose willingness to confront striking student radicals at San Francisco State University in the late 1960s led to a career in politics and a seat in the U.S. Senate, died of a stroke Feb. 27 at Marin General Hospital in Greenbrae, Calif. He had been hospitalized for bronchitis.

A witty, independent and iconoclastic figure whose interests ran the gamut from jazz

and African and Asian art to fencing and cooking, Dr. Hayakawa was the author of a classic work on the way people react to words and symbols. As a public servant, he was a hero to some and a villian to others, and he readily acknowledged that he hurt himself by his tendency to speak without thinking.

But it was action, not words, that first gained him prominence outside of academia. He had been interim president of San Francisco State for less than a week when he climbed onto a sound truck on the campus on Dec. 2, 1968, and ripped the wires from the loudspeaker during a student protest. The event was captured on live television, and the slender, soft-spoken scholar with a fondness for multihued tam-o'-shanters became one of the most popular figures in California. He was dubbed "Samurai Sam."

During the next several months, he broke student and faculty strikes and restored normal classes. An African studies program was added to the curriculum, a key demand of the protesters. But demands that African studies be entirely independent were refused, and the department was put under the same administrative network as other academic programs.

In 1973, Dr. Hayakawa resigned as president of San Francisco State—he had been given the job on a permanent basis by Ronald Reagan, who was governor of California at the time—and three years later he ran for U.S. Senate. A former Democrat, he joined the Republican Party and described himself as a "Republican unpredictable."

He was an instant success on the hustings. Although he later supported the treaties giving Panama ultimate control of the Panama Canal, he delighted conservatives during the campaign when he said that the United States should keep it, because "we stole it fair and square." On another occasion, when asked for his views on a referendum on a dog racing, he replied that he didn't "give a good goddam about greyhounds one way or another." In the election, he handily beat Democratic incumbent John V. Tunney.

In the Senate, his outspokenness and seeming indifference to appearances became a liability. He had long had a habit of dozing off in meetings that bored him, but when he did it during orientation sessions for new senators and later at such occasions as White House legislative meetings he drew wide criticism. He was known as "Sleeping Sam."

There were other troubles. Dr. Hayakawa had not even been sworn in when he was ridiculed for objecting to his assignment to the Senate Budget Committee on the ground that "I don't understand money at all [and] have the greatest difficulty even balancing my own checkbook."

He alienated many constituents when he said that rising oil prices were not a concern, because "the poor don't need gas, because they're not working." He angered many others when he defended the internment of 120,000 Japanese Americans during World War II as "perhaps the best thing that could have happened," because it helped integrate them with the rest of society later. He was a Canadian citizen teaching in Chicago during the war, and was not involved with the internment program.

In later years, Dr. Hayakawa sponsored a constitutional amendment to make English the official language of the United States, claiming that a command of English was "the fastest way out of the ghetto." He opposed bilingual education in public schools and bilingual ballots as "foolish and unnecessary."

Finding himself with little support by the end of his first term, Dr. Hayakawa retired.

"He was invaluable during some very difficult times—a courageous man of integrity and principle," former President Reagan said in a statement.

Gov. Pete Wilson described Dr. Hayakawa as "a great California iconoclast," and said "certain images from S.I. Hayakawa's remarkable life will be burned into our memories forever."

Samuel Ichiye Hayakawa was born July 18, 1906, in Vancouver, British Columbia, of Japanese parents. His father, Ichiro Hayakawa, has served in the U.S. Navy as a steward and then returned to Japan to marry Tora Isono. They settled in Canada, where the elder Hayakawa established an import-export business.

"Sam" Hayakawa, the eldest of four children, graduated from the University of Manitoba and received a master's degree in English from McGill University. He received a doctorate in semantics from the University of Wisconsin. He taught there until 1939, when he moved to Chicago and taught at what is now the Illinois Institute of Technology. From 1950 to 1955, he was on the faculty of the University of Chicago. He then joined the English faculty of San Francisco State, which is now part of the California state university system. He became a U.S. citizen in 1954.

Dr. Hayakawa made his scholarly reputation with "Language in Action," which appeared in 1941. It was reissued in 1947 as "Language and Thought in Action," a basic text in the field of semantics, which Dr. Hayakawa defined as the "comparative study of the kinds of responses people make to the symbols and signs around them."

The book was prompted by the rise of Hitler and the way he used words and symbols to consolidate his political power. It makes the argument that words can be used both to disguise and distort reality and to illuminate it, and that words therefore are different from reality.

Dr. Hayakawa's late brother-in-law, the late architect William Wesley Peters, was married to Joseph Stalin's daughter, Svetlana, who gave birth to the former Soviet leader's granddaughter in the Hayakawa residence in Mill Valley, Calif.

Dr. Hayakawa's survivors include his wife, the former Margedant Peters, whom he met while he was teaching at Wisconsin, of Mill Valley; two sons; and a daughter.

A TRADE DEFICIT WITH A MADE-IN-AMERICA LABEL

Mr. SYMMS. Mr. President, with international trade and our relations with the Commonwealth of Independent States [CIS] so much on all of our minds, let me recommend to my colleagues three articles from the Washington Times written by Steve Hanke, a professor of applied economics at Johns Hopkins University.

The first article is from January 2 and attempts to put in some perspective our trade deficit with Japan. The President's trip to Japan prompted many heated discussions around town about our trade relations with Japan. There is no question that Japan has many unfair trading practices. It is also true, however, that only a fraction of our trade deficit with Japan can be traced to these unfair practices. We really have a deficit that can be traced right back here to Washington.

There is a long list of problems all of which find expression in the trade deficit. There is our anti-investment and antisaving tax policy. There is the constant growth in the number of regulators and in the total burden of regulation we impose on our economy. I believe our transportation system has a great deal to do with our trade deficit by bleeding our economy of its competitiveness, and the last year's transportation bill is only a start in fixing that problem.

Another piece of the Made-in-Washington trade deficit problem, as this article points out, is that United States trade policy has succumbed to United States special interests which have closed Japan's markets to significant raw material exports.

All too often my friends from both sides of the aisle fail to recognize that our own managed trade policies may be contributing to our trade imbalance far more than Japan's barriers. Currently, U.S. regulations make it virtually impossible to export oil and natural gas produced in Alaska. Japan depends on raw material imports. Our policies have forced Japan to seek other markets. If the United States would alter these policies the Japanese would likely be more willing to make concessions in other areas.

It is interesting to me, Mr. President, that our major oil companies, with the wherewithal to drill oil wells, are now seeking foreign places to drill wells because our policies here will not allow them to drill wells in the United States in many cases, specifically in Alaska.

I urge my colleagues to read Dr. Hanke's article. Following my remarks, I ask unanimous consent that it and the other two articles be printed in the RECORD.

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

(See exhibit 1.)

Mr. SYMMS. The second article comes from the January 15 Washington Times. This article describes the trip of a successful Toronto mining engineer, Mr. Pierre Lassonde's, to Russia to tour several of Russia's mining operations. It offers a unique insight into the business operations of Russia, void of the rose colored glasses the press usually wears.

The third article, from the January 22 Washington Times, points out that aid to the Commonwealth of Independent States [CIS] may not be necessary and may actually impede the success of their transformation into free market states. A grand Marshall plan for the CIS will not necessarily increase economic recovery. Turning back the pages of history we find that the Marshall plan did not actually come into effect until well after Western Europe's economies had begun a sustained re-

covery. Furthermore, the plan's impact was minor given the amount of aid involved—only a one-time, 2-percent gain in national income levels.

Foreign aid lobbyists who are seeking funds for the Commonwealth neglect to point out that Chile and China have both achieved economic success without foreign aid. In contrast, Israel and Egypt, who are the two largest recipients of aid, still are in economic shambles. Again, I urge my colleagues to read Dr. Hanke's articles.

EXHIBIT 1

[From the Washington Times, Jan. 2, 1992]

TRADE IMBALANCE LOGROLLING

(By Steve Hanke)

President Bush is scheduled to visit Prime Minister Miyazawa in Tokyo during Jan. 7–10. Joining the president's entourage will be a group of U.S. industrialists. It is no secret that the president will be trying to force the Japanese to join the "new world order." The industrialists will assist in that process by beating up on Mr. Miyazawa about Japan's trade policies. They will repeat the old refrain that the U.S. trade deficit with Japan is due to "closed" Japanese markets and "open" American markets. In short, the industrialists will claim that the United States is "right" and Japan is "wrong."

The president's trip was originally scheduled for early December 1991, but was canceled so that the president could attend to domestic economic problems. Since our economic problems are just as bad, if not worse, than they were in early December we must ask: Why has the Tokyo trip been rescheduled for January? To answer that question, we don't have to look too far.

Mr. Miyazawa's political base has weakened in recent weeks. Among other things, Japan's budget deficit has forced him to raise taxes in an election year. Also speaking of the new world order, Mr. Miyazawa was unable to obtain legislative approval for a measure that would allow Japanese troops to take part in U.N. peacekeeping forces. With the prime minister weakened, Mr. Bush decided it was time to wage gunboat diplomacy in the trade area.

If Mr. Bush were really a world-class leader, he could put the political animals in the United States back in their cages and eliminate the bilateral trade deficit that the United States runs with Japan. That could be accomplished by putting the U.S. trade policies in order. Indeed, the trade deficit is caused, in large part, because the United States is "wrong." That, of course, doesn't imply that Japan is "right."

To understand why this is so, we must present some little-known facts. The federal government holds one of the world's largest state-owned enterprises in its portfolio.

The federal government owns 32 percent of all the land in the United States, or an area that is six times larger than the total area of Spain. Most of those government lands are in the West. For example, the government owns 89 percent of Alaska, 86 percent of Nevada, 64 percent of Utah and Idaho, 52 percent of Oregon, 48 percent of Wyoming and more than 29 percent of six other Western states. That fact is important because federal laws dictate what can be done on those lands and with the resources they contain.

Now, we return to U.S.-Japanese trade relations and the role that those federal lands play in creating the U.S.-Japanese trade imbalance. The United States, not the Japanese, has closed Japan's markets to significant raw material exports from the United States. Specifically, U.S. laws prohibit the export of unprocessed logs cut up on federal lands. In addition, a complex web of federal laws and regulations makes it virtually impossible to export oil and natural gas produced in Alaska.

This odd twist in U.S. trade policy is the most important contributor to the U.S. trade deficit with Japan. And, more importantly, it is the largest single factor that fuels America's smoldering trade relations with that nation. Yet this twist remains unknown to the general public.

The fundamental question is: Why have our politicians chosen to stifle U.S.-Japanese trade? The answer is simple: The politicians have ignored U.S. national interests while accommodating special interests in the United States.

The timber and wood products industry has collaborated with environmentalists to support the ban on the export of federal logs. Those who own sawmills and depend on logs cut on federal lands for their raw material don't want federal logs exported. As they see it, the export prohibition helps to keep domestic log prices lower than they would otherwise be. Timber companies owning large acreages of private timber that aren't subject to the export ban also like it. For these log exporters, the ban means less competition in international log markets. The environmentalists, too, view the prohibition on log exports favorably. They believe that the export ban is a way to reduce the quantity of logs cut on timber-rich federal lands on the West Coast and in Alaska.

The maritime industry and the environmentalists represent the special interests that have teamed up to support restrictions on the export of Alaskan oil and gas. The Jones Act mandates that waterborne commerce between U.S. ports be carried out in U.S.-built, owned, registered and manned ships. Thus the maritime industry (seamen's unions and domestic shipbuilders) sees restrictions on oil and gas export to non-contiguous nations as a way to artificially guarantee the demand for U.S. tankers and crews. And the maritime industry is correct. Currently more than 90 percent of the U.S. flagship capacity, measured in deadweight tons, is committed to carrying oil from Alaska to U.S. ports. Again, the environmentalists embrace trade restrictions because they believe these impediments will reduce the attractiveness of using our nation's natural resources.

While assisting these special interests, the ban on federal log exports and the restrictions on Alaskan oil and gas have perverse consequences for both Japan and the United States.

The Japanese depend on raw material imports, which are then processed into finished goods for internal use or export. U.S. trade policies have forced Japan to import logs, oil and gas from other countries, which increases Japan's import costs.

The United States, too, is harmed. Because federal timber is not managed on an economic, environmentally sound basis, the value of the nation's vast timber holdings is dramatically reduced. (The U.S. Forest Service, much of whose timber stock is rotting faster that it is being harvested, is taking in about $1 billion a year less than it spends.) And the value (the "wellhead" price—the market price minus transport costs) of the nation's oil and gas assets is also reduced by these restrictive policies, since producers are required to transport these products in high-cost U.S. tankers to uneconomic destinations in the United States. With the market price of oil a given, higher transport costs mean lower receipts at the wellhead.

To break our trade stalemate with Japan, Mr. Bush should assume a leadership role and unilaterally offer to introduce legislation that would open Japan's markets to log exports from federal lands and oil and gas from Alaska.

By putting the interests of the nation ahead of narrow special interests, Mr. Bush would be able to silence neomercantilist critics who fret over bilateral trade imbalances, since exports of federal logs and Alaskan oil and gas could reduce our trade deficit with Japan as much as 75 percent. Moreover, such a bold move by the president would, no doubt, produce concessions from the Japanese.

Such a bold move would give the public some confidence that the president has ideas and leadership qualities in the economic sphere. Needless to say, Mr. Bush desperately needs something to restore the public's confidence in his vision of economic policy. Alas, the president appears bent on using strong-arm tactics to establish "the new world order," rather than command the public's respect and confidence.

[From the Washington Times, Jan. 15, 1992]

MEASURING WORDS VS. REALITY

(By Steve Hanke)

For the duration of the Soviet Union's existence, most of the Western press and pundits have had a love affair with the Soviet's socialist economy. One celebrity who has sung the Soviets' praises is John Kenneth Galbraith, the prolific Harvard professor.

Mr. Galbraith's view of the Soviet economy is perhaps best encapsulated in a piece he penned for the New Yorker magazine. That publication is, by most standards, considered to be a high brow, quality magazine. Indeed, Mr. Galbraith himself has written that the New Yorker staff is "celebrated in all literary circles for its pursuit of the truth." What better source?

In the summer of 1984, Mr. Galbraith traveled to Moscow and Leningrad. Here's what he had to say: "That the Soviet economy has made great material progress in recent years—certainly in the near decade since my last visit—is evident both from the statistics (even if they are below expectation) and, as many have reported, from the general urban scene. One sees it in the appearance of solid well-being of the people on the streets, the close to murderous traffic, the incredible exfoliation of apartment houses and the general aspect of restaurants, theaters and shops—though these are not, to be sure, the most reliable of indices."

Mr. Galbraith then explained that the Soviets' biggest problem "comes directly from this affluence or relative affluence." But, he claimed that the Soviets have little to fear because their economic system is like a bumblebee: "In principle, with its heavy body and slightwings, it cannot fly; against all expectations deriving from its design, it does. Partly the Russian system succeeds because, in contrast to the Western industrial economies, it makes full use of manpower."

Although we cannot question Mr. Galbraith's ability to write fiction, we must challenge his sense of observation and analytical skills. In the era of glasnost, that is possible because Western observers are allowed to travel and report without ideological baggage. Mr. Pierre Lassonde, a successful and widely respected mining engineer from Toronto, did just that in August 1991, when he toured a sample of Russia's mining

operations and offered his counsel. We borrow a page or two from his unpublished field report.

After landing in Moscow, Mr. Lassonde was chauffeured to his htoel. During the 40-minute ride, the only thing of note were the "15 to 20 disabled autos" along the roadside. The next day, after several hours delay, he flew to Magadan, the capital of the Soviet Far East. One passenger was distinguished: a large German shepherd. It was strapped neatly in a seat, not uncommon in Russia. Service included water delivered in umwaxed plastic cups. As for the washroom, it was nothing more than a "flying outhouse." But, who could complain? The price of the air ticket was about $5, "about what the trip was worth."

From Magadan, Mr. Lassonde flew to Susuman, where he visited three surface gold mines and one underground operation. The first mine wasn't working; shut down for maintenance. At the next surface mine, Mr. Lassonde met the same fate. The third surface operation was also shut down; by then, Mr. Lassonde didn't bother to ask, why? The underground mine was also out of order awaiting a shipment of parts from Moscow. However, when they worked the miners were "chasing a small (6-inch to 3-feet thick wide) vein of ore, grading about 0.25 to 0.35 ounces of gold per ton." The only reason it could be construed as "economic" were the slave-labor wages paid, about $50 per month. The lowest-paid black South African miner receives $200 per month, plus room and board. Full-fledged geologists at Susuman were paid about $15 per month, or a bit less than bus drivers. Mr. Lassonde concluded after observing that wage structure, that education was not highly valued in the Soviet Union, except in the high reaches of the Communist Party. Indeed, with less than 2 percent of the population making its way to a university (and most of those studying in military-related fields), Mr. Lassonde noted that trained hands were hard to find.

The next visit was a gold-copper mine at Karamken. The mine was working, but the mill was shut down. The manager said the mill was taken down for an overhaul and would be working in a week. However, Mr. Lassonde thought it would take months to rehabilitate the operation. He also observed that the hoistman position, the most prized at Western mines, was always held by a woman. The gold room and bullion pour were also filled with women packing pistols on their hips. This was not the result of an affirmative action program. Rather, "all jobs connected mine safety and security were taken by women, because women don't drink as much as men and are more reliable." Even so, at the Karamken site, Mr. Lassonde went through some rough productivity calculations with the manager: "Each miner was on duty about six hours per day; subtracting travel time in the mine and a lunch break, about four hours were left; due to equipment breakdowns and various shortages of materials, those four hours were reduced to about two hours of effective work per day on average, not much by any standard."

The next stop was Norilsk, located well inside the Arctic Circle. The area around Norilsk is noted for its rich ore deposits, and as the place where Alexander Solzhenitsyn was interned. It produces 100 percent of the Russians' platinum-palladium group metals, 60 percent of their nickel and 40–50 percent of their copper. Mr. Lassonde's first stop was the flagship Octobersky mine, which, to his surprise, was actually working. The deposits were incredibly rich, perhaps $2,000 per ton. Even with the Russian's unorthodox and inefficient methods, that operation was making real money.

The only problem with Octobersky was the high sulfur content of the ores, as high as 34 percent. "The smelters are probably the largest single source of pollution in the world, releasing about 2 million tons of untreated sulfur dioxide per year into the atmosphere." Not surprisingly, breathing was difficult in Norilsk and the environment within 200 kilometers of the smelters was completely dead.

Still in the Norilsk region, Mr. Lassonde visited Talnak. Four of the 12 mills there were not working, and Mr. Lassonde dubbed the overall operation as a "junk dealer's paradise." The planners hadn't gotten things coordinated very well. Most of the piping at the mill was made of titanium steel, with a life of at least 100 years. The only problem was that technology changes every 15 to 20 years, and instead of scraping old pipes—there is no scrap market—the Russians just built new piping systems on top of the old ones. The result was a Rube Goldberg affair: four complex layers of high-quality pipe, with one actually working.

Before departing from Norilsk for Moscow, Mr. Lassonde turned his attention to souvenir shopping. That proved difficult. He attempted to exchange dollars for rubles. But, the bank manager was nowhere to be found. The last anyone had seen of him was the night before, drunk at a wedding party. In any case, there was little to buy. The only purchase made was an auto muffler that the translator purchased and carried back to Moscow, where mufflers were unavailable.

Fortunately, after two weeks of "half-rotten, positively inedible food," Mr. Lassonde had enough strength to offer concluding observations about Soviet socialism: "The capital stock is hopelessly outdated and in disrepair, incapable of producing goods acceptable in any markets; the people are uneducated, have no sense of the work ethic, and are totally incapable of recognizing or uttering the truth."

That appraisal didn't deter Mr. Lassonde's host, however. Upon his departure, Mr. Lassonde received an hourlong monologue that had a certain Galbraithian quality. In short, he was told that, "With the West's money and the Russian's brains, we'll go far."

[From the Washington Times, Jan. 22, 1992]

WHAT MANNER OF AID FOR THE NEW NATIONS? SACHS VS. BAKER

(By Steve Hanke)

Nations and institutions with a role to play in aid to the members of the Commonwealth of Independent States (C.I.S.) are gathering in Washington, D.C., today and tomorrow. The U.S. State Department has called the conference to coordinate the distribution of aid for the new nations.

Even though the State Department has indicated that the conference will be restricted to discussions about so-called humanitarian aid and self-help programs, it may be politically difficult for Secretary of State James A. Baker III to hold off demands for more aid by the foreign aid lobby. Led by Mr. Boris Yeltsin's adviser, Professor Jeffrey Sachs of Harvard University, the aid lobby is in full swing. Mr. Sachs claims that the transition from socialism to capitalism in the member states of the C.I.S. will be impossible without significant amounts of foreign aid.

In making his case to limit the scope of the conference, Mr. Baker should recall that Mr. Sachs is employing smoke and mirrors, rather than economic analysis, to make his case. Just consider the magnitude of the professor's aid request. After careful study, Mr. Sachs concludes that the C.I.S. needs $20 billion in foreign aid this year. That requirement is calculated as follows: Poland, where Mr. Sachs is also an adviser, is going through a painful transition shock therapy. To ease the pain, Poland is receiving almost $3 billion per annum from Western governments. Since the population of the C.I.S. is about 7.25 times greater than Poland's, the C.I.S. should receive 7.25 times more aid than Poland, or $20 billion per annum. Numbers of such magnitude numb the mind. As the late Sen. Everett McKinley Dirksen would say, "A billion here, a billion there, and soon it adds up to real money." Well, $20 billion is real money. Indeed, an additional $20 billion would increase the world's foreign aid disbursements by about 60 percent.

Let's go beyond the complex calculations required to arrive at the $20 billion figure, and examine Mr. Sachs' general argument. The most notable cases of successful transformations from socialism to capitalism are Chile and China's Guangzhou region, which is located directly north of Hong Kong. In 1973, Gen. Augusto Pinochet inherited a socialist economy that was collapsing and suffering from hyperinflation. Today, after a Pinochet-directed transformation, Chile's economy receives high marks. For example, according to a recent report on Third World economies issued by the secretariat of the General Agreement on Tariffs and Trade (GATT) in Geneva, "Chile emerges as a Third World superstar." As for the Guangzhou region of China, it transformed itself from communism into a vigorous market economy over the past 12 years, with a real growth rate of about 12 percent per annum.

In both cases, foreign aid was not required. During the Pinochet years most countries withdrew aid to Chile. As a result, Chile realized a net outflow, rather than a net inflow, of aid. In the 1980s, China as a whole, received less aid on a per capita basis than any Third World nation. These facts explain why Mr. Sachs and other aid lobbyists refrain from playing the Chile and China cards.

One card that Mr. Sachs and his associates play with great regularity, however, is the Marshall Plan card. The folk image painted by biographers of statesmen and historians of international relations is one in which Western Europe was little more than a corpse, incapable of economic recovery without U.S. foreign aid. Hence, the image-makers conclude that the rapid recovery of Western Europe's economies resulted from the Marshall Plan, which committed the United States to $13.2 billion in aid from 1948 to 1951, with 25 percent of that going to the United Kingdom.

Serious analysis has all but destroyed the widely held folk image of the Marshall Plan, however. By 1948, when the Marshall Plan began, the reconstruction of devastated public infrastructure was largely complete, and Western Europe's economies were already bouncing back. For example, by the last quarter of 1946 almost as much freight was loaded on the railways of Western Europe as had been transported in 1938.

The Marshall Plan was also not large enough to stimulate Western European growth by accelerating the replacement and expansion of its capital stock. Indeed, calculations show that, after four years of the Marshall Plan, Western European national income levels were, at best, only 2 percent higher than would have been the case otherwise. While this was a welcome addition, it is

hardly the sort of dramatic change trumpeted by the Marshall Plan's image-makers and Mr. Sachs.

Indeed, the Marshall Plan was simply not a decisive factor in Western Europe's post-World War II boom.

Contrary to Mr. Sachs' claims, foreign aid is clearly not a necessary condition for a successful economic transformation and restructuring. But, perhaps more importantly, there is considerable evidence to suggest that aid impedes the transformation process. For example, Israel and Egypt are the two largest recipients of U.S. aid largesse, and both have been unable to transform their largely socialist economies. In "Toward Growth: A Blueprint for Economic Rebirth in Israel," Alvin Rabushka and I document that, in the case of Israel, aid has done nothing more than fuel Israel's war against capitalism.

In resisting the aid lobby, Mr. Baker is holding all the high cards. It's time for him to call Mr. Sachs' bluff.

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

The PRESIDING OFFICER. The Senator has 4 minutes, 19 seconds.

Mr. SYMMS. I thank the Chair.

WARREN T. BROOKES

Mr. SYMMS. Mr. President, last night there was a dinner to honor the late Warren T. Brookes which was sponsored by the American Enterprise Institute, the Boston Herald, the Cato Institute, the Competitive Enterprise Institute, Creators Syndicate, the Detroit News, Forbes, the Fund for American Studies, the Heritage Foundation, Human Events, National Federation of Independent Business, Reader's Digest, and the Washington Times.

Mr. President, I have a series of articles by Warren T. Brookes and a specific editorial by the Detroit News I wish to have printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. SYMMS. Mr. President, on December 28, 1991, this country lost a great American, Warren T. Brookes, a syndicated newspaper columnist. He was a friend of mine, and I respected him greatly. I believe I learned and benefited greatly from his writings.

He wrote intelligently and convincingly on a range of public policy issues. Unlike any other columnist Warren Brookes' articles and columns gave the public the straight facts. He would not manipulate the truth to give the public what it wanted to hear.

Brookes challenged popular notions on the economy and the environment. He had the ability to raise serious questions about issues accepted as givens by so many of his contemporaries.

Brookes was a great proponent of private property. He reported that regulators had interpreted the Clean Water Act to give them jurisdiction over at least half of all farmland, and as much as 60 percent of U.S. total land area.

In September of 1991, he showed how Federal wetland regulations were turning into Federal confiscation of private land. His focus was truly outside the beltway leading the grass-roots private property-rights rebellion.

Unless he could give some new insight into an issue then he would not write about it.

He was a fighter, a fervent believer in the free market system.

Mary Lou Forbes, opinion editor for the Washington Times, said "[Brookes] had vision that enabled him to spot emerging issues months, even years before they were being written about by others."

Warren is most highly regarded for his works in the environmental field. His extensive study of economics enabled him to analyze environmental policy issues for their impact on the Nation's economy.

Warren had the ability to read scientific literature and economic studies, understand it, then present it in a clear way. He would never just rely on press releases and summaries as many other journalists do.

He demonstrated with credible facts that the ecological benefits of regulation were often exaggerated while the excessive economic costs were being ignored.

When Science magazine ran an article explaining exactly why asbestos was nothing to be afraid of, Brookes explained it in the Times within 3 weeks. Those who were not attentive to Brookes spent thousands of dollars to remove unnecessarily asbestos simply because the overzealous EPA prodded them to do so. Later EPA went to Congress to say they made a mistake, you did not have to remove it.

Taxpayers do not realize how much more they would have had to spend had Warren Brookes not exposed the amount of resources that were being spent wastefully on projects that were unneeded.

Brookes was never afraid to expose unpleasant realities. He helped expose the Charles Keating scandal. He helped unmask fraud in federally funded science programs and he courageously disclosed the damaging excesses and errors of extreme environmentalism.

Warren made this point again and again in regard to environmental action—environmental action makes sense only if the benefits exceed the costs and that to judge the benefits government needs a reliable scientific base. Only through science can one gauge the health or ecological impacts of pollution and determine if a program of controls does any good.

My colleague, Senator LEVIN, put it well when he said, "Whether you agreed with him or disagreed with him, you read him."

Mr. President, Warren also possessed one of the broad ranging insightful minds of the day. In a stirring speech at Moscow State University in the last year of his Presidency, President Reagan quoted literally from Warren's 1982 book, "The Economy in Mind," about the true wellspring of Democratic capitalism.

Mr. President, also I ask unanimous consent to have printed in the RECORD the statement by the Vice President last night honoring Mr. Brookes.

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

PREPARED REMARKS BY THE VICE PRESIDENT—WARREN BROOKES TRIBUTE DINNER, WASHINGTON, DC, MARCH 3, 1992

Thank you. Warren Brookes: Writer, businessman, loyal husband, friend. . . . We'll miss him. To the gracious Jane Brookes, Tom Bray, and friends, it is my honor to join in this tribute and celebration.

You know, it's impossible to walk very far in this city without being reminded that you're in the seat of power. But I sometimes think that we who live here are the most prone to forgetting just how powerful an effect one man can have. And we're here tonight to honor one of those rare men who came here and, well, actually accomplished something.

Warren Brookes accomplished something because he didn't seek power or acclaim, but only truth. From across the nation, the power-hungry and attention-starved trek to Washington like ants to a picnic table. They crave an official title. Or a committee chairmanship. Or a new agency or cabinet department to oversee, and a fresh set of regulations to keep them busy. They think of power as derived only from the state.

Well, in his brief stay in these parts, Warren Brookes taught us about a different kind of power: The power of the individual. The power of a truth simply spoken. The power of solid evidence, skeptically and impartially weighed. The power of integrity and honesty—even against fashionable dogmas and vast bureaucracies. And above all, the power of good will to shape great affairs.

If anyone doubts how much Warren shaped recent events, I'm here to testify from personal experience. Nothing was more devastating to our opponents in 1988 than Warren's calm and level-headed series about his home state and the truth about its financial affairs. And that, you'll recall, was when "Mr. Competence" was ahead in the polls and all those Massachusetts miracle workers were just about packed for the move to Washington.

Well, the miracle workers stayed in Massachusetts. And the Commonwealth is just now recovering from their leadership, with the help of a new governor who is applying many of the economic ideas Warren advanced years ago.

But unlike so many commentators as they acquire more influence, Warren wasn't a mocker. He was a skeptic, not a cynic. The age of science and information has ushered in the age of the half-truth, and with it a whole series of fashionable causes and hysterias.

It was Warren's calling to sift through the resulting mass of government studies and reports and policy papers. And then, to make sense of all this stuff for the rest of us. Fifteen years ago there was an even greater gap than today between information and understanding. And so God sent us this idealistic workhorse to clear things up, and inspire us to similar efforts with his example.

To the back scientist, the environmental zealot, or the overblown bureaucrat, Warren was a menace. He was the Sergeant Joe Friday of American journalism, wanting "just the fact." Eying the fraud suspiciously. Taking a second look at the account books. In short, a swell guy to know unless you were up to no good.

Back when Washington was a simpler place Andrew Jackson said that "One man with courage makes a majority." Well, our friend Warren exemplified that and a few other hopeful sayings: That one honest man makes a difference. That one truth-seeker can defeat an array of well-funded errors. And, even when he entered the most bitter controversies, Warren's simple and generous outlook reminded us of something else: that a kind spirit turneth away all wrath.

He left us all a little wiser, and our political system a little better. He deflated many cherished myths, and silenced many would-be experts, yet left behind not a single enemy. And to each of us here, he left an enduring gift. For we can say that in a city renown for so many false causes, false promises, and false friends, we were blessed to know the truest and gentlest of men.

Thank you, and may God bless our friend Warren.

Mr. SYMMS. Mr. President, I extend by sympathies to Warren's family. We will miss Warren, but he leaves a mighty legacy of wonderful journalism, provocative commentary, and true fellowship. Most of all his ideas live.

I yield the floor, and I thank the distinguished Presiding Officer.

[From the Washington Times, Apr. 11, 1991]

SWAMPING THE ECONOMY?

(By Warren Brookes)

In 1988, political pollster Robert Teeter convinced candidate George Bush that environmentalism was good politics. He failed to warn him that it usually makes lousy economics.

Last Friday, President Bush got yet another demonstration of this when the unemployment rate soared to a four-year high, up three-tenths of a point to 6.8 percent, as U.S. employers chopped another 205,000 workers from their payrolls. Since October, we have lost 1.2 million jobs.

Leading that plunge is the construction industry, which since its peak in February 1990 has lost 588,000 jobs, 70,000 in March alone. What has this to do with environmentalism? Across the country, contractors have been singing the blues over the "greens" since the March 1989 release of the "Federal Manual For Identifying and Delineating Jurisdictional Wetlands."

This manual vastly extends the reach of this regulation (Section 404 of the 1972 Clean Water Act) to encompass in its "jurisdiction" (requiring federal permits) at least half of all farmland, and as much as 60 percent of U.S. total land area.

Every contractor must now clear his property with the U.S. Army Corps of Engineers and the Environmental Protection Agency or face jail. Unfortunately, since March 1989, that "permitting" process appears to have come to a screeching halt across the country, from Savannah, Ga., to Lockport, N.Y.

So much so, in fact, the White House is carrying on damage control among Republican constituents and EPA Administrator William Reilly is beating a strategic retreat. Mr. Reilly admitted to the American Farmland Trust on March 7, "The federal government in a number of areas asserted jurisdiction under the new manual over areas it had never before considered wetlands—for instance, farm fields on Maryland's Eastern Shore, some pine forests in the Southeast, sizable tracts in suburban Houston—suddenly these lands were under the jurisdiction of Section 404 of the Clean Water Act," and he called for quick revisions.

But Mr. Reilly is the one who sold Mr. Bush on his campaign promise of "no net loss of wetlands." The manual is an expression of Mr. Reilly's long-term commitment to "national land use planning" as a way of protecting the environment against development and growth.

Mr. Bush should talk to Margaret Ann Riegle of Cambridge, Md. In 1988, Mrs. Riegle (who retired as vice president of finance for the New York Daily News) and her husband bought a 138-acre abandoned farm on the Eastern Shore of Maryland as a real estate investment.

She first heard about the new manual in November 1989 when the Corps of Engineers' Baltimore regulator held a seminar for property owners, telling them "the new manual was no problem. Just file for a permit. Might take six weeks or so, but we deny so few."

What Mrs. Riegle also found is that most of the Eastern Shore was now classified as "non-tidal wetlands," not because of actual water, but because of hydric soils. "That meant our farm was 100 percent jurisdictional non-tidal wetlands. But we weren't really ready to subdivide, so we accepted the Corps' word on permits."

But that complacency was shattered in May 1990 when her elderly neighbor came to her in tears saying the Corps was killing her plans to subdivide the 44-acre farm she and her husband had invested their life savings in. "Her husband was about to have spinal surgery, so I volunteered to look at their permit application and respond to the agencies."

She soon discovered, contrary to the Corps' blithe assertions, "As of August 1990, the Corps had not issued a single residential construction permit since March of 1989." By last November, using a constant barrage of letters, press conferences and even an appearance on Connie Chung's "CBS Weekend Network News," Mrs. Riegle and her newly organized Fairness to Landowners Committee (FLOC, membership now over 6,000) forced the Baltimore district of the Corps to release most of its 19-month backlog of permits.

But Chatham County, Ga., around Savannah is not so lucky. There the Corps has not issued a single permit since March 1989, and the EPA is actually tearing down new houses built on reclassified wetlands! Up in Providence, R.I., last September the Senate's wetlands tyrant John Chafee ducked out on a hearing jammed with furious property owners who cheered former Corps executive Bernie Goode (who helped write the manual) when he attacked "this wetlands worship" and warned as a result of the manual "the regulated sector is on the verge of anarchy."

That "anarchy" was summed up in Hampton, Va., when a request by the Thomas Nelson Community College for a Corps of Engineers check of its 40-acre site for a new sports complex led to a finding of "hydric soils" not only at the college but on the nearby 38-acre Nelson Farms subdivision, the 800-home Michael's Woods subdivision, the 300-acre Hampton Roads Center office park and the 600-home Hampton Woods subdivision. As Hampton Mayor James Eason said, "It's conceivable it could halt all development in the city of Hampton." That is what the greens have in mind for the nation.

[From the Washington Times, July 26, 1990]

THE GREAT GREEN S&L LAND GRAB

(By Warren Brookes)

High level Bush appointees at the Interior Department are quietly arranging to turn the savings-and-loan bailout into one of the largest environmental land-takings since the National Parks.

In the process, they could be adding $40 billion or more to the cost of the bailout itself, say highly placed sources at Interior, who contend that Secretary Manuel Lujan is as yet unaware of the effort being "orchestrated" by Assistant Secretary of Fish, Wildlife and Parks Constance B. Harriman.

This column has acquired a draft "Memorandum of Understanding Between The Resolution Trust Corporation and the U.S. Fish and Wildlife Services" to be signed on Aug. 3 by John F. Turner, director of the U.S. Fish and Wildlife Service and David C. Cooke, executive director of the Resolution Trust Corp.

It sets up FWS to act as "technical consultant to the RTC on matters dealing with fish and wildlife resources and environmental planning, including recommendations for the protection and restoration enhancement of wetlands, flood plain habitats, coastal barrier resources, threatened and endangered species and other fish and wildlife resources."

The memorandum calls for FWS to make an inventory of all of the present $300 billion to $400 billion in property assets held by the RTC, and then make recommendations for restrictions, sanctions and easements to be imposed on those properties before their sale to the public under the general rubric of "land use restrictions consistent with protecting and restoring Important Resources," to be designated by FWS.

Top officials at Interior estimate that as much as 40 percent of the total property inventory now held by the RTC could come under such covenants which would then have to be written into the deeds of sale and transferred to prospective buyers.

Since these covenants will massively restrict the potential use of these properties, officials suggest they could "lower the market value of those properties by at least 25-40 percent."

That would suggest that up to $160 billion in RTC properties might be covered by FWS restrictions that could knock another $40 billion to as much as $65 billion off their market value, at the added expense of the taxpayers who already face a $150 billion bill for the savings-and-loan bailout. * * *

The memorandum calls for FWS officials to screen all RTC properties for the following "Important Resources":

"1) Wetlands.

"2) Riparian zones, floodplains and coastal barriers.

"3) Federally threatened and endangered species (including proposed and candidate).

"4) Fish and wildlife habitats of local, regional, State or national importance. . . .

"5) Aquifer recharge areas of local, regional, State or national importance, or as identified by Federal or State agencies or private nonprofit organizations.

"6) Areas of high water quality or scenic value, including wild and scenic rivers, natural landmarks and wilderness areas as identified by Federal or State agencies or private nonprofit organizations.

"7) Areas of special management importance. . . ."

This sweeping catalogue of wide-open easy-to-meet conditions would allow the triangle of environmentalist organizations, govern-

ment agencies and Congress to exercise the "taking" power of the government by slapping one property after another with restrictions written into the prospective deeds of transfer.

The memorandum includes "standard language" for such "Conservation Easement Reservations" which would assign "a perpetual easement on the property" and which would allow the government and/or a nonprofit environmental agency ("easement manager") a permanent "right of way" through the property "to accommodate access by vehicles and equipment deemed necessary and desirable by the easement manager for easement management."

It also lays out covenants that would prevent the owner from building any "dwellings, barns, outbuildings or other structures" in the easement area, and would order that "the vegetation, or hydrology of the described easement area will not be altered in any way. This includes preventing cutting or mowing, cultivation or grazing, or harvesting wood or in any way affecting "the natural flow of surface waters," or drainage.

In short, any property which the FWS or its allies in the environmental community designates as "important" will be effectively locked up against any future use other than as natural habitat.

What this amounts to of course is that the government is "taking" land without actually buying it. While the owner will nominally have title, the government will be his or her landlord and policeman in perpetuity. Thomas Jefferson would retch.

The sweep of this "Memorandum of Understanding" and its significance should not be underestimated. For more than two years now, the environmentalists have eyed the thrift bailout with naked greed as the perfect backdoor route to national land-use planning and the locking up of private property against private development.

Congress gave them this "hunting and fishing" license against the taxpayers and private property holders as part of the savings-and-loan bailout bill last year. Constance Harriman and John Turner and a widespread elitist "green coalition" within the Bush administration can hardly wait to exercise it. The cost of that license is at least $40 billion. House and Urban Development Secretary Jack Kemp, now struggling with "affordable housing" issues, should take note.

[From the Washington Times, July 3, 1991]

THE BANK REFORM THAT ISN'T

(By Warren Brookes)

Last Friday the House Banking Committee proved it learned nothing from the $180 billion savings-and-loan disaster, and is quite willing to repeat the lesson with the banks, also at our expense.

While the committee accepted virtually all of the administration's proposals to increase banking powers and allow non-banks to own banks, it turned down even the Treasury's timid efforts to reform the deposit insurance system. It did this even as the Resolution Trust Corp.'s estimates of the savings-and-loan bailout costs soared past $180 billion, while Federal Deposit Insurance Corp. Chairman William Seidman warned the banking fund will be insolvent by the end of this year and must borrow another $30 billion to meet current liquidity needs.

Rep. Gerald Kleczka, Wisconsin Democrat, correctly tagged this ludicrous action as "the first step down the road to a taxpayer bailout." He told The Washington Post, "We can't have it both ways. We cannot open the door to risky new activities without reducing potential exposure to the deposit insurance fund." It's even worse than that. On the same day it refused to limit deposit insurance to no more than two $100,000 accounts per customer, the committee voted to expand the FDIC coverage to all government and private pension fund money, adding up to $500 billion to the FDIC exposure! Paradoxically, the committee did vote to curb the ability of the FDIC to pay off large depositors in large banks under the "too big to fail" doctrine. But even here the effort was to push those deposit funds back in the direction of the smaller banks whose lobbyists were active in killing deposit insurance reform. What is really sickening about this whole process is that it does nothing to stop the current hemorrhage in the nation's banking system.

Two days before the House action, the nation's 10th largest bank, Wells Fargo announced it was adding $350 million to its loan loss reserves, effectively wiping out its second-quarter earnings. Not only was Wells Fargo one of the nation's most profitable banks, its portfolio is fat with what used to be the most gold-plated assets, California land, including $10.5 billion in commercial real estate. This is the first sign that the "value disease" that swept through the East and the Southwest has now reached the Golden Shores. Indeed, the FDIC said in its recent quarterly banking profile the share of troubled real estate assets in California had jumped to 4.24 percent from 2.96 percent at the end of 1990.

All this underscores a simple reality: Until the real estate market recovers, the banking system will not recover, and the losses both to the FDIC and the RTC (and us) will escalate. Happily, there is a very simple, cost-free solution to this crisis that would actually save taxpayers as much as $40 billion in the two industries, banks and thrifts. Unhappily, Congress won't even consider it. That solution is to cut the capital gains tax rate from its current top rate of about 31 percent to 18 percent, or lower. This would immediately restore half of the more than $400 billion in value to the real estate market, lost since Congress raised that tax rate from 20 percent to 28 percent in the 1986 Tax Reform. That bill also wiped out billions in real estate investment tax breaks that multiplied this loss.

Since 1987, the Real Estate Investment Trust Index fell more than 70 percent. Most of the current banking crisis, and more than half the thrift crisis can be traced directly to Tax Reform. The reason is simple: Every dollar of increased tax devalues real estate by about $10. The 1986 Reform effectively raised taxes on real estate assets by about $40 billion. That cut the value of the portfolios of lending institutions by nearly $400 billion, and killed at least $25 billion in bank capital.

Conversely, cutting capital gains rates would restore nearly half of that lost valuation, and infuse nearly $12 billion in capital to a banking industry that desperately needs it. Instead, the House Banking Committee action will exacerbate this problem by forcing regulators to close banks faster when their capital dips below the minimum, escalating taxpayer losses. A capital gains rate adjustment would make most such actions unneeded.

Ironically, such a move would also reduce the U.S. deficit by at least $30 billion, raising revenues by about $9 billion (over five years) and cutting the cost of the RTC bailout by about $21 billion (by raising the value of its real estate portfolio). It is a win-win policy. But congressional Democratic leadership is so obsessed with the possibility that such a move might also enrich some investors, they will not even consider it.

Instead, they pass a "banking reform" that massively increases the potential costs to taxpayers, to reward a banking lobby that has given House Banking Committee members alone nearly $3.5 million in the 1989–90 election cycle, and more than $25 million to Congress as a whole. That's more than any other PAC group except organized labor. A dozen members of the House Banking Committee received more than $100,000 in that cycle. In the Senate, "banking reform" is being chaired by a member of the Keating Five.

In short, on Capitol Hill, it is business as usual and the taxpayers will pick up the tab.

[From the Washington Times, Sept. 4, 1991]

FLIGHT PLAN TO RESCUE REFORM?

(By Warren Brookes)

The breakup of the Soviet Union into sovereign republics will only accentuate the biggest hurdle in getting to a market economy: achieving a credible currency. While property rights and privatization are essential, they mean nothing without a reliable and convertible money.

Unfortunately, the failure to deal with monetary reform is jeopardizing not only economic reform in the whole Warsaw Bloc, it endangers U.S. economic recovery as their citizens decide to abandon their own incredible, politicized currencies in favor of the dollar, and that is draining U.S. dollars from the U.S. economy.

Over the last 12 months, the U.S. monetary base has risen by a seemingly comfortable 10 percent, more than enough to stimulate strong domestic monetary creation. But it hasn't. The reason: More than 90 percent of the growth in the U.S. monetary base (known as "power money") has been in currency, and more than 60 percent of that expansion has gone overseas, filling the demand from Poland to Argentina, Bulgaria to Brazil for credible money.

In short, citizens in these market-evolving economies are carrying out their own "currency reform." In Argentina today, the total supply of $5 billion worth of australs is exceeded by the $7 billion held in U.S. dollars.

Ironically, this "market-based" back door reform is pointing the way to a solution to the currency convertibility problem: the replacement of politically controlled central banks with apolitical "currency boards" such as operate in Hong Kong and Singapore.

A currency board is not a bank. It has no other function than to issue currency and coinage based on the amount of "reserve currency" assets it holds, on a fixed ratio. But the reserves are determined by market forces, the willingness of others to buy your goods and invest in your country.

If a nation has $10 billion in dollar-denominated securities or gold reserves, it issues as much domestic currency as its fixed exchange rate allows. But unlike a central bank, it has no power to create more money than the nation is generating in hard reserves. Every ruble or zloty must be backed at a fixed rate with the reserve currency, say the dollar, or deutsche mark, or sterling.

The currency board's entire income comes from interest earned on the reserve currency assets (5 percent to 6 percent) less the actual costs of issuing and coining currency and money (0.5 percent). This makes the currency board self-sustaining from the "seignorage."

Once a currency board is established, the central bank must disappear with all if its

other functions (bank regulations, check clearing, and lending of last resort) put under the country's finance ministry or treasury department. The Soviet central bank has no credibility and no incentive to try to achieve it. It is as obsolete as the Supreme Soviet.

The currency board is not a new idea. As Johns Hopkins economist Steven Hanke and his researcher from George Mason University, Kurt Shuler point out in several papers, it was first used successfully in the British colonies in Africa, where all local currencies were tied by currency boards to the reserves in sterling assets.

But the most interesting example they found is highly relevant to today's situation. During the heat of the Russian Revolution, North Russia, the British-sponsored anticzarist holdout against the Bolsheviks, adopted a currency board to supply credible money to keep the economy running.

The progenitor of that plan (which worked very well while North Russia survived) was none other than John Maynard Keynes, who was a high official in the British Treasury. Keynes, who was then a strong advocate of the gold standard, proposed the establishment of something called the "Emission Caisse" (French term for "note issue office") that set an official rate between the British pound and rubles at 40 to 1 and backed that with pounds on deposit at the Bank of England. Write Messrs. Hanke and Shuler.

"The Caisse worked like the Western African Currency Board which had been established for British's colonies in that region in 1912 . . . [and] became the model for many similar boards in other British colonies." It was essentially the same as the highly successful monetary system adopted for colonial India.

Mr. Hanke is now pushing several East European countries, including both Bulgaria and Yugoslavia, to adopt currency boards as a way out of their present inflationary mess and a way to generate the kind of currency credibility those countries must have if foreign investors are to send them their capital in any quantity.

Indeed, one of the beauties of the currency board approach is that it would serve as an instant stimulus to foreign capital inflows to countries that badly need them—and those inflows actually would fuel credit and monetary expansion, a reserve currency assets rise and allow more note issuance, not by manipulation or central bank inflation, but on a sound basis.

The currency board offers real value not only to newly market-organizing countries, but to developed nations that wish to get away from central bank "fine tuning" and manipulation.

Says Mr. Hanke: "The key difference between a currency board system and a central banking system is that a currency board has no power to carry out a discretionary monetary policy. It is an almost foolproof institution because it cannot act as an independent disturbing element in the economy. Market forces call the currency's tune. In contrast, a central bank has the power to destabilize the economy, and the history of central banks shows that they have often used that power, sometimes intentionally, but other times by mistake. A central bank run by saints, as long as they were not all-knowing saints, would still not work as well as a currency board system."

For the Soviet republics, it may be the only answer.

[From the Washington Times, Nov. 14, 1991]

HIGH COSTS OF GOING CALIFORNIA

(By Warren Brookes)

Instead of a tax cut, President Bush could do much more for the U.S. economy by suspending implementation of the 1990 Clean Air Act, for one or two years, saving the economy $40 billion a year for little or no loss in benefits. With the auto industry losing $5 billion so far this year, it really ought to be repealed.

That point was driven home when nine Eastern states plus the District of Columbia announced they would adopt the more stringent California clean air standards, including tighter tailpipes and forced introduction of alternative fuels and electric cars.

This decision will raise the implementation cost of the Clean Air Act from an estimated $400 per new car to as much as $1,000 and raise fuel costs in those states by 15 percent to 25 percent.

This might be worth it if there were really significant potential gains. There aren't. When you examine the actual ozone exceedance data for 1989 through 1991 (the most recent three year period), not only does "going California" look ludicrous, the entire $12 billion ozone nonattainment section of the Clean Air Act looks insane. Sadly, the Environmental Protection Agency is still scaring states by issuing obsolete 1987–89 averages that wildly overstate current reality. (See Table.)

OZONE EXCEEDANCE DAYS

[Cities adopting California regulations]

	1988	'89–'91—Current ('87–'89)		
		1989–91 Avg.	Pct. Comp.	EPA rating
New York City	21	7	98.1	Severe
Newark, N.J.	8	1	99.7	Severe
Philadelphia, Pa.	23	6	98.4	Severe
Boston, Mass.	10	1	99.7	Serious
Richmond, Va.	9	0	100.0	Moderate
Washington, D.C.	12	0	100.0	Serious
Baltimore, Md.	15	5	98.6	Severe
Delaware (Sussex)	8	0	100.0	Severe
Manchester, N.H.	2	0	100.0	Marginal
Portland, Maine	11	3	99.2	Moderate
Hartford, Conn.	13	4	98.9	Serious
Providence, R.I.	7	6	98.4	Serious
Los Angeles	148	121	66.8	Extreme
Totals for all 114 cities				
California (10)	308	211	.....	.....
Other (104)	626	126	.....	.....
Cities in Non-Compliance	94	29	.....	.....
Non-California	85	22	.....	.....

Source: Collected from Environmental Protection Agency state monitoring stations by Roy Weslin Co.

In the 1989–91 period, six of the 10 "going-California" states (counting D.C.) had one exceedance day or less per year, meaning they were in full compliance. The other four averaged five days a year and were thus in compliance 98.6 percent of the days. Even New York City had an average seven days exceedance, a 98.1 percent compliance rate. The EPA still rates it "severe."

By comparison, Los Angeles averaged 121 days a year of ozone exceedances and was in compliance less than 70 percent of the time. This means using California standards to deal with infinitesimal Northeast smog levels is like preparing a Mount Everest expedition to climb the San Francisco hills (particularly when California's own South Coast Air Quality Management District is already easing its own rules for economic reasons).

More important, in the East, the National Oceanographic and Atmospheric Administration estimates more than 60 percent of ozone precursors are natural hydrocarbons (trees etc.). And since auto volatile organic compounds only account for 30 percent of total volatile organic compounds, and new cars only 3 percent of total autos, a 10 percent to 15 percent reduction in new auto emissions cuts total smog precursors only 1 percent. With up to $1,000 higher costs per new car, that could leave more dirty, older cars on the road.

A recent Unocal study shows 1970 vintage cars emit 24.8 grams of hydrocarbons per mile, 1975 cars 8 gpm, current new cars only 0.4 gpm. That's why enhanced inspection and maintenance is the lowest-cost way of cutting emissions, $600 per ton compared with up to $50,000 per ton for "clean fuels."

Indeed, 75 percent of the added emissions reductions claimed for California controls in a study by the Northeast States For Coordinated Air Use Management come from enhanced inspection and maintenance.

But politicians don't like inspection and maintenance because it increases state government costs and makes voters mad. That's why most of the 10 states "going California" have skipped inspection and maintenance and will adopt only those things that can be passed back to the oil and auto industries (and then on to us). But this produces only a net five-hundredths of a gram per mile improvement over the Clean Air Act, a minuscule gain.

Worse, EPA is hyping this process by withholding valuable information about the actual trends in surface ozone in U.S. cities that show the 1988 data (on which the 1990 Clean Air Act was based) were so anomalous as to be fundamentally deceptive.

In 1988, there were 925 ozone exceedances in the top 114 metro areas. In 1989, that plunged to 234, and in 1990 to 286. In the non-California urban areas, the plunge was even more dramatic from 617 exceedances to an average of 122 from 1989 through 1991, from six per city in 1988 to an average of about one from 1989 through 1991, from 85 non-California cities out of compliance to only 22, from 1989 through 1991.

To put it bluntly, the 1988 data were a meteorological fluke that no amount of emissions controls could change. In city after city still listed as "severe" or "serious" ozone exceeders by the EPA, the 1989–91 data show no such dangers. For example, in 1988, Chicago had 16 exceedance days. From 1989 through 1991, it averaged only one.

Newark, with eight days in 1988, fell to one for 1989–91 and is now in compliance. Boston with 10 exceedances in 1988 averaged two for 1989–91. Richmond, VA, with nine in 1988, averaged under one in 1989–91 and is now in compliance. The same holds true for Washington, DC., St. Louis, Cleveland and Pittsburgh, as all but a handful of cities are now within three days of compliance, which is well within the statistical errors inherent in EPA ozone testing.

In short, suspending the 1990 Clean Air Act would have no measurable effect on human health or the ecology. Indeed, by speeding up new car buying, it could actually produce cleaner air.

[From the Washington Times, Nov. 18, 1991]

CLEAN AIR ACT OVERKILL

(By Warren Brookes)

On Oct. 3, the Amoco Oil Co. announced it would close its Casper, Wyo., refinery on or about Dec. 1, "because it requires substantial capital investment that cannot be justified, given the marginal economic performance of the refinery in recent years."

The company said compliance with the 1990 Clean Air Act amendments, added to other

environmental requirements under the Resource Conservation and Recovery Act and the Clean Water Act, would cost an estimated $150 million for a plant whose present value is only about $25 million.

So, its 210 employees and some 50 area gasoline stations will have to look for other sources of employment and fuel, because while "Amoco is committed to protecting the environment, the enormous expenditures required make it imperative that we commit our capital to refineries that have a more favorable outlook."

Environmentalists will point out this was a small and economically marginal plant. True, but that is precisely why it is so vulnerable to any major increase in regulatory costs. Indeed, the biggest danger of these costs is not to established corporations, but to smaller, more marginal businesses.

But as one environmentalist said to us casually, "Well, then, maybe they shouldn't be in business, if they can't meet the clean air standards." That argument, as hardhearted as it sounds, would still be acceptable if the ecological and health benefits were sufficient to offset the economic costs. In the case of the Amoco Casper refinery, that's a very hard case to make.

Nationwide, the total regulable risk for all "hazardous air toxics," using the Centers for Disease Control (CDC) exposure models, is about 230 cancer risks. When you add in the regulable risks for petroleum refineries from the Resource Conservation and Recovery Act and the Clean Water Act, that number rises by another 57 to less than 290. This means that the total risk from all such hazardous releases in Wyoming (using a straight population share) comes to about 0.5 cancers every 70 years. Casper's rough share of that comes to 0.04 cancer risks. Given Casper's tiny industrial density, that undoubtedly overstates the danger by at least one order of magnitude (tenfold).

In short, shutting down the Casper refinery, which will cost the Casper economy at least $10 million a year in direct and indirect costs, or bringing it up to compliance (for about the same annualized costs) will generate a cost per cancer risk averted of $2.5 billion, or about one-third more than the entire cancer research budget of the National Institutes of Health.

This is not unusual. The Clean Air Act, contrary to some fatuous claims by Environmental Protection Agency contractors (such as the American Lung Association) has a maximum regulatory risk pool of 1,028 cancers, using the EPA's "wild and crazy" risk models, or 231, using a more realistic, but still very conservative CDC risk model. With an estimated total cost of $40 billion a year, this would produce a cost per cancer risk avoided of $173 million, even if you assumed total effectiveness, which no one claims. Realistically, that figure is probably closer to $500 million each.

Costs like that can't really be tolerated even in a booming economy, let alone one that is plunging over a cliff. Yet, an analysis done in 1989 by Dr. Michael Gough, currently the top risk assessor at the congressional Office of Technology Assessment, shows the entire "regulable" risk pool in the EPA's 1989 "Unfinished Business" inventory is about 1,232 cancers.

That includes everything from pesticides on food (300) to all waste sites, hazardous and non-hazardous, active and inactive (516) to hazardous toxic air (231). Since the nation now has about 500,000 cancer deaths a year, even if we were somehow able to a avert all of these risks, we would only cut the nation's cancer death rate—at the most—by about two-tenths of 1 percent.

No one knows the cost of such an undertaking, but if other laws are no more cost-effective than the 1990 Clean Air Act, the cost could be an additional $200 billion over and above the $115 billion we now spend, which in turn is 2.4 times as much as our competitors spend as a share of gross national product.

Now, with the risk models on dioxin, polychlorinated biphenyls (known as PCBs), polybrominated biphenyls (PBBs), and other substances listed among Clean Air toxic targets proving to be vastly over-stated, those costs are likely to be even more ludicrously out of line with any economic or ecological realism

Indeed, for the likely cost of the Clean Air Act and its 231 theoretical cancer risks, we could provide basis health insurance for all 35 million uninsured Americans or, in the short run, working capital for at least 1 million jobs, not to mention all the jobs we are losing in marginal plants like Amoco, Casper.

Since the adoption of the Draconian standards set by the South Coast Air Quality Management District, the state has hemorrhaged more than 3,000 businesses to other states, forcing South Coast Air Quality Management District to announce on Nov. 7 that it was easing its rules.

House Energy and Commerce Chairman John Dingell, Michigan Democrat, should give the U.S. economy a real "tax cut" and start the repeal or suspension of President Bush's disastrous 1990 Clean Air Act amendments.

[From the Washington Times, Dec. 11, 1991]

STATE TAXES KILLING THE ECONOMY?

(By Warren Brookes)

While Washington dithers over tax cuts, $17 billion in higher state taxes are destroying the economy and doing more fiscal harm than good.

One in 4 California companies are now planning to move some or all of their operations out of the state in the coming year—a huge jump from the 1990 result of 1 in 7, according to the California Business Round Table's annual poll.

In manufacturing, 1 in 3 now plan to take jobs out of the state that has just passed a $7 billion increase in taxes on top of an estimated $10 billion in new environmental regulations.

As one executive wrote on his questionnaire, "California has adopted an attitude of, 'If you don't like it, leave.' And that's what we are planning to do." Topping the reasons for leaving were taxes, workman's compensation settlements, environmental regulations and "anti-business policies", most of them adopted under a Bush Republican administration run by Gov. Pete Wilson.

But Mr. Wilson is not alone. Similar onslaughts have soured the economic climates of New York where Mario Cuomo has passed four successive tax increases of $1 billion or more; Pennsylvania with more than $3.3 billion; Connecticut with an increase of more than $2 billion; New Jersey still reeling from the 1990 rise of $2.7 billion; and North Carolina with nearly $1 billion in new taxes.

Altogether, according to the Tax Foundation 1990-91 tax boosts will raise fiscal '92 revenues by more than $17 billion, pushing up the effective tax burden of all states by another 5.4 percent above the normal trend, "making FY '91 the biggest revenue-raising year in history at the state level."

While President Bush takes heat for caving into Congress on a big $163 billion, five-year tax increase at the start of fiscal 1991, the actual impact of state tax boosts have been much tougher on the GNP and thus the economy's capacity to grow. (See Table.)

Since 1988, while federal taxes as a share of GNP have barely risen from 20.0 to 20.3 percent, the state and local burden has jumped 6 percent through second-quarter 1991. And when the current round of increases is over, that rise will be 8 percent over 1988, and nearly 11 percent over 1981.

Meanwhile, the federal tax burden has actually fallen about 3 percent in the last decade from 20.9 percent (in the national income accounts) in 1981 down to a current average of around 20.3 percent. That modest decrease is far too small to account for the massive 3 percentage point rise in the federal deficit. It also doesn't offset the state and local increases that raised government's total share of GNP by 2 percent in the decade.

The conventional liberal wisdom is that these tax rises were forced by the Reagan tax cuts and "cuts" in federal aid to states and localities. Yet, from 1981–92, total federal aid to the states has risen 78 percent. While its share of GNP dipped three-tenths of a percentage point, this accounts for a quarter of the 1.2 percentage point rise in state and local revenue GNP share.

The much likelier explanation is soaring state spending that has risen faster than federal spending, especially from 1985–1990, when state spending rose 38 percent, compared to 29 percent in federal outlays. Those soaring expenditures have overwhelmed the strongest revenue budget deficit of at least $1.5 billion for the coming year, as California has growth in state history.

In Connecticut for example, state spending soared 173 percent from 1980 to 1989, 70 percent faster than the all-state rise of 103 percent. But when Gov. Lowell Weicker faced a massive deficit, instead of stopping the spending trend, he tried to close the gap with a huge new income tax.

Yet as the New York Times reported on Nov. 19, "Less than three months after the largest tax increase in state history and the introduction of a wage tax [income tax] for the first time, Connecticut's budget is already out of balance and headed for another deficit, Gov. Lowell Weicker said today."

This followed by a week a Wall Street Journal report that despite California's $7.5 billion tax increase, "For the first four months of the fiscal year—July through October—revenues fell short of forecasts by $528 million, or 4.7 percent."

This translates into yet another lost 300,000 jobs in the first nine months of the year, and housing starts have fallen every month since the tax increase passed last May.

Much the same outcome destroyed Democratic Gov. James Florio, who rammed a $2.7 billion tax increase down New Jersey's throat to the plaudits of Potomac pundits during fiscal 1990, only to have the state budget soar into even bigger deficits in fiscal 1991.

No wonder the big Democratic majorities in both New Jersey legislative branches were just replaced with veto-proof Republican majorities in perhaps the most shocking reversal of political fortunes ever experienced in a major industrial, urban state.

Meanwhile, Massachusetts, where Gov. William Weld eschewed the Bush-Wilson-Weicker tax increases, and closed a $1 billion budget gap by spending cuts (after he repealed the Dukakis tax on services), now projects a $750 million surplus for the fiscal year as revenues run ahead of projections!

Mr. Bush should learn from these lessons, and come in with a hard spending freeze in his fiscal '93 budget, and stiffer lips.

Federal, State and Local Tax Burdens

[As percent of GNP in national income accounts]

	Federal	State and local	Total
1981	20.9	13.9	34.8
1985	19.6	14.5	34.1
1988	20.0	14.3	34.3
1989	20.2	14.4	34.6
1990–I	20.1	14.6	34.7
1990–II	20.3	14.6	34.9
1990–III	20.4	14.7	35.1
1990–IV	20.4	14.8	35.2
1991–I	20.4	14.9	35.3
1991–II	20.3	15.1	35.4
Percentage Change			
1981–91	2.9	8.6	1.7
1988–91	1.5	5.6	3.2

Source: U.S. Bureau of Economic Analysis.

[From Forbes, Sept. 2, 1991]

THE STRANGE CASE OF THE GLANCING GEESE

(By Warren Brookes)

In early August, amidst outcries from professional environmentalists, the Bush Administration moved to lift some of the more onerous property restrictions imposed by its own Environmental Protection Agency. Earlier, on June 12, property rights won another victory. After hours of acrimonious debate, the Senate voted 55 to 44 to tack on a very powerful amendment to a highway funding bill. Called the Private Property Rights Act, the amendment seeks to restore some of the sanctity of private property that has eroded in recent years in the U.S.

If the amendment passes in the House of Representatives as well, it will require the government to be a little less cavalier with its environmental regulations. When the authorities issue rules that damage property values, they must at least consider treating the rules as a "taking" under the Constitution. If a taking there is, the property owner would be compensated—just as he would be if the government took his land outright.

The conflict between private property rights and governmental power goes back a long way—as evidenced by the attention that the founding fathers paid to it. The writers of the Constitution declared in the Fifth Amendment that "private property [shall not] be taken for public use without just compensation."

For the first century this limitation on governmental power was the law, it wasn't the subject of much debate. If the government needed land for a garrison or a prison, it might compel an owner to sell, but the owner got paid. The only issue was how much.

Then, beginning around the turn of the century, battles over land-use controls landed in court. A landowner might be prohibited from putting up a slaughterhouse where he wanted, lest the smells and noise and blood offend neighbors and lessen their property values. Was such a restriction a taking of private property? In most cases, the courts said no. Your right to go into the fat-rendering business or erect a 20-story apartment building clashes with my right to clean air or erect a 20-story apartment building clashes with my right to clean air or sunlight. And so a zoning law that decrees where factories or tall buildings can go doesn't amount to a confiscation of private property, even though it might make some property owners poorer. If there was an erosion of property rights, few people objected. The restrictions were sensible and hardly onerous.

So it went in the courts—zoning laws were almost always upheld. But governments can go only so far with their restrictions, and California crossed the line. In a 1987 Supreme Court case, Nollan v. California Coastal Zone Commission, the Court ruled that the state's attempt to condition a building permit on a property owner's granting of access to a public beach was a taking and required compensation. It was a turning point for a court system that had for a long time been much more protective of political liberties than of property rights. The justices said, in effect: If California wants more public beaches, it should buy the land it needs, not just take it.

The ancient controversy has taken a dramatic new turn with the rise of environmentalism in recent years. With wetlands rules and endangered species protection, the federal government is in the business of land-use control. So the old question again arises: When does regulation amount to confiscation? If your waterfront parcel is ecologically precious, can the government simply declare it unbuildable? Or must it appropriate the money to buy you out? If the government wants to preserve a species of owl, can it tell an owner of timberland that he can't touch the trees he owns? Or must it buy him out?

The Senate bill requires federal agencies to assess the regulations a second time before regulating a property to the point of uselessness. There is nothing antienvironmental in the bill. It puts no limits on environmental protection measures. But it does impose a cost. It would simply require the government to compensate property owners for a significant loss they incur from environmental restrictions imposed upon their property.

Consider what happened in 1988 in Riverside County, Calif. The U.S. Fish & Wildlife Service declared the Stephen's kangaroo rat an endangered species. The result: Riverside County and local cities set aside 80,000 acres as wildlife preserves. Where the money would come from was not the Fish & Wildlife Service's problem. As then FWS Field Supervisor Nancy Kaufman told the Washington Post, "I'm not required by law to analyze the housing price aspect for the average Californian." If her enforcement helped deprive lower-income people of housing, that was no concern of hers. A local government agency financed the preserves with a fee of $1,950 imposed on every acre developed in the county. Up went the price of housing.

But under the new Private Property Rights Act, bureaucrats like Kaufman will have to consider the cost. The proposed law codifies an executive order issued in 1988 by President Reagan. This order required every federal agency to assess in advance the impact of any regulation or sanction on property values, to determine whether that impact constitutes a taking under law, and to seek to avoid such impacts. The potential for substantial monetary impact was borne out by a series of recent court decisions. In the U.S. Claims Court in 1990 and 1991, Judge Loren Smith awarded $64 million plus interest to property owners injured by such environmental sanctions.

The Senate bill has some professional environmentalists up in arms. If each of their efforts to protect "biodiversity" carries a price tag, the terms of the debate shift in ways they do not like. It will no longer be: Should we protect the spotted owl? It becomes: How much are we willing to spend to protect the spotted owl?

A setback for the environment? Not at all. If the Private Property Rights Act passes the House of Representatives, people will continue to look to the government to protect the environment. However, the bill will serve notice on the extreme environmentalists that Americans are not willing to give them a license to ignore property rights in the guise of protecting biodiversity.

When the final Senate vote was tallied, the environmental groups and their numerous representatives on the staffs of U.S. senators were lined up at the back of the Senate Chamber, visibly stunned at the suddenness and magnitude of their defeat. It was a complete reversal in just nine months of the defeat—by nine votes—of a similar provision.

It was a bitter pill for Senate Majority Leader George Mitchell (D-Me.), who wound up the debate with an impassioned cry that this bill, like Reagan's executive order, sought "to undermine regulatory protection by chilling agency action." But his motion to table the bill was shot down by 17 Democrats who teamed with 38 Republicans to hand environmental extremists the biggest legislative defeat in their history. The fact that 17 Democrats did vote for the Private Property Rights Act may demonstrate the rising political backlash against the extremes of the green lobby.

Ironically, this setback had its roots in what had looked like a major victory for the greens. In 1988 presidential candidate George Bush pledged "no net loss in wetlands." But on taking office, Bush faced the consequences of his statement. When the government enlarged the definition of "wetlands," Bush met angry protest from traditional Republican constituencies, farmers, businesses, real estate developers, landowners and local governments.

What caused the backlash was not the statement itself but an act of bureaucratic high-handedness apparently encouraged by Bush's pledge. This took the form of the 1989 Federal Manual for Identifying and Delineating Jurisdictional Wetlands, which extended federal jurisdiction over some 100 million additional acres of property, most of it privately owned. What outraged so many people was that most of the newly restricted land had only the remotest connection with water.

Why did the bureaucracy get so out of hand? When President Bush appointed William Reilly to head the Environmental Protection Agency, Bush confirmed the Washington adage that "personnel is policy." He had selected one of the most committed land-use planners in the environmental movement.

No question, there was and is a real need to arrest the long-term trend of draining and filling wetlands, marshes, bogs, swamps and lowlands for conversion to active farming and commercial and residential development. The EPA claims this has destroyed over half of all U.S. wetlands—or more than 100 million acres. But how to protect the wetlands? Reilly gave his answer long ago: As executive director of Laurance Rockefeller's Task Force on Land Use and Urban Growth, he helped write The use of land: A Citizens' Policy Guide to Urban Growth. It laid out many of the premises for using biological diversity as a rationale for limiting the two betes noires of environmentalism: single-family housing expansion and commercial agriculture. It noted that land use could be restricted at no cost to the government through jurisdictional control.

Reilly's appointment as EPA administrator coincided with the early 1989 release of the new manual, which, in attempting to define "wetlands," extended the reach of the 1972 Clean Water Act. That manual asserted

"jurisdiction" (requiring federal permits) well beyond traditional marshes and bogs. It extended it to cover any land with "hydric soils" or "hydro phytic vegetation." In plain English, that is land showing evidence of periodic saturation or containing plants, such as cattails, that are characteristic of wetlands. A third criterion defined as "wetland" land where there is even a hint of water down to 18 inches below the ground for seven consecutive days of the growing season. Under the August proposal, some of those criteria were softened. Most important, the length of time a wetland must be saturated would be increased to 21 consecutive days of the growing season.

One of the areas hardest hit by the 1989 rules was Maryland's Dorchester County. Previously some 275,000 acres of privately owned land in Maryland had been classified as wetland. With the 1989 manual, the figure topped 1 million acres. This meant that the government suddenly sanctioned 740,000 additional acres against filling or other disturbance, unless specifically permitted by the Army Corps of Engineers, with the EPA and FWS exercising virtual veto power. Under the new proposal, the amount of wetlands would still increase, but by less than the 740,000 acres. The 1989 manual, however, remains the law of the land. The revisions would be unlikely to go into effect before early 1992. The permitting process itself remains a bureaucratic swamp.

This outraged Margaret Ann Reigle, who had retired from her job as vice president of finance at New York's Daily News. With her husband, C. Charles Jowaiszas, a retired Columbia Pictures vice president, Peggy Reigle moved to Cambridge, in Dorchester Country, to raise flowers and enjoy life. As a retirement investment the couple had bought a 138-acre abandoned farm that they planned to subdivide into 10-acre lots. Within months, however, Reigle was out of retirement and at war with the federal government.

Reigle's war started after she heard what the new definitions had done to an elderly neighbor. The neighbor had been informed that under the new rules, her property was classified as nontidal wetlands and therefore could not be developed. The neighbor had been counting on proceeds from land sales to build a new home.

In May 1990 Peggy Reigle wrote an angry letter to President Bush (one of thousands like it received by the White House). When local papers reprinted the letter, Reigle was besieged by calls from others like her, outraged by the new policy. She formed the Fairness to Land Owners Committee; in two weeks it signed up some 2,000 citizens and now boasts a membership of over 6,000 Marylanders and 2,500 from other states. Its credo: "We will not accept the government's taking our land without just compensation." The grass-roots backlash against federal wetlands imperialism was under way. And soon Congress was paying heed.

In January and February Representative John LaFalce (D–N.Y.), chairman of the House Small Business Committee, held hearings. Builders, realtors, national and local officials and developers shared stories about the quagmire of wetlands regulations. The town supervisor of Wheatfield, in Niagara County, N.Y., told LaFalce that if the Corps issued permits based on the 1989 manual, "areas like Niagara County will be deprived of approximately 65% of the remaining developmental property." David Brody, attorney for the Niagara Frontier Builders Association, said the manual's implementation, along with other problems, would result in "a 35% reduction in new home starts in Niagara and Erie counties in 1991." After the hearings LaFalce sent President Bush a letter "to alert [him] to the regulatory travesty currently masquerading as federal wetlands policy."

In Hampton, Va., meanwhile, Thomas Nelson Community College had made a routine request for a Corps check of a proposed 40-acre site for its new sports complex. The result was a finding of "hydric soils" and "wetlands" at the college. Similar findings could, in a cascade of regulatory mayhem, threaten the 38-acre Nelson Farms subdivision, the 800-home, 133-acre Michael's Woods subdivision, the 300-acre Hampton Roads Center office park, and a 600-home Hampton Woods subdivision. As Hampton Mayor James Eason told the local Daily Press, "It's very scary. It's conceivable it could halt all development in the city of Hampton."

This quagmire trapped even some of the most obvious candidates for permits, such as Richard Adamski. This retired state trooper from Baltimore had invested $16,500 in a building lot in the midst of a developed residential area in a hamlet in Dorchester County only to be told the 0.7-acre lot was "nontidal wetlands." Although he wanted to fill only an eighth of an acre to build a retirement home, the U.S. Fish & Wildlife Service recommended denial of his application.

Eventually the Corps did issue a permit to fill the sliver of land, but only if "the permittee shall mitigate at a 2:1 ratio for wetlands losses by constructing 0.25 acres of wooded nontidal wetlands." In other words, Adamski had to find someone willing to sell him a permanent "easement" on twice as much land. No takers yet; Adamski remains in limbo. Yet when I walked through the wettest of these mostly wooded "wetlands" last April (the wettest season), my dress shoes emerged pristinely unmuddied.

As the outrage over his high-handed policies mounted, Reilly had to beat a strategic retreat. On Mar. 7 he admitted to the prestigious American Farmland Trust: "We suddenly found ourselves in the center of a maelstrom. Everywhere I traveled I heard a local wetlands horror story—not just from farmers, but from developers and respected political leaders." He suggested that the entire process had gotten out of hand.

But tell that to William Ellen, a successful and respected Virginia marine engineer who is now appealing a prison term and a large fine for having "filled" more than 15 acres of Eastern Shore "nontidal wetlands" when he bulldozed these seemingly dry and forested acres to create large nesting ponds for ducks and geese as well as a management complex.

Ellen was working on a project for Paul Tudor Jones II, the high-flying futures trader who in August 1987 had bought 3,200 acres in Dorchester County, very close to the Blackwater Wildlife Refuge. Jones' idea was to create a combination hunting and conservation preserve as well as a showplace estate. The centerpiece of the project is a 103-acre wildlife sanctuary developed with the assistance of the Maryland Department of Natural Resources. This sanctuary includes ponds, shrub swamps, food plants and grassland plots all designed to attract geese, ducks and other migrating waterfowl.

In May 1990 Jones suddenly pleaded guilty to one misdemeanor related to negligent filling of wetlands, agreeing to pay $1 million to the National Fish & Wildlife Foundation to help the Blackwater Refuge, plus a $1 million fine. The plea allowed Jones to avoid a costly and debilitating trial, and possibly even a jail term and the loss of his trading license. However, no such deal was afforded Bill Ellen, himself a well-known conservationist who, with his wife, runs a rescue/rehab mission for injured wildlife and waterfowl.

How could Ellen be prosecuted for converting land that was so dry water-spraying had to be used as a dust suppressant during bulldozing into large nesting ponds for waterfowl? That question disturbed trial judge Frederick Smalkin at the U.S. District Court in Baltimore, and the answer he got was bizarre.

Prosecution witness Charles Rhodes, one of the EPA's top scientists on wetlands, said that even though the forested "wetlands" had been replaced by new ponds, the ecology was supposedly worse off.

Why? The problem was bird shit. "The sanctuary pond is designed to have a large concentration of waterfowl, and before the restoration plan was implemented, all that fecal material [from the ducks and geese] was geared to be discharged right into the wetlands, whereas now it is actually designed to go through like a treatment system through the wetlands. So that would have been a negative impact, a water quality impact." In other words, the bird droppings, instead of staying in one place, would be spread over a wider area.

To which Judge Smalkin responded incredulously: "Are you saying that there is pollution from ducks, from having waterfowl on a pond, that that pollutes the water?" Incredibly, a jury convicted Ellen on five counts of filling wetlands. But U.S. Attorney Breckinridge Willcox said Ellen's conviction sends "a clear message that environmental criminals will, in fact, go to jail." The prosecution asked the court for a prison term of 27 to 33 months, but Judge Smalkin sentenced Bill Ellen to six months in jail and four months of home detention.

These examples of federal wetlands policy as practiced in the early years of the Bush Administration are a case of a bureaucracy run amok. In fact, there is little law today that provides due-process federal jurisdiction over wetlands. There is only the Food Security Act of 1985, which asserts jurisdiction over those farmlands under federal subsidy programs. But farmers may remove that jurisdiction by taking their land out of the programs.

Otherwise, the wetlands program is very largely a contrivance of federal bureaucrats, sometimes working with friendly courts to expand Section 404 of the Clean Water Act. Yet this act makes no mention of "wetlands" and is designed to regulate only direct dumping into and pollution of the nation's "navigable waters," rivers, harbors, canals, etc.

In a 1975 decision (Natural Resources Defense Council v. Callaway), a Washington, D.C. district judge ruled that federal jurisdiction applied beyond navigable waters to any wetlands that might remotely feed into such rivers and harbors. But even that did not cover "isolated wetlands" with no connection to "navigable waters"—like the puddles in your backyard after a heavy rain. Nevertheless, since 1975, jurisdiction has been expanded entirely by fiat and court interpretation to cover that definition in the EPA manual—water 18 inches down.

The fig leaf for this judicial and executive imperialism is Article 1, Section 8, paragraph 3, of the Constitution, which gives Congress the right "to regulate commerce * * * among the several states." To assert this power on isolated and local

wetlands, the EPA and the Army Corps of Engineers engaged in such creative flights of fancy as declaring ducks and geese "interstate waterfowl." This led to what some call the "glancing goose test," which determines that an area is a wetland if an interstate goose pauses to consider it.

In a brutal display of naked power, the EPA and the Department of the Army plunged ahead in December in their "Wetlands Enforcement Initiative," designed to bring 24 high-visibility defendants like Paul Tudor Jones to justice. The Dec. 12, 1990 memorandum asked all regional administrators to produce a "cluster" of new cases to be announced in an April "first 'wave' of publicity * * * to provide an early deterrent to potential violations which might otherwise occur during the 1991 spring and summer construction season."

But on Apr. 19 a high-visibility case blew up in the government's face. James Allen and Mary Ann Moseley, Missouri farmers, had built a perimeter levee to keep their Mississippi Basin farm from flooding. The government declared the area to be wetlands of the United States, sued the Moseleys for violations of the Clean Water Act and sought fines of $25,000 a day for as long as the violation was in effect.

But the Moseleys are members of the American Agriculture Movement, a progressive farm organization that has joined the mainstream farm groups in opposing the extension of the definition of "wetlands" and supporting the Private Property Rights Act. AAM's Fayetteville, Ark. lawyer, John Arens, has a record of beating the government in court—and he did it again.

When Arens was not allowed to bring in his own "expert witnesses," he minced up the government "experts" by demonstrating the capricious nature of the so-called wetlands law. He asked one EPA expert if it were not true that, were he to play baseball on a diamond built on hydric soils and went into the batter's box and scuffed his cleats, and then knocked the resulting dirt off them, back onto the field, he would be in technical violation of the Clean Water Act?

"When he [the so-called expert] was forced to answer yes, I looked at the jury and I knew we were on our way!" Arens said. "But what really convinced the jury the government had no case when it discovered that the government prosecutors had no law!"

"While the jury was deliberating, they kept sending out to the judge for copies of the 'wetlands law.' When the judge sent them federal regulations, they sent back and asked for the law. When the judge sent them the Clean Water Act, and said this was all the law he had to give them, they [the jury] decided the government had no case because it had no jurisdiction."

More setbacks awaited the power-grabbing bureaucrats. In January 1989 then Assistant U.S. Attorney General Stephen Markman had a memorandum prepared on a big wetlands case the Justice Department was prosecuting. The memorandum demonstrated, with dozens of citations, the flimsiness of the government's wetlands policies, concluding: "The Corps and the EPA appear to have circumvented the Constitution's requirements . . . and the federal district and circuit courts have not corrected them." The courts have apparently been paying attention.

And so the battle has been joined. On the one hand are the wildlife-at-any-price people. On the other hand, people who think that environmental policy ought not override property rights.

The environmental extremists have made their intentions clear. In 1975 poet Gary Snyder won the Pulitzer Prize for his radical call for an "ultimate democracy [in which] plants and animals are also people." He wrote that they should "be given a place an a voice in the political discussions of the humans. * * * What we must find a way to do * * * is incorporate the other people * * * into the councils of government."

A few years later, in 1980, a leading ecologist, Joseph Petulla, said, "The Marine Mammal Protection Act [and] the Endangered Species Act [embody] the legal idea that a listed nonhuman resident of the U.S. is guaranteed, in a special sense, life and liberty."

Of course, the Constitution says nothing about the rights of trees, snakes, owls and fish. Which may be why, back in 1973, Reilly's task force essentially called for the repeal of the takings clause of the Fifth Amendment: "Many [judicial] precedents are anachronistic now that land is coming to be regarded as a basic natural resource to be protected and conserved. * * * It is time that the U.S. Supreme Court re-examine its precedents that seem to require a balancing of public benefit against land value loss . . . and declare that, when the protection of natural, cultural or aesthetic resources or the assurance of orderly development are involved, a mere loss in land value is no justification for invalidating the regulation of land use [italics added]."

"A mere loss in land value. . . ." In that "mere" resides a philosophy that questions the values of private property and individual freedom. But after years of having things pretty much their own way, people who think like Reilly are getting a real fight.

Idaho Republican Steve Symms, who leads the fight in the Senate for the protection of property rights, says: "We should adopt a policy of no net loss of private property." Since the federal government already owns some 40% of U.S. land, Symms argues that it ought to be willing to swap some of its 730 million acres in order to obtain privately owned land that is environmentally sensitive. If, say, the National Park Service wants 50,000 acres to provide more protection for Shenandoah National Park, it can ask the Forest Service or Bureau of Land Management to sell to private citizens a like amount to finance the acquisition. Such a policy of no net gain in federal lands was introduced this summer in the House in legislation drafted by Representative Bill Brewster, Democrat from Oklahoma.

Do we really want the federal government owning even more of the country, whether through outright purchase or through limitations on land use? Free-market environmentalists like R.J. Smith of the Cato Institute argue that more government ownership and control would actually harm the environment. He says: "Ecological devastation . . . invariably accompanies too much government ownership of land. You don't have to look just to Eastern Europe for confirmation. You need only examine the condition of most of the Bureau of Land Management inventory of properties, or remember what the Park Service allowed to happen at Yellowstone."

But the zealots won't give up. On Oct. 1 the EPA's regional office in Chicago awarded a grant of $50,000 over three years to the Sierra Club's local "Swamp Squad," which amounts to an unofficial policing of the environment. These vigilantes spy on developers and other land and property owners to report potential wetland violations. The EPA press release quoted Dale Bryson, the regional director of its water division: "This grant will allow them to continue their valuable work in a more vigorous way."

The Senate has served notice that it thinks some of this "valuable work" has already gone too far. By all the evidence, many of the American people would agree.

WARREN T. BROOKES

Warren T. Brookes, 62, a member of The Detroit News editorial page staff and a nationally syndicated columnist, was no ordinary scribbler. He was one of a small but cheerful band of writers and thinkers who helped work a revolution in the way Americans view economics and politics.

His death came as a shock, but then Warren delighted in shocking people—shocking them out of their set ways and forcing them to look at things in a new light. From his lair in the northern Virginia countryside, he peppered the country and the Beltway with an incredible outpouring of editorials, columns and stories that challenged conventional wisdoms and pricked official pretensions.

Much of official Washington, for example, "knew" that the 1990 tax increases would help cut the deficit. Warren correctly predicted that the tax increases would damage the economy, put people out of work and send the deficit soaring.

Much of official Washington "knew" that global warming was on the way. Warren found reputable scientists who helped point out the flaws in the theory but who had been ignored by the media in its haste for a sensational story.

The political pundits "knew" that Michael Dukakis had worked a Massachusetts Miracle. Warren, who had worked in Massachusetts for the Boston Herald during the 1970s, suspected otherwise. His columns blasted large holes in the Dukakis campaign for president.

Warren was no armchair columnist. He was a born reporter, filling his columns with statistics and information that caused workaday editors to grumble but made him difficult to refute. He wrote without fear or favor, often lambasting George Bush in terms just as tough as he had used on Michael Dukakis. Yet he was a friendly bear of a man whose natural warmth, good cheer and unflagging energy were infectious. And he just spilled over with the love of his work. "Guess what I just found out!" he would report in his daily calls to the home office, just as exicted as any cub reporter over his latest scoop.

Yet Warren also possessed one of the most broad-ranging and insightful minds of the day. In a stirring speech at Moscow State University in the last year of his presidency, Ronald Reagan quoted liberally from Warren's 1982 book, "The Economy in Mind," about the true wellsprings of democratic capitalism.

We will miss Warren. But he leaves a mighty legacy of wonderful journalism, provocative commentary and true fellowship. Most of all, his ideas live.

THE DETROIT NEWS.

DECEMBER 29, 1991.

The PRESIDING OFFICER. The time of Senator from Idaho has expired. Who seeks recognition?

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. METZENBAUM. I thank the Chair.

(The remarks of Mr. METZENBAUM pertaining to the introduction of S. 2311 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. PRYOR addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas [Mr. PRYOR] is recognized.

Mr. PRYOR. Mr. President, what allocation of time does the Senator from Arkansas have?

The PRESIDING OFFICER. The Senator is to be recognized for up to 5 minutes, under the previous order.

DEPARTMENT OF DEFENSE AWARDS LARGE ADVERTISING CONTRACT

Mr. PRYOR. Mr. President, this morning I have a fascinating news release that I would like to share with my colleagues in the U.S. Senate. This news release, dated Friday, February 21, 1992, is from the Office of an assistant of the Secretary of Defense, public affairs. This release announces that the Department of Defense has just awarded to the firm of Young and Rubicam, a giant advertising agency in New York, a new $57 million contract, with options, if exercised, that could award Young and Rubicam with over one-third of $1 billion for the Army's recruiting advertisements.

Let me briefly summarize my past discoveries in this area. We are preparing for our new scaled-down military. We plan to close military bases all over America. We plan to cut defense programs and we are reducing the size of our military manpower. As a result, this year the military will take in 34 percent fewer individuals than were recruited 3 years ago. Did the President's budget seek a reduction of 1993 funds for recruiting? The answer is no. In fact, the President's budget calls for an increase in recruitment spending. This year the military will spend almost $2 billion on recruiting, while at the same time, we are paying hefty sums for people to drop out of the military. Furthermore, in the face of drastic military reductions, this fiscal year the armed services will spend over $6,000 per recruit, a substantial increase from the $4,000 we spent just 3 years ago. It does not make sense.

Mr. President, we are trying to whip our defense budget into shape, and to do so, we must trim away the fat. Well, this is the fat. In the case of recruiting, the big city, Madison Avenue advertising agencies are among those who continue to get fat on the military's advertising dollars at the taxpayers' expense. No question about it, advertising is a big business. Our military is a big-time player, and has been for years.

Mr. President, the advertising firm of J. Walter Thompson has held the Marine Corps advertising account for the past 45 years, possibly the longest running contract in Department of Defense history. For 45 years the British-owned J. Walter Thompson Co. has been spending our taxpayers' money to produce and purchase the elaborate, costly commercials we see and hear every year during the NFL playoffs, the World Series, and elsewhere.

Last May, Advertising Age magazine published their annual reports on top-dollar advertising spending. Mr. President, from this magazine I have a chart that contains an updated list of the top 200 so-called advertising mega-brands, advertisers from America. Well, who in our country is tucked away as the 84th largest advertising mega-brand in the United States? It happens to be the U.S. Army. The U.S. Army spends around $62 million each year for advertising. They spend more money, for example, than BMW cars. They spend more money than Wal-Mart stores; more than Campbell Soups, more than Sony Electronics, more than Red Lobster restaurants, and more than Reebok shoes.

These corporate giants spend millions of dollars each year to promote their image and their products, but the Armed Forces, however, claim that image enhancement is not a function of their elaborate advertising programs.

It is interesting to note that these commercials usually showcase the military's high-costing hardware. For example, recently we have seen the Bradley fighting vehicle storming through the sands of Iraq. We see the Apache helicopter buzzing across the sky.

I wonder if some of these advertisements are nothing more than a propaganda campaign used to uphold the Pentagon's image and to promote military spending. But the Army, and the other services, claim to use these ads for recruiting purposes. This is amazing; the U.S. Army spending $60 million a year for advertising for recruiting purposes.

Mr. President, could you imagine Sam Walton, the CEO and owner of Wal-Mart stores, spending $60 million each year to promote the hiring of Wal-Mart employees, to recruit employees to come and work for the Wal-Mart stores? Of course not.

To the credit of the Department of Defense, the Pentagon's lofty advertising funding levels have been reduced by about one-third over the past 3 years. But has the Pentagon's recruiting budget declined? Absolutely not. Rather, the recruiting budget could be going up this year, if the President's request is granted. This is the reason for the drastic increase from $4,000 to over $6,000 that we spend on each recruit who joins the military today.

Mr. President, it is also interesting that the military's multimillion-dollar advertising contracts only account for a small portion of the $2 billion annual recruiting budget. Where is the rest of this money being spent? Well, the bulk of the recruiting funds are used to supplement the Pentagon's enormous recruiting operation, with over 23,000 employees and 6,000 recruiting offices nationwide.

Over the past 3 years, the total number of incoming recruits has declined by 34 percent. However, during the same period of time, the Pentagon only closed 2 percent of its recruiting offices, and the recruiting work force only declined by 5 percent. Any town in America, if you walk across the square or down the street, you will see a Navy office, or an Army office, or a Marine Corps office. Why not combine a number of these offices? How much can we save just in personnel and rent alone? Mr. President, we do not need recruiting offices on every street corner and in every shopping mall in America.

Shortly after my statement last month, an editorial appeared in the Texarkana Gazette. I want to read a few short sentences, and I ask unanimous consent that the editorial be printed in the RECORD directly following my statement.

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

(See exhibit 1.)

Mr. PRYOR—

Joining the military is attractive * * * because of these lean economic times * * * and also * * * because of the increased pride from Operation Desert Storm. No hard-sell recruitment is necessary.

Mr. President, it is apparent that the Department of Defense does not understand that hard-sell recruiting is no longer necessary, and that the Madison Avenue advertising agencies should be put on notice that we are going to go after this boondoggle.

In Operation Desert Storm, we saw the very effective use of smart bombs and pinpoint targeting. This same strategy should now be applied toward our military recruiting. But rather than practicing smart recruiting, the Pentagon continues to exercise this scatter-gun approach through the use of wide-ranging advertisements and mass mailings.

Mr. President, I hope we will consider "smart recruiting." I hope that we will end the type of recruiting that is wasting billions of taxpayers' dollars. In the months ahead I will be offering legislation targeted at reforming our military recruitment practices and I hope my colleagues will join me in this effort.

EXHIBIT 1

[From the Texarkana Gazette, Feb. 14, 1992]

CUTTING THE FAT: U.S. MILITARY RECRUITMENT BUDGET COULD STAND TRIMMING

Proposed cuts in military spending are swirling around Washington so furiously it seems like the city is engulfed in a hurricane.

U.S. Sen. David Pryor, D-Ark., has found a small area of the military that could stand some cutting, but it apparently is in the eye of the storm.

Pryor has found the armed services are asking for $2 billion for military recruit-

ment. While volunteers are being turned away by the military every day, no effort has been made to cut this cost.

One way the U.S. Army is reducing the number of new soldiers is by increasing its educational requirements. The Army no longer is taking people with only a General Equivalency Degree.

The irony of this is that the Army developed the GED for World War II soldiers short of a formal degree.

This means people who have completed what started as an Army program are no longer considered Army material.

People with GEDs or with less education are having a tough time finding work in the current economic times. Military service is attractive to them.

Joining the military is attractive to others with more education because of these lean economic times. It is also attractive because of the increased pride from Operation Desert Storm. No hard-sell recruitment is necessary.

The recruiting budget submitted to Congress doesn't just ask for continuing the same old level. It contains an increase in recruitment funds.

One of the items in that request is money for television ads.

Pryor found recruitment ads were recently broadcast during the National Football Conference playoffs. During those games the cost of a 30-second commercial was an average of $310,000.

The message in such commercials should have been "The Marines are looking for a very few good men" or "Don't you wish you could be all that you could be in the Army?"

The Pentagon hasn't stopped there. It is asking for funds for mass mailings. T-shirts, posters and other military paraphernalia to attract young men and women to come in and be rejected.

According to Pryor's figures, the military has gone from taking 320,000 recruits in 1989 to a target of 210,000 recruits this year. The amount spent to attract each recruit has increased from $4,300 in 1969 to $6,000 this year.

Congress is looking for a way to make the military budget leaner and Pryor has found some fat that can be cut.

Mr. PRYOR. Mr. President, do I have any time remaining?

The PRESIDING OFFICER. The Senator controls 51 seconds remaining.

TAXPAYER BILL OF RIGHTS 2

Mr. PRYOR. Mr. President, yesterday the Senate Finance Committee, chaired by Senator LLOYD BENTSEN, our great chairman, complied with a request that I had and 41 other Members of the Senate had in including in the tax package that we passed from the Senate the taxpayer bill of rights 2.

This legislation, Mr. President, we think is going to go a very long way in reinsuring the basic rights of the American taxpayer in dealing with the Internal Revenue Service.

Mr. President, I ask unanimous consent that at the appropriate place in the RECORD a summary prepared by the Joint Committee on Taxation summarizing the 28 sections of the new taxpayer bill of rights 2 be printed in the RECORD.

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

DESCRIPTION OF TAXPAYER BILL OF RIGHTS 2 PROVISIONS—SCHEDULED FOR MARKUP BY THE SENATE COMMITTEE ON FINANCE ON MARCH 3, 1992

I. ADDITIONAL SAFEGUARDS TO PROTECT TAXPAYERS' RIGHTS

1. Establishment of Taxpayers' Advocate

Present Law

The IRS Ombudsman assists taxpayers in resolving administrative difficulties with the IRS.

Explanation of Provision

The provision statutorily establishes the position of Taxpayers' Advocate in the IRS as a replacement for the Ombudsman. The Advocate would be appointed by the Commissioner. The provision also requires detailed annual reports to the tax-writing committees, provides that problems resolution officers report to the Taxpayer Advocate, and provides that the Taxpayer Advocate report directly to the IRS Commissioner.

2. Expansion of Authority to Issue Taxpayer Assistance Orders (TAOs).

Present Law

The Ombudsman may issue a Taxpayer Assistance Order, which requires the IRS to cease taking an action (such as a collection action).

Explanation of Provision

The provision permits the issuance of a TAO requiring the IRS to take action (such as issue a refund faster), deletes the requirement of present law that the hardship experienced by the taxpayer be "significant" as a condition for the issuance of a TAO, provides that only the Taxpayer Advocate, the Commissioner of the IRS, or a superior of those two positions, as well as a delegate of the Taxpayer Advocate, may modify or rescind a TAO, and permits the TAO to specify a time period within which the TAO must be followed.

II. MODIFICATIONS TO INSTALLMENT AGREEMENT PROVISIONS

3. Notification of Reasons for Termination of Installment Agreement

Present Law

The IRS must give prior notice and an explanation before it terminates an installment agreement because the taxpayer's financial condition has changed.

Explanation of Provision

The provision requires that this notice be given before any termination (except in cases of jeopardy).

4. Administrative Review of Denial of Request for Installment Agreement

Present Law

The Code does not require that the IRS provide an administrative review of denials of installment agreements.

Explanation of Provision

The provision requires the IRS to provide written notice of the reasons for denial of an installment agreement. The IRS also must establish procedures for independent administrative review of denials and terminations of installment agreements.

III. INTEREST

5. Expansion of Authority To Abate Interest

Present Law

IRS may in its discretion abate interest attributable to IRS error or delay in performing a ministerial act.

Explanation of Provision

The provision requires the IRS to abate interest in any case in which the taxpayer establishes that there was an unreasonable and excessive IRS delay and the taxpayer has fully cooperated in resolving outstanding issues. In order to allow the taxpayer to develop the facts, the IRS shall be required, upon written request, to provide the taxpayer within 30 days with all information and relevant records that the IRS has with respect to the history of the taxpayer's case for the time period involved. The IRS shall develop a form for the purpose of such requests.

6. Extension of Interest-Free Period for Payment of Tax After Notice and Demand

Present Law

The Code provides a 10-day interest-free period within which taxpayers may pay after notice and demand is made.

Explanation of Provision

The provision extends from 10 to 21 days the interest-free period within which taxpayers may pay after notice and demand is made, applicable only to amounts of less than $100,000 (amounts of $100,000 and above continue to be subject to a 10 day period).

IV. JOINT RETURNS

7. Requirement of Separate Deficiency Notices in Certain Cases

Present Law

IRS must send duplicate original deficiency notices to both spouses when the IRS has been notified that separate residences have been established.

Explanation of Provision

This rule will apply to all instances in which the spouses did not file a joint return for the most recent taxable year.

8. Disclosure of Collection Activities With Respect to a Joint Return

Present Law

It is unclear whether the IRS has authority to disclose to one spouse whether the IRS has attempted to collect a deficiency arising from a joint return from the other spouse.

Explanation of Provision

The provision requires the IRS, upon written request of the spouse, to disclose in writing to the spouse whether the IRS has attempted to collect a deficiency from the other spouse, the general nature of the collection activities, and the amount collected.

9. Joint Return May Be Made After Separate Returns Without Full Payment of Tax

Present Law

Married taxpayers who had previously filed separate returns may not file a joint return without first fully paying the tax.

Explanation of Provision

The provision permits married taxpayers who had previously filed separate returns to file joint returns without fully paying the tax.

10. Representation of Absent Divorced or Separated Spouse by Other Spouse

Present Law

A taxpayer who has filed a joint return with a spouse may represent the spouse with respect to a deficiency for any year a joint return was filed. IRS administrative procedures may allow each spouse to appeal separately from the statutory notice of deficiency.

Explanation of Provision

The provision provides that an individual who had filed a joint return with a spouse but who is no longer married to that spouse (or no longer resides in the same household) may not represent the absent spouse at an

examination of that return unless the absent spouse permits it in writing.

V. COLLECTION ACTIVITIES

11. Notice of Proposed Deficiency

Present Law

Although not statutorily required to do so, the IRS often issues a notice of proposed deficiency prior to issuance of a notice of deficiency. Failure to issue a notice of proposed deficiency does not invalidate the notice of deficiency.

Explanation of Provision

The provision requires IRS to issue a notice of proposed deficiency in every instance (except jeopardy). The notice of proposed deficiency must be mailed at least 60 days before any notice of deficiency. Failure to issue a notice of proposed deficiency would invalidate the notice of deficiency. The provision is effective one year from the date of enactment.

12. Modification to Lien and Levy Provisions

Present Law

IRS may withdraw a notice of a lien only if the notice was erroneously filed or if the underlying lien has been paid, bonded, or become unenforceable. IRS may return levied property only when the taxpayer has overpaid its tax liability.

Explanation of Provision

The provision permits the IRS to withdraw notice of a lien in specified situations. Upon the taxpayer's request, the IRS shall notify credit agencies and financial institutions of the withdrawal. Further, the IRS shall return levied property in parallel specified situations. Finally, the provision increases the dollar value of certain items exempt from levy and indexes those amounts for inflation.

13. Offers-in-Compromise

Present Law

The IRS can compromise any assessed tax. An opinion of the Chief Counsel is necessary for any compromise of $500 or more. Information relating to accepted compromises is public.

Explanation of Provision

The provision clarifies that the IRS may make any compromise that would be in the best interests of the United States and raises the threshold above which an option of the Chief Counsel of the IRS is necessary from $500 to $50,000. The provision requires that opinions below the $50,000 threshold be subject to continuing quality review.

14. Notification of Examination

Present Law

IRS generally notifies a taxpayer in writing before commencing an examination (sometimes it does so by telephone).

Explanation of Provision

IRS must both notify a taxpayer in writing that the taxpayer is under examination and furnish a copy of Publication 1, Your Rights as a Taxpayer, prior to commencing any examination.

15. Recovery of Civil Damages for Unauthorized Collection Action

Present Law

A taxpayer may sue the United States for up to $100,000 of damages caused by an IRS employee who recklessly or intentionally disregards the provisions of the Code or Treasury regulations.

Explanation of Provision

The provision increases the cap to $1 million with respect to reckless or intentional acts. In addition, it permits a taxpayer to sue the United States for damages caused by an IRS employee who negligently disregards the provisions of the Code of regulations, subject to a cap of $100,000 in damages.

16. Designated Summons

Present Law

The period for assessment of additional tax with respect to most tax returns, corporate or otherwise, is three years. The IRS and the taxpayer can together agree to extend the period, either for a specified period of time or indefinitely. The taxpayer may terminate an indefinite agreement to extend the period by providing notice to the IRS on the appropriate form.

During an audit, the IRS may seek information by issuing an administrative summons. Such a summons will not be enforced by judicial process unless the Government (as a practical matter, the Department of Justice) seeks and obtains an order for enforcement in Federal court.

In certain cases the running of the assessment period is suspended during the period (if any) in which the parties are in court for the purpose of obtaining or avoiding judicial enforcement with respect to an administrative summons. Such a suspension is provided with respect to a corporate tax return if a summons is issued at least 60 days before the day on which the limitation period (as extended, if extensions have been made) is scheduled to expire. In this case, suspension is only permitted if the summons clearly states that it is a "designated summons" for this purpose. Only one summons may be treated as a designated summons for purposes of any one tax return. The limitations period is suspended during the judicial enforcement period of the designated summons and of any other summons relating to the same tax return that is issued within 30 days after the designated summons is issued.

Under current internal procedures of the IRS, no designated summons is issued unless first reviewed by the Office of Chief Counsel to the IRS, including review by an IRS Deputy Regional Counsel for the Region in which the audit occurs.

Explanation of Provision

The provision requires that issuance of any designated summons be preceded by review by the Regional Counsel, Office of Chief Counsel to the IRS, for the Region in which the audit occurs.

In addition, the provision requires that the corporation whose return is in issue be promptly notified in writing in any case where the Secretary issues a designated summons (or another summons litigation over which tolls the running of the assessment period under the designated summons procedure) to a third party. The provision applies to summonses issued after date of enactment.

VI. INFORMATION RETURNS

17. Phone Number of Person Providing Payee Statements Required to be Shown on Such Statement

Present Law

Businesses are not required to put their telephone numbers on information returns.

Explanation of Provision

The provision requires businesses to put their telephone numbers and the name of a contact person on information returns (1099 forms).

18. Civil Damages for Fraudulent Filing of Information Returns

Present Law

Present law does not provide for civil damages for fraudulent filing of information returns.

Explanation of Provision

If a person willfully files a false or fraudulent information return with respect to payments purported to be made to another person, the other person may bring a civil action for damages.

19. Requirement to Verify Accuracy of Information Returns

Present Law

Deficiencies determined by the IRS are generally afforded a presumption of correctness.

Explanation of Provision

If a taxpayer asserts a reasonable dispute with respect to any income reported on an information return and has fully cooperated, the IRS shall have the obligation in court to introduce evidence of the deficiency (beyond the Form 1099 itself) in order to prevail.

VII. MODIFICATIONS TO PENALTY FOR FAILURE TO COLLECT AND PAY OVER TAXES

20. Trust Fund Taxes

Present Law

A responsible officer is subject to a penalty equal to 100 percent of trust fund taxes (social security and withheld income taxes) that are not paid to the Government on a timely basis. IRS provides for administrative appeals as to whether a person is in fact a responsible officer.

Explanation of Provision

The provision requires IRS to issue a notice to an individual the IRS has determined to be a responsible officer at least 60 days before issuing a notice and demand for the penalty. After exhausting administrative remedies within the IRS, the taxpayer may seek a declaratory judgment in the Tax Court as to whether the taxpayer is in fact a responsible officer.

21. Disclosure of Certain Information Where More Than One Person Is Subject to Responsible Officer Penalty

Present Law

It is unclear whether IRS has authority to disclose to a responsible officer whether the IRS has attempted to collect from other responsible officers.

Explanation of Provision

The IRS shall, upon written request of the responsible officer, disclose in writing to the responsible officer whether the IRS has attempted to collect a deficiency from any other responsible officers, the general nature of collection activities, and the amount collected.

22. Penalties Under Section 6672

Present Law

A responsible officer is subject to a penalty equal to 100 percent of trust fund taxes that are not paid to the Government on a timely basis.

Explanation of Provision

The IRS must print appropriate warnings and issue new publications containing information regarding this penalty. This penalty does not apply to volunteer officers of tax-exempt organizations if they are unpaid and do not participate in the day-to-day or financial activities of the organization. The IRS must provide prompt notification of failures to deposit trust fund taxes.

VIII. AWARDING OF COSTS AND CERTAIN FEES

23. Attorney's Fees: Recovery for Costs During IRS Appeals Process

Present Law

Taxpayers may recover reasonable administrative costs under the same conditions

that attorney's fees are recoverable, commencing with the earlier of the notice of decision by IRS Appeals or the notice of deficiency.

Explanation of Provision

The provision expands the availability of administrative costs by moving the commencement date to the earlier of the notice of proposed deficiency or the notice of deficiency. Once a taxpayer substantially prevails in litigation and files a written request, the IRS is required to provide within 30 days all information and relevant records of the IRS concerning the history of the taxpayer's case and the substantial justification for the position taken by the IRS. The IRS shall develop a form for this purpose.

24. Increase Limit on Attorney Fees

Present Law

Allowable attorney's fees may not exceed $75 per hour, unless the court determines that the cost of living or another factor justifies a higher rate.

Explanation of Provision

The provision indexes the maximum rate for inflation, effective from the date the $75 rate became effective.

25. Attorney's Fees: Failure to Agree to Extension Not Taken Into Account

Present Law

To be eligible to receive attorney's fees, a taxpayer must have exhausted administrative remedies in the IRS. Under Treasury regulations, failure to agree to extend the statute of limitations is considered to be failure to exhaust administrative remedies. The Tax Court has held this aspect of the regulations to be invalid.

Explanation of Provision

Failure by the taxpayer to agree to an extension of the statute of limitations for assessment is not to be taken into account for purposes of determining whether the taxpayer is entitled to receive attorney's fees.

IX. OTHER PROVISIONS

26. Required Content of Certain Notices

Present Law

IRS tax deficiency notices must describe the basis for and identify the amounts of tax, interest, and penalties.

Explanation of Provision

IRS notices must contain more detailed information.

27. Relief from Retroactive Application of Treasury Department Regulations

Present Law

Treasury may prescribe the extent (if any) to which regulations shall be applied without retroactive effect.

Explanation of Provision

Any proposed or temporary Treasury regulation shall apply prospectively from the date of publication of the regulation in the Federal Register (unless specifically superseded by subsequent legislation authorizing a retroactive effective date or unless Treasury permits taxpayers to elect to apply the regulations retroactively and the taxpayer so elects). Final regulations may take effect from the date the proposed or temporary regulations are published. For the period from the effective date of the statute until the publication of the proposed or temporary regulations, taxpayers will be governed by the statute and other authorities, as under present law.

28. Required Notice to Taxpayers of Certain Payments

Present Law

The IRS receives payments that it cannot associate with any outstanding tax liability.

Explanation of Provision

The IRS must make reasonable efforts to notify taxpayers who have made payments that IRS cannot associate with any outstanding tax liability.

29. Prohibition of Exchanging Confidential Client Information for Forgiveness of Taxes

Present Law

It is unlawful for any person who prepares a tax return for compensation knowingly or recklessly to disclose tax return information.

Explanation of Provision

It is unlawful for any Federal employee to forgive (or offer to forgive) any taxes due from an attorney, certified public accountant, or enrolled agent in exchange for information about that person's clients.

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

Mr. PRYOR. I thank the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Ohio [Mr. METZENBAUM].

Mr. METZENBAUM. Mr. President, I rise to thank my colleague from Arkansas. His statement in connection with the $2 billion in expenditures for recruiting, pointing out to us the tremendous rate of expenditure by the Army as compared to other advertisers in the country, has performed a magnificent public service.

On behalf of all us in the Senate, as well as the people in this country, we are very grateful to the Senator. Once again, he has displayed great courage and leadership in bringing this subject to the attention of the people of this country.

Mr. PRYOR. Mr. President, I thank my distinguished friend from Ohio.

The PRESIDING OFFICER. The Chair recognizes the Senator from Arkansas [Mr. BUMPERS].

Mr. BUMPERS. Mr. President, I ask unanimous consent that I be permitted to proceed until noon.

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

Mr. BUMPERS. Mr. President, first of all, I would like to join my colleague from Ohio in complimenting my own colleague from Arkansas, Senator PRYOR, for a magnificent presentation this morning on just a few of the things that go on in this country that really are wasteful.

We focused on the $500,000 for the Lawrence Welk home, out in North Dakota, which was regrettable, but the sort of thing people can relate to as an abuse. The Senator from Arkansas has just graphically demonstrated this morning what real waste is all about.

I have to confess that up until a few years ago, when people would say, "Why do you all not cut all that waste; why do you not cut spending?," in the recesses of my mind, I would think, 'If they only knew what I knew about the pressures and choices." They do not want Aunt Suzy kicked out of the nursing home. They want Medicare; they want all these benefits. And yet, they are telling us to cut the deficit.

I have discovered by being on the Appropriations Committee, there is plenty of room for massive cuts in funds that should never have been appropriated in the first place. There is room for massive cuts of programs that should never have been started in the first place.

The other day, when we were debating the line-item veto, I said, and I will repeat, the line-item veto is a diversion; it is a distraction, as my colleague on the floor called it; it is a fig leaf designed to cover the massive, profligate waste of money. It wouldn't begin to deal with the problem. Instead of trusting the American people with the truth of what we have to do here, we talk about procedural changes.

We take those deficits—which Ronald Reagan promised the American people faithfully that he would eliminate—we take those deficits, once they soar completely out of sight, and we start talking about "if we only had a line-item veto." But everybody knows that if the President had a line-item veto would not be able to cut enough to make much of a difference.

Do you think he is going to cut out all the farm programs and risk alienating politically all the farmers of this country? He is certainly not going to X-out anything for the Defense Department. He has demonstrated that time and time again.

Finally, you have to ask yourself, would my good Republican friends on the other side of the aisle, almost all of whom favor the line-item veto, would they favor a line-item veto if George McGovern were President; would they favor a line-item veto if my Governor, Bill Clinton, were President? I divinely hope he is our President some day. Would they favor it if Fritz Mondale were President? The answer is apparent. It does not even need to be asked.

But we do not pass laws like the line-item veto, Mr. President, based on the fact that Ronald Reagan and George Bush are conservatives and therefore would save billions of dollars in the budget. We pass laws because they make sense no matter who is President.

I used an illustration the other day, no offense intended to anybody. But if I had a $15 million startup program in the University of Arkansas that I felt very strongly about, and let us assume a good Republican Member, we will say from Texas, had a similar startup program for Texas A&M, and we have a line-item veto on the books, and the President is going through the bill and figuring out: How can I cut something out of this bill; I have to cut $2 billion out of this bill.

Somebody says: "Well, Mr. President, we have two biotech startups here; one at Texas A&M and one at the University of Arkansas." Mr. President, which one do you think the President will veto? We all know the answer to those things.

That is the reason I have opposed the line-item veto.

However, that is not what I came to talk about. What I came to say, Mr. President, is that the Senators from Arkansas, both of us, have had a great day, a great day yesterday in the Finance Committee. Senator PRYOR got his taxpayer bill of rights included, and I got my own venture capital gains provision for small business included, which I have worked studiously on for 5 years.

Now, the Presiding Officer here today is a former Governor of the great State of Virginia, as I was Governor of my State for several years. And it was so nice. Back when we were Governor, we could sign our name and make things happen. Here it takes years to make something happen.

This year, after introducing this bill again—and with 47 cosponsors, Republican and Democrat—we finally get my venture capital provision incorporated into this tax package.

There is one other capital gains provision in the Finance bill that I do not fully comprehend. It is designed to make the capital gains incentive for nonventure capital investment progressive. It would eliminate any capital gains incentive for the wealthy folks who are in the 36-percent bracket; but provide a small tax benefit for those below that.

Mr. President, all I want to do is to say to my good friend from Texas, Senator BENTSEN, the chairman of the Finance Committee, and all the members of the committee, I am indeed grateful, and the small business people of this country will be grateful if my provision becomes law.

Capital gains is designed to reward people for taking risks. It is designed to protect them against inflation. The thing that makes the President's capital gains provision fatally flawed is that it allowed people to just go down and play the stock market, with no capital formed for the businesses whose stocks are traded. The President's proposal for 10, 15 percent depreciation would do a lot more for the business community of this country than the capital gains provision he proposed would. So much of his proposal does nothing.

Mr. President, the sad thing about this is that we are going to pass the tax bill. The House has already incorporated my capital gains provision in its bill, and incidentally, it is the only capital gains tax rate cut provision in the House bill. But the tragedy is we are going to spend all next week on the floor of the Senate passing this tax bill, and the President is going to veto it because it raises the marginal rate on the top 1 percent of the wealthiest people in America from 31 to 36 percent, or in the case of the House bill, 35 percent. And the President says he is not going to sign that. Patrick Buchanan has told us he is not going to sign that so our President has no option.

So, Mr. President, I do not know what we are doing here. We are obviously wasting our time.

The President, in his State of the Union Address, as far as I know, never consulted with a single Member of the Democratic Senate. I went over to that State of the Union Address the other evening, in a conciliatory mood, recognizing there is so much hurt in this country: 9 million people pounding the streets, looking for work, people really suffering, and looking to Congress to do something. The President listed a seven-point program, and where health care was concerned, he said: I have not finalized my plans on that yet, but I want all this passed by March 20.

I want to tell you, that chart over there is so offensive to me; I cannot tell you how offended I am by that.

The President says: "Not only do I want it done by March 20; if you do not have it done by then, the fight is on." And you all know how I love to fight.

At a time when the American people wanted and had a right to expect the President, the Republicans, the Democrats, the liberals, the conservatives, and those in between to hole up in a room and say, "We have to do something about this," he challenges us to a duel.

Mr. President, I am not sure—I see the distinguished Senator from Hawaii on the floor—maybe we are prepared to take up the PBS bill, but I ask his indulgence for an additional 5 minutes.

I ask unanimous consent that I be permitted to continue for 5 more minutes.

The PRESIDING OFFICER. Without objection, the Senator is recognized for an additional 5 minutes.

Mr. BUMPERS. So, strangely enough, the House and Senate tax bills take almost every single provision the President asked for that night, including a $5,000 tax credit for home buyers, which I favor; either a 10 or 15 percent additional depreciation for business on new equipment bought in the last 11 months of 1992, which I favor; using IRA's, allowing people to cash them without penalty to pay for college tuition costs and so on, excessive health care costs, and for first-time home buyers, and I favor that; and a reasonable capital gains provisions.

When it comes to the middle-class tax cut, Mr. President, I am ambivalent. And my ambivalence stems from a simple proposition that I am obsessed with this outrageous deficit, $400 billion this year, and I am concerned about whether we ought to provide a middle-class tax cut or whether we should take this additional money, put it in a trust fund, and say to the American people, "On September 30, this money is going for deficit reduction and may not be used for any other purpose." Would not every Member of this Senate like to go home this fall, and particularly those up for reelection, and say, "We cut the deficit. Not only that, we are going to cut it even more next year."

It is said by economists that two-thirds of the GNP is created by consumer spending. Therefore, consumer confidence is everything. How can you expect the consumers of this country to have confidence in a Congress that puts supercilious signs on the floor of the Senate that say, "Oh, if you just give me a line-item veto," "Oh, if PBS were not so liberal," or, "if the National Endowment were not pornographic." All those things are legitimate concerns and we ought to address them, and we will and we have, but everything is a fingerpointing, blame-placing exercise around here.

Mr. President, I hate to say this, but, in my opinion, this distraction, diversion of items that take your attention off from what the real problems of the country are right now, namely, this terrible recession we are in and, secondly—and this should have gone first—the terrible deficit. I submit to you, Mr. President, that the consumer confidence in this country would be enhanced more by reducing the deficit than by anything else we could do.

I have a whole host of amendments when the appropriations process comes, Mr. President. I may not win any one of them, but I will tell you I am going to give the U.S. Senate a chance to cut billions out of this budget this fall when we start appropriating money. And you can either say, yes, we are going to do it or, no, we are just kidding about it.

Mr. President, I ask unanimous consent that I be given 2 additional minutes.

The PRESIDING OFFICER. Without objection, the Senator is recognized for 2 additional minutes.

Mr. BUMPERS. And I will close my remarks. I had a few other things that I wanted to say, but I will just close with this one.

President Truman told me, in one of the most poignant moments of my life in his living room in his home in Independence, MO: "How can you expect the American people to respond sensibly when politicians are diverting their attention or outright lying to them?"

Mr. President, anybody that expects 535 Members of Congress from different geographical areas, different cultural backgrounds, different political philosophies, men and women, black and white, to suddenly come to some kind of a consensus that will salvage this country's future is daydreaming. It cannot and it will not happen.

What could happen would be for the President of the United States to put his trust in the American people. You know why we have all these diversions

and distractions away from the real problems? Because the problems are acute and politicians are frightened to say to the American people, "Here is the problem, and it is colossal."

But I can tell you, as President Truman admonished me, they can handle it. The American people can handle it. What they want is somebody to level with them, not just about the problems, but here are the solutions, and there are solutions. It is not irreversible; the problems are solvable. But they are not solvable when you concentrate on signs that have "17 days left to comply with the President's request." Nonsense. You solve them when the President goes on television and says, "We are a great nation. We are a patriotic people. We love our country and we love our children and we want to ensure the future of both. And, folks, here is what it is going to take to do it. And I am not running this as a popularity contest and I know I am not going to win a popularity contest with this, but here is what we have got to do."

I swear to you, Mr. President, the American people would follow that so fast it would make your head spin. That is all this Nation needs.

I yield the floor.

A DICTATORSHIP THAT GREW UP

Mr. DOLE. Mr. President, extraordinary changes have taken place on Taiwan during the past several years. Taiwan's dynamic economy is well known. But perhaps less well known are the remarkable political changes which have been occurring quietly, but continuously, over the past several years. Martial law was lifted in 1987, political parties have been formed, and press and public debate have been liberalized. All of this has been done in a peaceful, gradual but very significant way.

Many of these changes have been discussed in a recent article in the New York Times by Nicholas D. Kristof. I ask that his article entitled "A Dictatorship That Grew Up" be printed in the RECORD, and I commend it to my colleagues' attention.

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

[From the New York Times, Feb. 16, 1992]

A DICTATORSHIP THAT GREW UP

(By Nicholas D. Kristof)

Glancing surreptitiously over his shoulder at the crowded bar, Bo Yang lifts up a trouser leg. He points, with a grin, to a knob that juts from the flesh on his right knee. "There it is," he says. "When the weather cools abruptly, it gets all sore and I can't walk."

Bo Yang is 71 years old, maybe 72—he doesn't know his birth date—and his thick hair is speckled with gray. He is also a social critic whose essays about Chinese culture have made him one of the most famous writers in the Chinese language. He spent a decade in a Taiwan prison for supporting a more democratic society, and his knee was broken by police trying to get him to confess to being a Communist agent. The injury is an apt symbol of Taiwan's past; an era when the regime imprisoned, tortured and even killed dissidents, when elections were meaningless and when—or so Bo Yang came to believe during his incarceration—there was no great moral difference between Nationalist Party rule on Taiwan and Communist rule in China.

Bo Yang has plenty of reason to criticize the Nationalists, who are still in power, but this is how he now describes contemporary Taiwan: "China has 4,000, maybe 5,000, years of history, but it has never had an era like Taiwan today. There has never been a time when people were so wealthy or so free. Living conditions are so great! I'm just glad that my wife and I have lived to see this period. It's a golden age."

As he sees it, this "golden age" is not so much a cultural renaissance as it is the birth of political freedom in a Chinese context. Ever since Chinese civilization began some 4,000 years ago along the Yellow River, the state has been either autocratic or impotent. Today's Taiwan, with its endless political debates and hotly contested elections, is an exhilarating departure from that tradition, leading Bo Yang and many others to believe that Taiwan represents a triumph of Chinese civilization. Other countries ranging from Albania to Paraguay have also cast off their repressive governments, but one would be hard pressed to find any place on earth that has so successfully combined an economic miracle with a political one.

Just a few years ago, Taiwan newspapers were still controlled by the Government, and people hesitated to say openly that the island should declare itself a separate country, independent of mainland China. Today, newspapers are essentially free to say what they want: one opposition paper greeted the selection of the present Prime Minister with a banner headline that contained an expletive. Television remains nominally state-controlled, but the authorities ignore a widespread though illegal cable system (including a "democracy channel") that sometimes broadcasts anti-Government programs and even mainland Chinese television news.

Like much of Eastern Europe, Taiwan has endured four decades of authoritarian rule based on a Leninist party structure. Generalissimo Chiang Kai-shek, who fled to the island of Taiwan in 1949 with two million mainlanders after his defeat by the Communists, had been an ardent student of the Soviet Union in the early 1920's and sent his eldest son, Chiang Ching-kuo, to study there. When the autocratic old man died in 1975, Chiang Ching-kuo became the leader of the Nationalist Party, the Kuomintang, and, under pressure at home and abroad, launched the democratization process shortly before he died in 1988. Since then, the pace of change has gathered momentum, the transformation—unlike that in Eastern Europe—accomplished by evolution rather than revolution.

There is another contrast with Eastern Europe: Taiwan is rolling in money. The business district in northeastern Taipei, the capital, is a forest of gleaming office towers interspersed with flamboyant nighclubs. The hotels are palatial (the Grand Hyatt has an underwater sound system in its pool) and the only vagrants are young American street musicians.

American guitar players panhandling in Taiwan are not the only sign of the way the world has turned upside down. Today, Taiwan has $82 billion in foreign exchange reserves—more than the United States, Japan or any country in the world. It has signed a tentative agreement to buy 40 percent of the commercial aircraft operations of the McDonnell Douglas Corporation for some 32 billion. Taiwan's people, many of whom were peasants a few decades ago, today have per capita incomes of about $10,000 a year, making them better off than Spaniards and Greeks and incomparably better off than Poles or Czechs or Russians. Even during the present international slowdown, Taiwan's economy is growing at the rate of 7 percent a year and unemployment is steady at 1.4 percent.

Ostracized as a political embarrassment for more than a decade, Taiwan these days is being courted by foreign governments. It is the 13th biggest trader in the world economy, slightly ahead of China, and it plans to spend $300 billion on infrastructure as part of a six-year development plan in the 1990's. That will include money for highways, railroads, subways, power plants and sewage systems (the kinds of things that the Nationalists neglected when they were focusing on recovering the mainland). This package is three times the $100 billion often projected as the cost of rebuilding Kuwait, and makes Taiwan a key market for international construction companies.

With its economic tentacles spread throughout Asia, Taiwan's impact on some countries rivals or even exceeds Japan's. In Vietnam, for example, Taiwan is the largest single foreign investor. Its greatest influence is over mainland China, which, by official reckoning, has a per capita income of about $350 a year. There, Taiwan economically and culturally exerts more influence than Japan.

Taiwan has long portrayed itself as a beacon of hope for the mainland, a view that was laughable during its repressive years. But that vision of itself is no longer a fantasy. Throughout the mainland, there is a yearning for the island's freedom and prosperity. In the last few years, the song captivating many Chinese has not been the "Internationale" but the breezy "Follow Your Feelings" by a Taiwan pop star, a leather-clad woman named Su Rui.

It may have lost the mainland, but Taiwan seems to have won the mainlanders.

On a warm December evening outside Lungshan Temple in the old section of Taipei, the streets are crowded with worshipers going to the temple to burn fake paper money so that their loved ones will have some cash in the next world, young men strolling toward the nearby lanes of brothels, elderly couples taking their grandchildren out for a bite of "stinking tofu," a popular snack.

This is also voting season, two days before Taiwan's first full election in more than 40 years. Voters will choose delegates to the National Assembly, which in the past was a rubber-stamp body that nominally chose the President but now is charged with revising the nation's Constitution. The Kuomintang forced the retirement, by the end of last year, of all of the aged legislators and National Assembly delegates who had been elected on the mainland and had served for four decades without facing re-election in Taiwan.

Soundtrucks from the Democratic Progressive Party, the main opposition, are cruising the streets, bellowing their denunciations of the Nationalist Party. The sides of the trucks are covered with slogans demanding a declaration of independence from China and the creation of a new country called the Re-

public of Taiwan. Although this is technically seditious and illegal, the police pay no heed.

"You want to buy a video?" a hawker asks in Mandarin with a strong local accent, thrusting forward a handful of cassettes. "Good price!" He is selling from a table on the sidewalk, some 200 titles arrayed in front of him, about two-thirds of which are Japanese pornography (the occasional dialogue dubbed in Chinese). A few are American films or kung fu flicks and the remainder are political videos supporting the Democratic Progressive Party.

"A few years ago, the Kuomintang would've killed me for selling these, would've cut my head off," he says dramatically, drawing his hand across his throat. "But now it's no problem. The cops ignore us, and anyway, we vendors come out only at night."

The hawker, a squat short man, probably in his late 30's, suddenly realizes that this sounds like a tribute to the Nationalists. "It's not the Kuomintang that gave us this freedom," he lashes out furiously, spit flying wildly. "It's the Democratic Progressive Party that made all the sacrifices, that pushed the Kuomintang to give us this freedom. The Kuomintang leaders are tyrants, but finally they had to cave in and free us."

Several days later, on Dec. 21, the people of Taiwan voted and gave a 71 percent landslide victory to the Kuomintang. The election was marred by vote-buying, a Taiwan tradition, but it was nonetheless an astonishing victory for the Nationalists. It also marked a milestone in Taiwan's transition from autocracy to democracy.

The new National Assembly will meet next month to revise the national Constitution and choose a form of government for Taiwan. Despite some proposals for a parliamentary system or for establishing a Republic of Taiwan, drastic changes are unlikely. However, presidential power may be strengthened somewhat, and for selecting the president the conference is likely to adopt a variation of the American system of public elections followed by a vote in an electoral college.

In the meantime, Taiwan's people are agonizing over how they are to forge an identity for themselves without inviting an invasion from China. The omnipresent slogan used to be "Guang fu da lu" (Recover the mainland), but now most people on Taiwan wouldn't want to recover the mainland if they had the chance. A poll last fall showed for the first time that fewer than half of the island's 20 million people would like to reunify with China. Even the island's mainlanders—emigres and their children who together make up 15 percent of Taiwan's population—now seem as attached to Taiwan as to their native provinces.

"Sure, we're Chinese," says a local journalist. "But just because you feel a bond to your relatives doesn't mean you want them to move in with you. Especially if they're dirt poor."

A balding, energetic man named Hsu Hsin-liang is one reason for the political ferment in Taiwan. In 1979, Hsu was director of an independent new magazine that demanded democratic change. In December of that year, the magazine sponsored a rally calling for the protection of human rights. There were clashes with the police, and the Government cracked down. Thirty-eight people were arrested, tried and given sentences ranging from 10 months to life in prison, and torture was used in induce confessions that the rally was part of a Communist-backed insurrection.

The magazine's circulation manager, Lin Yi-hsiung, was badly beaten by interrogators, and when his mother saw his injuries she tried to contact Amnesty International. The next day, while the police kept Lin's home under 24-hour surveillance, someone entered and killed the mother as well as Lin's twin 7-year-old daughters. The killings are widely believed to have been arranged by senior officials. (Lin and the others who were arrested were released during the 1980's.)

Hsu avoided arrest because he happened to be in the United States, where he sought political asylum. In 1986, inspired by Corazon Aquino's triumph in the Philippines, he tried to return to Taiwan, but the authorities refused to admit him or arrest him, and he had to return to America. Hsu's supporters surrounded the airport and clashed repeatedly with riot police, who showed no compunction about clubbing protesters with their truncheons.

In 1989, Hsu returned successfully to Taiwan, served 8 months of a 10-year prison sentence for sedition and was released. Today, he is the 50-year-old chairman of the Democratic Progressive Party. "Our problem is the same as Ukraine's," says Hsu on a sunny morning in his office in downtown Taipei. In his gray pin-striped suit, he looks more like a business executive than a rebel. He acknowledges there is a risk of a mainland invasion if Taiwan declares its independence from China and proclaims a Republic of Taiwan, but he says this risk is greatly exaggerated. Lithuania and Ukraine, he contends, faced a similar risk when they first broached independence.

The Democratic Progressive Party made independence the major issue of the December campaign. One of its advertisements, in the Independent Evening Post, ridiculed the Nationalists' pretensions. It portrayed the Republic of China as "a babe that refuses to grow up" and presented the national flag as the infant's diapers. But the Nationalists fought back by suggesting that calls for independence amounted to inviting the mainland to invade.

The Nationalists' overwhelming victory seems a clear signal that, for now, the people favor the status quo: neither independence nor reunification. The status quo, notes Frederick F. Chien, the Foreign Minister, could probably be sustained for a long time.

Eleven hundred miles to the north, in Beijing, Tang Shubei is Taiwan's frustrated suitor. Tang, a genial man who wears well-cut suits and distributes a name card printed in the traditional Chinese characters used on Taiwan, is in day-to-day charge of China's courtship of Taiwan. In his office, across the street from the Zhongnanhai compound where China's politburo meets, he emphasizes that the mainland would like to reunite with Taiwan peacefully. But China, he says, reserves the right to use force to settle this "internal affair."

"If a stalemate continues, of neither independence nor reunification, then that is a matter of serious concern," Tang says soberly.

No one knows if China will resort to military action. According to one scenario, during the power struggles that are expected to follow the death of Deng Xiaoping, one of the factions—the Army, say—might provoke some incident in the Taiwan Strait. A blockade of Taiwan would force rival Communist leaders to unite behind the Army. In another scenario, Taiwan gradually moves toward independence, just as Lithuania and Ukraine did. If Taipei were to declare its independence, many Chinese in Beijing believe the Communists would then attack Taiwan or impose a blockade.

Few ordinary Chinese on the mainland would be enthusiastic about fighting a war with Taiwan, and military analysts contend that a conventional assault on Taiwan would be costly without necessarily being successful. But with China what is irrational and unlikely is not impossible. "The Chinese Communists sometimes do things that in the eyes of other people are not necessarily in their pragmatic interest," says Ma Ying-jeou, a Harvard-educated lawyer who is Taiwan's point man on relations with the mainland.

It is unclear how the United States or other countries would react if the mainland were to attract Taiwan. Taiwan is not a member of the United Nations, and China has a Security Council veto, so United Nations intervention would be unlikely. Moreover, nearly all countries around the world, including the United States, regard Taiwan as part of China and so might send Taipei their sympathies rather than their assistance, particularly if Taiwan were seen to have provoked the crisis by declaring independence.

The risk of conflict might be reduced if the United States and other Western nations made it clear that they would stand by Taiwan. But the United States has been afraid of offending China and has done little to improve diplomatic relations with Taiwan despite its democratization. Although European ministers freely visit Taiwan, American policy will not permit a Cabinet member to set foot on Taiwan. And Taiwan's President, Lee Teng-hui, a Cornell University graduate, has been pressured not to embarrass the Bush Administration by seeking to visit the United States.

Both the Communists and the Nationalists maintain that Taiwan is an inseparable part of China. If fact, Taiwan and the Chinese mainland, less than 100 miles apart at the nearest point, had very little to do with each other until a few hundred years ago. Chinese settlers began to move in substantial numbers to Taiwan in the 16th and 17th centuries, pushing the aboriginal population into the mountains. It wasn't until 1684 that China imposed sovereignty over Taiwan, and even then it was tenuous.

In the last century, Taiwan's history has been even more detached from that of the mainland. In 1895, after it was trounced by Japan in the Sino-Japanese war, China was forced to cede Taiwan to Japan, recovering it only in 1945 after World War II. But after the Communist victory four years later, in 1949, the Nationalists turned Taiwan into a refuge for their rival Government.

President Harry S. Truman refused to protect the fleeing Nationalists, and the Communists prepared for an invasion of Taiwan that very likely would have succeeded. What saved Taiwan was the Korean War. After the Communist invasion of South Korea, Truman reversed himself and sent the Seventh Fleet to protect Taiwan.

From 1949 until the early 1970's Taiwan—calling itself the Republic of China and benefiting from the anti-Communist climate of the cold war—occupied China's seat in the United Nations and was recognized as China by most of the world community. But it became increasingly absurd to have the island of Taiwan represent the Chinese mainland, and more and more countries switched recognition to "Red China." In 1971, the United Nations seat went to Beijing. By 1979, even the United States recognized the People's Republic of China and severed diplomatic relations with Taiwan.

Despite the lack of international recognition, Taiwan has maintained its trading network around the globe, and its economy continues to boom. Testifying to its chaotic and uncoordinated growth is Taipei. Not all of the capital is as glossy as its business district, and many parts of the city are downright ugly: sidewalks are cracked, shops signs fight for space overhead and the haze of automobile exhaust hangs in the air. Taiwan's economy depends not on a few conglomerates, as is the case with South Korea, but on hundreds of thousands of mom-and-pop shops and factories making everything from clothing and processed foods to electronics and plastics. The proprietors work day and night, cheat on their taxes, reinvest their earnings, and fight for export markets.

Political liberalization took off after the 1986 elections. The Democratic Progressive Party, while nominally illegal, was allowed to compete in the local elections and did better than expected—jolting the leadership into hastening the pace of reform. Martial law, imposed in 1949, was lifted in 1987, and the press and public debate became less and less restricted. Political parties were formed, protest marches became common, most of the political prisoners were released and many exiles were allowed to return.

During democracy's infancy in the late 80's, the opposition offended many members of the middle class by resorting to physical violence on the floor of the legislature. Frustrated by the dominance of aged Nationalists who never had to seek re-election, the opposition felt that force was the only way to block votes or have an impact.

Ju Gau-jeng, a pudgy young Taiwanese legislator who had earned a doctorate in philosophy in Germany, won the nickname Rambo for his pugilistic confrontations with ruling party legislators. Ju has now given up fistfighting, saying that such tactics are no longer appropriate under a democracy.

A former Democratic Progressive Party member who is now trying to form his own opposition party, Ju explains that the opposition was brutalized by the Nationalists for so many years that it became radicalized and does not always act rationally. The former political prisoners who dominate the Democratic Progressive Party, he says, do not have ordinary friends or values. He adds: "Whenever anyone disagrees with them, they say: 'Where were you when I was in prison? My wife and my children left me. What right do you have to oppose me?' "

Still, both sides seem to have mellowed over the last year or so. The Democratic Progressive Party has enough hope of eventually assuming power that it seems to be moving gradually into the role of a loyal opposition and waging its battles mostly with megaphones rather than fists.

In the meantime, the Government has abandoned most of its restrictions on contacts with the mainland. There are still no direct flights between Taiwan and China, but Taiwanese are free to travel to the mainland via Hong Kong, to telephone people there and to conduct business on the other side of the Taiwan Strait. While Taipei still refuses to negotiate directly with Beijing, it periodically sends private emissaries there with verbal messages for China's leaders.

Paradoxically, as Taiwan's pretensions of ruling China are withering, its influence is increasing. Mainland Chinese intellectuals search for lessons in Taiwan's democratization that can be applied in Beijing. Teenagers emulate Taiwan fashions and save their pocket money to buy tapes of Taiwan singers like Su Rui or books by Taiwan writers like the late San Mao. Along the coast of Fujian Province, ambitious workers pay smugglers hundreds of dollars to be taken to Taiwan where they can find jobs as laborers or prostitutes. Even the language is under assault: Taiwan expressions and the traditional Chinese characters used in Taiwan and Hong Kong (abandoned 40 years ago by the Communists, who thought simplified characters would promote literacy) are making a comeback throughout China.

People on the mainland have become much more aware of living standards on Taiwan since 1987, when the island first allowed its citizens to visit China. Last year, a million people from Taiwan visited the mainland, and bilateral trade (which Taiwan requires to be conducted through Hong Kong) amounted to more than $5 billion. Taiwan companies have established some 2,800 factories in China, moving entire assembly lines in industries like shoemaking offshore to low-wage areas in Fujian Province. The result is that among the 30 million people of Fujian, and to a lesser extent throughout China, it is the mainland that increasingly seems to be falling into the orbit of Taiwan, not the other way around.

"When the Taiwanese go back to Fujian, and when the people of Hong Kong go back to southern China to visit relatives, and they have their fancy shoes and fancy clothes and fancy luggage, that's the most subversive thing of all," says Andrew J. Nathan, a China scholar at Columbia University. "It contributes to the lack of confidence on the part of people within the mainland about the system that they're living under."

Taiwan still has some way to go before it is fully democratic, but the island is clearly moving in that direction. It is a rare example of a dictatorship that grew up. Other countries overthrew tyrants, but in Taiwan it was the despots who appear to have turned into democrats.

How did that happen? And is there hope that the Chinese mainland can evolve in a similar way?

Analysts in Taiwan cite several factors that together hastened the process of change. One was economic growth and increasing contact with the United States and other countries. Another was embarrassment at criticisms from abroad for its human rights violations. Perhaps even more important was education. Forty years ago, only 34 percent of Taiwan's primary schoolchildren went on to high school; now all do. Today, there are more than 10 times as many high-school students as in 1952 and more than 40 times as many university students as there were then. In the Confucian tradition, Taiwan values education like almost no society on earth, particularly higher education in the United States. Consequently, some 53 percent of Taiwan's Cabinet ministers now have doctoral degrees from the United States.

These factors are also present in mainland China, though to a much smaller degree. Therefore, some Chinese and foreigners are hopeful that China may be traversing a similar path. The Taiwan model, for all the differences with the mainland, at least is an intriguing reminder that poor and repressive Chinese states can evolve rapidly and peacefully toward democracy and prosperity.

There is one crucial difference, however. After the Generalissimo's son Chiang Ching-kuo died in 1988, power on Taiwan passed to younger technocrats who had little memory of China's civil war and were uninterested in ideology. They were the agents of change. On the mainland, power is firmly in the grip of Deng Xiaoping and other octogenarians of the civil-war generation.

Question: What country around the world expanded its borders the most during the post-World War II era?

Answer: The Republic of China.

Although the Nationalist Government lost 96 percent of its territory in 1949 when it fled to Taiwan, it never acknowledged that loss. Instead, in 1953 the Kuomintang even "reclaimed" all of Mongolia, which in the 1940's it had allowed to spin off as an independent country. Taiwan is reluctant to give up its claims to mainland territory, but no one pays much attention to what exists on paper. Taiwan businesses are accustomed to keeping at least two sets of accounts, one for themselves and one for the tax auditors, and the Government seems to be doing the same.

When I lived in Taiwan in 1987 and 1988, studying Chinese, the myths still counted for something. The post office temporarily confiscated some books on Mao Zedong that an editor had mailed to me. At that time, the newspapers were still controlled and people hesitated to say openly that Taiwan should be independent. Technically, it is still illegal to advocate independence, and a few political prisoners remain behind bars for demanding independence. But to be arrested for sedition these days one practically has to stand with a megaphone and bellow pro-independence slogans into a police station's windows.

Although it persists in hanging on to some historical fictions, the Nationalist Government has finally come to grips with one horrific past event. For decades, Taiwan has been haunted by "two-two-eight"—the code word for the day in 1947—Feb. 28—when local Nationalist officials crushed an uprising by Taiwanese resentful of Kuomintang corruption and repression Estimates of the massacre vary widely, but George H. Kerr, then United States vice consul in Taipei, put the immediate death toll at 10,000 and said that another 10,000 or so were executed in the next few months. Memories of two-two-eight fuel the resentment some Taiwanese have long felt for the manlanders who came over with Chiang Kai-shek in 1949. Now that issue seems to have been largely defused by a Government-backed investigation of two-two-eight and by promise that a monument will be built to honor the dead.

To some extent, the antagonisms between Taiwanese and mainlanders have been healed by time. The children of mainlanders often speak Taiwanese and feel far more affinity with Taiwan than with the unseen mainland province that appears on identity cards as their "native spot." It has also helped that power has been handed over from the mainlanders to Taiwanese, people like President Lee Teng-hui, who is popular and shrewd politicians. To most people, his Taiwanese-accented Mandarin is easier on the ears than Chiang Kai-shek's Mandarin, which was sometimes rendered almost unintelligible by the accent of his native Zhejiang Province.

Hsu Hsin-liang, the opposition leader, also a Taiwanese, says that if he takes power he would like to close the Chiang Kai-shek Memorial Hall—a vast imperial-style building and park in the center of Taipei—and transform it into something else, perhaps a museum. But he acknowledges that Taiwan's ghosts have largely been exorcised: "Two-two-eight is over. In the 1990's, the big issue is democracy."

For both Taiwan and China, the bogeyman used to be Amnesty International, which campaigned for prisoners like Do Yang and still seeks to help those who have been imprisoned for their involvement in the main-

land's 1989 democracy movement. Amnesty International now has a chapter in Taipei, with a 71-year old man as one of its most fervent members. Or perhaps he is 72. In any cases, in the new Taiwan, people like Bo Yang are no longer Amnesty International cases but Amnesty International members.

DEATH OF BENJAMIN N. DEZINNO, JR.

Mr. LIEBERMAN. Mr. President, last Thursday, February 27, the people of Meriden and the State of Connecticut lost a great public servant. Benjamin N. DeZinno, Jr., known to me and his many, many friends, as, simply, "Bennie," died of heart disease after a life full of good works for people.

Benjamin DeZinno served the people of Meriden as a State representative from 1975 until his death. I was honored to be in the general assembly with him during the great administration of Gov. Ella Grasso, and I had many occasions to work with him while I served as attorney general during the 1980's. I always found him to be smart, sensible, dependable, warm, and absolutely devoted to his hometown and his constituents.

Benjamin DeZinno was a tremendous family man, with a resolute faith in God and devotion to his Catholic religion. He represents some of the best traditions of the Democratic Party—concern for working people, compassion for the disadvantaged, respect for the average man and woman. Yet he reached out so effectively to people of all backgrounds that he had many friends in the Republican Party as well—so much so that in 1990, he achieved what has to be a public official's dream: Endorsement by both the Democratic and Republican parties in his community.

Mr. President, we will miss Bennie DeZinno, but we will always carry a part of his enthusiasm for public service—and for people—with us as we continue in our daily tasks.

I would like at this point to insert in the RECORD the text of two articles about Benjamin DeZinno that appeared in his hometown newspapers, the Record-Journal of February 28, 1992.

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

[From the Meriden (CT) Record-Journal, Feb. 28, 1992]

BENJAMIN DEZINNO DIES

(By Peter Urban)

HARTFORD.—Benjamin N. DeZinno, Jr.—pharmacist, Christian and lawmaker—died early Thursday morning of heart disease.

A Meriden state representative since 1975, DeZinno was admired for his tireless devotion to his district and loved for his corny sense of humor.

"He did an awful lot to bring a lot of dollars to Meriden. I could list dozens of examples," said Meriden City Manager Michael H. Aldi.

DeZinno played a key role in obtaining state funds for downtown revitalization, repairing Kenmere Dam, Broad Brook reservoir, downtown's still-unfinished silver museum, and asbestos cleanup at Hanover Elementary School.

"He was a wonderfully humorous man. He always had a corny joke that you couldn't help but laugh at," Aldi said.

DeZinno, 67, died at 3:07 a.m. at Hartford Hospital with his family by his bedside. He had been in the hospital since Feb. 16.

DeZinno underwent double bypass surgery last February, missing three months of the legislative session. He returned in May to oppose the state income tax.

"I don't think he missed a day of the special session even though he was sick. He wanted to fight for what he believed in. I think they even sent a state trooper to get him a couple of times," said his son, Roger DeZinno.

But complications from the surgery persisted and in the last month his health began to fail. DeZinno had undergone a similar operation in November 1980 after suffering a mild heart attack on May 3, 1979, during an Appropriations Committee meeting.

"He didn't walk. He double-timed. That was his end. You can't keep that up. I told him to slow down but he couldn't," said Rep. Eugene Migliaro, R-Wilcott. "I chewed him out for running around like a chicken with his head cut off, trying to do everything. I really, really hate to see him go."

But DeZinno never did slow down.

"I could always take a more conservative approach, but having a goal keeps me going toward the zenith. It makes me determined to do it," DeZinno once said.

The pinnacle of his legislative career came in 1990 when his re-election bid was endorsed by both Democrats and Republicans in Meriden, said former City Councilor and Mayor Joseph J. Marinan, Jr.

"He was ecstatic when he got the dual endorsement. He thought that was the stamp of approval from his constituents. That pleased him to no end," Marinan said.

Rep. John Zajac, R-Meriden, said that DeZinno never cared about Democrats versus Republicans.

"He represented his district. His constituents always came first," Zajac said. "This is an irreplaceable loss for Meriden. There is a void that cannot be filled."

Sen. Amelia P. Mustone, D-Meriden, described DeZinno as a "hometown, citizen legislator."

"He will be sorely missed," she said.

DeZinno began his political career in 1964 as a member of the Meriden Board of Health. He was first elected to the 84th House District seat in 1975 and represented that district until his death. He lost just one election—a 1971 mayoral primary to Abraham Grossman.

DeZinno last served as vice chairman of the legislature's Finance, Revenue and Bonding Committee and was a member of the Public Safety Committee.

He had also served as co-chairman of the Public Health Committee and the Planning and Development Committee, and vice chairman of the Appropriations Committee. DeZinno was an assistant majority leader and served on the Blue Ribbon Commission on State Health Insurance.

"He was always first and foremost interested in Meriden," said former Housing Commissioner John Papandrea of Meriden. "He was always looking for things that would benefit the city."

Marinan described DeZinno as tenacious.

When the Kenmere Dam collapsed in 1987, DeZinno hoodwinked the chairman of the Finance Committee, which held the state purse strings, into visiting the site.

"He got Ron Smoko to come to Meriden on the pretense of dinner and then drove him out to the dam to see the damage," said Marinan.

It was a rainy Sunday and the three men trudged through the mud to see the dam. Marinan said he felt sorry for Smoko and embarrassed that DeZinno had pulled such a stunt.

"But it paid off. We got the money," Marinan said.

Mayor Angelo R. D'Agostino said that DeZinno never shied away from helping his constituents.

"Whenever anyone needed anything, he would call or visit," D'Agostino said.

DeZinno devoted much of his attention to health issues. In the 1970s he was one of the first lawmakers to address problems plaguing nursing homes in the state, according to Rep. Lawrence Anastasia, D-Norwalk.

As a member of the Public Safety Committee, DeZinno conducted legislative hearings over the state police handling of the March 1982 Ku Klux Klan rally in Meriden. The hearings eventually led to the resignation of Public Safety Commissioner Donald Long, according to Leo Donahue, state auditor.

"He never sought the easy committees" said Gardner Wright, a former state representative and one-time chairman of the state Commission on Hospitals and Health Care.

"Ben was sitting next to me when he had his first heart attack. We were bringing out bills on the Appropriations Committee deadline . . . I was surprised he continued to run and serve. I though that kind of scare would make him slow down, but he really was dedicated," Wright said.

DeZinno was always serious about helping his community and pushing issues he believed in.

"There was never a time that we had a conversation that he did not put his constituents first, especially in the areas of health, housing and education," said Democratic former Gov. William A. O'Neill.

A Roman Catholic, DeZinno believed that life is a precious gift. His religious beliefs carried over to the legislature, where he fought for antiabortion legislation and measures to lower the state's infant mortality rate.

"He was a strong advocate of prolife legislation—a great ally in the House," said former Lt. Gov. Joseph Fauliso. "He was truly a man of great character."

State Rep. Thomas Luby, D-Meriden, said that DeZinno's personality made him an effective lawmaker.

"He managed to remain popular with his colleagues despite disagreements," Luby said.

"He had a tremendous knack for relating to others," said Anastasia.

"He was one of the nicest people to deal with. He always said hello and asked how the family was," said Mark Dupuis, a spokesman for House Republicans and former legislative reporter for United Press International.

"It's remarkable. Even though he was a Democrat, everyone on the Republican staff is saying how much they will miss him," Dupuis said.

DeZinno was known for easing tensions with his humor.

"Ben had a great sense of humor. He was always able—in the midst of very difficult debates—to inject some humor and humanity," said Luby.

"He was a scootch at times," said Rep. Ronald Smoko, D-Hamden, a longtime

friend. Their families often vacationed together. "The thing about Bennie's jokes was you could never remember them. Frankly, they weren't that good but when Bennie told them they were funny."

DeZinno was born in Waterbury, attended Crosby High School there, New York University, and the University of Connecticut School of Pharmacy. He served as a pharmacist mate in the submarine service attached to the Pacific Fleet in World War II.

He began working as a pharmacist in Meriden in 1950 and moved to the city in 1958. DeZinno owned Graeber's Pharmacy and Meriden Surgical Supply, both in Meriden.

On Sunday mornings, he could often be found in the back pew of St. Joseph's Church—across the street from Graeber's—dressed in his pharmacist's smock.

DeZinno is survived by his wife, Grace; three sons, Benjamin, Roger and William, all of Meriden; a daughter, Margaret Dorman of Florida; and five grandchildren.

DeZinno will lie in state at the Curtis Memorial Cultural Center on East Main Street. Visiting hours are Saturday from 6–8 p.m. and Sunday from 2–5 p.m. and from 7–9 p.m.

The funeral will be held Monday at 11 a.m. at St. Joseph's Church in Meriden.

[From the Meriden (CT) Record-Journal, Feb. 28, 1992]

"BENNIE": HIS BUSINESS WAS HELPING PEOPLE

(By Darryl Campagna)

MERIDEN.—To his friends, he was simply "Bennie."

But the colleagues, customers and longtime friends of Benjamin N. DeZinno Jr. recalled Thursday that behind the nickname and easygoing demeanor was a deeply religious humanitarian and a quiet activist.

"He was always there when people needed him and he was always quick to help," said Stacia Ritchie of Meriden, a friend and customer at DeZinno's West Main Street business, Graeber's Pharmacy. "Really, he loved people, and he had a deep feeling for humanity. I think this is what made the man."

Sam Kalmanowitz, owner of Kaye's Pharmacy on East Main Street, got his career start in Graeber's in his senior year of pharmacy school in 1961. He also worked there for a few months after graduating in 1962.

"He was a very innovative person, and he was always attempting to do everything he could for his customers and the public at large," said Kalmanowitz. "He worked long hours. I learned a lot from him, and he was one heck of a mentor."

It was not unusual to see DeZinno, a devout Roman Catholic, "dash across the street to St. Joseph's" for a celebration of Mass or a few minutes of private reflection, said Kalmanowitz.

Kalmanowitz wasn't the only one who got his start at Graeber's.

Former city councilor Joseph J. Marinan Jr. grew up near the pharmacy and remembered hanging out at the soda fountain as a child. DeZinno told him he could have a job in the pharmacy when he was 16 years old.

"I went down there on the day I turned 16 and I was working there that night," Marinan said.

Marinan worked for DeZinno through high school and college.

"One thing about Bennie—as a boss he never asked you to do something that he wasn't prepared to do himself. I remember one time he told us he wanted to rearrange the store and that we should be there at 11 p.m."

"He was there with us lifting cases and helping until we finished at 7 a.m. Then he took us out to breakfast. We went home to sleep but he went back to work at 9 a.m."

DeZinno bought Graeber's in 1950. The business also includes a surgical-supply store and a second pharmacy in the Meriden Medical Center on Cook Avenue.

Dedicated to both his profession and his community, DeZinno received one of the Connecticut Pharmaceutical Association's most prestigious awards in 1985, said Daniel C. Leone, the association's executive vice president. The "Bowl of Hygeia" award—named for the Greek goddess of health—recognized a pharmacist who excelled in civic work.

"He was a good pharmacist, an excellent legislator," said Leone. "He always thought about the health needs of the constituents and he always supported legislation to help the public when it came to pharmaceutical services."

DeZinno was instrumental in the creation of the ConnPACE program that helped elderly residents purchase prescriptions at low cost.

Marjory Shannon of Meriden first met DeZinno some 30 years ago when her late husband, John, worked as a state pharmaceutical inspector.

"Religion, creed, race and color made no difference to Bennie," she recalled. "I never heard of him turning anyone down for anything."

DeZinno himself took a quiet pride in remembering his constituents who didn't have a strong voice in the General Assembly. In December, he was interviewed for a Record-Journal article about new state House districts approved by the state Reapportionment Commission. DeZinno's 84th district was altered to include more minority voters.

In his interview, DeZinno talked excitedly about his plans to work with his new Hispanic constituents. They had been "outside looking in" for too long, he said.

"It makes my Democratic district more democratic," said DeZinno. "If you give people an opportunity to participate, they'll do just that. This is grand for them."

TRIBUTE TO FRED ACOSTA

Mr. DECONCINI. Mr. President, I rise today to pay tribute to a remarkable man and good friend, Mr. Fred Acosta, who passed away suddenly last week in Tucson.

I knew Fred for a long time, dating back to when we were classmates at Tucson High School and later, at the University of Arizona. Over the years, the Acosta and DeConcini stayed in touch although our busy schedules kept us from seeing one another often.

As the director of the Tucson Job Corps for the last 14 years, Fred provided guidance and friendship to many young people who sought assistance in obtaining job training and placement. What made Fred so effective in this role was his ability to be tough, yet kind. As a former marine, he could be a formidable presence fighting for the funding needed to establish a credible program. He lobbied hard on behalf of the Job Corps. He would often come to me asking for assistance. I was always happy to intervene on his behalf, confident that if Fred was asking, it was because some need within the community was not being met.

As a former teacher of intermediate and advanced special education, he was patient and compassionate with those who struggle to overcome life's obstacles, particularly minority and economically disadvantaged youths. I do not think we will ever be able to gauge the impact Fred had on these young people, or ever know how many individuals he inspired to make something of themselves. What I do know is that many a life has been graced by having known Fred Acosta.

His dedicated service extended to a variety of community interests. Active in the University of Arizona Hispanic Alumni, the American Red Cross, the Boy Scouts of America and the Tucson Diocesan Board of Education, Fred spent most of his nearly 50 years in Tucson devoted to serving the community. As deputy director of the Tucson Model Cities Program, he worked to improve Tucson's diverse neighborhoods through citizen participation.

Tucsonans lost a good friend when they lost Fred Acosta. Visitors to Fred's south Tucson office were often presented with a small chili pepper pin as a sign that you were his friend. For many, that is but a small reminder of a man who devoted his life to making Tucson a better place for so many people.

Our thoughts and prayers go out to Fred's wife, Norma; his three sons, Frederick, Ronald and Randolph; his daughter, Anna-Maria, and the members of the Acosta family.

NATIONAL ENDOWMENT FOR THE ARTS

Mr. PELL. Mr. President, regrettably, one of the agencies caught in the current crossfire of Republican politics is the National Endowment for the Arts. Rumors abound in the press that the very survival of this uniquely successful agency is in question. While the Bush administration may be equivocal in its support for the arts in America, I have not yet heard that it favors the dissolution of the NEA. The right and left wings have fought so hard there is no middle ground left and the unfortunate John Frohnmayer has found himself squeezed out of office.

It is imperative at this critical juncture that the true story of the Arts Endowment be told and retold. In this regard, it was heartening, indeed, to read the New York Times op-ed piece by Donald B. Marron on March 1, 1992, entitled "Don't Jeopardize the Arts." Here is a distinguished business leader, the chairman of Paine Webber Group, who fully understands how important the Arts Endowment is to our society. He presents the case for the NEA in clear and compelling terms. I welcome this piece by Mr. Marron and hope that others like him will come forward.

It is a pleasure to commend this op-ed piece by Donald Marron to my col-

leagues and ask unanimous consent that it be printed in full in the RECORD.

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

DON'T JEOPARDIZE THE ARTS

(By Donald B. Marron)

Caught in the cross-fire of conflicting political interests, John E. Frohnmayer is leaving as chairman of the National Endowment for the Arts. As a result, the future integrity and very existence of the agency has been called into question.

Mr. Frohnmayer was a victim of his own management style. But the high-decibel controversy over a few small grants for art that many people called obscene obscures a crucial truth: the endowment is a vital investment in the cultural and economic health of America.

Creativity and quality of life are not just abstract concepts. The arts contribute directly to the education of young people and to the economic well-being of countless communities. And at a time when U.S. competitiveness in many areas is being challenged abroad and questioned at home, we should not undermine our position of genuine global leadership in cultural creativity and innovation.

The endowment has a strong record of success and excellence that has been largely ignored in the struggles that have plagued Mr. Frohnmayer's tenure. In fiscal 1991, it disbursed $119 million directly to arts organizations and cultural events in all 50 states; an additional $55 million went to state arts agencies. This broad dissemination of funds in turn created local economic activity totaling some $1.13 billion, or nearly 10 times as much in jobs, contracts and services.

This is not just support of the arts for their own sake. The arts directly and indirectly provide millions of jobs, stimulate tourism and contribute to the revitalization of our cities and towns.

Most endowment grants must also be matched at least dollar for dollar by non-Federal funds, thereby insuring that the agency serves not only as a source of direct support for artists and arts organizations but also as a catalyst for public investment in hometown cultural and educational resources. When we project this research and development activity over the 26 years of the N.E.A.'s existence, we can begin to understand the impact it has had on our society.

To manage its programs, the agency has in place a system of peer panel review in which every grant is evaluated by professionals in the field; some 1,200 panelists participate in the process annually.

The role of the chairman should be to allow this process to proceed unhampered by extremists—in the arts or in politics—to guarantee that all sides are heard and to insure that informed judgments are ultimately made. As in all democratic processes, it is impossible to reach decisions that satisfy all of the people all of the time. I have not agreed with all N.E.A. decisions but believe its performance has been intelligent and sound.

Media coverage of the endowment suggests that most funds go to controversial artists. Actually, the vast majority go to small regional organizations throughout the country as well as to American institutions of international standing. The endowment awards more than 4,200 grants from about 18,000 applications received each year.

We should do everything we can to prevent jeopardizing the integrity of the process under which the endowment should function. Nothing should undermine the ability to fulfill its mission effectively. I am confident that President Bush will appoint a new leader who will build on the N.E.A's distinguished traditions. Meanwhile, artists and audiences have an obligation to rise above the political fray and uphold the commitment to artistic creativity and to the endowment that preserves our national cultural pride.

TROUBLING NEWS FROM NAGORNO-KARABAGH

Mr. PELL. Mr. President, I am deeply dismayed by the recent reports from Armenia and Azerbaijan. The withdrawal of the remaining Soviet troops from Nagorno-Karabagh apparently has helped to spark a new round of fighting between Armenians and Azerbaijanis, including a fierce and deadly battle in the town of Khojaly. As the troops pull out of the region, they are reportedly leaving behind stores of weapons, which many fear could be used by both sides to bring the violence to a new and terrifying level.

Sadly, Armenia's attack on the Azerbaijani populated area of Khojaly began last week on February 25. In an ironic—and perhaps tragic—twist of fate, this date coincides with the third anniversary of the massacre at Sumgait, where more than 30 Armenians were killed by Azerbaijanis in 1989. Both Armenia and Azerbaijan fear that the conflict could escalate even further after today's report that an Armenian helicopter carrying civilians was shot down by Azerbaijan.

For the last 4 years, the region has been the site of untold suffering and bloodshed. The Armenian population of Nagorno-Karabagh—as well as the people of Armenia itself—have been subjected to an inhumane blockade by Azerbaijan. In recent months, Azerbaijan has reportedly attacked Stepanakert, Nagorno-Karabagh's capital, with GRAD missiles, forcing much of the population to live underground.

In January, I visited Armenia, and I was deeply moved by the accounts that I heard about the situation in Nagorno-Karabagh. I met with victims of the conflict with Azerbaijan—Armenian refugees from Baku—who had been forcibly removed from their homes in Azerbaijan. I experienced first-hand some of the effects of Azerbaijan's blockade against Armenia, which has cut off food and fuel supplies, forcing black-outs and heat outages in Yerevan. I returned to Washington convinced that something more must be done to bring about a resolution to the conflict. I believe we must put the Nagorno-Karabagh issue on the U.S. administration's as well as the international community's agenda, and I have taken several initiatives toward that goal.

Shortly after my return to Washington, I met with Baroness Cox, a member of the British House of Lords. Baroness Cox brings a great deal of objectivity and compassion to the issue, and I was greatly moved by our discussion. Her reports of the suffering of the Armenian population in Nagorno-Karabagh are truly compelling, and I ask unanimous consent that an article on the subject by Lady Cox from the Washington Post of Sunday, March 1, be printed in the RECORD upon the conclusion of my remarks.

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

(See exhibit 1.)

Mr. PELL. Mr. President, I must say that as an old friend of Armenia, I am deeply saddened by the reports coming from Nagorno-Karabagh in the past few days. I am particularly disturbed by the gruesome pictures of dozens of corpses—men, women and children—victims of what Azerbaijanis say was a massacre by Armenians. The Armenian Government has denied that Armenian militants killed 1000 people in the Azerbaijani-populated town of Khojaly last week, but Azerbaijani officials and eye witnesses charge otherwise.

Mr. President, the footage we have seen on the news this week raises serious questions about what exactly occurred. The Azerbaijani town of Khojaly may in fact have been the staging area for attacks on Armenians, but that does not in any way justify the indiscriminate killing of Azerbaijani civilians in retaliation. If that is indeed what happened, these actions must be strongly condemned.

Mr. President, earlier this week, both Armenia and Azerbaijan became new members of the United Nations. Last month, both countries were admitted to the Commission on Security and Cooperation in Europe. Armenia and Azerbaijan must take seriously their membership in these organizations and accept the responsibilities—including adherence to human rights standards—that go along with their membership.

Indeed, both the United Nations and the CSCE are appropriate fora in which to address the Nagorno-Karabagh issue, and I believe that we must seize every appropriate opportunity to seek an end to the escalating conflict. In this regard, the Russian Foreign Ministry is reportedly sending a representative to the region to continue negotiations begun last fall by President Yeltsin. The Russians understand well that the Transcaucasian conflict has grave implications for the entire region. I believe that the United States must do what it can to support these and other efforts aimed at ending the bloodshed.

[From the Washington Post, Mar. 1, 1992]

FIGHTING IN THE CAUCASUS: SAVING "EDEN" FROM ITSELF

(By Caroline Cox)

Nagorno-Karabakh, a land of rugged mountains and wild beauty, should be a contemporary Garden of Eden, Instead it is man-made hell, besieged and bombarded with a daily toll of casualties and death.

This beautiful enclave in the Transcaucasian region of the former Soviet Union is inhabited by about 200,000 people—about 80 percent of them Christian Armenians and 20 percent Muslim Azerbaijanis. Despite the majority Armenian population, Azerbaijan, whose territory surrounds Karabakh, was given control of the area by Stalin nearly 70 years ago. The historic cultures of the two peoples are enshrined in monasteries, churches and mosques, many of which were destroyed or desecrated during the communist era. Those which remain are now being destroyed in the bitter new conflict.

The peoples of the enclave coexisted in relative peace throughout the Soviet period, but violence erupted four years ago when Armenian leaders in Karabakh demanded reunion with Armenia, which Armenia supported and Azerbaijan opposed. There have been numerous changes in the political situation of the enclave since then, culminating last year with a referendum on independence from Azerbaijan, which easily carried and was promptly rejected by the Azerbaijanis. Repeated calls for a political settlement and pledges to negotiate have gone virtually nowhere.

Meanwhile, fighting has continued between Armenian militia and relatively well-equipped Azerbaijani forces. It is estimated that about 1,000 have died in the four years of skirmishes and battles, the most protracted ethnic violence in the former Soviet Union.

Repeated attempts by outsiders to mediate the dispute have failed. Just last week, a mediation trip by Ali Akhbar Velayati, foreign minister of neighboring Iran, apparently foundered after fighting escalated around Stepanakert, the regional capital. The military power on both sides seems to be escalating as well: Azerbaijanis have used devastating "Grad" rocket batteries that can fire 40 missiles in a volley; Armenians reportedly used attack helicopters for the first time last week. In a sign of the worsening situation, the commander of the armed forces of the Commonwealth of Independent States (CIS) has ordered military detachments in Karabakh to withdraw to avoid being drawn into open combat.

The suffering of civilians in this remote region is of world concern. Despite the difficulties of getting into Karabakh, I have been there five times since last May, most recently in January. What I saw dismayed me.

Conditions in Stepanakert were appalling. The hospital and maternity unit have been shelled. Babies are born in the basement beneath the Town Hall. Many are premature and many mothers have inadequate milk, but there are no supplies of baby formula. Electricity has been cut off by the Azerbaijanis, so there is no heat or light. Supplies of candles are running out. Running water has been cut off, causing sever sanitation problems and forcing people to queue for hours to fill buckets with potable water. As spring comes and the temperature rises, there will be the risk of epidemic. Because of constant sniping and shelling, women and children live underground in dark, unheated, unventilated cellars and basements. While I was in Stepanakert, 53 rockets fell on the city in one night.

In many villages the situation is as bad. Crops could not be harvested because of the constant gunfire; livestock have been stolen. In one village, Khramot, nine civilians were killed and 33 houses damaged or destroyed in an Azerbaijani attack. Two other residents were found later, dead of exposure in the woods where they had fled.

There is urgent need for a ceasefire and substantial humanitarian aid. An Azerbaijani blockade has prevented desperately needed food, fuel and medicine from reaching most of Karabakh's people. Although Azerbaijani President Ayaz Mutalibov agreed last September with the presidents of Russia, Kazakhstan and Armenia that the blockade would be lifted, hostages released and efforts made to achieve a ceasefire, none of this has occurred.

The Conference on Security and Cooperation in Europe (CSCE) meeting in Prague earlier this year agreed to send an urgent fact-finding mission to the region. However, the escalating warfare has stalled this effort. Meanwhile, Mutalibov has publicly declared he will be "merciless." Whatever its recent gains, there is little reason to think that the relatively small and ill-equipped Armenian self-defense force can ultimately prevail against such larger Azerbaijani forces.

Every effort must be made to forestall widening military conflict. International observers, humanitarian aid and pressure on both sides to desist from military escalation are all urgently needed.

A United Nations peacekeeping force could play an invaluable role. Unfortunately, a spokesman for Mutalibov recently told a CSCE hearing in Washington that Multalibov will not agree to this, asserting that Azerbaijan can settle the matter "internally." The United States and the world community must encourage Multalibov to moderate this declaration, especially as Azerbaijan is currently seeking membership in various international bodies.

Although Secretary of State James A. Baker III, during his recent trip to the former Soviet Union, received Azerbaijani assurances that they will seek peace in Karabakh, the United States could still use its influence in many ways:

Washington could urge the CSCE to send a new delegation as soon as possible to the two sides as a deterrent to military escalation.

Bills recently introduced in both houses of Congress could send powerful signals that military "solutions," are not acceptable and that continued use of force will prompt unsympathetic responses to requests for economic aid.

Support could be offered to Russian President Boris Yeltsin to encourage him to persuade Multalibov to honor commitments he made in the communique of last September.

With a ceasefire, humanitarian aid could be airlifted into the region. Such a Western airlift to other parts of the former Soviet Union has brought a sense of reassurance to the outlying regions that the West is eager to assuage the hardships of the new era.

Azerbaijan should be required to allow free access to all communities in Karabakh and to allow human rights groups to visit prisoners and check on the conditions of their imprisonment, especially in view of disturbing reports of brutal maltreatment of Armeanians in Azerbaijan prisons.

Karabakh is a flashpoint that could ignite into a major conflagration. Finding peaceful solutions to this ethnic strife would not only prevent incalculable suffering but also serve as valuable precedents for numerous other danger points throughout the world.

IN HONOR OF SENATOR S.I. HAYAKAWA

Mr. HATFIELD. Mr. President, last week the country lost one of its most valued thinkers of recent years. Former Senator S.I. Hayakawa was indeed a controversial figure in the political realm. Having known the Senator during his tenure here, however, I do believe that this label hardly bothered him in the least. Rather, I think he thrived on it. I rise today to ask this body to remember a man who had the strength of character to fight unabashedly for what he believed in and for what he felt in his heart was in the best interest of our Nation.

Senator Hayakawa is probably best remembered for an understanding of semantics which was, I daresay, beyond the match of most of his colleagues. He was a tremendous scholar in the realm of linguistics, publishing nine textbooks in the area. Yet despite his fascination with the nuances of the languages of the world, Senator Hayakawa insisted that English become the official language of the United States and that those who come here learn to speak it. One would not expect the son of native Japanese parents to take this position, let alone to fight so doggedly for it. But what Senator Hayakawa valued most in the world, Mr. President, was this Nation avoid at all costs the violence and, in some cases, bloodshed that plagues countries divided by their languages. He was well-aware of the often devastating consequences of attempting to operate a country in two or more languages: tongues are easily more forceful than guns, Mr. President. The United Nations can function beyond the barriers of language but I know of few other organizations that have fared so well.

While Senator Hayakawa may not have won the votes of all of his colleagues in support of the issues he advocated, he most certainly won their respect. Despite his often controversial stances, Senator Hayakawa challenged each one of us to consider deeply in our hearts what it means to be an American. For this and for the fiery spirit which those of us who knew S.I. Hayakawa remember him by, I extend my heartfelt sorrow that he is gone. We will do well to remember the issues for which he fought.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. The period for morning business is now closed.

PUBLIC TELECOMMUNICATIONS ACT OF 1991

MOTION TO PROCEED

The Senate resumed consideration of the motion to proceed.

The PRESIDING OFFICER. Under the previous order, there will now be 2 hours remaining on the motion to proceed to the consideration of S. 1504, with 10 minutes under the control of the Senator from Hawaii [Mr. INOUYE]

and 110 minutes under the control of the Republican leader or his designee. Who seeks recognition?

Mr. LIEBERMAN addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Connecticut [Mr. LIEBERMAN].

Mr. LIEBERMAN. Mr. President I ask unanimous consent that I be allowed to proceed as if in morning business.

The PRESIDING OFFICER. Is there objection? Without objection, the Senator is recognized as if in morning business for up to 5 minutes.

(Mr. AKAKA assumed the chair.)

Mr. LIEBERMAN. Mr. President, I thank the Chair and I thank my distinguished colleague from Hawaii.

THE ANNIVERSARY OF THE GULF WAR CEASE-FIRE AND THE NEED TO SET A NEW DEADLINE FOR SADDAM HUSSEIN

Mr. LIEBERMAN. Mr. President, it was 1 year ago last Friday that American and allied forces ceased their fire on the army of Saddam Hussein, and the end of Operation Desert Storm was proclaimed. It was—and remains—a tremendous moment in our Nation's history, a genuine and worthy cause for pride.

Of course, there are revisionists who denigrate the war and the heroic accomplishments of those who waged it. And the deep troubles of our economy may obscure, for the moment, the war's true meaning. But had Desert Storm not been unleashed against the forces of Saddam Hussein in the gulf, there is no doubt in my mind that our recession would be much worse, and the world would be dealing with a dictator in Iraq who had at his grasp the capacity to wage nuclear war. Because Desert Storm did occur, we are a safer world, thanks to the courage of those who fought in it, especially those who fought and died.

Yet our euphoria is tempered on the occasion of this anniversary because we know that the work of Desert Storm will not actually be completed until we achieve total victory over Saddam Hussein himself. In considering the sacrifice of those who died, we are reminded of Lincoln's words at Gettysburg: "It is for us, the living, rather to be dedicated there to the unfinished work which they who fought here have thus far so nobly advanced."

The unfinished work is represented by the person of Saddam himself. His power has been tremendously cut by our bombs and rockets and tanks and gunfire, and by the embargo that continues to deprive him of many goods and much money. But if we abandon our determination to achieve total victory over Saddam, if we neglect the unfinished work of the gulf war, we will allow him to reinvigorate his capacity to wage war—a capacity which he will, no doubt, exercise at the appropriate time to fulfill his dreams of conquest.

To those who doubt that Saddam should be dealt with now, consider this:

Iraqi officials this week said the lives of U.N. inspectors may be in danger from angry Iraqis. We all know that any attacks against U.N. inspectors would only result from direct orders from Saddam Hussein himself. We must view the words of the Iraqi officials in that light—not as a friendly warning, but an ominous threat from the dictator's lips.

United National inspectors report that up to 20,000 people were involved in Saddam's nuclear weapons programs—20,000 people who are still in Iraq. At the right time—namely, the minute our grip on Iraq is loosened, Saddam will issue a back-to-work order, and they will surely resume the deadly task in which they had been so successfully engaged. Already, he has reportedly reinstated his son-in-law—Gen. Hussein Kamel al-Majid—as head of Iraq's arms and oil industries. He is the same man responsible for Iraq's secret campaign to develop a long-range nuclear and chemical weapons capability. Make no mistake: If we leave Iraq alone, it will create a nuclear bomb. And if Saddam has the bomb he will use it.

U.N. human rights official Max Van der Stoel recently charged the Iraqi regime with having the worst human rights violations since World War II. New evidence give credence to accusations that Saddam was engaged in the wholesale slaughter of Kurdish civilians in the alter 1980's. And fears are widespread and well-founded that Saddam will not hesitate to resume the slaughter—against Kurds and Shiites and others—once we look the other way. Today, in fact, Iraq's brutal defense minister, Ali Hassan al-Majeed, who masterminded attacks on the Kurds in the 1980's, is stepping up an attack on dissent within Iraq, and has told the army to be alert against what he called foreign lackeys.

Saddam has refused to allow outside agencies to relieve the suffering of the truly innocent Iraqi people—especially the children, who have paid a terrible price for Saddam's intransigence. Iraqi's propaganda machine churns out stories about the plight of Iraqis, ignoring the fact that Saddam is believed to control billions of dollars hidden around the world—funds that he uses to keep his clique well fed and in power.

Saddam has balked at complying with the U.N. resolutions that call for the destruction of his weapons of mass destruction. Iraqi officials have said they do not want to cooperate unless the United Nations relaxes its embargo, and they claim they are not obligated to destroy their ballistic missile factories. The Security Council is now awaiting the arrival of an Iraqi delegation led by Tariq Aziz on March 11 to determine whether Iraq will comply with these crucial resolutions. But it is fair to say that, thus far, Saddam has displayed the same kind of arrogant disregard for the rule of law that led Iraq to invade Kuwait 18 months ago.

Saddam has thumbed his nose at U.N. resolutions calling for the return of all prisoners of war and confiscated military equipment. More than 1,000 Kuwaiti men and women are missing—and believed to be in the hands of Iraqi captors. Needless to say, last week's 1 year anniversary brought little joy to the families of those missing Kuwaitis. Indeed, Kuwait's ambassador sent us a message last week, in which he said celebration of Kuwait's liberation was suspended out of concern for that nation's POW's. And Saddam still holds the keys to more than 200 British tanks his troops removed from Kuwait, and 150 advanced Hawk missile systems, which could be deployed against American planes.

In short, we have no sign—no sign whatsoever—that Saddam has changed, has repented, has learned any lessons in the year since the gulf war hostilities came to an end. Just look at the recent newsletter from the Iraqi defense ministry, which loudly proclaims Saddam's military genius in leading what they still call the Mother of Battles. Saddam himself had recently said of the Shiite opponents of his regime, "I want the doors to be opened and * * * machine guns to emerge from them to chop off their treasonous heads." We cannot reward the obstinacy of his evil with any lessening of effort to remove him. As Franklin Roosevelt said to Hitler, "No man can tame a tiger into a kitten by stroking it. There can be no appeasement with ruthlessness. There can be no reasoning with an incendiary bomb"

There can, in fact, be no final end to what Saddam has wrought since August 2, 1990, until Saddam himself is gone from power.

Last year, as the cease-fire took hold, and as Kurdish and Shiite revolts began, we missed opportunities to further weaken—and possibly eliminate—Saddam Hussein. We missed opportunities—but we have not lost them altogether. That is why I believe we should take action through the United Nations as follows:

First, no easing of sanctions while Saddam rules. The Security Council should firmly reject Iraq's proposal to negotiate a phase-out of sanctions in exchange for a promise to destroy weapons of mass destruction. No deals with this devil. Keep the sanctions on.

Second, to give the sanctions more bite, U.N. inspections of traffic between Jordan and Iraq should be established. It is believed that the gates of trade between these nations have been opened wide. A crackdown will hurt

Saddam where it counts. Saddam's own embargo of the Kurds within Iraq is tighter than the U.N. embargo of his regime. I urge the President to make the embargo a top priority in his upcoming talks with Jordan's King Hussein.

The sanctions can also be supplemented by seizure of up to $5 billion in frozen Iraqi assets, a move now being considered by the Security Council. We should also accelerate our search for additional, hidden assets around the globe.

Third, because we know that Saddam is capable of brutal human rights abuses against innocent Iraqi people—U.N. human rights inspectors should be stationed throughout Iraq, especially in Kurdish and Shiite territories to monitor the behavior of Saddam's regime. Their right to travel where they need to should be backed up by the military.

Fourth, American support of Iraqi opponents to Saddam—Kurdish, Shiite and Sunni—should be expanded at both the official and covert levels. We can look to the thousands of Iraqi soldiers who refuse to return to Iraq for signs of a nascent anti-Saddam force. There are also elections coming up in the Kurdish region that we should encourage and protect. We must make clear our willingness to support all serious dissident groups in their efforts to undermine Saddam's dictatorial regime.

Fifth, consideration should be given to granting recognition to a provisional government, comprised of Kurds, Shiites and Sunnis, and protecting that government's existence in areas of Iraq outside of Saddam's control. It is unclear at this date whether the various opposition groups can find common ground, but we should give them every opportunity to do so, and demonstrate that we are prepared to flood such a new regime with diplomatic, moral and material support. Saddam's outlaw regime deserves no measure of respect or recognition from the civilized world.

Sixth, we must do all we can to covertly assist any significant effort to topple Saddam Hussein from within. That might include equipping Kurds with weapons with which to protect themselves against Saddam's forces. The more we can strengthen the Saddam-free zones of Iraq, the easier we can weaken Saddam himself. And we should lend whatever high-tech support we can—satellite phones, fax machines, night vision equipment—to allow Iraqi dissidents within territory Saddam controls to survive and flourish.

Seventh, because Saddam Hussein understands nothing less than the use of force, we should give him a new deadline. He routinely forces the United Nations to give him deadlines for compliance with specific requests, such as last Friday's deadline in connection with the destruction of Scud factories—a deadline Saddam ignored. I believe the time may be right to put all our specific demands into one overall ultimatum: a date certain by which he must provide immediate, broad, and complete compliance with every U.N. resolution, or face the prospect of air attacks again. Saddam knows our mastery of Iraqi airspace is complete, and he knows many of his forces are exposed, and far away from civilian sectors.

Eighth, in setting such a date, it must be clear that we have the power and the willingness to act if Saddam does not back down. We can begin by sending more air power to the region, to back up our words with the capacity for action.

Ninth, we can then improve our inspection and destruction of Saddam's chemical, biological, nuclear, and ballistic missile capabilities. In view of the resistance they have experienced whenever they get close to new and dangerous sites, U.N. inspectors should have heavily armed escorts when necessary.

Tenth, American surveillance flights over Iraq should be supplemented by flights of combat aircraft as a vivid reminder to Saddam that we are fully capable of keeping him in check—and a reminder to Saddam's opponents within Iraq that we mean business.

Eleventh, we should make clear to Saddam, in no uncertain terms, that if any major offensive occurs against Kurdish or Shiite populations, we will strike, hitting his helicopters and his tanks from above, which he knows we can do so well. Any military offensive Saddam launches against his people should also be met with full-scale electronic warfare, inhibiting his ability to control his forces.

Twelfth, efforts to try Saddam Hussein and his henchmen for war crimes should be revived. The European Community called for such action after the gulf war, and this body went on record in support of war-crimes trials. The evidence of Saddam's crimes against humanity is enormous, and any failure to pursue him as the international criminal he is only dilutes the force of international morality, which was at the heart of the gulf war itself. Some might argue that war-crime trials are merely symbolic without Saddam in the dock, but symbols are important in matters such as this. We must not let the world forget what a monster we are dealing with.

The path I have outlined is not neat; it is not easy. It is not a path without risks. But, I would argue, it is far riskier to do nothing. As FDR said more than 50 years ago, "normal practices of diplomacy are of no possible use in dealing with international outlaws."

Mr. President, while we observe this first anniversary of the gulf war with quiet pride and honest recognition of the unfinished work before us, Saddam Hussein observes it with martial music and perverted celebration of his victory. Let us here dedicate ourselves as Lincoln said, to the "unfinished work so nobly advanced" by those who fought the gulf war, so that on the occasion of the second anniversary of Desert Storm, next year, we might join with the liberated peoples of Iraq in a shared celebration of freedom, as we embark on a common course toward peace in the Persian Gulf and throughout the world.

PUBLIC TELECOMMUNICATIONS ACT OF 1991

MOTION TO PROCEED

The Senate continued with the consideration of the motion to proceed.

The PRESIDING OFFICER. The Senator from Hawaii is recognized.

Mr. INOUYE. Mr. President, we have already voted for cloture to move to this bill by an overwhelming majority.

Only seven Senators voted not to invoke cloture, so the question of whether to move forward for this bill is not really at issue.

I would like to take this opportunity to address a few issues raised by my colleagues from the Republican side of the aisle.

The attack by some Members on public broadcasting and its children's programming and producers is a mishmash of misstatements and malice.

First, almost all of the Members who have raised problems with public broadcasting have stated that they do not have concerns about their local stations.

The problems, according to these Senators, stem from the national organizations, national public radio, and the Public Broadcasting System.

These comments reflect a fundamental misunderstanding of how public broadcasting works. NPR and PBS are membership organizations, and their members are the stations.

NPR and PBS do not control the stations in any way. In fact, the stations are the ones who control PBS and NPR.

PBS receives 71.4 percent of its total funding from local stations, and only 15.7 percent from the CPB.

In addition, of the 35 members of the PBS Board, 28 are station representatives, 6 are lay members and 1 is the president of PBS.

Similarly, 63 percent of NPR's funding comes from local stations and less than 2 percent of its funding comes from the CPB.

The 17-member board consists of 10 station representatives, 6 lay representatives and the president of NPR. Thus, if members have a problem with PBS and NPR, they have a problem with their stations.

These organizations are accountable to the stations that support them; if NPR and PBS do not follow the stations' wishes, the stations would not fund them.

On the issue of children's programming, it is asserted that the Disney channel outspends public television 2 to 1—$120 to $56 million—as evidence that there is no longer a need for public television's children's programs.

This argument ignores two facts. First, the goal of public television's programming is education, not entertainment.

The programs broadcast by Disney and other commercial programmers for younger children do not have the same educational value as public broadcasting.

Put simply, "The New Mickey Mouse Club" or "Masters of the Universe" cannot be compared with "Sesame Street" or "Mister Rogers."

Second, the Disney channel is available to those individuals who are willing and able to pay for it. Pubic television is accessible to all Americans with television sets—free of charge.

Cable only serves 61 percent of Americans and Disney channel is only available in 6 percent of American homes, while public broadcasting serves 98 percent of all Americans.

It is also implied that "Sesame Street" licensing brings Children's Television Workshop [CTW] "gross revenues of over a billion dollars a year." This is simply untrue.

For-profit companies which license "Sesame Street" products do generate hundreds of millions in retail sales each year, and earn profits, and pay taxes just like any other for-profit companies.

But those companies—not CTW—earn those gross revenues.

CTW receives about $30 million in royalties on sales of "Sesame Street" products.

CTW uses all this income to pay the costs of delivering "Sesame Street" and its educational curriculum each year. "Sesame Street" has not received direct Federal funding since 1982.

Before that the U.S. Department of Education provided approximately $30 million per year for "Sesame Street." So far "Sesame Street" has graduated more than 50 million American children.

The cost, therefore, is less than 75 cents per graduate. That is a bargain even the opposition should like.

It is claimed that CTW earns profits of "approximately $100 million each year, with $40 million alone from Sesame Street magazine."

CTW's gross income comes near those figures, but net income, if any, is very small. In fiscal year 1991, Children's Television Workshop enjoyed a surplus of $5 million; it expects an operating loss of $2 million in fiscal year 1992.

Finally, it is suggested that Children's Television Workshop uses a taxpayer subsidy to produce commercial television.

Commercial television programs are produced by Children's Television Workshop's for-profit subsidiary, Distinguished Productions, Inc.

This subsidiary is set up for that purpose and receives no federal funds.

We should be proud of the fact that CTW is moving toward financial self-support, and ending the dependence of "Sesame Street" and other programs on Federal grants. I cannot believe that any Member would contend that CTW should not raise funds to offset the need for Federal support.

I could go on at great length detailing the misinformation contained in some of the statements that we have heard in the last 2 days, but I do not want to take up any more time.

It is time now to get on to the legislation itself. I urge all of my colleagues to vote to let the Senate proceed to S. 1504.

I yield the floor.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. DOLE. Mr. President, as I understand under the agreement we have 2 hours more on the motion to proceed, and then we go to the bill at 2 p.m.?

Mr. INOUYE. The Senator is correct.

Mr. DOLE. Unless there is some objection on that side—it would be acceptable to us—is it agreeable to you—if we just had a period for morning business until 2 p.m. for any Senator to speak on anything, if that was all right with the majority leader? Then we could start on the bill at 2 p.m. We would not change the agreement.

Mr. INOUYE. I have been advised that there is no objection on our side, as long as we proceed to the bill at 2 p.m.

Mr. DOLE. Somebody could speak on the bill between now and 2 p.m., but it would not be excluding anything else. Is that satisfactory on that side?

Mr. INOUYE. It is satisfactory to me.

THE PRESIDENT'S PLAN

Mr. DOLE. Mr. President, I listened with interest to the distinguished majority leader this morning as he discussed the efforts on his side of the aisle to deal with America's economic tough times. I listened, too, with some compassion because I recognize that in his responsibilities as his party's leader in this body he is doing all he can to put the best spin on the Democrats' new tax package. No doubt about it, that is a tough sell, and despite his good efforts, the bottom line on the Democrats' new tax package is this: It is not a package of tax cuts, it is a package of tax increases. And slowly but surely, the same old liberal answer to every economic challenge is busting out of the closet: raise taxes, raise the deficit, raise spending, and then raise your criticism of the President as a way to shift the focus away from their tired old big tax and spend policy, and the big Government agenda of the Democrats.

As we witnessed in the Senate Finance Committee yesterday, our colleagues on the other side of the aisle are determined to continue waging their phony class warfare campaign. They are all for the middle class, they never stop telling the media, a slogan that rings more than a little hollow coming from the party that voted against every tax cut Ronald Reagan sent to Capitol Hill for 8 years.

Unfortunately, it is a war where nobody wins, and every taxpayer loses. It is the kind of election year offensive that has even been rejected by the Democrats' own Presidential frontrunner, Paul Tsongas.

This week, I received a letter from a Kansas middle-class family in Kansas City that I cited in the Finance Committee yesterday, but I will quote from it again because I think it speaks for a lot of folks in America—not just in the Midwest but all across America. Stephen and Margaret Wolford wrote to me and said that they are tired of worthless lip service about how [their] hardships are of the utmost concern of our State and Federal Governments. And they are especially sick and tired of the asinine partisan politics that, for all intents and purposes, paralyzes elected officials from doing anything about the crises this Nation faces.

No doubt about it, this is a message of common sense from mainstream America. So, as far as I can tell, Americans are not demanding that Congress should raise their taxes; they know that when Congress taxes someone today they will be back taxing someone else tomorrow.

The good news is, President Bush has a plan. It is a pro-growth and pro-jobs package of incentives designed to stimulate investment and opportunity. It is a seven-point program that can be enacted today, or at least by March 20, the deadline President Bush challenged Congress to meet in his State of the Union Address.

So take a look at the plan. Here it is. It is right behind me.

It is here, it has been here the past several weeks, and I am confident most people recognize a healthy real estate economy will improve the condition of our financial institutions as well as the overall economy.

We have a $5,000 tax credit that the President has proposed. It has been on the table for some time. We can all agree that home ownership, a dream of all Americans, should be encouraged.

Just go down the line, down the list, and take an honest and fair look at the seven proposals. In my view long-term growth will be better served by the President's package. It may mean that his proposal needs some modifications, but his proposals will not put our Nation's security at risk, it does not bust the budget, and it does not—I underline does not—raise taxes.

We have a real opportunity to make a difference. Let us prove to the Amer-

ican people that Congress can act, even in an election year.

We have only 16 days remaining until the President's deadline for enacting a responsible growth package to get this done. When the deadline hits zero and zero is all we have to show for it, zero is what the American people have every right to think about us.

If we cannot come to an agreement, if we do all we can, if we really try, and try, and try to get an agreement, and cannot come to an agreement, then I think I will fall back on the Washington Post plan, in an editorial they had in their February 24 edition. It is a good editorial. They said in effect the best economic cure-all for America right now would be to kill all the tax bills. It is probably better we leave things alone, they suggest, rather than making them worse.

So if we cannot get a growth package, if we cannot do something without raising taxes, and raising taxes, and raising taxes—$57 million worth of tax increases in the Democratic bill, $57 million in tax increases. Those who vote for it are going to have to explain those tax increases. And they say only the rich, only the rich. That is today, whoever the rich may be today, but who is it going to be tomorrow? Is it going to help the middle class? Is it going to stimulate the economy?

It does not create one job that this Senator can recognize. In fact, I raised that question in the Senate Finance Committee yesterday and nobody challenged it. It does not create one job. And $57 million in tax increases.

So if everything else fails, as Alan Greenspan has suggested, as the Washington Post and other editorial writers have suggested, let us not make it worse, let us not add to the deficit, let us not raise taxes. If we see signs there might be a recovery starting, and the worst thing Congress can do is to kill it.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

IRRESPONSIBLE CONGRESS? HERE'S TODAY'S BOXSCORE

Mr. HELMS. Mr. President, the Federal debt run up by Congress stood at $3,838,084,806,315.62, as of the close of business on Monday, March 2, 1992.

As anybody familiar with the U.S. Constitution knows, no President can spend a dime that has not first been authorized and appropriated by the Congress of the United States.

During the past fiscal year, it cost the American taxpayers $286,022,000,000 just to pay the interest on spending approved by Congress—over and above what the Federal Government collected in taxes and other income. Averaged out, this amounts to $5.5 billion every week.

What would America be like today if there had been a Congress that had the courage and the integrity to operate on a balanced budget?

I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum is suggested. The clerk will call the roll.

The bill 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.

PUBLIC TELECOMMUNICATIONS ACT OF 1991

MOTION TO PROCEED

The Senate continued with the consideration of the motion.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, in recent weeks we have had repeated requests for prompt action by the Senate, and we have attempted to move forward as best we can within the constraints of the Senate rules. We had hoped to proceed to the bill on the Corporation for Public Broadcasting on yesterday but were required to go through a cloture vote on a motion to proceed that is, a vote to terminate debate. Eighty-seven Senators voted for cloture, to terminate the debate to permit us to proceed.

We had hoped to get to the bill yesterday after that vote but were not permitted to do so. And we were requested to set up 120 minutes for debate today on the bill—that is, 2 hours—with 10 minutes by the manager of the bill, Senator INOUYE, and 110 minutes by our Republican colleagues.

But as of now the only person who has been here prepared to and has spoken on the subject has been Senator INOUYE, and we had no Senators present on the other side to use that time.

Let me say I do not want to cut any Senator off who wishes to address the subject. But if no Senator is willing to address the subject, I think we can better comply with the request for prompt action in the Senate on the matters before us by going to the bill now, or in the absence of any Senator wishing to use the time that has been allotted for that purpose.

In addition, in public statements made yesterday, one or more Senators have stated an intention to offer the President's crime bill as an amendment to this bill and to other bills that will come forward.

We welcome a debate on crime legislation. And there is pending, as all of my colleagues know, the conference report on a crime bill passed last year, the crime bill which we think is a very strong, effective measure which most of the major police organizations in the country support. It has passed the House, and passed the Senate. Now the conference report has passed the House and is pending the action in the Senate.

A Republican filibuster prevented us from getting to that bill last year. I am prepared to proceed to that measure which, as I understand it, is privileged, may be presented at any time, and does not require unanimous consent.

I have asked the Republican leader for his suggestions on how best to proceed. I emphasize that I do not wish to—never have and never will—cut off any Senator's right to address any subject. But on the other hand, if asked to allocate 2 hours of debate and nobody shows up to debate the subject, it seems to me it would be largely a waste of time and really a delay getting to the legislation.

So the distinguished Republican leader and I have discussed this privately, and I thought I would inquire of him now as to whether or not he is in a position to permit us to proceed to the bill now or whether we will have to wait until 2 o'clock as under the previous order, and also for any comments or suggestions he would wish to make on the other subjects that I raised.

Mr. DOLE. Mr. President, if the majority leader will yield, of course I do not think there is any effort on this side of the aisle to amass a big vote on the cloture motion on the motion to proceed. I think we are prepared to go to the motion to proceed. We wanted some time on the motion to proceed to discuss some aspects of the bill and some amendments that we will offer.

There will be germane amendments offered to the Corporation for Public Broadcasting bill.

I think one problem is that some of our colleagues on this side who would be up here speaking have a weekly luncheon on Wednesday that starts at 12:30. Most of them will not be available until around 2 o'clock. So I say I would not be in a position at this time to accede to any request to go to the bill, but we will go to the bill at 2 o'clock.

I think the distinguished manager on the Democratic side has indicated there are some amendments that can be accepted, and I think he also would offer a substitute.

So we are prepared to move ahead. We have amendments.

I think it is also fair to say that there may be, as the majority leader indicated, some amendments that may not be germane to the bill that might be offered.

Insofar as the conference report, it is a privileged matter; the majority leader can move to that at any time. That

would be a decision made by the majority leader. But my present understanding is that certainly we have amendments—some of us have amendments, germane to the bill. We would like to work out those amendments. There may be others who have other amendments that may not be germane.

That is about all the information I can give the majority leader at this time.

Mr. MITCHELL. Mr. President, I believe that it is not only appropriate but desirable that there be a debate and voting on the crime measure. I would prefer that be done in an orderly and planned way, with notice to all, as to the way and under what circumstances we are going to proceed, so that those Senators most directly involved can adjust their schedules.

What I suggest now, then, is since we cannot get permission to proceed to the pending bill, and since there is no one who is present to debate it, although time is requested for that purpose—I understand it is stated by the distinguished Republican leader that we get consent to go to the bill at 2 o'clock which would render unnecessary a vote on the motion to proceed, and that prior to 2 o'clock the distinguished Republican leader and I meet and discuss what the status is of our colleagues' intentions with respect to the time limitation.

My preference, and I know the preference of the distinguished Senator from Hawaii, would be to complete action on this bill, which is an important bill. I recognize there are honest differences of opinion on it. I think the Senate ought to have a chance to debate those differences and vote on them, and amendments to them.

But if there is to be an effort to attach a crime bill to this, I would appreciate knowing that, and then I think I would exercise the authority which I have; and, that is, just to proceed to the conference report and let us have a debate on the crime bill in that manner, in a way that time is set so Senators can adjust their schedules accordingly.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. So, unless the distinguished Republican leader has anything further, Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. 1504 at 2 p.m. today, and that the motion to proceed be withdrawn.

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

RECESS UNTIL 2 P.M.

Mr. MITCHELL. Mr. President, in view of the circumstances that exist, which are that we were requested to have a period for debate on this motion to proceed today, but no one has showed up to debate it, and we still cannot get to the bill, I have no alternative but to ask unanimous consent that the Senate now stand in recess until the hour of 2 p.m.

There being no objection, the Senate, at 12:50 p.m., recessed until 2 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. SANFORD].

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, under a previous order, the Senate is now to begin consideration of the legislation on the Corporation for Public Broadcasting. We have been attempting to have that bill considered and passed for the past few days. It remained, until a short while ago, my hope that we could do that today. It is an important bill. I recognize that there was some disagreement over the subject matter of the bill, that some amendments would be offered, all of which, of course, is within the rules and appropriate. I hoped that we could debate differences on that bill and proceed to consider amendments, vote on them, and then dispose of the bill today.

It now appears that such a course of action will not be possible. According to press reports today, Republican Senators have expressed a desire for immediate consideration of legislation with respect to crime, and I understand that were we to proceed to the Corporation for Public Broadcasting bill, amendments would be offered to that bill that are unrelated to the bill itself and which deal with the subject matter of crime.

I believe in the necessity to enact legislation to combat crime. I think it is an important thing that we should consider. Indeed, as my colleagues will recall, last year the Senate passed a comprehensive anticrime bill, the House passed such a bill, and then the two were combined in a conference between the two bodies. That conference report was adopted by the House of Representatives, and it then came to the Senate and was subject to a filibuster by our Republican colleagues, who did not support its provisions.

Our effort to terminate that filibuster by gaining the 60 votes required under the Senate rules was unsuccessful. Therefore, the matter now stands on the Senate Calendar; that is, the conference report is on the Senate Calendar. I think we ought to have the debate on crime measures. I think it would be a good thing for the Senate and for the country. I regret that it is being presented in a way that will not permit us to complete action on the Corporation for Public Broadcasting bill. But I understand that and accept that reality, even though it is not my preference.

It is my intention, at an early time, to return to the Corporation for Public Broadcasting bill. But, under the circumstances, in view of the publicly expressed desire on the part of our Republican colleagues, it seems to me that the most direct and straightforward way for us to proceed is to go to the conference report on the crime bill. This is comprehensive legislation, which has been enacted by the House of Representatives, and now, if the Senate will just pass it, it will go to the President for signature. It is the fastest way to deal with the problem of crime and to debate that for such time as Senators want to debate it and, hopefully, to proceed to a vote on that measure. I think that really will be an effective test of our intentions with respect to dealing with crime.

I have discussed this matter previously with the distinguished Republican leader, and I have indicated to him my intention to proceed as I have just outlined. But before doing so, I, of course, invite any comment or suggestion from the distinguished Republican leader.

Mr. DOLE. If the majority leader will yield, certainly the majority leader is within his rights to move to a privileged conference report. I indicate that as far as the Corporation for Public Broadcasting bill is concerned, there would have been amendments offered. Some would have been germane. Some of us have germane amendments, and we think we can improve that legislation and improve the Corporation for Public Broadcasting. But I know that there would have been efforts made to amend the bill with nongermane amendments. I am not certain of the extent of all of the amendments. One would have been a crime package.

There is a feeling on this side of the aisle that since the conference last year, in the closing days, the Congress, in effect, stripped out of the bill a number of provisions that we felt strongly about, and in the conference itself, Republicans were ignored in both the House and the Senate. It is pretty much of a Democratic crime package, and that is why, when it came back to the floor in the closing days of the session, I think a vote on cloture failed by 49 to 38, as I recall. There were a number of Senators absent in the last days.

Certainly, the majority leader has stated it correctly. It is an appropriate time to have that debate. We were prepared to have it through an amendment on the corporation for Public Broadcasting, and the leader can have it any way he wishes, and this would be one way to do that. We are prepared to do whatever the majority leader suggests.

Mr. MITCHELL. Mr. President, I appreciate the distinguished Republican leader's comments. As I stated, under the circumstances, we are going to have a debate on the crime measure, in any event, and we are not going to be able to complete action on the Cor-

poration for Public Broadcasting bill because of that. That being the case, it seems to me that the most direct and straightforward way is to proceed to the conference report, which is, as I said, the one measure that has already been enacted by both the House and the Senate. If we are interested in dealing with crime, this is the fastest and most effective way to deal with this—to pass the conference report—and it will be on the President's desk within a matter of a few hours or days.

OMNIBUS CRIME CONTROL ACT—CONFERENCE REPORT

Mr. MITCHELL. Mr. President, I submit a report of the committee of conference on H.R. 3371 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3371) to prevent and control crime, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of November 27, 1991.)

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, I am delighted that we have moved to the conference report and that my Republican colleagues are anxious to vote on a crime bill. I respectfully suggest that we can settle this in 5 minutes, if they just let us vote. We have debated this 4,000 different ways. We all know where everybody is. As my friends who wish to deal with the crime issue constantly say, "let us let the American people make a judgment on whether or not what we are suggesting makes sense."

I want to bring everyone up to date. What we now have before the U.S. Senate is the product of months and months of debate here in the U.S. Senate, weeks of debate in the House of Representatives, weeks of haggling between the House and the Senate, Democrat-Democrat, Republican-Republican, Republican and Democrat. The final product is the conference report, which was last year—this Congress, but last calendar year—voted on in the House of Representatives and passed.

It is before the Senate once again. The last time it came before the Senate, my friends on the Republican side filibustered it, requiring us to have to seek a supermajority, more than 60 votes, to allow us even to decide whether or not to be for or against this legislation, to vote on it.

I have been in constant contact, as the administration has, with the police agencies of this country. They strongly support this measure. They particularly find reprehensible the fact that the new alternative crime bill introduced by Republicans has taken out a provision that has passed both the House and the Senate; that is the Brady bill. The gun lobby is prevailing again here.

I would say to my Republican friends if they have an interest, there are areas where there is disagreement in that conference report—I see the clerk trying to lift it, weighing about 380 pounds I guess—and they relate to habeas corpus and they relate to other specific aspects of the legislation, but only on a very, very small number of items.

I do not know why they will not let us vote on what has already passed the House, in the conference report, and then if they wish to debate further about habeas corpus or the exclusionary rule or the death penalty in the District of Columbia, or any other aspect of this very large bill which is—I am not sure how many pages; I do not have a copy of it before me—484 pages long, this conference report, then we could vote on those separately.

But why do we hold up—I should not presume we are going to hold it up. I am hopeful that the ranking member of the Judiciary Committee, Senator THURMOND, is going to come and walk in the door with that smile on his face and say to the Senator from Delaware, let us vote. So I am going to be an optimist here and assume that is what our Republican colleagues are going to allow us to do and not once again kill the crime bill for the year 1992 as they killed one in the year 1991.

Let us give the President an opportunity to be for or against doing something about crime, as he likes to phrase it. I am ready for that to happen. In those areas where we have disagreement, let us come back and fight over it. Let us come back and fight over whether or not we should eliminate habeas corpus and not just limit it. Let us fight over whether or not we should impose upon the District of Columbia what we do not impose on any State. I happen to support the death penalty but we do not tell the State of Delaware you must have a death penalty. But I am prepared to vote on that. Let us vote on that.

Mr President, the Senator from Kansas, the Republican leader, is not only one of the brightest fellows in this outfit, but one of the wittiest fellows. He wanted to make sure the bases were covered. That is the reason for the interruption. He indicated one colleague was on the way over. He wanted to make sure I did not pass this in his absence, and I am certain that is because he wants to be here to support it. That is a joke. But I assure my Republican colleagues I will not attempt to take any action on this legislation in the absence of one of our Republican colleagues being on the floor.

But again, I am delighted we are back on this issue, because we have moved away from it for too long. We have let the crime problem go unattended, unattended in the sense that we have not moved forward on any new initiatives to deal with the issue which this bill is full of, new initiatives.

Let me say again, while we are waiting for my colleague, my Republican colleague and good friend from South Carolina to come, the essential elements of the conference report are as follows: It contains the Brady bill, a 5-day waiting period; it contains the death penalty for a total of 53 crimes; it contains the death penalty for murders committed with a gun; it contains the death penalty for drive-by shootings resulting in death; it contains the death penalty for rape resulting in death; it authorizes $1 billion in aid to State and local law enforcement agencies; it toughens penalties for gun use during violent crimes drawing the death penalty, which I mentioned; it provides aid to rural law enforcement and for drug treatment and prevention. This is all in the bill before us, which I hope we will get to vote on in the next 20 minutes or hour or a couple hours.

It increases the penalty for a drunk driver when a child is present in the vehicle. The reason I put that in the bill is, a young child, the way we raise our children, does not have the authority to say to mommy or daddy or Uncle Billy or Aunt Jane, or older brother or older sister, "No, I am not getting in the car because you are drunk." And children die because of that. So I think the penalty should be increased for drunk drivers who have minors in the automobile.

It also contains college grant scholarships for students who are willing to commit, after their college is completed, 4 years of service as police officers, and provides inservice education opportunities for police officers who are on the beat now, to allow them educational opportunities.

It expands aid to victims of crime. We have a victims fund that both the minority and the majority have worked on over the years because we think victims should be compensated when they are not in a position to take care of themselves, if they are hurt as a consequence of violent crime, if they have medical bills, if they have bills that result as a consequence of loss of work. We should be looking out for the victims of crime.

It also establishes background checks for day care workers, which does not exist to the extent we are proposing. It does not exist to that extent now, so

we want to make sure that a person offering themselves as someone who wishes to care for our children, that they be required, if asked, to have a background check to find out whether they have a background of child molestation, a background of crime, convictions, related to things that would affect our willingness to allow them to care for our children. That is urgently needed in my view.

It also provides the death penalty for a child abuser where the consequence of abuse is that the child dies.

It establishes 10 regional prisons to hold drug criminals. Mr. President, we have heard, both the minority and the majority, countless hours and days of testimony pointing out that 6 out of 10 people in prison today may, in fact, as we speak, be drug addicts. These people are in prison. And, Mr. President, we are releasing people after having served their time, who are still drug abusers, who are still people who are in fact addicted.

So, Mr. President, with our hardcore addicts, we should do one of two things: One thing is we should get them off the street. If they have not been convicted of something, off the street into treatment. If they have been convicted, off the street into a prison where not only will they serve time and be penalized for what they have done, but in the process have access to drug treatment, so when their time is up, Mr. President, they are released back onto the street with the same habit that put them in, the same habit that caused them to rob, to brutalize, to burglarize our persons, our families.

And maybe this time when they go out on the street, even though they have served their time, if they are still addicted, they may be the ones who commit one of those 24,020 murders that were committed last year. It is only common sense, Mr. President. So I have proposed, and the Senate has adopted, and the House has adopted, and it is in the conference report before us, in that bill, establishing 10 regional prisons to give some relief to State prison systems, two-thirds of which or almost three-quarters of which are under a Federal court order as we speak, to let people out of prison before they have served their term because they cannot have and find enough room to house those persons who have been convicted and to have these regional prisons that would be for Federal prisoners. And there are over 1 million prisoners in our prison system, only about 50,000 of whom are in the Federal system, 950,000 of them, or thereabouts, are in the State prison systems and they need relief—not the prisoners, the systems—so we can keep people locked up who should be locked up and once we have them within our custody, not only keep them there and off the street but be assured that when we put them back on the street we have made some attempt to cure them of their addiction.

That is what is in that bill before us, 10 regional prisons. It costs money, $700 million, but they need to be built, in my view.

Also in the bill before us, this conference report, we establish not only 10 regional prisons but we take the existing military bases that are being closed and we use them for boot camps so that when we send particularly younger offenders into the system we not only lock them up, keep them off the street, but we do something that everyone tells us needs be done—and I am not guaranteeing the boot camps will do it, but I am telling you it is better than what we do now, and cheaper and safer for us—and that is to provide a regimen of discipline for the young men in particular, as well as women, but young men in particular who are in fact abusers, to teach them discipline.

They are boot camps. Unlike military boot camps, they have no choice about being there and joining, and once they go through the drills they go back into a cell. But it is a cheaper, effective way of dealing with a problem that up to now we have found basically insolvable.

Also in this conference report that I hope we will be allowed to vote on, Mr. President, we increase the penalty for gang-related violence and we begin to focus on what we started to do 15 years ago and stopped. We have to cut off the source, if you will, of violence in society, and that is where the germ of violence contaminates the youth of this country, very young people.

When I started in this business, Mr. President, I used to stand on the floor of this body as a person in part responsible for the criminal law issues on this side of the aisle, at least, and I used to stand on this side of the aisle and talk about how the most violent offenders in our society were people around 18 years of age. Now I used to tell the stories about violence is reduced the older we get, the older that population becomes, because it is harder to jump over those chain link fences while being chased by police officers when you are 40 than when you are 18.

Well, Mr. President, a terrible thing has happened since I began this process. I am here to tell you now that the most violent segment of our society is now not 18 years old, it is sliding down the scale. It is moving toward 14-year-olds.

I just read the paper today, Mr. President, and it could, I respectfully suggest, happen in Delaware, or in North Carolina, or in South Carolina, or in Kansas, but in today's New York Times, three children—my recollection is, this is off the top of my head, I think their average age was about 14—were found, either on their way to school or in school, with semiautomatic weapons.

In the New York school system, as well as some other places, they have metal detectors, Mr. President. I understand when my 10-year-old child gets on an airplane it is one of the costs of modern society that she has to go through a metal detector to deal with terrorism. But I do not understand why my 10-year-old child, were she to live in New York City and go to their school system, would have to walk through a metal detector to learn about George Washington; walk through a metal detector to learn how to read or write; walk through a metal detector to learn about her Government.

Mr. President, in this conference report, we say the training grounds for those young people who cause the system to require metal detectors at the schoolhouse gate, gangs, juvenile gangs, should be focused on. We should deal with them instead of what we do now.

And so, Mr. President, in this conference report, there is authorization for antigang programs that the experts in the field have hailed as positive.

I may be mistaken, but I think the Republican bill we saw yesterday has some of this in it. They may not have the gang piece in it, but they have a lot of the rest of this in it. I am delighted that we are moving toward consensus on these things.

Mr. President, also in this bill, we have identified certain cities and areas in this Nation that are battle zones, literally battle zones. When we have in this Nation in South Carolina, Hurricane Hugo, when we have a serious nor'easter that came through the Delaware shore last year, wiping out our towns taking away the boardwalk, and causing millions-of-dollars worth of damage, what do we have? We have an outfit in our Government that calls for specific relief, disaster relief, Mr. President. When you cannot walk on the boardwalk, we have people come along and say: It is a disaster. Let us go to the Federal Government, get this declared a disaster area, and get additional help to be able to rebuild the boardwalk. Let people rebuild their homes. Let South Carolina put itself back together after Hugo. Let the State of Washington after Mount St. Helens blew its top put itself back together.

But at the same time, Mr. President, we have cities that are clearly identifiable, one of which is this city, where no one would be able to debate what I am about to say, and that is I could identify, as my friend from South Carolina could, as any Member of this body could, 10, 12, 15 cities, 15 sections of cities, in America, that are literally battle zones, where the drug dealers have taken the streets, own the corners, run the businesses, affect every single solitary aspect of human behavior: when people can go in and out of

their homes, what stores they can go to, whether they can get on mass transit, whether they can safely walk down the street with their 3-year-old child without having to worry about a drive-by shooting, whether they can go to the corner candy store and go in and buy their kid a slurpee without worrying whether a rain of bullets is going to come through the window.

Mr. President, that is literally the case; not figuratively, literally the case.

I not too long ago walked through a section of Philadelphia, a neighborhood, a public school on the corner, Catholic school across the street that existed there for over 100 years, corner stores, and I am walking along with the drug director and others at the time—and these are operating, viable stores on corners in cities, in this particular city of Philadelphia. And I said, "What are those marks?"

They said: "Oh, those are bullet holes. They are bullet holes in the window."

"Why are these boards up here?"

"Well they got blown out, the windows."

And then have a mother tell me, she went to pick up her child, and got trapped in the entrance—an old public school, grade school, with the old red limestone front, you see in many northeastern cities, and with an entry section about from me to the beginning of the bench on which the President sits, before you open the door to go into the halls. This woman was telling me how, when she went to pick up her children, she and her children had to hide against the wall behind the pillars inside this area as a rain of bullets was coming into a grade school. That is America, Mr. President. I can take you to those cities. You know where they are.

In this bill we target those areas, just like we target disaster areas. We allow people to reclaim their lives in South Carolina, in Delaware, in the State of Washington, in the Farm Belt after a natural disaster. This is a man-made disaster. There is $300 million the President can use in these targeted areas to deal now in an emergency fashion, allowing people to reclaim their cities. It has been sitting there because they have refused to allow us to vote on it for months.

Also in that bill is a good-faith exception to an arrest when evidence is seized by a police officer if he has a warrant, if he was mistaken but he has a warrant. Big argument: my friends want a good-faith exception with or without a warrant. That is a difference.

But in the bill is a good-faith exception when a police officer has probable cause to do something and he turns out to be wrong and he seizes evidence. We say the evidence is admissible. They want to say if it is a good-faith exception, whether or not you have a warrant, whether or not you have established probable cause before a judge to get a warrant, it should be admissible. That is a legitimate disagreement. But, nonetheless, there is a good-faith exception in the bill. It is not as much as they want, but it is in the bill.

Mr. President, habeas corpus. This is the crux of the dilemma, if we could settle that. I personally would be willing to drop habeas corpus from the bill completely, pass the conference report, send it back without habeas corpus. Nothing about habeas corpus. I am sure this will be the subject of a great deal of debate and I will not take the time now. But we drastically limit the number of times a person in jail can send out a petition from behind the bars in which he or she sits and slip them through the bars to say, "Let me out. I am here. I am held wrongly." That is what this debate about habeas corpus is about. It is not about people on the street. It is about people behind bars.

I, for one, believe the habeas corpus system as it now is being used has been abused. But, nonetheless, the public should understand habeas corpus means I am already in jail and I am asking to be let out. And I am filing a piece of paper. It is the habeas corpus petition I slide between the bars. But I am in jail. I cannot hurt you.

I am hurting the public because I am raising costs, I am clogging the courts. All of those things are arguably true. But I am in jail.

There is a big disagreement we have on that: my friend from South Carolina and I, the majority leader and the minority leader, Senator GRAHAM and Senator GRAMM—they have disagreement on it.

But, Mr. President, does our debate about what conditions upon which someone in jail can ask to get out of jail warrant holding up everything else I just stated? Is that a sufficient rationale to say I will not give the police more money, I will not build more prisons, I will not pass the Brady bill?

I respectfully suggest it is within their rights, but I do not think it is very balanced, balanced in the sense of balancing the needs of the police officers and society against the impact of habeas corpus even if they are right on the merits—which they are not.

So, Mr. President, why will they not let us pass this bill? Or forget passing the bill. I am not even asking for them to vote for it. I am not even asking that. Do not vote for it. I will take care of that end. You do not have to vote for it. Just let us vote. Let us vote. Let us vote to give the police $1 billion at home; let us vote to build those regional prisons; let us vote to put that antigang legislation in place; let us vote to reduce the number or weapons that people can walk in and buy—whether they are crazy or have a criminal record. Let us help the police, and then come back and argue about habeas corpus.

No.

So, Mr. President, the one thing I have learned never to doubt is the good intentions and sincerity of the ranking member from South Carolina. I do not doubt that now. I believe he believes habeas corpus is so important, the difference, the distinction, that it is worth not having any bill. But I do not subscribe that rationale to the rest of those who in fact oppose this bill.

I have a feeling, Mr. President. A little bit of this has to do with guns. Something in me tells me that maybe—just maybe—the NRA and the gun lobby have made a very strong case about this Brady bill, this intrusive, terrible bill that a vast majority of the American public wants, that President Ronald Reagan wants, that Jim Brady, the victim of an assassin's bullet, paralyzed now, wants; that the police officers want so badly they can taste it. That says the following. It says: Hey, look, we do not want felons to be able to go in and buy guns in gun shops. So give us 5 days, the police say, to run a check to find out whether or not the person buying the gun is a felon.

We did that in my State, Mr. President. My State legislature did that. Guess what?

Mr. President, what happened is in my State we put this in effect and some significant portion—I will not even guess the number; I think it is over 10 percent, but I will not say that—of all the people who came in, walked into a gun store and said here is my money, I want to buy that semiautomatic, or I want to buy that handgun, we are only talking about handguns now, 1 out of 10 of those people who put their money down on the counter, guess what happened when we checked the record in Delaware? They were convicted felons.

Surprise, surprise, surprise. One out of 10 of the people who walked into a gun store to buy a handgun in Delaware when this bill was put in effect last year were convicted felons. We are not saying legitimate folks, law-abiding citizens cannot buy a handgun. We are saying convicted felons cannot. And, for Lord's sake, give the police officer an opportunity to find out whether or not we are selling a gun to a convicted felon.

Begging the indulgence of the Chair, let me be more precise here. In Delaware, out of a total number of checks, after our law was put in effect, of 1,086 people who walked into the stores—our law requires them to be checked—106 of those 1,086 people had their purchases rejected under the law, and 6 of them were arrested on the spot because they were fugitives.

Obviously, if crime paid, they would not be this dumb. But, now take my little State which has about 750,000 people and that is probably giving it the benefit of the doubt. If 10 percent of

the folks who had walked in to buy guns in my little State were convicted felons, and about 1 percent of them were arrested on the spot as convicted felons, what do you think that number is for California, where they have 24 million people, 18 or 20 times the number of people we have in my State? What do you think it is?

How do you think, Mr. President, these kids, walking into those New York City schools, have those semiautomatic weapons in their book bags, their lunch bag?

I have a feeling that although the Senator from South Carolina supported this bill, that provision I believe in the total bill, when he and his colleagues put this new crime bill they talk about together, guess what? It disappeared. It is gone. Why? The President said he supported it in a strong crime bill.

Let us assume the President believes our bill is not a strong crime bill. Why did they not put it in their strong crime bill? Did you ever wonder about that? It is kind of interesting, is it not? The President says "I will support the Brady bill as long as it is in a strong crime bill." They put together a whole bill. How many pages is the bill? Five hundred and twenty-three pages long. A big bill. And they do not put it in the bill.

So I have a feeling, Mr. President, there are two compelling things that are occurring here beyond the good intentions of my friend from South Carolina. One is the gun law. In my 19 years here—and I have not been characterized as a gun controller—I have not voted for gun control measures. Vote for this, I think this is just sanity. But in my 19 years here, I found that they have been quite often ready to let what otherwise may be a brilliant piece of legislation fall if in fact they disagree with the gun provision, no matter what the legislation says. And the second thing I think may prevail at the moment, Mr. President, is the Republican Presidential primaries. I think Patrick Buchanan has made a point. Pointlessly, but he has made a point.

Whether or not he is the reason 35 or 32 or 37 percent of the people, every place they have a Republican primary, vote for him or whether it is because there is an automatic 33, 35, 37 percent of Republicans who just cannot understand and are confused by the President like I am, like I guess in South Dakota—I do not follow the primary these days. I do not quite have the same interest I had in years past. But whether it is one-third of the Republicans who say none of the above, meaning George Bush, anybody but Bush, or whether they are for Patrick Buchanan, I think it has generated a kind of new political dynamic and the new political dynamic is the President has to prove that he is tough.

I guess we still have Qadhafi. I guess we still have our friend in Iraq. We have North Korea. They are all potential targets to prove that. And I do not say that maliciously. They are bad guys and he could maybe do it there. Or there is crime. I am tough on crime.

All those conservative States in which the President has to run in a conservative Republican primary—and again I am no expert in this, but it appears to me that Republican primaries are like Democratic primaries; that is, those who vote in Democratic Presidential primaries tend to be more liberal than the Democratic Party and those who vote in the Republican primaries tend to be more conservative than the Republican Party on a whole. I may be wrong.

But it seems to me it is kind of interesting that the President, who feels, I guess, threatened from the right is looking for ways to make the case that he really is the brother or son or friend of Ronald Reagan. But ironically he has picked as the centerpiece, or his people who support him pick as the centerpiece to prove the elimination of something Ronald Reagan feels strongly about: the Brady bill.

I kind of think that in addition to those who feel strongly about habeas corpus—and understandably, not everybody understands habeas corpus, Mr. President. It is called the "Great Writ," but I wonder if we took a written exam here, all Senators—nor should they know, by the way. It is not like if I had to take a written exam on how you infuse water into oil wells to produce a greater flow of oil—I do not know. But I wonder how many people even understand what is at stake in habeas corpus, what the Teague case says, what other cases say.

Again, there is no one on the floor who is not capable of understanding it, but I wonder how many of them have actually gone back and read the Teague case. I do not think they should. That is why we have a committee system. I do not say that critically. I do not read every new regulation the Commerce Department puts out. I do not know them. The folks in the Commerce Committee know them. I do not read every new nuance of the Tax Code. The folks in the Finance Committee know that. We cannot know everything.

But here we are talking about habeas corpus which, I am told, is one of the reasons why what is before us is not acceptable to my Republican friends, and we are operating on sloganeering, bumper sticker mentality. The bumper sticker mentality is a conference report on hebeas corpus; not only does it make it better, it makes it worse, effectively eliminates the death penalty. Malarkey. Malarkey. Even if they are partially right, the notion it eliminates the death penalty is bizarre. But for those who have not had a chance to read all this, that sounds good. The President says that. The President, I think says that. I am not sure what he says, but some of my colleagues say that.

Mr. President, when you strip it all away, if you look at what my Republican friends argued against 3 months ago in the conference report, they have come along and embraced 90 percent of what they argued against. I think that is good, that is great. I am for it. Redemption is good for the soul. They embraced 90 percent of it. They used to argue against the money for local police. They now embrace it. They used to argue against lifting the victims' fund cap. They are now for it. They used to argue against—and the list goes on and on and on and they now embrace it.

They have essentially taken the original Biden bill or conference report wholesale and adopted it, introduced it, except for three things, maybe more, but three big things: One, habeas corpus; two, the Brady bill; and three, the exclusionary rule. And I guess they are prepared to let us see the entire anticrime measure that they now acknowledge they embrace.

I do not imagine these 3 things make up more than 20 pages of the 523 pages—maybe 40 pages. Let us be generous and say it takes up 50 pages. They are ready to let the other 475 or 450 pages go down the drain because they do not get exactly the changes they want in those 3 areas. In each area there is change.

In each area, we move, in the parlance, further to right on those issues but not far enough, from their perspective. And so what is the answer? No crime bill.

Now, before I yield to my colleague when he comes back, let us take a look at what is really happening. We are in March of an election year, a Presidential election year. We are five or six votes away from breaking a filibuster, and we have enough votes based on last year's vote to pass the conference report if they would just let us vote on it. So we are, maximum, six votes away from everything I read out earlier becoming law unless the President vetoes it. And I emphasize again the police agencies of this country, the ones which have to live under and enforce these laws—let me tell you what they said about it. Law enforcement support of the crime bill: Fraternal Order of Police—I think they are the largest order of police in the Nation:

> We call on Congress to adopt and for the President to sign this bill. It is the toughest anticrime legislation to emerge from Congress in recent memory, and it should become law.

The National Association of Police Organizations:

> We believe the bill's positive response to a need for overall improvement of law enforcement far overshadows any possible disagreement over individual provisions. As a significant body of law enforcement officers who risk life and limb daily to protect the Amer-

ican public, we urge you to enact this badly needed anticrime legislation immediately.

The International Association of Chiefs of Police:

The provisions in the conference report will benefit the public at large, as well as those who are charged to protect them. We support the conference report.

The thing the Republicans will not let us vote on.

The International Brotherhood of Police Officers:

America needs a crime bill now in this session passed by the Congress, signed by the President. As President of the IBPO, I urge the Senate to adopt the conference report and pass this important legislation.

The Police Executive Research Forum:

The crime bill's provisions that mandate a waiting period between the purchase and receipt of a handgun, and support for State and local law enforcement agencies are a sign to law enforcement that Congress is ready to help police do their job. The crime bill would advance law enforcement's commitment to protecting our Nation's citizens. The Police Executive Research Forum supports passage of this legislation.

The International Union of Police Associations:

We recognize the real need for the enactment of the conference committee version of the crime bill and support it fully.

The National Organization of Black Law Enforcement Executives:

The National Organization of Black Law Enforcement Executives is grateful to you and your colleagues for recognizing the necessity to propose the crime bill. NOBLE, an organization representing 2,500 law enforcement executives, who in turn represent the populations in most urban centers in our Nation, is pleased to endorse this legislation.

Mothers Against Drunk Driving:

Mothers Against Drunk Driving looks forward to the passage of the conference report and implementation of the Drunk Driving Child Protection Act.

Basically, the only outfit involved in law enforcement which has taken issue with this and shares the view of my Republican colleagues is the District Attorneys Association, and they say it is because of habeas corpus and maybe something else. But that is the crux. I do not doubt there are other things, but that is the crux.

So, Mr. President, my plea to the Republican leadership, including my friend from South Carolina, is if you do not like individual provisions of this bill, which even I think you would have to admit are improvements in the areas you are still concerned about, let us vote on it. Let us vote on it.

Let us then debate whether or not we should change provisions in it enhancing, from their perspective, habeas corpus or exclusionary rule. Let us have that debate on the Senate floor.

But, Mr. President, failure to allow, to use Senate parlance, the vehicle, the conference report, to be voted on means the chances of getting a crime bill this session are de minimis, if not nonexistent. It just then becomes a pure political game, because what we have to do then is debate all over the crime bill go through the entire process with what usually ends up being 200, 300, 400 amendments that are brought forward when a new crime bill is done, taking up weeks. We made record time last time, and I think it was what, 10 days or thereabouts, 10 legislative days. Sometimes it has taken as long as 3, 4, 5 weeks of taking up the Senate's time, all the Senate's time, to argue about three provisions, basically, in that conference report.

And then, assuming we pass it, as if nothing else has happened in the world, as if the economy has not gone to Hades in a handbasket, as if we are not going to have to debate the tax bill, as if we are not going to have to debate the farm bill, as if we are not going to have to debate foreign policy, as if we are not going to have to debate education—we just did that—it may come back in a conference report—as if we are not going to have to debate the drug bill, as if we are not going to have to debate, and the list goes on, we have the luxury, according to my Republican colleagues, I guess, to spend 2 weeks, 10 legislative days 3 weeks, 4 weeks, going over what we have already done and what they have already adopted 90 percent of, and then send it to the House for them to start all over again and attract 2, 5, 10, 20, 500 amendments.

And then we get the luxury of going back to conference, with every interest group in America hovering around outside the conference room like vultures, good ones, bad ones, indifferent ones, and that could take—not likely—several days, like the last one took, which was a miracle; or it could take 2 weeks, 3 weeks. Or we may go through the same process; my friend from South Carolina may not let us go to conference for 1, 2, 3, 5, or 10 days, 2, 3 weeks. That will be his prerogative. But once they let us go to conference, if we do, if we ever got through conference, now, Mr. President, we are in the middle of the conventions, at best, of the Democratic Party and the Republican Party, with a President—my wife Jill has hanging on our refrigerator door, along with the colorings of our 10-year-old daughter, like every parent in America does, a picture of a cat stressed out, hanging there by all 10 nails, with the hair on its back standing up, and it says "Stress."

Well, I promise you, there is going to be a President, during the Republican Convention, that is going to be hanging on to a convention stressed. And you think we are going to get anything out of that? I do not say that critically. Democratic candidates are going to be hanging on stressed, and we are supposed to get compromise in that environment? So what happens? The police get the short end of the stick again. The American public gets the short end of the stick again. It is politics as usual.

Now, Mr. President, we are in the midst of the debates for President. No big caucuses over in that room. They will be saying: Wait a minute, now. God forbid; you cannot let a bill go through there, no matter how good it sounds, if it is called a Democratic bill. It will be a political loss for the President.

And you will have Democrats over in that room saying: You cannot let a bill go through here that is called a Republican bill. It will be a political gain for the President, and the election is so close. Maybe if we are lucky, we will drop in the middle of it a noncontroversial thing like a Supreme Court nominee. That really brings us together here. Do you know what I mean? That really gets us all embracing one another to herald the sameness of our views.

Mr. President, I do not doubt the position of my friend from South Carolina. I do not doubt the earnestness with which he feels habeas corpus should be changed. I do not doubt how strongly he feels about it, how strongly he feels about the death penalty. It is in the bill. It is in the conference report. But, Mr. President, far be it from me to doubt the wisdom and judgment, and the tactical judgment of my friend who has served here longer than anybody in this body.

But I want to tell you, Mr. President, I am willing to bet you dollar to doughnuts that if this vehicle does not pass, as we say, we are going to end up in a cat fight here that will satisfy the political instincts of my friend on the Republican side as well as some of my friends on the Democratic side.

Let me be straight up with you, Mr. President. There are a lot of Democrats who are looking forward to this fight. They would be able to hold up the Brady bill and parade it around, up and down these stairs every day, because they know the American people are for it, and, they like the Republicans standing up voting no because they figure every time they vote no on it they lose a vote. There are going to be Republicans on the other side who are going to love to bounce the death penalty vote up and down every day. Even though I am for the death penalty, there are some Democrats who are not, and the Republicans are going to cause them to vote no.

Mr. President, I hope there are enough of us in here that are tired of this charade on both sides of the aisle. Let us vote, Mr. President. Let us vote.

I want to say for the majority, even though I do not have all the votes of everybody in the majority, we are prepared to vote. When my two friends who are on the floor, Republicans, Senator LOTT, from Mississippi, Senator

THURMOND, from South Carolina, are finished speaking, we are prepared to vote.

Mr. MOYNIHAN. I ask for the yeas and nays.

Mr. BIDEN. Mr. President, I ask my friend from New York, who, respectfully I assume, will withhold the request for the yeas and nays until my friend from South Carolina has had a chance to speak, and I hope he will be getting up to say, "Vote." I would like to hear my friend from Mississippi say, "Let us vote." But if they do not say that, I think it totally appropriate, when they finish, for the Senator from New York to request of the Senators from South Carolina and Mississippi if they are willing to let us vote and let the Senate, as we say, work its will. If it works its will on this, I believe there are over 50 votes for this conference report. The President of the United States of America could, by morning, be sitting down with the police agencies in this Nation, the district attorneys, and others, to decide whether or not he wants to veto or sign this bill. That is where I hope to get.

I thank my colleagues for their indulgence. I am delighted my Republican friend decided to introduce a "new crime bill" that is essentially all the conference report that we drafted in order to precipitate this. At least there is some movement. They would not even let us vote before. Maybe now we will get a chance to vote on the conference report.

I yield the floor.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina [Mr. THURMOND] is recognized.

Mr. THURMOND. Mr. President, I rise in strong opposition to this conference report on the crime bill. The Senate has already rejected, by way of a cloture vote, this measure. To state it simply, it does more to promote the interest of convicted criminals than it does to protect victims of violent crime. The Attorney General has recommended that this sham bill be vetoed and President Bush has stated his intention to veto the measure if it ever reaches his desk.

He would not veto this bill if it was a good crime bill. Why would the President want to veto it? He wants a strong crime bill, but he said he will veto this one, and he ought to if it goes to his desk.

Prior to convening the crime conference, I had expressed concerns about the ratio of Democrats to Republicans. The conference was unfairly balanced, and rigidly scripted by the majority, where the views of Republican conferees were ignored. Although this report is being called a "compromise" by some, it is no such thing. With remarkable consistency, the Democrat controlled conference committee rejected the tougher option on these major points and opted instead for provisions that handcuff law enforcement and reduce the safety of law abiding citizens. While I truly want a crime bill, I will not accept a bill which expands—and I repeat "expands"—the rights of criminals. This bill is not an anticrime bill. It is a procriminal bill.

HABEAS CORPUS

For example, the most troubling provision in this bill is the habeas corpus language. Although the Senate passed tough habeas corpus reform by a vote of 58 to 40 as part of S. 1241, this conference report adopts the liberal House language on this subject. It systematically reverses—I repeat "reverses"—over 14 Supreme Court decisions favorable to law enforcement and, according to the Department of Justice, will throw the prison doors wide open for thousands of dangerous criminals throughout the Nation. Standing alone, this provision is enough to compel the Senate to reject this conference report.

Those who support this report have stated that the habeas provision in the Senate bill is tough. Yet, they claim the conference report still limits appeals. This is not correct. Without question, this provision expands the rights of death row inmates. This death row inmates' wish list is opposed by President Bush, the Attorney General of the United States, the National District Attorneys Association which represents our city and county prosecutors, the State Attorneys General, the National Association of Attorneys General, the Conference of Chief Justices, numerous law enforcement organizations, and crime victims groups.

Thirty-one State attorneys general, 16 Republicans and 15 Democrats, recently wrote President Bush urging him to "protect the American people" and veto any bill which contains this habeas corpus proposal. That is the attorneys general of the United States. I repeat, 16 Republicans and 15 Democrats wrote President Bush and asked him to veto this bill. But why would they do it if it is a good bill?

They stated that any bill containing this weak proposal, and I quote: "cannot be described accurately as an anticrime bill but would instead be a procriminal bill and particularly a proconvicted murderer bill." We must not ignore and dismiss out of hand the concerns of these law enforcement officials who clearly understand the devastating and adverse effect of this conference report.

Mr. President, I strongly concur with their assessment. There are currently over 2,500 individuals on death row. Yet, since 1972, only 160 brutal murderers have had their sentences carried out—20 years ago. For 20 years, only 160 brutal murderers have had their sentences carried out. Two thousand five hundred on death row, 20 years has passed, and only 160 have had their sentences carried out. Of course, we need action. This is due to the continued abuse of habeas corpus law by the death row inmates and their liberal lawyers who are set on eliminating the death penalty de facto.

DEATH PENALTY

Mr. President, although this conference report sounds tough, it is not. Another example of this is the death penalty. Although the report authorizes the death penalty for over 50 Federal offenses, the trial procedures make it extremely unlikely that the death penalty would ever be imposed. Furthermore, the habeas proposal contained in this report renders the death penalty meaningless since virtually no sentences will be implemented. In addition, the report rejects a Senate passed provision which made murders committed with a firearm a Federal death penalty offense.

EXCLUSIONARY RULE

The House crime bill, as well as the President's bill, responded to some of the serious problems caused through application of the exclusionary rule. All too often in violent crime and drug cases, evidence is excluded at trial simply because the law enforcement officer innocently violated search and seizure rules. The House passed provision codifies and expands upon the "good faith" exception to the exclusionary rule as embodied in U.S. versus Leon. It provides that when an officer acts in good faith compliance with the fourth amendment, any evidence obtained therefrom will be admissible as evidence in a criminal trial.

The conference report rejects this important measure and instead rolls back court decisions to the detriment of law enforcement. It substantially narrows the good faith exception to the exclusionary rule. This provision handcuffs law enforcement in their efforts against criminals. It is yet another provision which expands the rights of criminals.

ADMISSIBILITY OF CONFESSIONS

Unbelievably, this report contains a broad provision which mandates automatic reversal of criminal convictions based on improper admission of a defendant's statements or confession at trial. This new rule applies even in cases where it is shown beyond a reasonable doubt that the error was a harmless error and could not have affected the outcome of the case. It overturns the Supreme Court case of Arizona versus Fluminante which correctly allows the harmless error rule to apply to confessions by criminals. According to the Department of Justice, the result of this procriminal provision will be the release of an untold number of murderers and other violent criminals.

Can you believe the Department of Justice? That is what they said. They said the result of this procriminal pro-

vision will be the release of an untold number of murderers and other violent criminals.

The decision of the conference to include this measure in the report reflects an arbitrary determination on the part of liberal members to free criminals on the basis of technicalities.

SEXUAL VIOLENCE AND VICTIMS' RIGHTS

This report also rejects several provisions aimed at fighting sexual violence and increasing victims' rights. For example, this report rejects a proposal which increases the penalties for repeat rapists and child molesters. In addition, the House bill contained mandatory restitution requirements for victims of rape, child molestation, sexual exploitation, and other crime victims. The Senate bill contained mandatory restitution requirements for all crime victims. The conference report rejects both of these measures. Incredibly, this report also drops language which required HIV testing for Federal sex offenders with disclosure of the test results provided to the victim. Apparently, the privacy of an accused rapist is more important to this report's advocates than the peace of mind of a rape victim.

In closing, this so-called crime bill conference report is a travesty which undermines the interests of law enforcement, prosecutors, and victims. It makes promises it cannot deliver on and virtually eliminates the death penalty. It sounds tough—but it isn't. Although this bill contains many provisions which I strongly support, these provisions cannot overcome the damage the rest of the bill does to our Nation's criminal justice system.

This bill should be seen for what it is—a travesty. It expands the rights of criminals at the expense of the law abiding, the prosecutors, law enforcement and crime victims. If this bill passes, the only people celebrating will be death row inmates and other violent criminals. It will be a great day for them. A vote in favor of this report is a vote against the death penalty. A vote in favor of this bill is a vote against the law abiding and victims of crime.

Mr. President, my distinguished colleague and friend—and he is my friend—Senator BIDEN, has said that his habeas corpus proposal and the other provisions in his bill, which I oppose, are inconsequential. He calls them minor differences. If they are so minor, why not accept my habeas corpus, and drop the other provisions which expand the rights of criminals. I would support such a bill. In fact, I introduced it yesterday.

The excessive Federal litigation surrounding death penalty cases which this conference report would perpetuate is precisely what is wrong with our criminal justice system. Currently, a criminal's guilt or innocence is seemingly irrelevant, as litigation over legal technicalities has taken precedence. The excessive litigation, not required by the Constitution, continues to face the guilty, delay the imposition of justice, and ignore the interest of victims.

Mr. President, my good friend, the Senator from Delaware, chairman of this committee, questions how I can possibly oppose a bill that is 500 pages long, because I disagree with a handful of pages. Well, these few pages are the equivalent of Congress saying that the death penalty is eliminated in every State, and the technical rights of criminals are expanded. As long as these few pages expand the rights of criminals and eliminates the death penalty, I will oppose the bill.

Long after the money for law enforcement is gone, long after all of these worthy programs that my good friend, the chairman, supports, are funded, these new rights for criminals will be on the books.

Mr. President, my good friend, the chairman of the committee, has gone through a list of provisions which are contained in the conference report, such as money for boot camps; new Federal prisons; antigang initiatives; safe school programs; drug emergency grant programs; money for law enforcement.

Mr. President, I support all of these proposals. In fact, they are all in the bill I introduced yesterday. The majority claims that Republicans are holding up these provisions. This is incorrect. We can vote on them if a tough, true conference report is given a vote. But they do not want to vote on it. Mr. President, I just want to say that the bill we introduced yesterday is a tough crime bill.

The conference report enacted here last fall took the weakest provisions of both bills, the Senate and the House. We cannot live with that and we will not live with it. We want a bill that will punish these criminals, put them behind the bars and keep them there to serve their sentences. That is my only purpose.

I have been on this Judiciary Committee for many years and I do not know anything more important to the American people than passing a tough crime bill. The President of the United States says that conference report is not a tough bill. The Attorney General of the United States says it is not a tough bill. The attorneys general of 31 States, 16 Republican and 15 Democratic attorneys general, say it is not a tough bill. The prosecutors, the district attorneys of this Nation, district attorneys in the States and the counties and the cities say it is not a tough bill. They ought to know. They have to prosecute these people.

Now, if that habeas corpus we have is so similar to the one in the conference report why not accept our habeas corpus? Maybe the staffs can get together here. Maybe they can agree to come out here with some changes and we can get a bill.

We do want a bill. We do not want an issue. The people do not want an issue. They are sick and tired of the streets being unsafe.

The Sergeant at Arms of the House of Representatives was shot in the mouth a few days ago near his home and robbed. Such as that should not occur. A staff member of Senator SHELBY from Alabama was recently murdered only blocks from the Capitol. There have been other serious crimes around this Capitol. There are other serious violent crimes all over this country.

People are afraid to walk the streets. It is disgraceful.

I was in Africa some years ago and we happened to be out about 12 o'clock one night. A lady was walking along the streets and I turned and I said, "Is it safe for people to walk these streets this time of night?" They said it is perfectly safe, and that violent crime was practically unheard of in that town. Here in the United States, our own citizens should also feel safe walking the streets of their communities.

We are supposed to be a civilized nation. We are not acting like it. We are disgusted with what is going on here in the way of crime. The people are demanding, I say they are demanding, that something be done. President Bush wants something done. We want something done. Let us get together and pass that tough crime bill that I introduced yesterday along with 28 cosponsors.

The PRESIDING OFFICER. The Chair recognizes the Senator from Delaware [Mr. BIDEN].

Mr. BIDEN. Mr. President, I will take only 30 seconds, and I want to give my colleagues the same time that this side has to speak.

Since I am the only one here speaking, I want to be able to respond so we do not get too far behind the curve in some of the fiction we are likely to hear, God bless my friends, in the last few minutes.

First of all, with regard to the habeas corpus position, the Senator has stated it very clearly, that is the crux of his opposition. I respect that opposition. I point out, though, that the police agencies, the guys out on the street, the women out on the street are for this bill. And I would point out that four former Attorneys General, 2 Republican and 2 Democrats, Civaletti, Katzenbach, Levy, and Richardson, they say if the Republican bill were passed it would end habeas corpus and that our bill will streamline the process.

A couple of points: Death row inmates of cannot benefit from any new rules. That is the crux of this. I will not bore everybody with it now. This is about a Supreme Court definition of what constitutes a new rule. Our bill says no new rule.

If you want to talk about changes in the law, let us talk about the Republican bill. It resurrects the so-called full and fair rule that the Supreme Court threw out in 1917 because of a fellow named Frank in Georgia who was railroaded and they thought this was an awful way in which to run a system. But we will go into that in some detail. Their bill will overturn about 70 years of Supreme Court decisions. We talk about whose decisions get overturned, and prisoners on death row are not helped by my habeas corpus petition. They are still in jail.

If our bill had been in place in the last 5 years, and you hear about those several thousand cases, those folks would not still be on death row because under the conference report bill you get one petition and 1-year, you cannot be there 5 years, one petition and 1-year, and on second petitions they are greatly limited at well in those instances where they have to have as one of the elements to file a second petition that they were innocent and they have some evidence to indicate they were innocent. And they would have filed their petitions, over the last 25 years, the Court would have ruled, and they would either be free or dead, one of the two. They only have a year from which to file, as I said, under our conference report.

And last, and I say this with some—I just raise it. I will not assert it as a fact. Some might be able to argue that had we passed the crime bill last year, had there been a billion more dollars out there in the State and local law enforcement, had there been in place a prison system that did not require people to be thrown out, in all honesty it would have been hard to build that by this time so this probably would not have occurred, but had we had this bill in place who knows whether or not the Sergeant at Arms of the House would have been shot.

The point I am making here is while we argue over habeas corpus which involves everybody who is already in jail, cannot shoot anybody, while we argue about that, which is a legitimate argument, we are letting the rest of this legislation that now my friends on the Republican side say they support, when they did not support it 2 months ago, they did not support the bill 2 months ago, they did not support the money for the police 2 months ago, it was not in the President's bill it was not their alternative but they do now. We are in agreement. Let us pass all on which we are in agreement. Let us pass it now and move on. Debate the rest, but give the police the help they need now.

I will come back more, I suspect, to try to fill in from at least my perspective what I think the errors are in assertions made by my friends on habeas corpus and other issues as they will with me I am sure, but I just want to make it clear that I do not know why we cannot go ahead and vote and then go back to ironing out or debating our differences as to whether they want to go beyond or less than what the bill contains.

I yield the floor and I thank the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Texas [Mr. GRAMM].

Mr. GRAMM. Mr. President, it was 986 days ago today, that President Bush sent his crime bill to Congress and asked us to do something to provide relief for our bleeding Nation. To this day we have not acted.

Our dear colleague has talked about a bill that has been brought up today as a conference report. Before I talk about what that bill does and does not do, I want to give people a little bit of background as to why we are here. We have been trying to deal with the crime issue and we held a press conference yesterday saying that today we were going to offer a new, tough crime bill as an amendment to pending legislation today or this week. As a result, the Democratic leadership has brought back last year's conference report and that is now before us.

I would like my colleagues to simply take note of the following facts. This conference report is going to be vetoed if it is passed here, and I have my grave doubts that it will be passed. The President is going to veto this bill because this bill strengthens the rights of criminals. This bill repeals decisions that have been made by the Supreme Court that have strengthened law enforcement and as a result unless God palsies the President's hand, which I do not expect Him to do on this issue, the President will veto this bill if it goes to the White House.

Second, despite all the talk about money in this bill not one penny is appropriated by this bill. Not one penny will be provided for law enforcement or for anything else by this bill.

This bill authorizes expenditure of money, but it does not appropriate money. Only an appropriation bill can do that, and no matter what we do on this bill today not one more penny will be provided for anything until an appropriation is passed.

Now why am I against this bill, which is called a crime bill in one of the great misuses of the English language in my 13 years in Congress?

Well, let me tell you why I am opposed to it. Without getting into these technical terms about habeas corpus and exclusionary rule, let me just speak English here for a minute.

Last year, when we considered the crime bill, on the floor of the Senate, standing at this exact desk, I sent an amendment to the desk asking for 10 years in prison without parole for selling drugs to a minor, no matter who your daddy is and no matter how society has done you wrong. I sent an amendment to the desk and asked for 10 years in prison without parole for somebody who sells drugs to a minor or who uses a minor in the distribution of drugs.

I also asked for mandatory life imprisonment without parole for somebody who is so callous of the health, happiness, and lives of our children that they would do it a second time.

Mr. President, that amendment was adopted by the Senate. What happened when the bill went to conference? The amendment was dropped.

I stood right here on the floor and sent an amendment to the desk asking for life imprisonment without parole for three-time losers. Now what does that mean? That means if a hoodlum goes out and rapes somebody, or some hoodlum goes out and sells drugs to a minor, or some hoodlum goes out and kills somebody, after the third conviction, we should have concluded that this person is preying off the health and happiness of our citizens and we ought to put them in jail for life where they belong.

The amendment went to the desk. The amendment was adopted. But when this bill came back, that amendment had been dropped.

I had drafted an amendment asking for 10 years in prison without parole for carrying a firearm during the commission of a violent crime or a drug felony, 20 years for discharging the firearm, the death penalty for killing somebody with intent, and mandatory life imprisonment for other murders committed with a firearm. Mr. President, a variation of that amendment was adopted by the Senate, but when the bill went to conference that amendment was dropped.

Now what happened is that in many cases similar provisions were adopted in the House. The House of Representatives has not been soft on crime, as the word is used. But what has happened is that when these tough provisions have left the House and left the Senate and gone to conference, the provisions that were committed to grabbing criminals by the throat, and not letting them go to get a better grip, have consistently been dropped.

Mr. President, I said when we debated this issue the last time that until those of us who are not victims of crime become as outraged as the people who are victims of crime, we are never going to deal with this problem. In fact, in many ways, we live here in an isolated environment. We come to work every day, people who come to the office buildings must go through a metal detector, the garages are guarded, and in a sense we have been in this isolated island while the rest of the country has been ravaged by crime.

But, Mr. President, since we last voted on this bill, crime has come to our very doorstep. The man in charge of the Capitol Police on the House side

of this great historic building was shot in the face the other night by a criminal who was trying to rob him. Senator SHELBY's staffperson, going home just blocks from the Capitol, was shot in the head and killed. A Senator's wife was dragged down the street here with a pistol stuck in her face.

Mr. President, the tragedy is this has been happening to the Nation for years. It has only started in the last few months to happen to us.

Now what is wrong with this conference report? Not everything in it is bad. But what is wrong with it is that it contains the same half-hearted efforts that have been losing the war against crime and violence in this country for many years. It is too much dominated by the thinking that believes criminal behavior is a social problem.

Mr. President, I do not know what is going to happen to this conference report. The leadership on the majority side of the aisle feels obviously that they have gained an advantage by stopping us from offering our bill today. This conference report before us is not going to become law. Everybody knows it, it cannot be amended.

But I want my colleagues to understand, no matter what happens to this conference report, once a week, every week, except the week where we are up against a deadline to pass the tax bill, but other than that week, once a week, every week for the remaining time that this Congress is in session, I believe we should vote on the crime bill. Once a week we should do it and do it every week until a true, tough anticrime bill is the law of the land.

I know the leadership of this body understands that that is going to happen and nothing should change that until we are all there with our smiling faces and the President takes out his pen and signs a true anticrime bill.

I think it is important that this issue be dealt with.

Let me make one final point, and I will sit down.

In trying to push the process forward, what our distinguished leader on this issue, the Senator from South Carolina, has done is, rather than going back to last year's original bill with all the controversial matters in it, he has wisely put together a new bill that has provisions that have been adopted either by the House or by the Senate.

So the bill we introduced yesterday is basically made up of provisions that have already been adopted in one House of Congress or the other. In a spirit of compromise, it has authorized all of these spending programs. Now no money is provided, but it simply says someday we hope it will be and that is in this bill.

And, quite frankly, I am for most of this, though there are some items in here that have no business being in a crime bill in my opinion. But I want to try to get on with passing that bill. But what I am not willing to do is to pass bills that strengthen the rights of criminals. It is time that we started to concentrate on our obligation to protect the rights of our law-abiding citizens.

The bill we introduced yesterday contains the provision that Senator SHELBY has introduced, which is the death penalty for the District of Columbia. And I have news for the District of Columbia; we are going to adopt and impose the death penalty in the District of Columbia, and we are going to do it this year.

The Constitution is very clear that control over the District and the making of law in the District is the exclusive jurisdiction of the Congress. We are going to use that power this year to adopt the Shelby amendment, hopefully, as part of a true, tough anticrime bill.

I yield the floor.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, it has been 94 days since our friend from Texas and others have refused to let us vote on this crime bill. In 94 days, over 6,000 Americans have been killed; over 6,000 Americans have been killed in 94 days. They refused to allow us to vote on the crime bill, the conference report. In 94 days, if we want to count days, 17 percent of those 6,000 people were killed with handguns, the very handguns they do not want someone to have to wait 5 days to buy.

Mr. President, in the 94 days our Republican colleagues have refused to allow us to vote on the conference report crime bill, there has been in this country over 1,200,000 felonies in the 94 days.

And in that same period there have been over 30,000 women raped in the 94 days that they would not allow us to vote on a crime bill.

So, I can count too, Mr. President. Thank God; and it is pure luck I am not one of those statistics, or anyone in my family. Thank God. Knock on wood. Let us count days.

Habeas corpus is the crux. None of those rapes, none of those 30,000 rapes was committed by anybody filing a habeas corpus petition—none. None of those 6,000 murders were committed by anybody filing a habeas corpus petition they do not like. None of the 1.2 million felonies—it is possible some in prison may have been committed—but none outside of the prison setting of those 1.2 million felonies were committed by anybody because of the difference on habeas corpus.

Mr. President, let us count. Let us count the toll and the carnage that has accumulated while we fiddle here, while my Republican friends do not allow us to vote on a crime bill.

My friend from Texas said he proposed four amendments. I think I supported all of them on this floor. The Senate voted for them. But since when has my friend from Texas, God bless him, become such a purist? He introduced a whole lot of other amendments that were adopted, too. Some the House kept, some they did not, in conference.

So now we have a new rule. If you do not accept everything I like I am not for anything?

Let us talk about the penalties in the conference report we are not allowed to vote on, Mr. President.

Mr. HATCH. Will the Senator yield for a question?

Mr. BIDEN. I will in a moment. Let me read this off.

Mandatory penalty for drug use in a Federal prison; mandatory 10 years for smuggling drugs into a Federal prison.

Mandatory 3 years for dealing or selling drugs anywhere in a drug-free zone, not just to a minor, but anywhere near a school, to anybody.

Mandatory prison sentence of 5 years for selling drugs in a second offense in a drug-free zone.

Mandatory 10 years for firearm possession for two-time felon.

Mandatory sentence in jail for drug dealing in public housing projects.

Mandatory jail for selling drugs at a truck stop.

Mandatory—triple the mandatory, present mandatory provision—for using kids to sell drugs. Ten-year mandatory increase in the 10 years for using assault weapons in the commission of a crime. Five years additional mandatory for gun possession by a felon with one prior conviction. Two years mandatory for theft of guns or explosives in jail. No probation, no parole.

Twenty-year mandatory for using or carrying explosives, a second offense.

The present 1-year mandatory for distribution of drugs to a pregnant woman.

Let us talk about the other offenses we added in here. This is separate and apart from the death penalty, Mr. President. This is separate and apart from the 53 death penalty provisions that are sitting at that desk to become law if we pass it and the President signs it.

Let us talk about what the conference bill also has in there. New penalty for drive-by shootings that do not exist now. New penalties in section 704 for gang violence. New penalties for assault. New penalties for manslaughter. New and additional penalties for civil rights violations. New penalties and additional penalties for crimes against the elderly. New penalties for drunk driving with children in the car. New penalties for trafficking in counterfeiting goods. New penalties for drug use in a Federal prison, mandatory. Not only selling, but using; 1 year mandatory. New penalties for smuggling drugs into Federal prison, 10 years mandatory. New penalty for drug deal-

ing in a drug-free zone, 3 year mandatory. New penalty for dealing in drug-free zone, second offense, 5 years mandatory. New penalty for possession of a firearm in the commission of a felony, 10 years mandatory. New penalty for drug dealing in public housing, mandatory. New penalty for selling drugs at a truck stop. New penalty for using kids. New penalty for drug trafficking in prison. New penalty for steroid use by minors. New penalty for brokering or trading in illegal precursors—chemicals that are used in making drugs, new penalty. New penalty for exporting or importing chemicals to evade the reporting requirements of the drug legislation. New penalty for failure to obey the order to land, which is section 1631. New penalty for receiving proceeds from extortion. New penalty for receiving proceeds from postal robbery. New penalty for parental kidnaping. New penalty for credit card fraud. New penalty for insurance fraud. New penalty for computer crime. New penalty—expanding the definition of stolen property for the entire criminal code, section 3063. New penalty for theft of major artwork. New penalty for adding "attempt" offenses to robbery, burglary, kidnaping, smuggling and malicious mischief, 3072. New penalty—clarifying "burglary" under Armed Career Criminal Act. New penalty for interstate arms trafficking. Additional penalty for using weapons in Federal crimes. Additional penalty for gun possession by a felon. Additional penalty for thefts of guns and explosives. Additional penalty for second offense for using or carrying explosives, mandatory 20 years. New penalty for felons possessing explosives. New penalty—adding possession of stolen guns to a statute barring receipt of stolen guns. New penalty—adding counterfeiting to underlying offenses carrying firearm penalty. New penalty for receipt of firearms by aliens. New penalty for firearms or explosive conspiracy. New penalty for stealing guns or explosives from a dealer. New penalty for disposing of explosive to prohibited person. New penalty for airport violence. New penalty for maritime violence. New penalty for violence against maritime platforms. New penalties for torture. New penalties for weapons of mass destruction. New penalties for supporting terrorists. New penalty for smuggling firearms. New penalties for lying on a gun application. New penalties for obstructing justice—for judges and juries, witnesses and victims and informants. New penalties under the Travel Act. New penalties for conspiracy to commit murder for hire. New penalties for terrorist crimes. New penalties, increased fines for passport violations. New penalties for recidivist sex offenders.

Mr. President, these are new penalties. I misspoke in the last three. But all the rest of them are new penalties. And my friend from Texas had three he did not get in so he says he is not going to be for the bill. "I am going to take my ball and go home." I can get my three. Biden supported the three he wanted, I believe. I do not know every one he mentioned, three or four or five. But, "I did not get them all so I am taking my ball and I am going home and I am going to see to it the American people do not get a crime bill now."

Mr. President, we voted for them, the Senate passed them, we went to conference. The conference is a negotiation. The House did not have those in. It did not have a lot of these in. It did not have half the mandatory ones, or all the mandatory ones we had in.

So, Mr. President, you served in the House. What do you do? You sit down and say OK, folks, let us get a bill. And they say, "We voted 306 to such and such, so we cannot back off this position. Our folks are not for this."

And we say, "OK, we voted twice on this," and we negotiate.

But my friend from Texas did not get his three provisions, or four or five or six.

Mr. President, all of these things, now, I think, are in the so-called Republican crime bill. They are all in there, including what the Senator from Texas has. But he did not get them all. That does not mean we are going to get anything.

If, as chairman of the conference—or the Senate conferees, I were sent over, or any chairman was, on any major bill, and said, "Now, look, if you do not get every single thing the Senate wants we do not have a bill," how many bills do you think we would pass here? How many bills do you think would become law? And then the House would say every single solitary provision in our bill, we want, or no bill. That is what conferences are for, Mr. President.

Mr. President, I would like to put in the RECORD, to clarify the RECORD, the number of provisions that I said are new penalties.

I mentioned five. That is, increase in firearms possession violations; recidivist sex offenders; sex offenders with AIDS—I did not mention that. But those three that I did mention are not in that conference report.

The other things I mentioned, including maritime violence and all those things, they are the same in both bills. Therefore, they are in the conference report.

The point is, Mr. President, 56 new offenses, not counting the 53 new death penalties. My friend did not get his four additional ones. My friend from South Carolina did not get one that arguably is a good one, and that is that a sex offender with AIDS—the victim should be told.

A noble concept, Mr. President, I would like to see him have it. He did not get it. So because he did not get, or they did not get, or anyone did not get—Democrats as well—everything that they wanted, the basic message to us is: We are taking our ball and we are going home; we are not going to play. Tell the police to wait another day. Let us go through another 6-month process and argue this. Let us do it all over again in the middle of a political year, because I did not get mine. We only got 56 new penalties; we only got 53 death penalties. We did not get the death penalty in the District of Columbia. We got it everywhere else; we did not get it in the District of Columbia. So no death penalty anywhere, federally, I mean, no Federal death penalty.

Mr. President, I know my colleagues too well. I know that is not how they operate in everything else. I know how strongly they feel about the death penalty. The Senator from South Carolina feels stronger about the death penalty than I do, and I authored this first bill and he authored one as well. He feels even stronger than I do.

But, Mr. President, the message keeps coming back, that this is about a couple of things. It is about the Brady bill; it is about habeas corpus; maybe it is about the exclusionary rule. But if those three things were settled, I cannot imagine the Senator from Texas being against this because four provisions that are arguably good provisions are not in this bill. I just cannot imagine that. So although I believe him to be totally sincere when he says how important he feels they are, I cannot imagine.

One last thing, Mr. President. My friend from Texas pointed out that if this bill passed today and was signed by the President tonight, it would not appropriate an additional penny. Surprise, surprise, surprise. That is why they are called authorization bills. But everything we have authorized in broad numbers we have appropriated on drugs and on crime. If there were a bill passed in the next 12 years, it would not appropriate a penny. That is what we called, when we used to practice law, a red herring. It is nothing about nothing.

The Senate's record and the Congress' record is, on law enforcement, whatever we have agreed upon with the President, we have funded. That is a separate piece. The separate piece is—and I might add, by the way, had we done that I suspect we would have funded a lot of this by now.

So, Mr. President, like I said, I think we should keep our eye on the ball here. The ball is habeas corpus. That is people already in jail. The ball is handguns, which these folks do not like waiting 5 days to buy. And the ball is possibly exclusionary rule, although that has never slowed up anything around here.

So I yield the floor, Mr. President.

Mr. HATCH addressed the Chair.

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

Mr. HATCH. Mr. President, I have to admit many of the things the distinguished Senator from Delaware says are in the conference report are in the bill filed by the distinguished ranking minority member of the Judiciary Committee yesterday. On the other hand, there are some notable—and frankly, for those who are aware, who are expert in the law, noticeable—deficiencies in the conference report that nobody who really is against crime is going to sanction.

What really happened was we passed a pretty tough crime bill—that I give the Senator from Delaware a lot of credit for—in the Senate; and certainly, the Senator from South Carolina. It had a tough habeas corpus provision in it that would have stopped an awful lot of the repetitive appeals that are going on in this country, that give these criminals the idea that they can never be really convicted, and billions of dollars lost in funds that have to go for law enforcement because we have not reformed the habeas corpus laws.

We did it in the Senate. They stripped it out in the conference report. They took a provision that is going to open up even more appeals like the one in Utah. William Andrews—everybody knows he murdered those people. He tortured his victims, rammed pencils through their eardrums, poured Drano down their throats, and then shot them. He was sentenced to death. His partner has already been executed. He is now in his 18th year of appeals and his 28th appeal.

If the conference report language goes through, it says to every criminal: Do not worry; you will never go to the chair; you will never have to suffer the penalty that society imposes on you; you have a right of appeal forever. And that is what it comes down to. We have one person in jail who is in his 54th year of appeals because of the language like they have in the conference report, which we correct in this bill here.

You wonder why we do not like the conference report. On the death penalty, what good is the death penalty if you can never effectuate it? I personally have a very tough time with death penalties. I would only allow their use in the most heinous of crimes. But let me tell you, it is a deterrent. I do not care what anybody else says. But the death penalty would never, never be carried out again if the conference report passes, because we have the most ingenious criminal defense lawyers in this country who come up for a new reason for appeal everyday, and guess who pays for those appeals? You and I do, every taxpayer in this country, and the conference report continues that mess.

You wonder why we do not want the conference report. We want a lot of things that are in the bill that Senator BIDEN has discussed. They are in this bill. But we correct the habeas corpus problem. As for the exclusionary rule, we did not do a very good job in the Senate. It is better than the conference report, but the House did a great job on the exclusionary rule. The conference report is worse than current law in this area.

We know what the exclusionary rule is. That is the rule of technicalities. If they can show certain technicalities have been violated, then the criminal goes free. There are not many who go free, but there are some criminals who have gone free. We think it ought to be corrected in any real crime bill. And it is not a real crime bill if we do not solve that problem.

The conference report is worse than current law with regard to the exclusionary rule. Reliable evidence of guilt would be thrown out in various circumstances, even if the officers conducting a search reasonably relied on a warrant issued by a magistrate. If they acted in good faith, the conference report that the distinguished Senator from Delaware is arguing for just throws out that evidence.

What does that mean? It means criminals go free.

Mr. BIDEN. Point of inquiry.

Mr. HATCH. Let me just finish.

Mr. BIDEN. Did the Senator say with a warrant or without a warrant?

Mr. HATCH. I did not talk about a warrant. I did—I said a search where they reasonably relied on a warrant issued by a magistrate.

Mr. BIDEN. I think if the Senator checks the stats, that is in the bill, Mr. President. I just stand to make that point, that it would be admissible if it is relied on a warrant. It is only when there is no warrant.

Mr. HATCH. We will get into that as we go further.

So today, I rise in support as a cosponsor of the Crime Control Act of 1992, which was introduced yesterday by the distinguished ranking minority member and former chairman of the Judiciary Committee, Senator STROM THURMOND. The Crime Control Act of 1992 stands in marked contrast to the 1991 conference committee crime bill. That was a bill rammed through conference by the other side at the end of the last session.

What they did is they took the most liberal members of the House Judiciary Committee and Senate Judiciary Committee. Nobody else had any say, and they put together the worst provisions of both bills. I have to say they are soft-on-crime provisions. Yes, they put a lot of good things in it, but what good is the death penalty if you are going to never execute it? It is nice to talk about 53 death penalties, but if you take away the effectuation of them, what good is it? It is nice to say you are tough on crime with death penalties, but they cannot be carried out. What is cynical about it is they know it. They stand here and try to pass it off as though it is tough on crime.

That bill was rammed through conference by the liberals in both the House and Senate Judiciary Committees and, as we all know, if you look at it carefully, it is hardly the good crime bill that everybody on the liberal side of the table seems to think. A close comparison of the two bills demonstrates that the conference bill is a cynical attempt ostensibly to fight crime even as it ties the hands of law enforcement authorities and opens the prison cell doors. Indeed, the conference report would let vicious, violent criminals out on the street that the Republican Crime Control Act would keep behind bars, the bill introduced yesterday by Senator THURMOND and others, including myself.

Let me just briefly compare for you some of the more salient provisions of the Crime Control Act and the conference bill. Look at the death penalty. Under this Republican Crime Control Act, the jury is directed to impose the death penalty for enumerated offenses if aggravating factors outweigh mitigating factors. In contrast, under the conference bill, the jury has standardless—meaning without standards—discretion to refrain from imposing the death penalty regardless of the aggravating factors. Moreover, the Republican Crime Control Act contains several safeguards to prevent litigation abuse and delay in the implementation of the death penalty. The conference bill contains no such safeguards.

Additionally, the bill enacts a unanimity requirement for the first time for the jury recommendation on the death penalty. Thus, when only one juror declines to impose the death sentence, regardless of the facts of the case, the sentence is prohibited. Underscoring this problem is the fact that the Supreme Court already prohibits the prosecutor from objecting to seating jurors who are opposed to the death penalty in the first place.

Finally, although the conference bill adopts new death penalties, its procedures are so convoluted that the penalty—the death penalty, that is—will seldom be returned and virtually never will be carried out.

On habeas corpus, the Crime Control Act introduced by Senator THURMOND basically does not change existing retroactivity standards previously established by the Supreme Court. That is good. In contrast, the conference bill makes almost all criminal law decisions of the Supreme Court retroactively applicable to overturn earlier convictions and sentences that had been imposed in conformity with then-existing law. No criminal conviction would ever be final under the conference report.

It has some nice provisions, but what good are they if they cannot be en-

forced? That is why we are so upset about it. Anybody who understands the law, unless they are more concerned about criminal rights than they are about victim's rights—and I want to be concerned about both—would have to conclude that the conference report does not solve these problems.

No criminal conviction would ever be really final under the conference bill. Convicted criminals, even those with life sentences, could invoke any subsequent change in the law that was favorable to them to have their convictions overturned if you adopt the conference report language.

Let me just give you some cases that illustrate how retroactivity would operate under the conference bill. Take the William Heirens case. A 17-year-old college student murdered three women in cold blood in Chicago, IL, in 1946. Two of his victims were adults, but the third was 6-year-old Suzanne Degnan.

William Heirens did not simply kill his victims. He also mutilated, decapitated, and abused their lifeless bodies in the most unspeakable manner. For example, different parts of Suzanne Degnan's body were found in five different sewers on the north side of Chicago.

Why am I bringing up today, in 1992, a murder case from 1946? A case that is 45 years old?

First, I note that the case is still being litigated in the Illinois State courts after all that time. Everybody knows he is guilty, but it is still being litigated. It is also still being reheard through parole proceedings—and it will, I am sure, be relitigated till the end of this century and beyond if the conference report's retroactivity provision becomes law.

William Heirens pleaded guilty to murder in 1946 and received a sentence of life imprisonment. There is no question of his guilt or innocence.

However, Heirens has continually sought release on a wide variety of legal theories. His last parole request was denied as recently as April 26, 1991. This was his 29th formal request for parole in 45 years. Guess who pays for that. Why, you and I do.

Heirens has also filed numerous post-conviction suits seeking release. He has a current case pending today in the Illinois Court of Appeals. He has sought release on various theories, but no law now applying to his case has so far been found to justify his release.

Suzanne Degnan's older sister—now in her fifties—has followed each of these repeated attempts by Heirens to obtain release. Can any of us imagine the trauma of a family victim put through 46 years of appeals?

But that is not enough apparently for some Democrats—they want William Heirens appeal process to start all over again. That is what their retroactivity provision in the conference report would allow.

Since William Heirens was sentenced to life in 1946, hundreds, if not thousands of new criminal decisions have been handed down by the Supreme Court. He was imprisoned before the Supreme Court decided Brown versus Allen in 1953, extending the Federal habeas remedy beyond jurisdictional challenges. He was imprisoned before the Warren court decided that most of the Bill of Rights even applies to State prisoners. He was imprisoned before the 1966 decision in Miranda versus Arizona created unprecedented new rights, and he was imprisoned before Swain versus Alabama (1976) and Batson versus Kentucky (1982) fundamentally altered the way in which peremptory juror challenges can now be exercised in criminal trials.

Heirens could logically argue, as he has under other circumstances, that he might not have pleaded guilty to murder in 1946 if he had possessed all of these rights.

Does any of this justify an attempt to retry him now, 46 years after his murders? Of course not.

But should the conference report's retroactivity provision become law, William Heirens will, along with every other prisoner in America, have a wealth of new legal theories to pursue in court, this man who confessed to murder. What kind of a bill is this? And they are passing it off as a tough-on-crime measure? Let me tell you something. It does not take any brains to realize it is not tough on crime. It can say all these things in it, but if it takes away enforcement rights and this right to abuse of the process is granted, how can you decide otherwise?

Despite the length of his incarceration, William Heirens is still only 62 years old. With the new rights of appeal that the conference report's provision would give to him, it is entirely foreseeable that he could be in federal court well into the next century. and this is a man who is guilty.

(Mr. CONRAD assumed the chair.)

Mr. HATCH. Mr. President, the scenario I have just outlined is extreme. I admit that. Frankly, it is the most extreme case I can think of in terms of years but it is not unforeseeable or unlikely if the conference report becomes law. You wonder why we want a different bill. You wonder why we are fighting against the conference report. Think of William Heirens and the thousands of prisoners like him all over the country.

The possibility of William Heirens filing more Federal habeas appeals, 45, 50, even 60 years after his conviction will be more likely than not to occur if the conference report's retroactivity provision becomes law.

It simply is outrageous if the surviving family members of these terrible crimes should have to relive this ordeal, to have half a century of appeals. This inevitably is what will happen should the conference report retroactivity provision become law.

I just cite one other. I have all kinds of others. I could go into dozens if you want. Let me take the Charles Manson, Sirhan Sirhan cases.

They were among the hundreds of death row inmates who were relieved from their death sentences in 1972 by the Supreme Court in Furman versus Georgia.

This group includes some of the most notorious murderers in American history. In the State of California alone this group includes Charles Manson, Sirhan Sirhan, Gregory Powell, the "Onion Field" murderer. I do not believe I need to describe the crimes committed by those individuals.

Each of these individuals has been in prison for more than 20 years with no hope of release, no hope that is, until the idea of reversing the Supreme Court's holdings on retroactivity was first proposed and provisions such as the one contained in the House bill.

Let us not fulfill the hopes of Charles Manson or Sirhan Sirhan. Let us not give these justly convicted criminals one more "bite of the apple," as the chairman of our Judiciary Committee would say. They deserved to be executed 20 years ago as the jury in each of those cases concluded. Let us at least leave them in prison where they belong. We owe that much at least to the victims and to the families of these victims.

Well, under the conference bill, convicted criminals, even those with life sentences, can invoke any subsequent change in the law that was favorable to them to have their convictions overturned. That is the ACLU criminal agenda.

While the Republican Crime Control Act, the one the Senator from South Carolina filed yesterday, provides for a 1-year time limit on habeas filings by State and Federal prisoners, the conference bill provides no time limits on habeas filings except for those State prisoners in capital cases. Further, the conference bill rejects the Republican Crime Control Act provision that habeas cases could only be brought for claims that have not been "fully and fairly litigated" already by the States; overturns at least 14 Supreme Court cases that limit frivolous appeals and endless litigation in death penalty cases; and allows death row inmates who do not even dispute their guilt to file endless challenges to their sentence.

There are other things. Harmless error and appellate review view. In contrast to the Republican Crime Control Act, which maintains the harmless error standards established by the Supreme Court in these cases, the conference bill provides for automatic reversal of conviction on appeal where a trial court erroneously admits a confession elicited in violation of the 5th

or 14th amendment even if independent evidence of guilt is overwhelming and it appears beyond a reasonable doubt that the erroneous admission would not have affected the outcome of the trial, overturning the Supreme Court's decisions in Milton versus Wainwright, and Arizona versus Fulminante, in 1972 and 1991, respectively.

On the exclusionary rule. In contrast to the Republican Crime Control Act, the conference bill which has been argued yesterday and today narrows the good faith exception to the exclusionary rule. It expands the criminals' rights to challenge the admissibility of incriminating evidence used against them; it reverses the Leon presumption that police officers are entitled to rely on a magistrate's authorization to search; and reverses the fifth circuit good faith exception that applies in warrantless searches that is broader than the Leon exception. The conference bill would let out on the street vicious, violent criminals who would be convicted under this Republican Crime Control Act.

On gang warfare, this is an issue that is particularly of concern to me because of the rise of gang warfare in Salt Lake City and throughout the country. This Republican Crime Control Act increases the mandatory penalties for drug distribution to minors; for using minors in drug trafficking, and for drug distribution to minors by recidivists. The conference bill contains no such provisions.

The Republican Crime Control Act establishes a new offense of inducing minors to commit crimes, creates a presumption in favor of adult prosecution for leaders of juvenile gangs and other criminal activities involved in drug trafficking or firearms, treats certain highly serious drug crimes by juveniles as predicate offenses for armed career criminal purposes, creates a new offense covering the commission of serious violent crimes and drug crimes on the part of the activities of a street gang, adds certain serious drug crimes to the list of offenses requiring fingerprinting and the retention of records for recidivist juvenile offenders, extends the range of sanctions authorized for juvenile offenders to include post-incarceration supervised release, directs the executive branch to develop a national strategy to coordinate Federal investigation of gangs, and requires inclusion of information on gang violence in uniform crime reports.

Most of these provisions of the Republican crime control bill have no counterparts in the conference bill. The few provisions in the conference bill that are similar, are weakened or watered down.

I have no doubt in my mind that the distinguished Senator from Delaware would be for every one of those provisions if he could get them in this bill. I have no doubt he is tough on crime. He wants to be tough. I respect him. We are friends. But he is stuck with this conference report, the weakest of all the things that have been brought here on the issue of crime.

What about sexual violence? This Republican Crime Control Act doubles the maximum authorized penalty for repeat sex offenders, and authorizes restitution for victims of sex offenses—sexual assault, child molestation, and child sexual exploitation—whether or not physical injury results. The liberal conference bill contains no such provisions.

It is not time to do something in this area?

Victims rights. This Republican Crime Control Act makes the award of restitution for crime victims mandatory, and adopts other reforms enhancing the scope of restitution and enforcement of restitution orders.

In addition, the Crime Control Act filed by Senator THURMOND protects the victim's right to an impartial jury by equalizing the number of peremptory challenges accorded to the defense and the prosecution in felony cases. The conference bill contains none of these victims' rights provisions.

Let us start thinking about victims. It is one thing to protect the rights of criminals. I want to do that too. I want their constitutional rights protected. But what about the rights of victims? The conference report does not do it.

In sum, the Republican Crime Control Act is a step in the direction of fighting crime and recognizing victims' rights. The conference crime bill is a step in the direction of criminal rights and thwarting law enforcement.

Mr. President, I have no quarrel with my friend from Delaware. I know that if he had a way of putting all these provisons in his bill he would. But he is dealing off-the-wall people on his side of the aisle who basically do not want to do anything that is tough on crime, and who justify their position by standing up and saying they are for the constitutional protection of criminals' rights.

Frankly, we are all for that. I do want any defendant to be abused by a violation of the Constitution. I will fight for their rights. But I think that the conference report—and I think anybody who fairly looks at it has to come to the conclusion—does not fight for their rights like it should; for victims' rights. It does a pretty good job for criminal rights, but not victim rights.

Frankly, it is time we start thinking about the crime on the streets throughout our communities, communities that never before had these kind of problems. All of us are overrun with drugs, with gangs, street gangs, sexual violence, all kinds of violent offenses to our lives, and it is time to get tough about it.

To be honest with you, I do not care if there are 53 capital punishment provisions or 1. If they cannot be enforced, they are not really capital punishment provisions. Under the conference report, they are virtually unenforcible. If you look at it carefully, I do not think you can refute that statement. Some will try.

Again, I think it is time for us to get tough on criminals. The bill filed by the distinguished Senator from South Carolina gets tough on criminals. It uses the Federal power to start stamping out crime. It will result in cleaner streets, safer homes, and more safety for people throughout our society. At the same time, it lets those know who are going to commit these crimes that they are in trouble. It is about time we did that.

I cannot tell you how disappointed I have been in the last two conferences in the last two Congresses, where we go to conference and the liberals control the conference, and they wind up getting the softest on crime things they possibly can that moot or negate the tough-on-crime provisions, such as they are, that remain in the bill, while knocking out a bunch of others that really should be there.

Mr. President, I have a lot more to say about this, but I presume this will go a little longer today and tomorrow, and perhaps days afterward. But I have to say that these things are true. I do not care how you try and gloss them over.

I know that the distinguished Senator from Delaware has to argue for his side. I feel sorry that he has to argue for that side, because it is not a good side. That is why we do not want the conference report.

We also know the conference report, if it passes, will be vetoed, and we will sustain that veto. It is an exercise in futility, because it has so many provisions that are soft on crime. It has provisions that are tough on crime, too.

I am not saying it is all bad. I support a lot of things in that bill. If you add it up in totality and look at these few provisions—and I will talk about others later—you have to say that all of the beating of the breast on how tough it is does not amount to one hill of beans, as long as they do not correct some of these basic errors and basic problems with Federal criminal law.

I yield the floor.

Mr. BIDEN. Mr. President, I thought the Senator from Utah was going to say he feels sorry for the fact that Senator BIDEN has this side because he wishes Senator BIDEN was not about to shed some light on what he just has said.

Mr. President, I love my friend from Utah. He and I have been friends for a long time. He is one first-class lawyer. He does what all good lawyers do when they do not have a case. When they do not have a case, they set up a strawman, and then they proceed to knock down that strawman. Eighty

percent of what my good friend said has nothing to do with this conference report.

Mr. President, it is a little bit like my standing up here and saying, if we do not pass this bill, if this bill had been law, there would not have been but 10 rapes or 10 murders in America. This distinguished lawyer, my friend, the Senator from Utah, stands up and says that this is a procriminal bill, that if it were passed, Manson would be out of jail. This is really good. Manson would be out of jail. Sirhan Sirhan would be out of jail. I assume Jack the Ripper, if he were alive, would be out of jail. I assume that guy just convicted in Milwaukee, Dahmer, would be out of jail. That is bizarre.

Mr. HATCH. Will the Senator yield on that point?

Mr. BIDEN. Yes.

Mr. HATCH. I said they would have the opportunity of continuous appeal that will go on and on at a cost to taxpayers and society. They might get out of jail, depending upon the cases in the Supreme Court, because of the retroactivity provision.

Mr. BIDEN. I thank my friend for that clarification, because what he just said was incorrect just now but what I thought he had said is bizarre. I apologize. He just said it incorrectly.

Let me speak to what he just said. This notion that all these folks—the Utah case he understandably cites, which is really a heinous crime that was committed, and concerns a fellow who has had 17 appeals; if the conference report passed, he would have no appeals. It is over. He had his 17 appeals; finished. He could not have a new one.

By the way, sometimes we make, on this floor, substantive arguments, and sometimes we make humble arguments, and sometimes we appeal to authority. Let us assume we continue that practice around here. Is it not fascinating that my friend says—I will paraphrase him, because I do not know the exact quote. He said something to the effect that anybody who cares about crime, anybody who is for this bill, has to care more about criminal's rights than victim's rights.

Why are the police agencies for this? Since when did they turn soft on crime? Since when are the folks out there who get shot, all of a sudden, these commy-liberal-symps, who are soft on crime, procriminal? Tell that to the FOP, that they are soft on crime.

I dare you to tell that to Dewey Stokes, when you are in the Senate gym, or the police gym. He will knock you on your rear end.

I dare you to tell that to Chief Sapp of my police department in Wilmington, DE, that he is soft on crime. He will knock your block off.

I dare you to tell that to the police agency, the folks that get out of the squad car and come in as they are changing shifts and say, by the way, in the locker room, you are for criminal rights. You are soft on crime. You better be a good a boxer as I expect the Senator from Utah may be. Maybe he can say it. I am not as tough as he is. I am not going to walk in and say that. I will get knocked flat on my rear end.

Mr. HATCH. Will the Senator yield on that point? I hope he would not try and knock me on my rear.

Mr. BIDEN. I am a peaceful man.

Mr. HATCH. I am not talking about you.

Let me just say that, look, the ones who are really concerned about this, as far as criminal law, happen to be prosecutors who have to prosecute these people and keep those convictions alive. The money in this bill is quite attractive to law enforcement persons, because they understandably want the money. Given those attractive aspects of this bill, they are more willing than the prosecutors to overlook the legal deficiencies in the bill.

But the prosecutors are the ones who are telling us that they cannot live with that conference report and do their job. I can tell you that the Justice Department does not think they can live with it.

I can tell you that most prosecutors, I think, would feel like this. It is a pretty pathetic approach to criminal law in the conference report. They would be much better off, if you want to convict criminals, and keep those convictions, and stop the repetitive appeals. For instance, on the point that the distinguished Senator was making, what would there be to prevent Charles Manson, to take an egregious case, from filing a habeas petition? Why should he not get to rely on Batson versus Kentucky, a 1982 case, like every other person convicted since 1982?

Mr. BIDEN. I would be delighted to answer the question. Because it is a new rule, and he would not be able to.

By the way, the Senator says that what we are doing is turning back the law, and others have said we are turning back the law to 1989 and 1990. He has been in jail a long time. Why did he not get out in 1989 and 1990 before the law was changed, which we are saying we want to change back. Why did he not get out then? He had been there for years and years and years.

I would expect, as they say in the House and the Senate, that we have a chance to revise the record, because I hope the Senator did not mean what it sounded like he said, that the reason why the police agencies are for this is because they have been bought off in this bill. I hope he did not really mean that. I would like to give him a chance to correct that now.

Mr. HATCH. If the Senator will yield, I believe that the law-enforcement organizations understandably find the money in this bill for law enforcement attractive. I am not saying they are uninterested in the other provisions of the bill itself, but it is the prosecutors who are most concerned about this bill's legal provisions. The prosecutors will have to contend with this conference bill's legal deficiencies.

Back to that point on Manson. The Senate bill did not have retroactivity; therefore, Manson would not have had a chance in the world of invoking Batson. The House bill did, and the conference report grabbed the retroactivity provision which gives Manson a right to invoke Batson, even though it is a case that occurred long after his conviction and his sentence. And that is the problem here. The distinguished Senator from Delaware knows that there is retroactivity in his bill. He knows that it opens up new legal avenues for these criminals who are convicted.

President Bush, for instance, received a letter from the majority of the States attorneys general, and these are the officials most familiar with legal issues raised by this crime bill. Most police officers are not attorneys, and do not have to prosecute, and do not really know all of these provisions from the criminal law standpoint. That is not their major interest.

Sure, they are understandably concerned about increasing funds for law enforcement. When they hear the arguments of the distinguished Senator from Delaware, it sounds like it is a tough crime bill until they hear the argument as to why it is not from the attorneys general who have to prosecute these matters, including the Attorney General of the United States.

The State attorneys general do not need anyone to explain to them the meaning of retroactivity or why it constitutes a threat to the validity of every single State criminal conviction. It does not take extraordinary legal expertise to figure it out. That is why the State attorneys general, most of whom are Democrats, have written to President Bush hoping that we can get a bill like Senator THURMOND has found.

And what message did these State officials, both Democrats and Republicans, give that they wanted to convey to President Bush? They wrote to express their "alarm over the habeas corpus provision contained in H.R. 3371 as passed by the House and urge the President to veto any bill containing those provisions."

What did the crime conference do with the habeas corpus provision?

Mr. BIDEN. Excuse me. I think the Senator from Delaware still has the floor. Was that a question to me?

Mr. HATCH. No; I was answering the Senator's question to me. I am glad to yield back, but it is not as simple as the distinguished Senator from Delaware is making it.

Mr. BIDEN. Flat out the Senator from Utah is wrong with reference to

Charles Manson and the other cases that he speaks to.

But let me go through more specifically and then I will be happy to yield the floor. I see others are here. We have now determined from the Republican position that the police agencies either have no brains and/or have been bought off by the money in the bill, because anybody who had any brains, it was just stated, would know that this lets out the Charles Mansons of the world or gives them a chance to get out. Simply not true, No. 1.

But if it means that, I guess I have no brains and the police agencies have no brains, No. 2. It is the money in the bill that the police want and the reason why the police are supporting this bill. Wow.

No. 3, it is the attorneys general, almost all of whom are either political appointees or run for election, Democrats as well as Republican, the most dangerous thing most of them do is have to worry about paper cuts when they are filing answers on appeal and habeas corpus petitions.

Cops get shot dead.

Let me leave that alone. I will let the police settle that with everybody. The fact of the matter is that there are limited appeals.

Let me talk about habeas corpus for a minute now since it is getting so skewed.

No. 1, the number of petitions is one and the number of times that a person can file a petition is one and they have to do it within 1 year—shorter than the current law. That is what is in the conference report.

No more filing 10 petitions, no more filing 10 petitions in 10, 20 or 30 years. Those examples are not relevant.

No. 2, any second petition rule in the conference bill is tougher than the current cause-and-prejudice standard that exists in the present law. Not only must a petitioner show cause and prejudice in order to be able to file a second petition, but he or she must also show one of the following: that they are innocent and they have evidence of that.

I assume we would not deny someone that. Someone comes along and says, "Charlie is in jail for killing Cock Robin, but I killed Cock Robin." But I am assuming we will allow someone to file a habeas corpus petition to say, "See, I am innocent, someone else admitted to the crime," or to say, as has happened in cases, evidence comes forward that the police and/or the prosecution or anyone else withheld evidence that would have shown, as has occurred in the past, the innocence of a person, should not someone be able to file and say we now found out that they never let the train schedule into the RECORD that shows I was in Oshkosh, when the evidence was, the crime was committed elsewhere?

They have to show that, Mr. President, they are innocent. Or, they have to show that the sentence imposed upon them was unlawful, that is, it did not comport with the statute. They got sent to jail for 10 years and the statute says you can only go to jail for 5 years.

That is the condition upon which they can file a second petition.

And there are no new rules. The no new rule pledge of the Teague versus Lane case is honored here and expanded.

The bill says: "The court shall not apply a new rule, section 204." Moreover, it goes further and made two exceptions for decriminalizing rules and watershed rules in criminal procedure to this no new rule standard.

They made two exceptions where this no new rule principle would not apply. In the conference report we eliminated those. We do not even allow those two exceptions.

Fourth, the only place where the conference report changes current law is on the definition of a new rule reversing Butler versus McKellar. The conference report rejects Butler's definition—and that is true. Any rule about which State court judges could reasonably disagree because that definition did not include old rule cases, the case was decided before the prisoner was convicted. Instead, the conference report defines new rules as rules that make a "clear break from precedent and could not reasonably have been anticipated"; section 204.

Mr. President, let me give you an example of what I mean by that.

Suppose the Supreme Court decided tomorrow that police had to tell arrestees the extent of the possible penalty they faced in the possible sentence. And suppose the Supreme Court said not likely with this Court. But suppose it said a failure to do so violated the Constitution.

Now, no one on death row today could use that new rule enunciated by the Supreme Court to get a new trial based on the claim that when he or she was arrested they were not told about the sentence. The rule is a new rule. That rule, if it were to come down, would be a new rule, a new one, since it was announced after the person's conviction. The conference report would not—would not—benefit prisoners on death row, as Senator HATCH has charged.

It is a little bit of hyperbole, I respectfully suggest, on the part of the Senator from Utah, to take our eye off the ball here.

Mr. President, Senator THURMOND charged that the conference bill undermines law enforcement. Law enforcement groups representing more than 500,000 of the 700,000 police in America, those on the front lines, they endorse and ask for the passage of this conference report—half a million police officers.

Senator THURMOND and Senator GRAMM's bill and Senator HATCH's reference to the victims of crime, first of all, it cuts funds to victims of sexual assault and child abuse. Their bill cuts funds and it cuts funds to all crime victims and gives this to State and Federal administrative bureaucracies, to let them decide what to do with it.

Ironically, now that they want to "lift the cap," "the reason we wanted to lift the cap," the administration said "if they lift the cap, it was veto bait." The Republicans said they did not want to lift the cap before. Now they come along and say they want to lift the cap.

I am not suggesting it is disingenuous, but I am suggesting it is a timely change of spirit.

The conference bill at the desk grants victims the right to speak at sentencing, speak against the person who committed the crime against them. The conference report that they will not let us vote on removes the cap on the crime victims fund which they opposed before but now are for.

The conference bill that they will not let us vote on prohibits attempts by Medicare to use the crime victims fund to pay for expenses now paid by other Federal agencies.

The exclusionary rule. In general, let us get the facts straight, keep our eye on the ball here. The exclusionary rule—by the way, for anybody listening who is not a lawyer, what that means is evidence seized by the police, according to the court, illegally, violating someone's constitutional rights, is not admissible into court against that person. That is the exclusionary rule.

Now, in all the cases—I said there are 5.6 million felonies every year. How many times did the issue of evidence being excluded come up? Less than 1 percent. Let us assume they are right—and they are indeed wrong—less than 1 percent. In that conference report the Republicans will not let us vote on, we exempt mistakes made by police officers in good faith if they have a warrant in their hand and they make a mistake. So that reduces the 1 percent significantly lower, whatever that is, and I do not know what that number is, but less than 1 percent.

We codify the Leon case. My friend from Utah says well, the fifth circuit came along and said in a warrantless search, if a good faith mistake is made, it should be exempted. We do not say the Supreme Court cannot reach that decision. But that is not the law of the land. That is one of the circuits. That is the fifth circuit, not the Supreme Court. And all we say is we codify Leon, a Supreme Court decision.

We do not stop the Supreme Court from coming along and taking a look at the fifth circuit rule and say we agree with that rule. The conference bill does not limit current reach of the exclusionary rule. It merely codifies it. These folks want to change the reach.

I would note there is no one more articulate on the subject of the exclusionary rule than the Republican Senator, a former attorney general, from the State of New Hampshire. Have him talk to you about that rule, my conservative friends.

Your home is your castle; right. Do you want a policeman to be able to say "I have no warrant. I have not gone to a judge. I have not established probable cause. I knocked down your door, I found something in your house, and I want to use it against you. And, by the way, I made a mistake. I really thought you were the criminal." Does that lend itself to abuse for targeted people?

I thought conservatives thought that your home was your castle. I thought conservatives thought that for someone to knock down the door they better have a darn good reason and have gone to a magistrate to say, "Look, I think they are doing something bad in there and here is what I think they are doing. I want a search warrant."

This does not affect hot pursuit. You are running after somebody. They have the stolen goods in their pocket and they are running home. You can knock the door down. But these folks, my friends on the Republican side, want to say, with or without a warrant. The conference report though, does not even speak to that. All it says is it codifies the Leon case.

Senator THURMOND says 14 habeas corpus cases are overturned or rejected by us. That is simply not true. Simply not true.

I ask unanimous consent that, in the interest of time, I may put in the RECORD at this moment six pages of material which I entitle "The Big Lie" for people to be able to study over the evening, refuting—without taking the time of the Senate now, because I see my friend from Iowa is here to speak and I want to give him a chance to do that—refuting this baseless assertion that the conference report, which the Republicans will not let us vote on, that the Republicans are filibustering, that it does not overturn 14 cases. I ask unanimous consent that it be printed in the RECORD.

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

THE BIG LIE

Why the Administration is wrong when it claims that 22 Supreme Court cases are overruled by the conference bill.

The Administration has asserted, incorrectly, that up to 22 Supreme Court cases will be overruled in the conference bill. The truth is this: The conference bill makes only two procedural changes in existing law—not twenty-two substantive changes as the Administration claims.

HABEAS CORPUS CASES

The claim that fourteen habeas corpus cases are "overturned" or "rejected" by the conference bill is wrong. Only *one* of the alleged 14 cases is changed by the conference bill and the only change is a change of *definition*. Prisoners are limited to one petition in one year—no excuses, no loopholes.

1. Teague v. Lane (1989): (Holding codified)

Holds no new rules apply to habeas cases with two exceptions (for decriminalizing rules and watershed rules of criminal procedure). *Teague* defines a "new rule," in part, as a rule that "breaks new ground."

The conference bill codifies the "no new rules" holding of *Teague* (narrowing it by excluding the exceptions) and defines "new rule" as a "clear break" with precedent.

2. Butler v. McKellar (1990): (Holding changed by bill)

Holds prisoner cannot benefit from a principle that was announced *before* he was convicted because it defines "new rules" as any rule about which state court judges could disagree.

The conference bill changes the definition of a "new rule" to include only those rules that break sharply with past precedent.

3. Saffle v. Parks (1990): (Holding unchanged by bill)

Holds prisoner is not entitled to benefit from a new rule barring antisympathy instructions.

The conference bill yields the same result because the claim would amount to a "new rule" and no "new rules" are permitted under the conference bill.

4. Solem v. Stumes (1984): (Holding unchanged by bill)

Holds that the decision in *Edwards v. Arizona* (requiring prisoner to initiate questioning after he has asked for a lawyer) does not require new trials for cases decided before *Edwards* because law enforcement could not reasonably anticipate the *Edwards* rule.

The conference bill yields the same result because the claim would amount to a "new rule" that could not reasonably have been anticipated and no "new rules" are permitted under the conference bill.

5. Barefoot v. Estelle (1983): (Holding unchanged by bill)

Creates standards for a stay of execution and provides that appeals may be handled on any expedited basis.

The Conference bill does not disturb this holding, but (like the Administration's own proposal) it establishes a simpler procedure for stays of execution and *requires* (rather than simply permits) that proceedings be expedited over a single year.

6. Murray v. Giarrantano (1989): (Holding unchanged by bill)

Holds that prisoners have no *constitutional right* of access to appointed counsel at the habeas stage of proceedings in a death penalty case.

The conference bill makes no change in the result of this case or the rule that there is no *constitutional right* to counsel for habeas appeals.

7. Pennsylvania v. Finley (1987): (Holding unchanged by bill)

Holds that prisoners have no *constitutional right* to effective assistance of counsel at the habeas stage of proceedings in a non-death penalty case.

Same as *Giarrantano* above—no change.

8. Ross v. Moffitt (1974): (Holding unchanged by bill)

Holds that the right to counsel does not extend to habeas proceedings (non-death penalty case).

Same as *Giarrantano* above—no change.

9. Murray v. Carrier (1986): (Holding unchanged by bill)

Holds that a prisoner gives up his claim if he does not raise it in state court, known as the rule of "procedural default".

The conference bill makes no change in this result, *except* in a future case if the State had refused to provide a lawyer to a defendant charged with a death penalty crime.

10. Smith v. Murray (1986): (Holding unchanged by bill)

Holds that a prisoner gives up his claim if he does not raise it in state court, known as the rule of "procedural default."

Same as *Carrier* above.

11. Engle v. Isaac (1982): (Holding unchanged by bill)

Holds that a prisoner gives up his claim if he does not raise it in state court, known as the rule of "procedural default."

Same as *Carrier* above.

12. Wainwright v. Sykes (1977): (Holding unchanged by bill)

Holds that a prisoner gives up his claim if he does not raise it in state court, known as the rule of "procedural default."

Same as *Carrier* above.

13. Fay v. Noia (1963): (Holding unchanged by bill)

Holds that a prisoner gives up his claim if he does not raise it in state court, known as the rule of "procedural default."

Same as *Carrier* above. (Note: This case established standards for procedural default that have already been overruled by the Supreme Court).

14. Sumner v. Matta (1981): (Holding unchanged by bill)

Holds that, on a habeas appeal, the Court must assume the facts as the state court found them.

The conference bill makes no change in this result, *except* in a future case if the State refused to provide a lawyer to a defendant charged with the death penalty.

DEATH PENALTY CASES

The death penalty procedures in the conference bill are virtually identical to procedures passed by the Senate. *No change* is made in state death penalty laws.

15. Blystone v. Pennsylvania (1990): (Holding unchanged by bill)

Upholds state procedures that *require* a jury to impose the death penalty in certain circumstances.

The conference bill makes no change in state laws that adopt such a procedure. The conference bill *only affects* the new *federal* death penalty; it does not change in any way *State* death penalty laws.

16. Boyde v. California (1990): (Holding unchanged by bill)

Upholds state laws that *require* a jury to impose the death penalty in certain circumstances.

Same as for Blystone (above)—no change in *State* death penalty laws.

17. Lowenfield v. Phelps (1988): (Holding unchanged by bill)

Upholds state laws that permit an overlap between the elements of the crime and the special factors which justify the death penalty.

Same as Blystone (above)—no change in *State* procedures.

18. Clemons v. Mississippi (1990): (Holding unchanged by bill)

Upholds state laws that permit an appellate court to reweigh factors under which jury sentenced defendant to death.

Same as Blystone (above)—no change in *State* procedures.

EXCLUSIONARY RULE CASES

The conference bill adopts the good faith exception to the exclusionary rule—it does not overrule either of the cases the Administration claims are overruled.

19. United States v. Leon (1984): (Holding unchanged by bill)

Creates a "good faith" exception to the exclusionary rule for evidence seized as provided in a warrant.

The conference bill affirms *Leon's* holding, creating a "good faith" exception to the exclusionary rule.

20. Massachusetts v. Sheppard (1984): (Holding codified by bill)

Applies "good faith" exception to the exclusionary rule to a case in which the wrong warrant form was used.

Same as Leon above—adopting good faith exclusion.

HARMLESS ERROR CASES

The conference bill would not change the result in either of the cases the Administration cites but it would change the effect of statements made in the Fulminate case that coerced confessions—even if coerced by torture—can be used to convict. The conference bill would not allow a person to be convicted based on a tortured confession.

21. Arizona v. Fulminate (1991): (Holding changed by bill)

This decision states that, in a future case, a coerced confession—even if coerced by torture—may be used to convict, overruling long-established law to the contrary.

The conference bill would not change the result in Fulminante but would change the reasoning governing future cases by making it clear that coerced confessions should not be used to convict.

22. Milton v. Wainwright (1972): (Holding unchanged by bill)

In a case where the defendant confessed three times, Court concludes that any Sixth Amendment (counsel) violation relating to one of the 3 redundant confessions was harmless error.

The conference bill does not change the result or the reasoning of this Sixth Amendment case; it bars harmless error analysis only in cases where the confession is coerced within the meaning of the Fifth or Fourteenth amendments.

Mr. BIDEN. Further, Senator THURMOND spoke about the admissibility of coerced confessions. The conference bill adopts a traditional rule of barring the use of coerced confessions at trials, leaving the law where it has been for decades.

Mr. President, you can argue the definition of what constitutes a coerced confession and whether it should be allowed under certain circumstances—that is, whether or not the confession is coerced—but it would allow, if you adopt their language, someone to take a rubber hose, as I read it, and beat a confession out of somebody. God bless America. They did that during the Inquisition in the 15th century. They did that in England before our Founding Fathers. They did not use a rubber hose; they did not have rubber then, rubber hoses.

Mr. President, the rule they want is if a coerced confession—I will ask my staff to correct me if I am wrong in this—if a coerced confession occurred and the police would have found out the same information had they not coerced the confession, then the coerced confession is OK.

Now, I wonder how many people, if that rule is adopted, might find themselves on the other end of physical activities. They might begin to adopt that interesting dissent of our friend, newly nominated and confirmed Supreme Court Justice Clarence Thomas, who, in a case involving an eighth amendment case, Mr. President, just decided, wrote an interesting dissent, joined only by the distinguished Justice Scalia. Everyone else voting the other way.

In that case, there was a prisoner in jail, shackled, leg irons, wrist irons, leather belt, legs and wrists tied to the belt with chains. He gets knocked down by the guards, apparently controverted evidence, with guards kicking him up and about the head while he is lying on the ground unable to even raise his hands over his head. And they dislodge teeth, crack a bridge, and I think cause a concussion. Do not hold me to that last point. I think it was a concussion as well. So that prisoner says, "Hey, not in America. I deserve to be in prison. You can put me in solitary confinement, you can call my mother names, you can lock me up, but you do not have a right to put me in chains, knock me on the ground, and kick me in the head with the Supervisor saying, 'Do not have too much fun, fellas.'" And our distinguished new Justice said something fascinating. I am paraphrasing. I think this is a quote, but since I do not have the decision in front of me, I want to make sure I am paraphrasing.

He said—I think this is the exact verbiage, but it goes like this: It may be immoral. It may even be tortious. But it is not cruel and unusual punishment under the eighth amendment.

Could be tortious but not cruel and unusual. And do you know why? Because no serious injury resulted.

Again paraphrasing the majority opinion written by Sandra Day O'Connor, she says something to the effect: That means you could use cattle prods and rubber hoses. You know, "no serious injury."

If you are real good at it—not her speaking; me now—if you are real good in the use of a rubber hose, you can inflict a lot of pain without any injury. I do not think any of us are good enough at that, but there are those who are good.

In the 19th and early 20th century, in other parts of the world, Turkish prisons, allegedly, and in other prisons, they developed that technique very well. But we in America, usually say: Oh, you should not do that.

Now, coerced confessions. The Fulminate case says a coerced confession can be found to be harmless error. And the gravamen of that is that as long as there were other ways they would have been able to convict the person and they have that other evidence, they do not throw the case out merely because they may, in the first instance, have coerced a confession.

Whoa, Mr. President; whoa, whoa, whoa, whoa, whoa.

Reasonable people can disagree, but that is what we are talking about. The conference report adopts the traditional rule barring the use of coerced confessions at trial.

These are not mistakes, Mr. President. This is not where a police officer or a prison guard fails to tell them their rights, and there is a technicality and they fail to tell them their rights, and the person spills the beans and says: I did it; I killed 99 people. So it gets thrown out because they were not informed of their rights. This is not within those. This is where somebody coerces a confession. That can mean anything from a rubber hose to saying: I will lock you up in jail forever; no one knows you are here. You cannot call your lawyer, whatever. It could mean we are going to go get your mother.

Mr. President, we use the basic, old traditional rules. I do not call that a technicality. Do you know what I mean? That is not a technicality. But obviously people disagree. I just want to set the record straight. We used a traditional definition in the conference report.

This is supposed to be such a tough bill my Republican colleagues offer. Granted, they took a lot of the tough provisions in the conference report and they put them in their bill. I acknowledge that. They took what is on the desk, took pieces of it out that are tough, and put it in.

Let us talk about how tough their bill is on guns. The conference bill contains the Brady bill, law enforcement's top legislative priority. Their bill drops the Brady bill. They also drop any funding to allow States to update their State criminal history system so they could find out whether someone is a felon before they go buy a gun.

It does not contain the Brady bill, even though it passed both Houses. That is tougher than this bill? Assuming it had a remote chance to ever get through the process and become law, as if they believed that could possibly happen—but let us assume it did—there is no provision on terrorism in the Republican bill. Let me be more precise. We create new Federal crimes for willful violations of FAA security regulations. One of the causes in the bombing of flight 103, over Lockerbie, Scotland. To the best of my knowledge, the Republican bill does not contain that provision. Is that tougher?

With regard to prisons, we provide $700 million to construct 10 new regional prisons, each of which would

house 800 State and 200 Federal prisoners. The Republican bill does nothing to help the States put dangerous and violent criminals in prison.

The conference report which the Republicans are filibustering and will not let us vote on authorizes $150 million to construct 10 boot camps for nonviolent first-time offenders. The Republican bill does not authorize new funding for the creation of Federal military-style boot camps on closed military bases—Federal.

The conference report the Republicans are filibustering and will not let us vote on mandates the creation of rural crime and drug task forces in every judicial district with large rural areas. The Republican bill, which has not even begun the process yet, guts the conference report rural crime provision by making the establishment of rural crime task forces optional, knowing that these task forces will never be created because the President and the Attorney General have been on record all along as opposing the conference report's rural crime initiative.

The conference bill, anticrime bill, that the police support, that the Republicans are filibustering, that is sitting at the desk, maintains the current commitment to crime victims. The Republican bill takes approximately $3 to $4 million away from local crime victims' assistance programs, particularly funds for domestic violence shelters and rape crisis centers, the most serious problem, in my view, that we have today. Tough?

The conference report at the desk, which the Republicans are filibustering and will not allow us to vote on, and have not allowed us to vote on for 94 days, ensures that direct compensation to victims is the highest priority item in the crime victims' fund. The Republican bill introduced yesterday, which is going nowhere, cuts the amount of money available for direct compensation to victims of violent crime and sex offenders and gives it to State and Federal administrative bureaucracies. Whatever happened to direct aid, local?

The conference bill, which the Republicans have been filibustering for 94 days and have not allowed us to vote on, bans the transfer of money from State and local drug aid to Federal agencies when Congress has earmarked the funds for State and local crime and drug efforts. The Republican bill allows the transfer of these funds that Congress has earmarked for State and local agencies to pay for Federal programs. Tough?

The conference bill, which the Republicans have not allowed us to vote on for 94 days, sitting there at the desk as we speak, five votes away from becoming the law of the land, assuming the President signs—or vetoes; depending on what he does—contains no new mandates on State and local criminal justice agencies.

When we hear from the attorneys general they so often speak to: Do not give us a mandate without the money. We are tired of the Federal Government imposing their views on us and telling us to do things without providing the resources when they tell us what to do.

The Republican bill contains cuts to front-line State and local law enforcement agencies by $50 million by mandating expensive new drug testing programs without providing the money to pay for the testing. Your Governors and attorneys general will be very happy with that.

The conference report, which is five votes short of being able to be voted on and becoming law—or at least being sent to the President—which the police agencies of this Nation, representing half a million police, strongly support, and which the Republicans are filibustering, mandates drug testing for arrestees and convicts in the Federal criminal justice system and mandates them all to be drug tested.

That is what we say in that bill right there. The Republican bill makes drug testing in Federal courts optional, allowing judges to decide whether to require drug testing for criminals. The conference report makes such drug testing in Federal courts mandatory. A tough Republican bill?

The conference report, which we have not been allowed to vote on for 94 days because of Republican filibusters and threat of filibuster, bans the consideration of wealth or social status in deciding where convicts will serve time. The Republican bill—if I were being cynical, I would say understandably—perpetuates the current system that allows serious Federal criminals to serve their time in minimum security, which is referred to as Club Fed as opposed to Club Med prisons based on wealth. If you are white and wealthy, maybe you will get one of those Club Feds to go to. If you are poor and white or poor and black, you go to the big house. You do not get to play tennis. That is what we said. We want all, all of them, to go to the same place without regard to whether they are wealthy or not.

Senator THURMOND said he supports the authorization for the programs he has now put in the Republican bill. I want to point out to him—and I am glad he does, he is a man of his word—the administration opposed virtually every one of the programs that is now in the Republican crime bill, taken in large part from the conference report at the desk.

Why did they oppose it last year? Why did the Republican President say he would veto it and now they say they are for it? Funny thing, when election year is due. Let me just read a few letters, a few quotes from the Attorney General. I will not bother with that. I ask unanimous consent—no, I am going to do it. You might as well hear it so we all know what we are talking about. I withdraw my unanimous-consent request. I want to read the provisions in the Republican bill—the Republican bill introduced yesterday—that the administration has opposed. I assume they have not had an election-year conversion. Maybe they have. I cannot say for sure what their view is now. I can tell you what it was.

State and local law enforcement funding. This is Attorney General Thornburgh speaking for the administration when the Biden crime bill containing these provisions that are now in the Republican crime bill were brought before the Senate and the committee:

> Title I would increase the authorization level for State and local law enforcement to $1 billion. The Department of Justice opposes these provisions.

The President of the United States controls the Department of Justice. The President of the United States opposes the very provision taken from the Biden bill now put in the Republican bill. I guess everybody opposes the President as well, not just the Democrats, but Republicans, too.

Federal law enforcement aid:

> Title IX contains several authorizations for Federal law enforcement agencies. We oppose these provisions because they are not consistent with the budgetary request of the President.

Meaning President Bush.

Once again, not only have the Republicans seen the wisdom of the Biden crime bill, but they have also seen the folly of the President's position on crime because they are now for that. The President is opposed to it.

The Police Corps. This is the administration speaking now:

> The administration strongly opposes the police corps proposal. We do not believe the police corps proposal can be justified.

It was in the Biden crime bill. It is now in the Thurmond Republican crime bill. Once again, I am delighted that they now agree. But I find it interesting that they now oppose the President as well.

I wonder where the President's friends are? He does not seem to have anybody out there. He does not seem to have enough out there in the Republican primaries. He is obviously losing them out here on the floor as well.

Law enforcement scholarships:

> We also recommend against enactment of the new scholarship program for in-service officers proposed in subtitle B of title VIII.

Referring to the Biden crime bill.

The Republicans yesterday, after months of opposing the proposal, lifted it, which I am glad they did, put it in the Republican crime bill, once again, for the fourth time, taking issue with the President, once again isolating the President. It looks like he is wrong again, according to the Republicans.

Boot camps for State prisoners: The administration is speaking:

There is no justification for singling out this particular approach, much less requiring the Federal Government to establish and run directly boot camp facilities for State prisoners.

As I understand it, Republicans decided the wisdom of the Biden approach and the Biden bill, took it out and made it a Republican proposal, which I am delighted with, but once again joining the rest of the Nation in saying, "Mr. President, you are wrong on crime." At least we are gaining a consensus here, that the President is wrong.

Increased funding for Federal prisons. The administration:

Section 201 would authorize $600 million to construct 10 regional prisons and $100 million to operate such prisons for the year. The Department of Justice opposes this proposal.

I am, frankly, not quite sure what the Republicans have in their bill. Do they have this in their bill? They have $500 million instead of $700 million. So maybe the administration supports their provision. The administration opposes $700 million. They made it clear to us they opposed the State piece. So in fairness to our Republican friends, maybe they support this provision. I doubt it, but maybe.

Youth violent antigang proposal. The administration speaking:

This provision would establish a new juvenile antigang grant program. We oppose this provision.

Justice Department, President Bush. I am so stunned by this, I keep asking my staff whether the Republicans really put this in their proposal. Apparently they put this in their proposal. Now that is in the Republican bill. Congratulations. Take it out of the Biden bill, put it in the Republican bill. I am for it. But once again, one, two, three, four, five, six, probably seven—guaranteed six places the Republican bill now takes issue with the President on funding, probably seven. So far we are in agreement, Republicans and Democrats; the President is wrong on crime, on these issues anyway.

Rural crime:

Section 1501 would authorize $15 million for drug enforcement. The Department of Justice opposes this authorization.

That is the Justice Department speaking.

"Section 1504 of the Biden bill"—this is a quote—"directs the director of Glynco training facility", that is in Georgia, "to develop specialized training programs for rural drug enforcement. We oppose this provision." The Justice Department.

Let me ask again, did they actually put all this in the bill? Apparently this is in the Republican bill introduced yesterday out of the Biden bill. God bless them. Once again—let me count here, I do not want to lose count—1, 2, 3, 4, 5, 6, 7, 8, 9, 10—10 major authorizations the President said he was opposed to, the Justice Department said he was opposed to, we said we were for, the Republicans now say they are for. So once again we are gaining unanimity here, the Republicans and Democrats oppose the President who is tough on crime I should say.

Drug emergency areas: "The Department of Justice opposes this proposal." Having these drug emergency areas and $300 million in the Biden bill and it is in the conference report. Did they actually put that in, $300 million? My Republican colleagues, after opposing that, are now, for it. Again, congratulations. They are for it. Is that 11 times now they are opposed to the President on the funding issues? This is interesting.

Drunk Driving Protection Act: "We have reservations about the appropriateness of this measure." That is the measure that says, if a drunk person who is not a minor gets in an automobile and has a minor in that car and is arrested, the penalty is higher because he has a minor in the car, because minors cannot look at their fathers and say—no 10-year-old kid is going to say daddy, you are not getting in the car. You are drunk. It takes a lot of courage for a child to do that. Parents should know they are going to get penalized if they do that to their children.

My friends opposed that, I think, when we had it originally. The administration appears to oppose it. Now they have adopted it in the 94 days they filibustered this bill containing that provision and all the provisions I have just read.

Fascinating. Mandatory victim restitution. Justice Department:

We are concerned that the requirements of this section will merely create false hopes in the victims that money will be available.

The Republicans took that language, and put it in the Republican bill. The administration opposed it. They now support it, after having opposed it the previous 6, 8, 10 months. I do not know how long that has been bouncing around. Once again, further proof of Republicans showing us the President does not know how to approach the crime problem.

Again, it is amazing what unifies us. It seems one of the things that is unifying us around here is we all agree the President is wrong on crime, or at least wrong on big chunks of it—wrong on the funding of it, wrong on the authorization process. Again, it is amazing what unifies us. We have very different views on everything, except we seem to all agree the President does not have a clue on the funding side.

Mandatory penalties for ice. That is a drug which is highly addictive. It is a methamphetamine. It is a serious problem. You have seen on "60 Minutes," I guess, and these other programs—I am not sure, those kinds of programs—how it was coming out of Hawaii and so on. We put a provision in the Biden bill.

Let me read what our friends at the Justice Department said:

Section 1512 would apply minimum penalties to trafficking in ice. We question whether this particular drug warrants special treatment under the Federal drug laws.

My Republican friends questioned whether it warranted treatment. I assume they have observed over the days they have held up the Biden bill that it does warrant special treatment because it is so insidious.

Once again, it is a unifying element; Democrats and Republicans in the Senate think the President does not know what he is talking about with regard to the drug, the methamphetamine ice.

I am even reluctant to be reading this because I am afraid I cannot be right about this. It is hard to believe, because I have not read their entire 523-page bill, they could disagree so much with the President. It is hard to believe they could have had such a conversion in 94 days. It is hard to believe, having been converted and having concluded that the President is wrong, they would stop us from voting on a bill that contains all these provisions, that sits right there at that desk as I speak, that they have been filibustering for 94 days.

Let me make the record clear. If I am wrong—and my staff tells me I am not—then I apologize. We will correct the record, because even to me it is astounding that this could be true.

Community antidrug coalitions—it was in the Biden criminal bill—passed by the Senate over the opposition of our Republican friends and sent down the hall. We went to conference. And it is in the conference report. In that piece of legislation I point to right now only waiting for five people to change their vote to allow us to vote on it, here is what the Department of Justice says about it. It says:

The Department of Justice opposes this provision which would establish a new assistance program in the department for community antidrug coalitions.

Once again it is a very unifying element. We all agree the President is wrong. Republicans think he is wrong. Democrats think he is wrong. That is not the whole bill, obviously, but it is about a couple billion dollars' worth of things, and as Everett Dirksen, the famous Republican leader, once said, a million here and a million there eventually adds up to real money. Well, this is a billion here and a billion there.

And so I will ask my staff to add these numbers up for me, add them up in terms of the 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15 proposals that were in the Biden crime bill which made it through the Senate, made it through the House and conference, now sitting in the conference report.

So they have changed their minds in 94 days to the tune of several billion dollars, which I will submit for the

record, all those dollars of which are sitting in that bill right there in authorization form that they are filibustering and will not allow us to vote on to free up.

I am truly pleased that the Republican bill introduced yesterday 3, 5, 9 months after the fact, includes all of this. I want to inform my friends, though, it is right there, right there, those papers with rubberbands on them. That is the conference report that has all those things. We can start in 10 minutes to authorize those.

So you can understand why I am a little bit confused and why I wonder whether this is about crime or about politics.

It seems to me it is about only one thing. It is either about politics or it is about guns, and all the rest of this is blue smoke and mirrors.

As we saw, Mr. President, last time when we were going to vote—not on the conference report but just on the anticrime bill last year, before it got to conference—how our friends who feel very strongly, and I respect their views, I truly do, I disagree but I respect them—how our friends from Idaho, both Senators from Idaho, as a matter of fact, Senator SYMMS and his colleague, they kept us from voting on a crime bill at all. The Senator seems to remember that they held up long enough to think we could never pass it and get it to the House and get to conference before Congress recessed.

Guess what? A majority of the Members of the House and Senate feel so strongly about doing something about crime, notwithstanding the fact that we were held up to the 11th hour before we got out last year, we nonetheless passed the crime bill, and passed the conference report.

So this is either about politics, about guns, or about habeas corpus. There may be some bells and whistles on the fringes of this, but that is the essence of what this is about. If it is about guns, let us say so. Let us say we are not going to allow a tough anticrime bill that the police want because we do not want the Brady bill. Let them stand up and say that because they introduced their bill as an alternative, although it picked up all the money they said they did not want to spend in the Biden crime bill, or most of it anyway—it just conveniently dropped out the Brady bill. Let us just say that. Let them stand up and say that.

Or say this is just about politics now. I understand that by the way. I have been here a long time. I have been here 19 years. I understand that. I am 49 years old. I have spent most of my adult life a U.S. Senator, since age 30. I understand politics. I have seen some of the best in both parties.

Let us just say it. I understand it. Let us just say straight up front.

It is an election year. The President is in deep trouble. The last Democratic President, if I can remember back that far, was in trouble at this same time. The Democrats tried to play politics back then to try to save a sinking ship. It did not work.

So I respect the effort to play politics to try to save this sinking ship downtown. But let us just say it instead of saying it is about letting Charles Manson out of jail.

There is a third possibility. It is about habeas corpus. That is real. That is a real, genuine, honest-to-goodness fight. That is legitimate.

I am prepared, and I have said to my friends, if what they say—think what their argument is against the habeas corpus provision which toughens habeas corpus in that bill. Three say no, it does not toughen habeas corpus. What it really does is by changing the law in habeas corpus those Democrats have negated the death penalty. They just negated that penalty.

They have said they want 53 new death penalty crimes, BIDEN wrote that into the law, but they really do not mean it because what they have given in 1 hand, 53 death penalties, they have taken away in this change in habeas corpus. It is malarkey.

But let us assume it is true. I have a solution to that one if that is the problem. Let us just drop the habeas corpus. If the thing they worry about is I changed the law, or that conference report changed the law, to put us in a position where the effect is we let Charles Manson out of jail, the logical point is if this were not any change in the law, nothing would be wrong. It would be right where it was. Right?

I mean everybody can figure that one out. The people in the galley are nodding their heads. They know that one. Everybody else knows that. So we can solve it. Let us drop habeas corpus. Do not mention the word habeas corpus in that conference report or crime bill.

So see there are three solutions. We just straight up tell the American people this is politics. They will understand it because that is what they think we do anyway. That is all they think we do. They will get the message.

Stand up and say this is about guns and let the American people make a decision who is right on guns, and let us each pay the penalty. Those of us who are for the Brady bill, let those who think it is a gun control measure that violates the second amendment, vote against me, and us; and, let those who are for the Brady bill vote against the people who say they want to drop it.

Let us be big people, walk out there, and face the constituents. You tell them. Tell them that it is. If it is about habeas corpus, then let us drop it; fight it another day. Because if we drop it, Mr. President, the entire argumentation of my good friend from Utah, my fine lawyer friend on the Judiciary Committee, falls through the floor. It is of no consequence.

If his entire argument is premised on the argument, which is false but it is premised on the point that that conference bill somehow is going to give Charles Manson a better chance to get out of jail, let us assume he is right. Fine. I give up. Take it out. And let us pass the bill.

But it sure is not about money because they have gone along. That is what they used to say. The conference report is too expensive. It is not about money anymore. They introduced a Republican bill that adds $2.8 billion. That is the number, $2.8 billion. So that is not the problem. It is a problem for the President. He is opposed to that.

The total that they add, I just point out here, is $3,555,000,000 to join the club of the big spenders. Welcome on board, guys and women.

Remember the argument against the bill, Mr. President? The Biden bill is too expensive, the administration cannot afford that. We are not for that. The conference report is too expensive.

My friend from Utah says the reason the police are for this, a half-million police are for this, is because they are being—he did not say paid off. He changed that. He said they are for it because of the money. That is what he said.

They gave him a chance to change the RECORD even. But that is what he said.

If they are for it for the money, why did the Republicans add that money into the bill; their bill? I mean, what is the answer to that?

I guess he must really believe they will only support the bill whichever has the most money. If he does that, he should up the ante if he really believes that. Put more money in to get the police to support your position.

I think that is ludicrous as to why the police are for this. I think that is in fact not only incorrect, but I think it is insulting.

By the way. Where is the President in all of this? Where is the President? One thing we all know is the crime bill the President sent up to the U.S. Senate has been soundly rejected by the Republicans, and soundly rejected by the Democrats. So when he goes bouncing around the country talking about being tough on crime, when having the worst crime record of any President of the United States of America, or maybe more precise, more crimes having been committed during his term, more murders, more rapes, more violent offenses—if that is the measure of the success of an administration, if that is the tougher-on-crime President, obviously the Republicans do not think a Republican proposal by a Republican President makes sense because they have rejected it; rejected it.

So again like I said we all agree on one thing. But, gee, I hope this does

not sound like I think there is politics involved here. Let us look at the President's budget that he sent us for fiscal year 1993, speaking of politics.

The President's budget—reading from the title of the page that says "Budget of the United States Government Fiscal Year 1993. Administration Request for State and Local Law Enforcement, 1993."

Remember, the election is in 1992, in November. So let us look at what their total budget for State and local law enforcement was for 1991, the actual number, $692 million. To be precise, $692,194,000. That is what we appropriated.

In 1992, $704,467,000 was appropriated for local law enforcement, much of which was opposed by the President. But then he comes along, to put down his 1993 budget. Guess what the number is for 1993? 710, 750, 800? 704,000,000 was the 1992 appropriation.

For 1993, the appropriation request is $588,507,000. Let me get my math straight here, about $116 million less than this year. I want to make that clear.

I ask unanimous consent that this page of the President's budget request be printed in the RECORD.

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

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

ADMINISTRATION REQUEST FOR STATE AND LOCAL LAW ENFORCEMENT—1993

	1991 actual	1992 est.	1993 est.
Research, evaluation, and demonstration programs	23,929	23,739	23,929
Criminal justice statistical programs	22,095	22,095	24,155
Emergency assistance	.....	.....	.....
Juvenile justice programs	72,051	68,575	7,500
Missing children	7,971	8,471	7,971
Mariel Cubans	4,963	4,963	.....
Regional information sharing system	14,000	14,500	.....
Anti-drug abuse program	489,993	497,500	496,000
Child abuse investigation and prosecution	.....	1,500	.....
Judicial child abuse training	.....	500	.....
High intensity drug trafficking areas	32,024	36,000	.....
Management and administration	25,168	26,624	28,952
Total	692.194	704,467	588,507

Mr. BIDEN. President Bush's budget for 1993 cuts aid to State and local law enforcement. That is the simple bottom line.

So, Mr. President, while he is cutting aid for local law enforcement, his Republican friends are joining the Democrats in increasing aid for local law enforcement, requesting authorization for increasing aid for local law enforcement.

And once again, the poor President and Justice Department appear to be totally isolated, in terms of what anyone thinks is right for the country, to deal with the crime problem.

Mr. President, by the way, I want to correct the record. My staff pointed out that I misspoke. My pronunciation is not what it should be.

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Mr. President, the point is that we have an interesting phenomenon going on here, Mr. President.

I will yield the floor now to my friend from Iowa as long as he wants it, because I expect we are not going to be allowed to vote on this anyway without getting a cloture motion. We are going to file a cloture petition at some point, if it is not already filed, and we are going to force a vote on this. But, again, they require us to have a supermajority to break the filibuster.

So I have no reluctance to yield the floor to my friend from Iowa, though I will say, and maybe he will be insulted, but he always kids and says he is not a lawyer. The problem with my friend from Iowa is that he knows the law better than an awful lot of lawyers. So he is taking an unfair advantage. He knows the law and he argues the law as if he were a lawyer, and he does know the law, and he brags about not being a lawyer. I think it is kind of unfair that he should know as much as he does and not be a lawyer. He should pick one or the another. I imagine he will be awarded an honorary law degree from someplace before this is over. But I admire his grasp of the law as a nonlawyer and respect his point of view. I suspect I will disagree with most everything he is about to say.

I yield the floor.

(Mr. ROCKEFELLER assumed the chair.)

Mr. GRASSLEY. Mr. President, I thank the Senator from Delaware, the distinguished chairman of our committee, for his what I think were intended to be kind remarks.

Mr. BIDEN. They were.

Mr. GRASSLEY. I thank him very much.

Mr. President, I would like to remind everybody that I am not a lawyer. I do have some strong thoughts, anyway, on what ought to be in a crime package, what sort of criminal code reform we ought to have.

Right now, I think that is the bill that has been introduced by our distinguished Senator from South Carolina—the Republican package. That is the best bill for this country, and it is the one that eventually is going to become law, if we are going to have any criminal code reform.

Before I comment specifically on why I think the conference report is not a good, major response to the President, reference was made by the chairman of the committee that part of the reason that there is long discussion of the conference report and Senator THURMOND's alternative piece of legislation is because the President's popularity is at a lower level than previously.

Well, in any polls that match the incumbent of the White House against any of the Democrats who are running for the Presidency, you will still find, even though the President's popularity is lower now than previously, that the incumbent in the White House, President Bush, still beats any of those challengers. Consequently, it is not right to say that the reason this is being brought up is because the President's popularity is low and, as the term was used, the crime package is here to save a sinking ship.

I say, not true. That is not why we are having an indepth discussion of the legislation before us.

Also, I suggest that if there were, in fact, a sinking ship downtown, and an occupant in the White House was in danger of losing the Presidency, there would be a lot of other Members of this body running for the Presidency than are running for the Presidency.

I also want to point out, just on a quantifiable basis, the weakness of the conference report before us, weakness when compared to the bill that had previously passed the Senate, and weakness compared to the bill that had previously passed the House of Representatives. The change in the format of the criminal code reform legislation impacted upon the vote in the other body. When the other body first passed criminal code reform legislation, it passed that body by a vote of 305 to 118. I think it is fair to say that it had a very wide margin at that time, because it was a very tough-on-crime reform bill.

But what happens when the product is back before the other body, the product of the conference committee, the product that we are now debating? There was a lot of twisting of arms at the last minute on the vote of final passage of that conference report and, even at that point, it only passed by a two-vote margin, 205 to 203.

If this were a tough on crime conference committee report it would have passed the other body by as wide a margin as the first time the legislation went through the other body.

So I think that is ample evidence that our side has a right to be chagrined over the product that we are now working on and that we have a right to bring this to our Nation's attention and to emphasize that the President, who has favored a tough crime control package, is going to veto this conference report if it does pass this body. And that veto I believe will be sustained.

I would suggest to my colleagues that we ought not waste time on a discussion of this conference report, go back to conference, if that is possible under the rules, and bring something out that can be signed by the President of the United States.

I would also like to suggest to the distinguished chairman of the committee, in response to some remarks he made about the political aspects of this and the President's rating in the polls at this particular time, that it be remembered that the President first challenged Congress to quickly pass his

tough on crime criminal code reform package—just less than a year ago, because it was the middle of March. The President spoke to a joint session and challenged the Congress to get down to work on the domestic issues of the day and to pass important measures, and among those important measures, as I recall, was a transportation bill and his Criminal Code reform. And the President challenged the Congress to pass these measures within 100 days. In other words, the same length of time it took to fight the war for the liberation of Kuwait.

Here we are at least 355 days from the time the President gave that speech and we still do not have the legislation passed, and even if this conference report is passed it is for naught because it is not truly tough on Criminal Code reform.

I think there is one other thing I need to emphasize concerning what the distinguished chairman said and that is his effort to persuade this body that the Republican bill that was introduced by the distinguished Senator from South Carolina diverges too far from the President's bill. Let me say that the answer to that is it is just not so. If there are things in our bill that are the same as what is contained in the conference report—and there are lots of those instances—we are nonetheless very definitely with the President on the key points of the President's bill and those are the death penalty, those are the exclusionary rule, and those are habeas corpus. And we are with the President because the President's provisions are the toughest, those are what the public is demanding, and those are what we should pass. Those are what we should give the President to sign. We should not be doing it 355 days after the challenge from the President to accomplish that.

Mr. President, as I turn now to some more specific comments that I have on the package before us from the conference committee, and why I do not like it, let me say that despite my high personal regard for my Senate colleagues on both sides of the aisle who worked on this conference report, I strongly oppose this conference report and I want to go into that in some detail.

My strong feelings against this product are, however, in no way a commentary against the hard work and the efforts expended to get us where we are. Indeed, I regret that I was not permitted to join the conference. But the fact is that this conference report was no good last November when it passed the other body. And it is still no good this very day. There is simply no reason why Congress should pass this conference report.

This is not a crime bill, although it is a crime. The majority of the conferees simply adopted whichever body's provision on a particular area was the weaker of the House or the Senate bill.

So just as the Holy Roman Empire was neither holy nor Roman, nor an empire, this Crime Control Act has little to do with crime, provides precious little control, and even less action.

The conference report does skillfully exploit a situation: the election year needs for the majority party to pass something for public relations purposes to blunt a Presidential attack on a Congress that is not interested in fighting crime. It would for sure be a cruel hoax to pass this ineffectual conference report.

This report fails to protect the first civil right that every American is entitled to, the civil right to be free in persons, in home, and in neighborhood, from the threat of violent crime.

So I want to tell my colleagues how this bill fails to do that. And let me count the ways that it does it.

First, there is no reform of Federal habeas corpus procedures. This means that through lengthy, spurious, and repetitious claims, inmates will continue to thwart the imposition of valid State death penalties.

That fact is, Mr. President, the death penalty supposedly created by one hand of this bill is taken away with the other. Year after year overzealous lawyers will essentially defeat the death penalty by delaying its imposition, turning a death sentence into a life sentence combined with endless petition filings.

The conferees could have remedied this situation by adopting the Senate language that would have provided one chance for habeas corpus with a few limited exceptions.

The Senate language also would have confined habeas petitions to claims that were not fully and fairly considered by the State courts. In addition, the Senate bill would have eliminated the exhaustion of State remedy requirements, permitting Federal courts to dismiss frivolous claims as they arose rather than seeing the same petition many times until exhaustion was completed.

But the conferees were interested only in the weaker provisions of the House of Representatives bill. That bill contained none of these reforms. In fact, the House bill adopted by conferees is worse than current law. It would permit prisoners to apply new decisions retroactively to their case; no matter how irrelevant or how trivial, those cases will produce a flood of new petitions.

While the distinguished chairman tried to refute the charge that the conference report will make new decisions produce new habeas petitions, the bill says otherwise.

Section 204 limits the definition of prospective "new rules" to rules that are "a clear break from precedent." Under this standard, almost all new cases are retroactive. Few Supreme Court cases overrule clear precedent. We know that. Instead, they clarify unsettled law. Make no mistake, the conference bill will let habeas petitions based on new decisions flourish. This is not only unfair from a legal perspective, but it will also lead to prisoners filing new petitions, and doing it forever.

Now, Yogi Berra, I think, touched on this a little bit. He may have said, "It's never over until it's over," but then he never filed a habeas petition. Under this bill, habeas corpus will never be over. The convicted criminal will never be stopped from filing petitions, and the criminals' victims and their families will never have their wounds healed.

Endless habeas filings reduce the effectiveness of punishment, and reduced effectiveness of punishment means weaker deterrence of those who will commit crime.

Now, there is a second exception that I take to this conference report, and that is that the bill creates no good-faith exception to the judge-made exclusionary rule. An objective good faith exception to the exclusionary rule would allow reliable evidence, including narcotics seized from a drug trafficker, to be admitted into evidence in a criminal trial.

As is well known, the exclusionary rule is not a constitutional guarantee. It is a judge-made rule to deter abusive police practices. The overtechnical use of the exclusionary rule has resulted in criminals being set free, not because they are innocent, but because the evidence necessary to convict has been seized by an honest mistake.

There should be room to distinguish between a wholly unreasonable search of one's person or home and the simple and honest mistake—made in good faith—of a law enforcement officer conducting a search under sometimes life-threatening circumstances. That is just common sense.

Once again, the conferees rejected the good House language on this point, and adopted the weaker Senate language. And once again, the conference report is worse than existing law. So why move forward to make things worse when the public expects us to give them real reform, and real reform is being tough on crime.

Under current law, a facially valid warrant is sufficient to trigger the good-faith exception unless the basic provisions are absent.

A reviewing court can easily determine if this test, as well as the test of a neutral and detached magistrate, are met.

The conference report is worse because it creates loopholes if the magistrate was intentionally or recklessly misled. Every defendant will claim that the warrant was issued in those circumstances.

That claim will require hearings and delay and expense to resolve—to the

detriment of our criminal justice system.

Can we really expect—as this report seems to demand—that an officer should cross-examine the issuing judicial officer as to possible deficiencies in the warrant?

The conference report's exclusionary rule excludes the possibility of reform.

The conference report will exclude evidence of confessions.

The conference report will exclude so-called coerced confessions even if the error is harmless beyond a reasonable doubt to the issue of guilt. Once again, the conference report overrules a Supreme Court decision that is tough on crime.

I am not advocating that police beat confessions out of arrestees. That is not the issue here. The concern relates only to police informers in prison cells whose status is not disclosed to the defendant.

The conference report is nonsensical as it relates to guns. The bill makes innocent, law-abiding citizens wait to purchase a gun.

At the same time, it is weak on provisions that affect the role and use of guns in the commission of crimes. For instance, the report dropped the Senate provision that would have permitted a penalty increase for possessing a firearm in a crime of violence or drug trafficking. It also dropped the Senate bill's provision that would revoke probation for anyone found in possession of a firearm.

Similarly, it rejected the Senate proposal to criminalize the possession of a stolen firearm and it dropped a provision to try juveniles as adults on firearms and drug offenses.

The conference report is also very weak on the issue of child abuse. It fails to adopt doubled penalties for repeat sex offenders, as well as restitution for victims of sex offenders.

It drops a proposed enhanced penalty for offenders who know they are HIV positive and engage in criminal conduct creating a risk of transmission of the virus to the victim.

This conference report does not do enough to protect the victims of crime. This has been an interest of mine for a long, long time, and this body has passed good legislation in this area.

While it permits victims the right of allocution to the courts at the time of sentencing, the conference report struck a House provision that would have allowed the court, after a hearing, to suspend the defendant's Federal benefits if the defendant was delinquent in making restitution to his victim.

Finally, the conference report contains an objectionable sports lottery provision. This really should not be in this bill at all, but it is there. It will prohibit all but a few States to have sports lotteries. Why this is in a crime bill I do not know. But it happens to be a terrible piece of legislation.

It grandfathers States that already engage in millions of dollars of legal sports gambling. It violates States' rights to enact whatever lotteries they choose. And it comes at a terrible time. States are faced with massive federally mandated spending. They face recession and severe fiscal problems. This bill would interfere with a State's choice as to how it chooses to raise its income.

The one regret I have, Mr. President, is that this conference report includes the Anti-Terrorism Act, which would create civil remedies for American victims of terrorism. I do not say I am sorry it is in the report; I am just sorry that this good provision is in the report, with so much other that is bad, that it is going to get lost. I have been working on this type of legislation for 3 years now and the Senate has passed it twice already. The House included the Anti-Terrorism Act in their version of the crime bill, and it is included in this conference report. I urge the House to pass the Anti-Terrorism Act as a separate bill, so that the President can sign it into law, because it is not going to become law as part of this so-called crime bill.

In conclusion, this conference report does not offer us a real opportunity to enact a truly tough and effective anticrime bill. If anything, this conference report is an anti-anticrime package.

This report is a hollow bill. I do not think I have to urge the President to veto it if we pass it, but he will. He should force the Congress to work with him to see to it that real anticrime legislation is enacted and signed into law. Senator THURMOND'S crime control bill is such legislation.

I suggest to you, for a third time during my remarks, that we are now about 355 days from that time last year when the President, to a joint session, urged the Congress to pass crime reform legislation among some other pieces of legislation he asked us to pass within 100 days of that date in 1991. One hundred days was a magic period of time, in a sense, because that is how long it took for the successful liberation of Kuwait. Implicit in our President's comment was that if we could accomplish that objective with the Congress and the Presidency cooperating, then surely, if we got down to work, we could pass tough crime legislation within the same length of time.

Now, 250 days later we are still debating this legislation. It is a travesty that it takes so long to get something done, particularly a travesty from the standpoint of what the people in grassroots America want us to do.

I yield the floor.

The PRESIDING OFFICER (Mr. KOHL). The Chair recognizes Senator PELL.

Mr. PELL. 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. THURMOND. 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. THURMOND. Mr. President, I want to respond to a few statements made by my good friend, Senator BIDEN, chairman of the Judiciary Committee. He listed a number of provisions which the administration had expressed budget concerns about. We included these provisions in our new bill, and I do not understand why it is so troubling to him or anybody who said we did that.

The administration supports our good faith efforts to get a bill, and it seems that some of us are being ridiculed for trying to get a tough bill. We have gone as far as we can to get a consensus, but the situation is such that it appears it is going to be impossible. The President wants a tough bill and that is exactly what we are trying to get.

Also, he said that the Republicans were converted. I do not know what he means by that unless because we have advanced some toward their statements that we are being converted. We are not being converted, we are trying to get a consensus, if possible. We will lean over backwards, but we cannot go with this conference report because it weakens provisions of the Senate and the House. And we will not get a crime bill if we pass this bill.

Now, also the distinguished chairman of the Judiciary Committee stated that this bill does not overturn the Teague decision. If that is so, the Attorney General of the United States, and the State attorneys general, and the prosecutors are all wrong. In my opinion, the conference report does overturn the Teague decision, and I wish my good friend Senator BIDEN would look at this matter again.

The conference bill provisions on habeas limit the definition of nonretroactive new rules to rules that involve a clear break from precedent. This would make almost all decisions automatically retroactive to overturn earlier judgments imposed in conformity with existing law. This is so because the Supreme Court's decisions usually resolve issues that had previously been unsettled and very few clearly break from the Court's earlier precedents. A vast majority of cases do not overrule precedents but reextend reasoning of previous cases.

Mr. President, I have in my hand a list of 70, I repeat, 70 anticrime measures in the Crime Control Act of 1992 which I introduced yesterday which are not in the conference bill. These are all important matters. Now, some of them refer to similar matters in the con-

ference report, but these 70 matters are extremely important and they consider the effective Federal death penalty, habeas corpus reform, exclusionary rule reform, preservation of harmless error doctrine, firearms, and so forth. I am not going to take time to present them at this time, but I ask unanimous consent that these be printed in the RECORD.

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

ANTI-CRIME MEASURES IN THE CRIME CONTROL ACT OF 1992 WHICH ARE NOT IN THE CONFERENCE (BROOKS-BIDEN) BILL:

(1) Effective Federal death penalty. The CCA (title I) provides effective standards, procedures, and authorizations for using the death penalty against the most heinous federal crimes. The conference bill (title I) substitutes fundamentally flawed provisions which, for example, give the jury a standardless discretion to refrain from imposing the death penalty even in the most aggravated cases, and which provide no safeguards against the type of litigation abuse and delay that has thwarted the use of state death penalty laws.

(2) Habeas corpus reform. The CCA (title II) includes effective reforms to curb the abuse of habeas corpus that obstructs the use of the death penalty and undermines the criminal justice process in every type of criminal case. The conference bill (title II) substitutes specious habeas corpus provisions which are regressive in comparison with existing law.

(3) Exclusionary rule reform. The CCA (title III) would create a general "good faith" exception to the exclusionary rule, which admits evidence where the court determines that the conduct of officers in carrying out a search and seizure was objectively reasonable. The conference bill (title III) substitutes a regressive measure that narrows the existing "good faith" exception for searches under warrants by authorizing the exclusion of evidence in several circumstances despite the officers' reasonable reliance on a warrant.

(4) Preservation of harmless error doctrine. The CCA (title II et al.) does not weaken in any manner the existing doctrine that trial error is not grounds for reversing a criminal conviction if the court of appeals determines that it was harmless beyond a reasonable doubt. The conference bill (Title IV) automatically requires the reversal of a criminal conviction based on erroneous admission of incriminating statements by the defendant, even if the independent evidence of guilt is overwhelming and it appears beyond a reasonable doubt that the error could not have affected the outcome of the trial.

FIREARMS

(5) Increased penalties for using firearms in Federal violent and drug trafficking crimes. The CCA (§401) increases mandatory penalties for using firearms in federal crimes of violence and drug trafficking crimes. The conference bill (§511) only increases such penalties for cases where the firearm is a semiautomatic firearm.

(6) Strengthening predicate offenses for armed career criminal provisions. The CCA (§419) extends prior convictions which count toward treating an offender as an armed career criminal to include state drug offenses which would be punishable by ten or more years of imprisonment if federally prosecuted—an important provision for "Project Triggerlock." The conference bill has no provision.

(7) Prohibition of possession of explosives during commission of felony. The CCA (§417) extends the mandatory penalty of 18 U.S.C. 884(h) to include any possession or use of an explosive during the commission of a felony. The conference bill has no provision.

JUVENILES AND GANGS

(8) Increased mandatory penalties for drug distribution to minors. The CCA §1086(a)) increases the mandatory penalties for drug distribution to minors. The conference bill has no provision.

(9) Increased mandatory penalties for using minors in drug trafficking. The CCA (§1086(b)) increased the mandatory penalties for using minors in drug trafficking. The conference bill has no provision.

(10) Increased mandatory penalty for drug distribution to youths by recidivist. The CCA (§1084) increases the mandatory penalty for a second conviction for distributing drugs to a person under 21. The conference bill has no provision.

(11) Increased penalties for inducing minors to commit crimes. The CCA (§771) establishes a new offense of inducing minors to commit crimes, including mandatory penalties. The conference bill has no provision.

(12) Broadened adult prosecution for juvenile gang leaders. The CCA (§521) creates a presumption in favor of adult prosecution for leaders of juvenile gangs and other criminal activities involving drug trafficking or firearms. The conference bill has no provision.

(13) Serious juvenile drug crimes as armed career criminal predicates. The CCA (§522) treats certain highly serious drug crimes by juveniles as predicate offenses for armed career criminal purposes. The conference bill has no provision.

(14) Street gangs offense. The CCA (§513) creates a new offense covering the commission of serious violent crimes and drug crimes as part of the activities of a street gang. The conference bill (§704) substitutes a more limited provision that is deliberately weakened in comparison with the House bill provision on which it is based.

(15) Records for recidivist juveniles. The CCA (§1080) adds certain serious drug crimes to the list of offenses requiring fingerprinting and retention of records for recidivist juvenile offenders. The conference bill has no provision.

(16) Supervised release for juvenile offenders. The CCA (§1248) extends the range of sanctions authorized for juvenile offenders to include post-incarceration supervised release. The conference bill has no provision.

(17) National anti-gang coordination and strategy. The CCA (§532) directs the Attorney General and the Secretary of the Treasury to develop a national strategy to coordinate federal investigations of gangs, and requires inclusion of information on gang violence in the uniform crime reports. The conference bill has no provision.

TERRORISM AND INTERNATIONAL MATTERS

(18) Implementing legislation for airport terrorism convention. The CCA (§127) enacts implementing legislation for the international convention to suppress terrorist acts at airports. The conference bill (§827) substitutes weakened provisions which do not fulfill the United States' obligations under the convention.

(19) Implementing legislation for maritime terrorism conventions. The CCA (§129) enacts implementing legislation for the international conventions to suppress terrorist acts against ships and maritime platforms. The conference bill (§803) substitutes weakened provisions that do not fulfill the United States' obligations under the conventions.

(20) Offense of providing material support to terrorists. The CCA (§602) creates a new offense of providing material support to terrorists. The conference bill (§834) substitutes a weakened "material support" offense.

(21) Admission of cooperating aliens. The CCA (§604) authorizes admission to the U.S. of up to 200 aliens annually who provide assistance in antiterrorism or other investigations. The conference bill (§833) substitutes a weakened provision that limits the number of aliens who may be admitted to 100 and imposes other severe restrictions.

(22) Crimes against U.S. nationals on foreign ships. The CCA (§607) provides consistent jurisdiction over crimes by or against U.S. nationals on foreign ships having a scheduled departure from or arrival in the United States. The conference bill (§823) substitutes a more restrictive provision that is no improvement over current law.

(23) Increased penalties for crimes of manslaugher by terrorists. The CCA (§608(1)) provides increased penalties for crimes of manslaughter committed abroad by terrorists against U.S. nationals. The conference bill has no provision.

(24) Increased penalties for crimes of aggravated assault by terrorists. The CCA (§608(2)) provides increased penalties for crimes of aggravated assault committed abroad by terrorists against U.S. nationals. The conference bill has no provision.

(25) Increased funding for antiterrorism enforcement. The CCA (§609) authorizes increased funding for antiterrorist activities by law enforcement agencies. The conference bill has no provision.

(26) Murder of U.S. nationals in foreign country. The CCA (§615) creates jurisdiction to prosecute murders of U.S. nationals in foreign countries where the country in which the murder occurred cannot lawfully secure the offender's return. The conference bill (§110) substitutes a weaker provision whose scope is limited to cases where the offender, as well as the victim, is a U.S. national.

(27) Extradition of offenders committing violent crimes against U.S. nationals. The CCA (§616) creates consistent authority to extradite for prosecution persons who commit crimes of violence against U.S. nationals in foreign countries. The conference bill has no provision.

SEXUAL VIOLENCE, CHILD ABUSE, AND VICTIMS' RIGHTS

(28) Increased penalties for recidivist sex offenders. The CCA (§702) doubles the maximum penalties authorized for recidivist sex offenders. The conference bill has no provision.

(29) Restitution for victims of sex crimes. The CCA (§703) authorizes restitution for victims of sex offenses—sexual assault, child molestation, and child sexual exploitation—whether or not physical injury results. The conference bill has no provision.

(30) HIV testing and penalty enhancement in sex offense cases. The CCA (§704) requires testing of sex offenders for the human immunodeficiency virus (HIV) with disclosure of the test results to the victim, and enhanced penalties for HIV-infected sex offenders who risk infection of their victims. The conference bill has no provision.

(31) Government payment of the cost of HIV testing for rape victims. The CCA (§705) requires the government to pay the cost of HIV testing for rape victims. The conference bill has no provision.

(32) Mandatory restitution. The CCA (§§711, 714) makes the award of restitution for crime

victims mandatory, and adopts other reforms enhancing the scope of restitution and enforcement of restitution orders. The conference bill has no provision.

(33) Victim's right to an impartial jury. The CCA (§713) protects the victim's right to an impartial jury by equalizing the number of peremptory challenges accorded to the defense and the prosecution in felony cases. The conference bill has no provision.

(34) Domestic violence grant program. The CCA (§761) establishes a new program for federal grants to support state efforts to combat domestic violence. The conference bill has no provision.

EQUAL JUSTICE

(35) Prohibition of racial discrimination in criminal penalties. The CCA (§802) requires that the death penalty and other penalties be administered without regard to the race of the defendant or victim, and prohibits racial quotas for imposing the death penalty and other penalties. The conference bill has no provision.

(36) Safeguards against racial bias. The CCA (§803) provides safeguards against racial bias against the victim or defendant through questioning on voir dire, change of venue, and prohibition of appeals to racial prejudice by the defense attorney or prosecutor. The conference bill has no provision.

(37) Death penalty for racially motivated murders. The CCA (§804) makes racial motivation of a murder an aggravating factor that permits consideration of the death penalty in connection with all federal capital crimes. The conference bill has no provision.

FUNDING AND GRANT PROGRAMS

(38) Preservation of authority for cooperative arrangements in administering Federal justice assistance program. The CCA (title IX et al.) does not limit in any manner the existing authority for cooperative arrangements between the Bureau of Justice Assistance (BJA) and other federal agencies in administering the federal justice assistance program. In contrast, the conference bill (§1107) would severely impair the federal justice assistance program by prohibiting BJA from utilizing the expertise and resources of other federal agencies—such as the Bureau of Justice Statistics and the Office of Juvenile Justice and Delinquency Prevention—in administering funding programs within their areas of competence.

(39) Retired public safety officer death benefits. The CCA (§911) extends the death and permanent disability benefits program for public safety officers to include such officers in a retirement status who are killed or permanently injured while responding to an emergency. The conference bill has no provision.

ILLEGAL DRUGS

(40) Drug testing of Federal offenders on post-conviction release. The CCA (§1001) generally requires drug-testing of federal offenders on post-conviction release. The conference bill (§1403) substitutes seriously flawed drug testing provisions which implicitly repeal the existing rules that mandate revocation of release for offenders who unlawfully possess drugs.

(41) Drug testing in State criminal justice systems. The CCA (§1002) generally requires the establishment of drug testing programs for targeted classes of offenders in state criminal justice systems as a condition of eligibility for federal justice assistance funding (subject to limitation that state may not be required to spend more than 10% of its federal justice assistance funding for such testing). The conference bill has no provision.

(42) Preservation of determinate sentencing system in relation to drug-abusing offenders. The CCA (title X et al.) does not weaken in any manner the existing, fundamental principle of federal sentencing law that convicted criminals serve out the term of imprisonment imposed by the court. In contrast, the conference bill (§1404) authorizes the release of offenders from prison up to a year early, where the offender is a drug abuser and has gone through drug treatment in prison. This undermines the determinate sentencing system and abolition of parole enacted by the Sentencing Reform Act of 1984, reduces incapacitation and deterrence, and unfairly give drug abusing offenders a change at early release which is denied to other prisoners who have not engaged in drug abuse.

(43) Preservation of guideline sentencing for drug abusing offenders. The CCA (title X et al.) does not weaken in any manner the existing system of penalties established by the federal sentencing guidelines. In contrast, the conference bill (§1406(c)) mandates the immediate release of drug abusing federal offenders who are placed in boot camps on completion of a 90 to 120 day program, where the offender would otherwise be subject to incarceration for up to two years or more under the federal sentencing guidelines.

(44) Precursor chemicals control. The CCA (§§1011–23) strengthens controls over precursor chemicals. The conference bill (§§1611–21) weakens the precursor chemicals proposal in comparison with the Senate bill provisions on which it is based, including elimination of access to the national health care practitioner data bank for drug enforcement and other law enforcement purposes.

(45) Interdiction—failure to obey order to land aircraft or bring-to a vessel. The CCA (§1031) creates a new offense of failing to obey an order by an authorized federal law enforcement officer to land a plane or bring-to a vessel, enforced by criminal penalties and forfeiture. The conference bill (§1631) substitutes a more limited offense which provides no coverage of vessels (only aircraft).

(46) Interdiction—FAA revocation authority. The CCA (§1032) creates authority for the Federal Aviation Administration to revoke aircraft registrations and airman certificates based on a failure to obey an order of an authorized federal law enforcement officer to land an aircraft. The conference bill has no provision.

(47) Interdiction—Coast Guard air interdiction authority. The CCA (§1033) gives the Coast Guard investigative and arrest authority in relation to offenses on aircraft above waters subject to U.S. jurisdiction. The conference bill has no provision.

(48) Interdiction—Coast Guard civil penalties authority. The CCA (§1034) gives the Coast Guard authority to assess civil penalties for failure to obey an order to land an aircraft or bring-to a vessel. The conference bill has no provision.

(49) Interdiction—Customs civil penalties authority. The CCA (§1036) gives the Customs Service authority to assess civil penalties for failure to obey an order to land an aircraft. The conference bill has no provision.

(50) Interdiction—Customs investigative authority. The CCA (§1035) provides that the investigative authority of the Customs Service extends to locations in foreign countries where inspections, examinations, or searches by U.S. customs officers are permitted. The conference bill has no provision.

(51) Interdiction—Coast Guard assistance to other countries on request of State Department. The CCA (§1037) authorizes the Coast Guard, on request of the Secretary of State, to use its personnel and facilities to assist foreign governments and international organizations. The conference bill has no provision.

(52) Interdiction—Coast Guard assistance to other countries at direction of President. The CCA (§1038) authorizes the President to use officers and enlisted members of the Coast Guard to assist foreign governments and international organizations, on request of such governments or organizations. The conference bill has no provision.

(53) Increased penalties for trafficking in ice. The CCA (§1071) increases penalties for trafficking in crystalline methamphetamine. The conference bill has no provision.

(54) Forfeiture of vehicles used in smuggling. The CCA (§1075) strengthens provisions for forfeiture of vehicles used in smuggling. The conference bill has no provision.

(55) Civil remedies relating to drug paraphernalia. The CCA (§1078) authorizes civil penalties and injunctions against drug paraphernalia violations. The conference bill has no provision.

(56) Large scale marijuana trafficking. The CCA (§1079) strengthens provisions affecting penalties for large scale marijuana trafficking. The conference bill has no provision.

(57) Life imprisonment for incorrigible violent and drug offenders. The CCA (§1085) mandates life imprisonment for offenders convicted a third time of highly serious violent crimes or drug crimes. The conference bill has no provision.

(58) Broadened definition of prohibited drug paraphernalia. The CCA (§1087) broadens the definition of prohibited drug paraphernalia. The conference bill has no provision.

(59) Enhanced penalties for drug distribution to pregnant women. The CCA (§1089) provides enhanced penalties for drug distribution to pregnant women. The conference bill has no provision.

(60) Measures against drugged or drunk driving that endangers children. The CCA (§1090) provides enhanced penalties for drugged or drunk driving that endangers, injures, or kills minors, including coverage of drivers in federal territorial jurisdiction and drivers of common carriers. The conference bill (§1702) deletes the coverage of drivers of common carriers.

(61) Crackhouse eviction and civil penalties. The CCA (§1092) authorizes the Attorney General to bring civil actions seeking injunctions, evictions, and civil penalties in relation to premises used in drug activities. The conference bill has no provision.

PUBLIC CORRUPTION

(62) Public corruption. The CCA (§§1101–04) strengthens federal laws against public corruption, including increased penalties, more adequate bases of federal jurisdiction, prohibition of retaliation against whistleblowers who expose public corruption, and specific provisions relating to election fraud and drug-related corruption. The conference bill has no provision.

GENERAL PROVISIONS

(63) Violent crimes against the elderly. The CCA (§1204) prescribes tough mandatory penalties for serious violent crimes against elderly victims. The conference bill (§2102) merely directs the Sentencing Commission to ensure that the guideline ranges for some specified violent offenses against elderly victims are adequate to achieve the objectives of sentencing.

(64) Criminal software copyright violations. The CCA (§1228) provides criminal

sanctions for software copyright violations. The conference bill has no provision.

(65) Trafficking in military awards. The CCA (§1232) increases fine levels and strengthens the prohibition of trafficking in military medals and decorations. The conference bill has no provision.

(66) Motor vehicle theft prevention program. The CCA (§1233), without any weakening of existing law, directs the Attorney General to establish a voluntary program to prevent motor vehicle theft through application of a decal signifying the owner's consent to stop the vehicle under specified circumstances. The corresponding provisions in the conference bill (§§2001-03) eviscerate the existing law against tampering with identification numbers for motor vehicles and motor vehicle parts by limiting liability to cases where intent to further the theft of a motor vehicle can be proven. E.g., alteration in a chop shop of the identification numbers for motor vehicles or their parts in order to facilitate fencing of the vehicles or parts would not be an offense, because the intent would not be to further the theft of a vehicle; the theft has already taken place in such a case.

(67) Increased penalties for trafficking in counterfeit goods and services. The CCA (§1238) increases authorized prison terms and fines for trafficking in counterfeit goods and services. The conference bill (§3031) deletes the increased fine authorizations.

(68) Civil penalties for aggravated felonies involving aliens. The CCA (§1251) authorizes civil penalties for incidents involving inducement of aliens to commit aggravated felonies. The conference bill has no provision.

(69) Criminal alien identification and removal fund. The CCA (§1252) establishes a special fund to support apprehension and deportation of aliens committing aggravated felonies. The conference bill has no provision.

(70) Deportability of aliens based on serious drugged or drunk driving. The CCA (§1253) adds to the list of offenses justifying deportation of aliens drugged or drunk driving that results in a fatal accident or serious injury to an innocent party. The conference bill has no provision.

PRISON CONSTRUCTION

(71) Federal prison construction. The CCA (§1501) authorizes $500 million for the construction of new federal prisons. As the federal government continues to enhance its efforts against violent crime, increasing numbers of offenders are passing through the federal criminal justice system. It is imperative that there be sufficient space available in the federal prison system to house violent offenders for the full term of their sentences. The conference bill has no provision.

Mr. THURMOND. I would like for the Members of the Senate to read these 70 points that we think ought to be included in a crime bill and which we have included in our crime bill.

Mr. President, I will not take time to discuss other matters at this time. We will go into other matters at a later date.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the majority leader.

Mr. MITCHELL. Mr. President, if I had not seen and heard this with my own eyes and ears, I would not have believed it. Who would have thought, after all of the political talk by Republicans about crime, after all of the speeches Republicans have given about crime sweeping our country, that Republicans would be filibustering to prevent a vote on a crime bill, a bill endorsed by police organizations all over the country, a comprehensive bill to deal with the problem of crime. Here are Republicans doing all they can to prevent the Senate from voting on the bill.

We do not ask that our Republican colleagues vote for the bill if they do not want to do so, but they will not even let the Senate vote on the bill—a filibuster, delay, preventing action on what they say is an important measure. I can hardly believe it.

For 20 years Republicans have made speeches about the need to fight crime, about the importance of combating those criminals who so adversely affect our society, and here they are delaying, filibustering, talking in an effort to prevent the Senate from voting on a crime bill. It is hard to believe, but it is happening.

We Democrats ask to just vote on the bill. What are you worried about? What are you afraid of? Just let us vote on the bill. There has been enough talk. There has been 20 years of talk.

How many political speeches have been made in this country about the need to combat crime? How often has this Chamber been filled with the hot air of rhetoric about the need to combat crime?

And here we are now asking only that we have a chance to vote on this bill—just to let Senators vote on the bill. If you do not want to vote for it, do not vote for it. If you want to vote against it, vote against it. But why prevent the Senate from taking up this bill and voting on it if, as you say, you want to combat crime, if as you say, you are serious about dealing with crime?

I think this exposes for all to see the hollowness of the political rhetoric on this subject. I think this makes clear to all Americans what we have been hearing is political talk.

We have a chance to act. We want to act. We should act. We should not have these filibusters. We should not take up the Senate's time with endless debate and discussion.

We are told that our Republican colleagues wanted action on crime. Well, we could vote this bill out right now if they would let us have the vote. We could vote the bill out tomorrow. We could vote the bill out Friday. But we cannot because Republicans are filibustering to prevent the Senate from even voting on a major anticrime bill.

I end as I began. If I had not seen it with my own eyes, if I had not heard it with my own ears, I would not have believed it.

Mr. President, I am prepared to conclude the proceedings for this evening because I gather that our distinguished colleague is going to persist in his filibuster and will not let us proceed to a vote. If so, then I think that further wasting of the Senate's time this evening will serve no useful purpose.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from South Carolina.

Mr. THURMOND. Mr. President, in a brief response to the able majority leader—and he is an able leader—he was once a Federal judge, and I think he ought to know better if he studies this bill just why we oppose it.

We are not willing to accept a bill which expands the rights of criminals, and that is what this conference report does. If the distinguished majority leader will read this bill, I think he will see what I am talking about.

This bill is not a tough crime bill. It is not an anticrime bill. It is a procriminal bill. It expands the rights of criminals. Of course, we do not want this bill.

The President wants a crime bill, and I might say that the President has advocated a strong crime bill. The attorneys general of the Nation have advocated a strong bill. The National Association of Attorneys General, the Conference of Chief Justices, and the prosecutors have all advocated a strong bill. But they say this is not the bill to pass.

Let me tell you what they said. I want to take just a minute. Thirty-one State attorneys general, 16 Republicans and 15 Democrats, recently wrote President Bush urging him to protect the American people and veto any bill which contains this habeas corpus proposal that is in this bill, in this conference report. They stated that any bill containing this weak proposal should be vetoed. They went on to say it cannot be described accurately as an anticrime bill but instead a procriminal bill.

That is what 31 attorneys general said, that this is a procriminal bill, and not an anticrime bill. We are in favor of an anticrime bill, a tough crime bill. This is not the bill.

Mr. President, I am not going to take more time, but that is the reason we oppose this bill. We introduced yesterday a tough crime bill. If the majority in the Senate want to pass a tough crime bill, that is the bill to pass.

I talked to the chairman of the Judiciary Committee today. I said we can introduce your bill with the tough provisions if you want to do that. I will join him on it. But we cannot approve of this bill here. The President is against it. The attorneys general of the United States are against it. The attorneys general of the Nation are against it. The prosecutors are against it. The Federal prosecutors, the State prosecutors, and the city and county prosecutors are against this bill. Therefore, we do not feel it ought to pass.

Mr. President, I will not say anymore at this time.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. I was not only a Federal judge, I was a U.S. attorney, the chief Federal prosecutor in my State. I was a county attorney and prosecuted crimes at the State level.

I have tried personally many, many criminal cases. I am personally responsible for sending a lot of people to prison. And I say, based on my personal experience, this conference report is a very strong, tough, anticrime bill.

Does anybody in America, anybody, believe that the policemen of this country, and the policewomen of this country, the people whose lives are on the line in facing criminals, the people who daily confront the threat of death, injury, would be overwhelmingly in favor of a bill if it was a procrime bill?

How many of those 31 attorneys general go out and face the threat of death? They are all in their offices. That is like the Senator from South Carolina and I, surrounded by secretaries and assistants. They are not out there on the streets. They are not out there in the dark of night facing the threat of death around every corner. They do not run the risk of leaving widows and children behind if something unexpected happens on some dark night on some city street.

I was a prosecutor. I happen to know what prosecutors do. And the provision to which they object, the habeas corpus provision, only applies to people who are already in prison. A person who is not already in prison cannot avail himself or herself of the provisions of habeas corpus.

So the notion that somehow changing the habeas corpus laws affect people out on the street is, on its face, absurd.

This bill helps the men and women fight crime, who are undervalued, and in our society, whom Americans do not give enough credit to. They are underpaid. They are not recognized for what they do. We take them for granted. We confront them each day with life or death decisions. And if they make a wrong choice through fear, concern, pressure, they face disciplinary action; people whose word we ought to listen to on this or those whose lives are on the line so that our lives are more secure.

That is the police men and women of this country, police men and women of South Carolina, the police men and women in Maine, Washington, DC, and every other State in the country. That is who we should be listening to.

They say this is a good bill. And I do not think there is an American—I do not think there is a single American who believes that the police men and women of this country want a procriminal bill to be passed. Are the police men and women of this country for criminals? Are the police men and women in this country trying to help criminals? I submit that argument does not make any sense.

So, Mr. President, I am sorry about the fact that we cannot get this bill passed. I am sorry that we are here confronting another filibuster by Republicans on a crime bill. That is what we face. That is what we have to deal with.

So we will resume this tomorrow and hope that our colleagues will see their way clear in at least letting us vote on this bill, at least letting us get to this bill, and give Senators a chance to express their views. If they do not like the bill, vote against it. That is all anybody has to do. Let us have a vote. Let us proceed.

So we will take that up tomorrow, Mr. President.

Now I would like to yield to the Senator. I will if he wants to say anything more, and then I would like to conclude the business.

Mr. THURMOND. Mr. President, I want to respond very briefly.

The police in this country are wonderful people. They do a great job. If they had a chance to compare this bill I introduced yesterday with this conference, there is no question what they would do. There is no question what they would choose. They have not had a chance because they are so anxious to get a crime bill. And when they heard the conference committee brought one out, I am sure that they were not informed as to the effect of the conference report because if they were, they would not stand for a report of that kind, in my judgment.

I want to ask the Senator—I do not want to make it personal—is he against the bill that I introduced yesterday?

Mr. MITCHELL. I have not read the bill that the Senator introduced yesterday.

Mr. THURMOND. It carries a death penalty, good habeas corpus, and a lot of other good things. Does he favor the death penalty.

Mr. MITCHELL. No; I do not.

Mr. THURMOND. I understand he is not favoring this bill. The majority leader admits he is against the death penalty. Our bill carries the death penalty. This conference report carries the death penalty. But under the habeas corpus that it has in it, it practically would be a nonentity.

So I can understand his position. I thank him very much.

Mr. MITCHELL. Mr. President, let me say that the conference report includes the death penalty. I voted for it although I opposed the death penalty because it included a lot of other provisions, and on balance, I felt it was a good bill to enact.

I think it is rather clear that the red flag—that the bloody shirt of the death penalty will continue to be waved here as it has so often in the past as though it were somehow the answer to all of our problems even though, of course, the reality is that the Federal death penalty affects about 1 percent of all violent crimes that occur in our society, and that the overwhelming majority of Americans live in States which already have the death penalty for crimes within their jurisdiction.

But I am sure we are going to hear it often as we have now as though that were the answer to all of our problems.

MORNING BUSINESS

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Kalbaugh, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 2:54 p.m., a message from the House of Representatives delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, each without amendments:

S. 996. An act to authorize and direct the Secretary of the Interior to terminate a reservation of use and occupancy at the Buffalo National River; and for other purposes; and

S. 2184. An act to establish the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation, and for other purposes.

The message also announced that the House has passed the following bills, each with amendments, in which it requests the concurrence of the Senate:

S. 1467. An act to designate the United States Courthouse located at 15 Lee Street in Montgomery, Alabama, as the 'Frank M. Johnson, Jr. United States Courthouse; and

S. 1889. An act to designate the United States Courthouse located at 111 South Wolcott in Casper, Wyoming as the "Ewing T. Kerr United States Courthouse."

The message further announced that the House has passed the following the bills, in which it requests the concurrence of the Senate:

H.R. 939. An act to amend title 38, United States Code, with respect to housing loans for veterans, and for other purposes;

H.R. 2475. An act to designate the United States courthouse being constructed at 400 Cooper Street in Camden New Jersey, as the "Mitchell H. Cohen United States Courthouse";

H.R. 2539. An act to designate the Federal Building and United States Courthouse located at 402 East State Street in Trenton, New Jersey, as the "Clarkson S. Fisher Federal Building and United States Courthouse";

H.R. 2818. An act to designate the Federal building located at 78 Center Street in Pittsfield, Massachusetts, as the "Silvio O. Conte Federal Building", and for other purposes;

H.R. 3041. An act to designate the Federal building located at 1520 Market Street, St. Louis, Missouri, as the "L. Douglas Abram Federal Building";

H.R. 3118. An act to designate Federal Office Building Number 9 located at 1900 E. Street, Northwest, in the District of Columbia, as the "Theodore Roosevelt Federal Building"; and

H.R. 3818. An act to designate the building located at 80 North Hughey Avenue in Orlando, Florida, as the "George C. Young United States Courthouse and Federal Building."

The message also announced that pursuant to the provisions of 22 U.S.C. 276d, the Speaker appoints as members of the United States delegation to attend the meeting of the Canada-United States Interparliamentary Group the following Members on the part of the House: Mr. GEJDENSON, Chairman, Mr. FASCELL, Vice Chairman, Mr. HAMILTON, Mr. DE LA GARZA, Mr. GIBBONS, Mr. OBERSTAR, Mr. LAFALCE, Mr. BROOMFIELD, Mr. HORTON, Mr. MILLER of Washington, Mr. WALSH, and Mr. HENRY.

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

At 3:19 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bills and joint resolutions:

H.R. 2092. An act to carry out obligations of the United States under the United Nations Charter and other international agreements pertaining to the protection of human rights by establishing a civil action for recovery of damages from an individual who engages in torture or extrajudicial killing;

H.R. 4113. An act to permit the transfer before the expiration of the otherwise applicable 60-day congressional review period of the obsolete training aircraft carrier U.S.S. Lexington to the Corpus Christi Area Convention and Visitors Bureau, Corpus Christi, Texas, for use as a naval museum and memorials;

H.J. Res. 343. A joint resolution to designate March 12, 1992, as "Girl Scouts of the United States of American 80th Anniversary Day";

H.J. Res. 350. A joint resolution designating March 1992 as "Irish-American Heritage Month"; and

H.J. Res. 395. A joint resolution designating February 6, 1992, as "National Women and Girls in Sports Day."

The enrolled bills and joint resolutions were subsequently signed by the President Pro Tempore [Mr. BYRD].

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 939. An act to amend title 38, United States Code, with respect to housing loans for veterans, and for other purposes; to the Committee on Veterans Affairs.

H.R. 2475. An act to designate the United States courthouse being constructed at 400 Cooper Street in Camden New Jersey, as the "Mitchell H. Cohen United States Courthouse"; to the Committee on Environment and Public Works.

H.R. 2539. An act to designate the Federal Building and United States Courthouse located at 402 East State Street in Trenton, New Jersey, as the "Clarkson S. Fisher Federal Building and United States Courthouse"; to the Committee on Environment and Public Works.

H.R. 2818. An act to designate the Federal building located at 78 Center Street in Pittsfield, Massachusetts, as the "Silvio O. Conte Federal Building", and for other purposes; to the Committee on Environment and Public Works.

H.R. 3041. An act to designate the Federal building located at 1520 Market Street, St. Louis, Missouri, as the "L. Douglas Abram Federal Building"; to the Committee on Environment and Public Works.

H.R. 3118. An act to designate Federal Office Building Number 9 located at 1900 E. Street, Northwest, in the District of Columbia, as the "Theodore Roosevelt Federal Building"; to the Committee on Environment and Public Works.

H.R. 3818. An act to designate the building located at 80 North Hughey Avenue in Orlando, Florida, as the "George C. Young United States Courthouse and Federal Building"; to the Committee on Environment and Public Works.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. PELL, from the Committee on Foreign Relations, without amendment and with a preamble:

S.J. Res. 234. A joint resolution expressing the sense of the Congress regarding the Government of Kenya's November 14 through 16, 1991, suppression of the democratic opposition and suspending economic and military assistance for Kenya.

By Mr. PELL, from the Committee on Foreign Relations; without amendment, and with a preamble:

S. Con. Res. 70. A concurrent resolution to express the sense of the Congress with respect to the support of the United States for the protection of the African elephant.

By Mr. PELL, from the Committee on Foreign Relations; with amendments, and with a preamble:

S. Con. Res. 80. A concurrent resolution concerning democratic changes in Zaire.

By Mr. PELL, from the Committee on Foreign Relations; with amendments, and amendments to the preamble:

S. Con. Res. 89. A concurrent resolution to express the sense of the Congress concerning the United Nations Conference on Environment and Development.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. PELL, from the Committee on Foreign Relations:

Scott M. Spangler, of Arizona, to be Associate Administrator of the Agency for International Development (Operations);

Herman J. Cohen, of New York, a Career Member of the Senior Foreign Service, Class of Career Minister, for the personal rank of Career Ambassador in recognition of especially distinguished service over a sustained period;

Herman Jay Cohen, of New York, an Assistant Secretary of State, to be a Member of the Board of Directors of the African Development Foundation for a term expiring September 22, 1997;

Salvador Lew, of Florida, to be a Member of the Advisory Board for Cuba Broadcasting for a term of two years;

Eugene C. Johnson, of Maryland, to be a Member of the Peace Corps National Advisory Council for a term expiring October 6, 1992; and

Tahlman Krumm, Jr., of Ohio, to be a Member of the Peace Corps National Advisory Council for a term expiring October 6, 1993.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. PELL. Mr. President, for the Committee on Foreign Relations, I also report favorably four nomination lists in the Foreign Service which were printed in full in the CONGRESSIONAL RECORDS of January 22, February 5 (minus one name), and February 18, 1992, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar, that these nominations lie at the Secretary's desk for the information of Senators.

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

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. METZENBAUM (for himself, Mr. WOFFORD, and Mr. RIEGLE):

S. 2311. A bill to discourage American employers from eliminating American jobs by relocating United States-based operations to a foreign country, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. MCCAIN (for himself, Mr. LIEBERMAN, Mr. DANFORTH, Mr. DECONCINI, Mr. REID, Mr. KASTEN, and Mr. KOHL):

S. 2312. A bill to amend the Federal Aviation Act of 1958 to enhance competition at, and the provision of essential air service with respect to high-density airports, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. JEFFORDS:

S. 2313. A bill to amend the Internal Revenue Code of 1986 to provide the American taxpayer with an annual report on the financial status of the Federal Government; to the Committee on Finance.

By Mr. JOHNSTON (by request):

S. 2314. A bill to correct an error in Public Law 100-425 relating to the reservation for the Confederated Tribes of the Grand Ronde Community of Oregon; to the Committee on Energy and Natural Resources.

By Mr. JOHNSTON (for himself and Mr. WALLOP) (by request):

S. 2315. A bill to enhance the law enforcement authority of the Secretary of the Interior on public lands, and for other purposes; to the Committee on Energy and Natural Resources.

S. 2316. A bill to clarify authority of the Secretary of the Interior to cooperate with non-Federal entities in the conduct of research concerning the National Park System, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. LOTT (for himself, Mr. BROWN, Mr. SEYMOUR, Mr. MCCAIN, Mr. SMITH, Mr. BOND, Mr. SYMMS, Mr. WALLOP, Mrs. KASSEBAUM, Mr. BURNS, Mr. CRAIG, Mr. NICKLES, Mr. COATS, Mr. GARN, Mr. HATCH, Mr. HELMS, and Mr. MACK):

S. 2317. A bill to amend the Congressional Budget and Impoundment Control of 1974 to reform the budget process, and for other purposes; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one Committee reports, the other Committee have thirty days to report or be discharged.

By Mr. SEYMOUR:

S.J. Res. 264. A joint resolution designating May 1992 as "National Community Residential Care Month"; to the Committee on the Judiciary.

S.J. Res. 265. A joint resolution to designate October 9, 1992, as "National School Celebration of the Centennial of the Pledge of Allegiance and the Quincentennial of the Discovery of America by Columbus Day"; to the Committee on the Judiciary.

By Mr. THURMOND:

S.J. Res. 266. A joint resolution designating the week of April 26-May 2, 1992, as "National Crime Victims' Rights Week"; to the Committee on the Judiciary.

By Mr. D'AMATO:

S.J. Res. 267. A joint resolution to designate March 17, 1992, as "Irish Brigade Day"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MCCONNELL (for himself, Mr. PRYOR, Mr. ROTH, Mr. BIDEN, Mr. WARNER, Mr. LUGAR, and Mr. BUMPERS):

S. Con. Res. 98. A concurrent resolution expressing the sense of the Congress that the current Canadian quota regime on chicken imports should be removed as part of the Uruguay Round and North American Free Trade Agreement negotiations and that Canada's imposition of quotas on United States processed chicken violates Article XI of the General Agreement on Tariffs and Trade; to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. METZENBAUM (for himself, Mr. WOFFORD, and Mr. RIEGLE):

S. 2311. A bill to discourage American employers from eliminating American jobs by relocating U.S.-based operations to a foreign country, and for other purposes; to the Committee on Labor and Human Resources.

SAVE AMERICAN JOBS ACT

Mr. METZENBAUM. Mr. President, I rise to introduce S. 2311, the Save American Jobs Act. This legislation is designed to address the growing trend of American businesses exporting jobs and operations overseas to exploit cheap labor. It's time we made these profit-hungry companies recognize the human costs of their relocations. And it is time we closed Uncle Sam's wallet to companies that turn their backs on American workers.

Let me describe the scope of the problem. The numbers of jobs lost as a consequence of these relocations is startling. For example, a recent study conducted for the economic policy institute estimated that Ohio has lost over 60,000 manufacturing jobs to Mexican "maquiladora" plants, virtually all in the last 10 years. Because one manufacturing job will support at least one additional job in service-related industries or the government sector, the study estimates Ohio's total loss to be over 120,000 jobs just from relocations to maquiladoras.

But it is not just maquiladoras. An even higher number of Ohio jobs have been lost to non-maquiladora plants in Mexico and other low-wage countries such as Korea, Singapore, and Taiwan.

I find no fault with those countries. I am not opposed to those countries attempting to develop their own economies. I am not opposed to those countries being concerned about their people being fully employed. But I am concerned about American jobs, and the problems to which I speak is not related to Ohio. And, of course, it is not just Ohio. It is Shreveport, LA, which lost over 3,000 AT&T jobs to Singapore in the 1980's. It is Radford, VA, where AT&T opened a plant in 1980 only to shift 2,400 jobs to Mexico by the end of 1990. It is Bettendorf, IA, which lost 1,500 Tenneco jobs to Korea in 1988. According to the National Alliance of Business, as much as 40 percent of the American work force faces the possibility that their jobs will be exported.

The automobile industry has been hardest hit by runaway jobs. Just last week, General Motors announced plans to close 12 U.S. plants and eliminate 16,300 American jobs. But who is the largest private employer in Mexico today? General Motors is with 35 plants in Mexico.

Currently, the big three and their suppliers account for 75,000 jobs in Mexican maquiladoras, and that number is growing each week. Another 549 jobs are going south of the border when GM relocates work from its Moraine, OH facility, as it announced several days ago.

The list of American companies moving jobs overseas reads like a "who's who" for corporate America: Rockwell International, General Electric, Lockheed, Westinghouse, and another 300 of the Fortune 500.

As a result of these American businesses relocating overseas, America's working men and women face an economic triple whammy.

First, hundreds of thousands have lost their jobs. Many have been unable to find comparable employment, or any employment. Many have lost their cars, their possessions, and their homes as well.

In some communities, the closing of a major facility can mean economic devastation, as tax revenues shrink due to declining population and property values, while demand for welfare and other social benefits increases. Funds for schools and public services disappear, driving more businesses and residents away from the community.

Second, many of these companies add insult to injury by importing the goods made abroad into this country and selling them to American consumers, including the very workers who used to produce them here. In 1986, for example, foreign subsidiaries of U.S. corporations imported and sold $80 billion worth of goods to American consumers. These goods contributed heavily to the national trade deficit. And let me assure you, in far too many cases the savings these companies reap by paying pennies to foreign workers are not passed on to the American consumer.

And third, the Federal Government pours billions of dollars of Federal tax revenues every year into American businesses, in the form of Federal grants, loans, and contracts. How much of this money goes to companies that have relocated operations overseas to exploit cheap labor? I will tell you how much. Plenty. For example, the five companies I just named—GM, Rockwell, Lockheed, GE, and Westinghouse—represents 5 of the top 10 Federal contractors. In 1990 alone, they received over 25 billion dollars' worth of Federal contracts, the American taxpayer dollars.

In the past 6 years, the Hoover Co. has moved several hundred jobs from its North Canton, OH, plant to Mexico. How has the Federal Government responded? In 1991, it rewarded Hoover with an $8 million contract for cleaning equipment. The American taxpayer is basically subsidizing the export of American jobs to foreign countries, and it is time we put a halt to it.

These American companies are not concerned about the devastating effects of relocations on workers and the communities in which they live. Nor are they concerned about the long-term damage done to the Nation's industrial base. They are looking to make quick buck.

The message these companies are sending to their employees is: "We don't care if you have been a loyal employee for 30 years. We do not care if you've worked hard, if you've acquired

great skills or good judgment based on years of experience. In many cases, we do not even care if the plant has been profitable. What we care about is moving these jobs to a country that has no laws to protect the wages or working conditions of its citizens." That is no way to treat hardworking, loyal American employees.

Today, I am introducing the Save American Jobs Act to address the growing problem of American companies relocating operations overseas to exploit cheap labor. The bill's reach is limited to those countries that have an average wage rate less than 50 percent of the U.S. rate. This limitation covers low-wage countries such as Mexico, Taiwan, and Korea to which the vast majority of American jobs are being exported.

Under this legislation, employers that export jobs would be forced to bear responsibility for a share of the social costs imposed on workers and their communities. The bill would require employers who relocate U.S.-based operations overseas to provide 120-day advance notice to employees, and to provide dislocated workers with limited severance pay—1 week for each year of employment—a year's worth of continued health benefits, and reimbursement for retraining and relocation expenses (up to $10,000).

In addition, American companies that desert this country should not be rewarded with Federal tax dollars. We do not have to give these companies billions of dollars in lucrative defense contracts, low-cost export-import bank loans, and research and development grants while they ship jobs overseas. This legislation would send an emphatic message to American companies that if they abandon American workers, Uncle Sam is going to shut off the flow of Federal dollars.

Thus, employers who relocate operations overseas would be prohibited from receiving Federal grants and loans for a period of 5 years. In terms of Federal contracts, employers who have not relocated operations overseas would receive a preference in the awarding of such contracts over those who have relocated operations within the past 5 years.

The bill's enforcement mechanism would allow employees to file complaints either with the Department of Labor or in district court. The Department of Labor also could file suit. Available relief would include back pay, consequential damages, liquidated damages, injunctive relief, attorney's fees and costs.

In closing, let me say that I believe in the free enterprise system. Our country was built on that system, and before I was elected to this body I had a long career as a businessman. But believing in free enterprise does not mean we have to accept the exploitation of cheap foreign labor at the expense of American workers. I urge my colleagues to cosponsor the Save American Jobs Act.

I ask unanimous consent that the full text of the bill and a summary of the bill be printed in the RECORD.

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

S. 2311

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 "Save American Jobs Act".

SEC. 2. DEFINITIONS.

(a) APPLICATION OF WARN ACT DEFINITIONS.—The terms used in this Act shall have the meanings prescribed for such terms by section 2 of the Worker Adjustment and Retraining Notification Act (29 U.S.C. 2101), except that—

(1) the term "employer" means any business enterprise that employs—

(A) 25 or more employees, excluding part-time employees, or

(B) 25 or more employees who in the aggregate work at least 1,000 hours per week (exclusive of hours of overtime),

(2) the term "plant closing" is the same as the definition in such section 2, except that it shall be considered to have occurred if the shutdown results in an employment loss for 12 or more employees, and

(3) the term "mass layoff" means a reduction in force which—

(A) is not the result of a plant closing, and

(B) results in an employment loss at the single site of employment during any 30-day period for—

(i)(I) at least 25 percent of the employees (excluding any part-time employees), and

(II) at least 12 employees (excluding any part-time employees), or

(ii) at least 50 employees (excluding any part-time employees).

(b) ADDITIONAL DEFINITIONS.—As used in this Act—

(1) the term "Federal agency" means an executive agency (as defined in section 105 of title 5, United States Code) and a military department (as defined in section 102 of title 5, United States Code); and

(2) the term "Secretary" means the Secretary of Labor.

SEC. 3. EMPLOYERS COVERED.

(a) IN GENERAL.—An employer shall be deemed a covered employer for purposes of sections 4 and 5 if—

(1) the employer orders a plant closing or mass layoff at a work site; and

(2) within a year before or after the plant closing or mass layoff is carried out at the work site the employer transfers work from such site to a foreign country in which the average wage is less than 50 percent of the average wage in the United States, as determined under section 7(d).

(b) WORK TRANSFER DEFINED.—

(1) IN GENERAL.—Except as provided in paragraph (2), work shall be considered to be transferred to a foreign country for purposes of subsection (a) if the employer involved—

(A) increases the amount of work performed in another country and such work is substantially similar to the work performed at the work site at which the plant closing or mass layoff occurs; or

(B) increases the amount of products which are imported from another country and such products are substantially similar to the products produced at such work site.

(2) EXCEPTION.—If an employer who orders a plant closing or mass layoff at a work site described in subsection (a) proves that the increase in—

(A) work described in paragraph (1)(A) which is performed in another country; or

(B) products described in paragraph (1)(B) which are imported from another country,

is not related to the plant closing or mass layoff at such work site, the employer shall not be deemed a covered employer for purposes of sections 4 and 5.

(3) CONSTRUCTION.—For purposes of paragraph (1), if an increase described in subparagraph (A) or (B) of paragraph (1) is carried out by any person which owns at least 10 percent of an employer described in subsection (a) or by any person at least 10 percent of which is owned by such employer, such employer shall be considered to have carried out such increase.

SEC. 4. NOTICE OF RELOCATION.

(a) NOTICE.—A covered employer shall not commence a plant closing or mass layoff as described in section 3 until the end of a 120-day period after such employer serves written notice—

(1) of the kind required by section 3 of the Worker Adjustment and Retraining Notification Act (29 U.S.C. 2102 et seq.); and

(2) on the Secretary.

(b) PENALTY.—An employer that violates subsection (a) shall be subject to a civil penalty not to exceed an amount of $10,000 for each day of such violation, except that the Secretary may reduce such amount for just cause shown.

(c) DOL LIST.—The Secretary shall compile and maintain a list of all covered employers, and shall distribute an updated list to all Federal agencies at least once every six months. A covered employer shall be included on such list for a period of 5 years from the date the Secretary receives notice pursuant to subsection (a).

SEC. 5. BENEFITS.

A covered employer shall not commence a plant closing or mass layoff as described in section 3 unless such employer provides to each affected employee—

(1) severance pay equal to one week of the average wage at which such employee was employed during the preceding year, multiplied by the number of years the employee was employed by such employer;

(2) for the continuation of health care benefits previously provided for 12 months after the plant closing or mass layoff; and

(3) reimbursement (not to exceed $10,000) for retraining as authorized by section 204 of the Job Training Partnership Act (29 U.S.C. 1604) and for relocation.

SEC. 6. RESTRICTED ACCESS TO FEDERAL FUNDS.

(a) FEDERAL CONTRACTS.—A Federal agency, when awarding a civilian or defense-related contract, shall give preference to a United States employer that does not appear on the list described in section 4(c) over an employer that does appear on such list.

(b) FEDERAL GRANTS AND LOANS.—

(1) ELIGIBILITY.—Except as provided in paragraph (2), an employer that appears on the list described in section 4(c) shall be ineligible for any direct or indirect Federal grant or Federal guaranteed loan.

(2) WAIVERS.—The Secretary, in consultation with the appropriate Federal agency providing a loan or grant, may waive the ineligibility requirements under paragraph (1) if the employer applying for such loan or grant demonstrates that a lack of such loan or grant would—

(A) threaten national security;

(B) result in a substantial job loss in the United States; or

(C) substantially harm the environment.

(c) FEDERAL BENEFITS FOR WORKERS.—No provision of this section shall be construed to permit withholding or denial of payments, compensation, or benefits under any other Federal law (including Federal unemployment compensation, disability payments, or worker retraining or readjustment funds) to employees of a covered employer.

(d) ENFORCEMENT.—The Secretary or any individual may bring an action to restrain a violation of this section. In any action brought under this subsection, the district courts of the United States shall have jurisdiction, for cause shown, to issue declaratory and injunctive relief, as well as attorneys' fees, experts' fees, and costs, and such other legal and equitable relief as may be appropriate.

SEC. 7. INVESTIGATIVE AUTHORITY.

(a) IN GENERAL.—To ensure compliance with this Act, or any regulation issued under this Act, the Secretary shall have, subject to subsection (c), the investigative authority provided under section 11(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 211(a)).

(b) OBLIGATION TO KEEP AND PRESERVE RECORDS.—Any employer shall keep and preserve records in accordance with section 11(c) of the Fair Labor Standards Act of 1938 (29 U.S.C. 211(c)) and in accordance with regulations issued by the Secretary.

(c) SUBPOENA POWERS.—For the purposes of any investigation provided for in this section, the Secretary shall have the subpoena authority provided for under section 9 of the Fair Labor Standards Act of 1938 (29 U.S.C. 209).

(d) LIST OF AFFECTED COUNTRIES.—The Secretary shall publish annually in the Federal Register the names of countries described in section 3(a) as determined under regulations promulgated by the Secretary. Prior to the publication of the first such list, the applicability of section 3(a) to foreign countries shall be determined according to the average hourly compensation costs for production workers, as reported by the Bureau of Labor Statistics.

SEC. 8. ENFORCEMENT OF NOTICE AND BENEFITS REQUIREMENTS.

(a) CIVIL ACTION BY EMPLOYEES.—

(1) LIABILITY.—Any employer who violates section 4 or 5 shall be liable to any affected employee—

(A) for damages equal to—

(i) the amount of any wages, salary, employment benefits, or other compensation denied or lost to such employee by reason of the violation,

(ii) the interest on the amount described in clause (i) calculated at the prevailing rate, and

(iii) an additional amount as liquidated damages equal to the sum of the amount described in clause (i) and the interest described in clause (ii), except that if an employer who has violated section 4 or 5 proves to the satisfaction of the court that the act or omission which violated such section was in good faith and that the employer had reasonable grounds for believing that the act or omission was not a violation of such section, such court may, in the discretion of the court, reduce the amount of the liability to the amount and interest determined under clauses (i) and (ii), respectively,

(B) for damages equal to any actual monetary loss sustained by the employee as a direct result of the violation, such as the cost of providing health care, and

(C) for such equitable relief as may be appropriate, including, without limitation, employment, reinstatement, and promotion.

(2) STANDING.—An action to recover the damages or equitable relief prescribed in paragraph (1) may be maintained against any employer (including a public agency) in any Federal or State court of competent jurisdiction by any one or more affected employees for and in behalf of—

(A) the affected employees, or

(B) the affected employees and other employees similarly situated.

(3) FEES AND COSTS.—The court in such an action shall, in addition to any judgment awarded to the plaintiff, allow a reasonable attorney's fee, reasonable expert witness fees, and other costs of the action to be paid by the defendant.

(b) ACTION BY THE SECRETARY.—

(1) ADMINISTRATIVE ACTION.—The Secretary shall receive, investigate, and attempt to resolve complaints of violations of sections 4 or 5 in the same manner that the Secretary receives, investigates, and attempts to resolve complaints of violations of sections 6 and 7 of the Fair Labor Standards Act of 1938 (29 U.S.C. 206 and 207).

(2) CIVIL ACTION.—The Secretary may bring an action in any court of competent jurisdiction to recover on behalf of an eligible employee the damages described in subsection (a)(1)(A).

(3) SUMS RECOVERED.—Any sums recovered by the Secretary on behalf of an employee pursuant to paragraph (2) shall be held in a special deposit account and shall be paid, on order of the Secretary, directly to each employee affected. Any such sums not paid to an employee because of inability to do so within a period of 3 years shall be deposited into the Treasury of the United States as miscellaneous receipts.

(c) LIMITATION.—

(1) IN GENERAL.—An action may be brought under subsection (a) or (b) not later than 3 years after the date of the last event constituting the alleged violation for which the action is brought.

(2) COMMENCEMENT.—In determining when an action is commenced by the Secretary under subsection (b) for the purposes of this subsection, it shall be considered to be commenced on the date when the complaint is filed.

(3) EXHAUSTION OF ADMINISTRATIVE ACTION.—If a complaint is filed with the Secretary under subsection (b)(1), an action under subsection (a)(2) may not be commenced until the expiration of 90 days following the filing of such complaint.

(4) INTERVENTION.—The Secretary or an affected employee shall have the right to intervene in any action brought under subsection (a) or (b).

(d) ACTION FOR INJUNCTION BY SECRETARY.—The district courts of the United States shall have jurisdiction, for cause shown, over an action brought by the Secretary to restrain violations of sections 4 or 5, including actions to restrain the withholding of payment of wages, salary, employment benefits, or other compensation, plus interest, found by the court to be due to eligible employees.

SEC. 9. EFFECTIVE DATE.

This Act shall become effective 60 days after the date of enactment of this Act.

SUMMARY OF THE SAVE AMERICAN JOBS ACT

The Save American Jobs Act addresses the growing problem of American companies relocating operations overseas to exploit cheap labor.

Foreign Countries Affected: The bill's reach is limited to those countries which have an average wage rate which is less than 50% of the U.S. rate. This limitation covers low-wage countries such as Mexico, Singapore, Brazil, Taiwan and Korea to which the vast majority of these jobs are being exported.

Relocations Covered: The bill applies to certain plant closings and mass layoffs if, within a year before or after the closing or layoff, the employer transfers work to a low-wage foreign country. A plant closing is covered if it affects 12 or more employees; a mass layoff is covered if it affects either (1) 12 or more employees, where those affected represent at least 25% of employees at a work site, or (2) 50 or more employees.

Employee Notice and Benefits: The bill would require employers who relocate U.S.-based operations overseas to provide 120-day advance notice to employees, and to provide dislocated workers with limited severance pay (one week for each year of employment), a year's worth of continued health benefits, and reimbursement for retraining and relocation expenses (up to $10,000).

Access to Federal Funds: Employers who relocate operations overseas would be prohibited from receiving federal grants and loans for a period of 5 years. In addition, employers who have not relocated operations overseas would receive a preference in the awarding of federal contracts over those who have relocated operations within the past 5 years.

Enforcement: The bills enforcement mechanism would allow employees to file complaints either with the Department of Labor or in a United States district court. The Department of Labor could also file suit. Available relief would include back pay, consequential damages, liquidated damages, injunctive relief, attorneys' fees and costs.

Effective Date: The bill would be effective 60 days after enactment.

By Mr. MCCAIN (for himself, Mr. LIEBERMAN, Mr. DANFORTH, Mr. DECONCINI, Mr. REID, Mr. KASTEN, and Mr. KOHL):

S. 2312. A bill to amend the Federal Aviation Act of 1958 to enhance competition at, and the provision of essential air service with respect to high-density airports, and for other purposes; to the Committee on Commerce, Science, and Transportation.

AIRLINE COMPETITION ENHANCEMENT ACT

• Mr. MCCAIN. Mr. President, today I am introducing, along with Senators LIEBERMAN, DANFORTH, DECONCINI, REID, KASTEN, and KOHL, new legislation to address the ongoing problems in maintaining a level playing field for airline competition. I am pleased that this legislation represents a bipartisan effort to restore the competitive benefits promised by airline deregulation.

Last year I introduced S. 1628, the Airline Competition Equity Act of 1991, which was an omnibus bill designed to address the major impediments to full airline competition. Since the introduction of S. 1628, the problems with competition in the airline industry have grown even more serious.

Consider the recent history of the industry. Braniff, Eastern, Pan Am, and Midway have all folded their wings and exited as competitors. Continental, TWA, and America West are reorganiz-

ing under court protection. As of today, five airlines control nearly 80 percent of the U.S. market. As recently as 1985, just 7 years ago, it took the 10 largest airlines to control the same 80 percent of the market.

This consolidation and cutting off of competition is not what Congress had in mind when it approved the Airline Deregulation Act in 1978. As the Deregulation Act in 1978. As the Deregulation Act itself sets out in its "Declaration of Policy," the public interest requires:

> The encouragement of entry into air transportation markets by new air carriers, the encouragement of entry into additional air transportation markets by existing air carriers, and the continued strengthening of small air carriers so as to assure a more effective, competitive airline industry.

The 1978 act further states that the public interest requires:

> The prevention of unfair, deceptive, predatory, or anticompetitive practices in air transportation, and the avoidance of unreasonable industry concentration.

The actual course of airline deregulation makes a mockery of these intentions. Study after study, by the General Accounting Office, the Department of Transportation, and others have identified significant barriers to competition. These barriers to competition not only discourage the increased new entry contemplated by Congress in 1978, but they have also been a major cause of the increasing industry concentration.

The legislation I am introducing today, the Airline Competition Enhancement Act of 1992, addresses two of the key barriers to competition, airline ownership of Computer Reservation Systems [CRS] and limited access for new entry at slot-controlled airports.

This legislation was introduced last fall in the House of Representatives by JIM OBERSTAR, chairman of the Aviation Subcommittee of the House Committee on Public Works and Transportation. On the issues of CRS's and slots, it represents a compromise from the provisions in S. 1628. However, in the interest of moving quickly on the most important barriers to competition, I am endorsing and introducing this legislation.

I believe that the Airline Competition Enhancement Act of 1992 presents thoughtful, reasonable, and effective measures to improve the prospects for the success of deregulation. With the introduction today of this legislation, both the House and Senate will have a common basis from which to proceed for the remainder of the year in our efforts to enact procompetitive legislation.

To ameliorate the anticompetitive effects of CRS's, the Airline Competition Enhancement Act of 1992 includes a number of provisions. Within 1 year, CRS systems must provide equal functionality to all airline participants. Within 3 years, CRS systems must be converted to "no host" systems, in effect precluding the use of a CRS system as an internal reservation system. In addition, this legislation allows an airline to submit to an arbitrator an increase in the level of booking fees charged. The arbitrator would then rule on whether the fees charged are fair and reasonable. Finally, the legislation limits contracts between CRS systems and travel agents to 2 years, limits liquidated damages for terminating a CRS contract, and specifically prohibits minimum use requirements.

Taken together, these CRS proposals will level the playing field for airline competition. With the ending of the effects of monopoly power by the CRS owners, airlines will be able to compete for airline passengers purely on the basis of price and service. It will then be possible for new and smaller airlines to successfully market their products.

On the issue of slot controls at the Nation's four high-density airports—Chicago O'Hare, Washington National and New York Kennedy and LaGuardia—this legislation allows carriers holding less than 12 slots at a high-density airport to buy slots designated for commuter aircraft use and utilize those slots for large jet service. This minor change in the slot regulations will not increase the number of flights into any airport. I will, however, provide an opportunity to inject new competition and provide more carriers access to these critical markets. This legislation also incorporates a provision to ensure that slots are available for routes that serve communities which lost air service due to essential air service cutbacks in 1990.

During a hearing before the Senate Commerce Committee last September, the General Accounting Office testified:

> That, for the most part, the airlines with access to these [slot-controlled] airports now are the same airlines that the Civil Aeronautics Board awarded access to before deregulation in 1978.

The fact is that the Department of Transportation's theory that the buying and selling of slots would provide opportunity for new entry does not work. Either the slots are not made available or are sold in packages that preclude new entrants and limited incumbents from cracking the Government-sanctioned oligopolies at these airports.

Mr. President, passage of this legislation would be a meaningful step towards addressing the barriers to entry and competition faced by any carrier that is not one of the three, four, or five airlines that have been anointed to survive. I believe passage of this legislation is critical if we are to enjoy in the future the fruits of airline deregulation.

Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD

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

S. 2312

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 "Airline Competition Enhancement Act of 1992".

SEC. 2. USE OF COMMUTER AND AIR CARRIER SLOTS BY NEW ENTRANTS AT HIGH DENSITY AIRPORTS.

(a) IN GENERAL.—Title IV of the Federal Aviation Act of 1958 (49 U.S.C. App. 1371–1389) is amended by adding at the end the following new section:

"SEC. 420. USE OF COMMUTER AND AIR CARRIER SLOTS BY NEW ENTRANTS AT HIGH DENSITY AIRPORTS.

"(a) GENERAL RULE.—Subject to subsection (b), an air carrier having less than 12 air carrier slots to carry out air carrier operations at a high density airport may also use commuter slots as air carrier slots to carry out such operations.

"(b) LIMITATION.—An air carrier using commuter slots as air carrier slots at a high density airport pursuant to subsection (a) may not use in the aggregate more than 12—

"(1) air carrier slots, and

"(2) commuter slots as air carrier slots,

at such airport in any 24-hour period.

"(c) DEFINITIONS.—As used in this section, the following definitions apply:

"(1) HIGH DENSITY AIRPORT.—The term 'high density airport' means an airport at which the Administrator limits the number of instrument flight rule takeoffs and landings of aircraft.

"(2) SLOT.—The term 'slot' means a reservation for an instrument flight rule takeoff or landing by an air carrier of an aircraft in air transportation.

"(3) COMMUTER SLOT.—The term 'commuter slot' means a slot which may be used to carry out an instrument flight rule takeoff or landing by an aircraft described in section 93.123(c)(2) of title 14 of the Code of Federal Regulations.

"(4) AIR CARRIER SLOT.—The term 'air carrier slot' means a slot may be used to carry out an instrument flight rule takeoff or landing by an aircraft described in section 93.123(c)(1) of title 14 of the Code of Federal Regulations.".

(b) CONFORMING AMENDMENT.—The table of contents contained in the first section of the Federal Aviation Act of 1958 is amended by adding at the end of the matter relating to title IV of such Act the following:

"Sec. 420. Use of commuter and air carrier slots by new entrants at high density airports.
"(a) General rule.
"(b) Limitation.
"(c) Definitions.".

SEC. 3. COMPUTER RESERVATION SYSTEMS.

(a) IN GENERAL.—Title IV of the Federal Aviation Act of 1958 (49 U.S.C. App. 1371–1389) is further amended by adding at the end the following new section:

"SEC. 421. COMPUTER RESERVATIONS SYSTEMS.

"(a) PROHIBITIONS AGAINST VENDOR DISCRIMINATION.—

"(1) SPECIFIC.—No vendor, in the operation of its computer reservation system, may—

"(A)(i) make available to subscribers an integrated display in which information is or-

dered or emphasized based upon factors relating to air carrier identity; or

"(ii) supply information from its computer reservations system to any person creating or attempting to create such an integrated display if the vendor knows or has reason to know that such person intends to create or attempt to create such an integrated display;

"(B) make available, after the 365th day following the date of the enactment of this section, to a subscriber any subscriber transaction capability which is more functional, timely, complete, accurate, or efficient with respect to one participant than with respect to any other participant, except to the extent that the vendor offers the other participant the opportunity to participate in such capability at the same price and equivalent terms as other participants and the participant does not accept such offer;

"(C) make available, after such 365th day, to a participant any participant transaction capability which is—

"(i) more functional, timely, complete, accurate, or efficient with respect to one participant than with respect to any other participant; or

"(ii) provided through the use of telecommunications facilities, protocols, or procedure (I) which discriminate against a participant, or (II) which are not comparable to those used for providing such capability to any other participant;

except to the extent that the vendor offers the other participant the opportunity to participate in such capability at the same price and equivalent terms as other participants and the participant does not accept such offer;

"(D) charge a participant fee which is above the fee or range of fees found fair and reasonable in a decision of an arbitrator under subsection (c) with respect to such vendor unless a period of one year or more has elapsed since such decision; or

"(E) directly or indirectly prohibit a subscriber from obtaining or using any other computer reservation system.

"(2) GENERAL.—

"(A) EFFECTIVE IMMEDIATELY.—No vendor or air carrier shall require, or provide any incentives to induce, any subscriber to use information from a computer reservation system to create an integrated display in which information is ordered or emphasized based upon factors relating to air carrier identity.

"(B) EFFECTIVE AFTER 3 YEARS.—After the last day of the 3-year period beginning on the date of the enactment of this section—

"(i) no air carrier or its affiliate shall use a computer reservation system as an internal reservation system; and

"(ii) each computer reservation system shall be managed separately and autonomously from the internal reservation system of an air carrier or an affiliate of an air carrier.

"(b) SUBSCRIBER CONTRACT RESTRAINTS.—No subscriber contract—

"(1) after the 180th day following the date of the enactment of this section, shall be for a term of more than 2 years;

"(2) shall form a basis for a claim of actual or liquidated damages by the vendor in the event the subscriber cancels the contract, except as follows:

"(A) damages related to the vendor's actual cost of removing its equipment from the subscriber's premises;

"(B) the unamortized share of the vendor's actual cost of installing such equipment in the subscriber's premises exclusive of any element of capital investment in such equipment; and

"(C) other amounts owed to the vendor by the subscriber during the unexpired term of the contract, but in no event including amounts which are in the nature of a penalty for cancellation or which otherwise become due upon cancellation;

"(3) shall contain an expiration date later than the earliest expiration date of any other contract for computer reservations services or equipment between the same subscriber and vendor;

"(4) shall directly or indirectly require that the subscriber use the vendor's computer reservations system for a minimum volume of transactions, whether measured as an absolute number, a percentage of total transactions of any kind, or otherwise; or

"(5) shall be enforceable in law or equity after the 30th day following the date of the enactment of this section as to any provision to the extent that such provision is inconsistent with the requirements of this subsection.

"(c) ARBITRATION OF PARTICIPANT FEES.—

"(1) DEMAND FOR ARBITRATION.—Any participant who objects to an increased participant fee which is scheduled to take effect on or after April 15, 1991, may demand that such a fee be reviewed by an arbitrator as provided in this subsection. Review shall be instituted by such participant by submitting a demand for arbitration in writing to the Secretary of Transportation and mailing a copy thereof to the vendor imposing such fee. The Secretary shall within 30 days of receiving such demand determine whether the matter disputed is subject to arbitration under this section. The Secretary shall give timely notice of any such determination to other participants, and representatives of subscribers, who may be affected by the disputed fee and shall take such action as may be necessary to permit their participation as parties to the arbitration. The submission of a demand for arbitration under this subsection shall not act as a stay of any fee.

"(2) SELECTION OF ARBITRATOR.—If the Secretary determines that a matter is subject to arbitration under paragraph (1), the Secretary shall promptly advise the Federal Mediation and Conciliation Service and provide to the Service the names of persons eligible to participate as parties. The Service shall provide a procedure by which the parties shall agree on the selection of an arbitrator. If the parties fail to agree on an arbitrator within 30 days of the Secretary's determination that the matter disputed is subject to arbitration, the Service shall select an arbitrator.

"(3) ARBITRATION FEES.—The Secretary and the Service are authorized to make such orders and incur such expenditures as are necessary to give effect to this subsection. Arbitration fees and other common costs of the arbitration shall be borne by the parties. To assist it in the performance of its duties under this subsection, the Service may employ consultants on a contract basis.

"(4) DISPUTE RESOLUTION.—The arbitrator shall issue such orders as are necessary to the prompt and efficient resolution of the dispute and to assure the parties a fair and reasonable opportunity to be heard. After considering the submissions of the parties, the arbitrator shall render a decision as to whether the disputed participant fee exceeds that which would be fair and reasonable in light of the revenues and costs attributable to the computer reservations system. In so doing, the arbitrator shall give due regard to all revenues of the vendor, including any air transportation revenues attributable to the computer reservations system or any air carrier holding an ownership interest in the computer reservations system, and all applicable costs, including an allowance for a reasonable return on investment.

"(5) DETERMINATION OF PARTICIPANT FEE.—If the arbitrator determines the fee or charge is not fair and reasonable, the arbitrator shall specify a fee or charge, or range of fees or charges, which would be fair and reasonable. The arbitrator shall also specify an effective date for the decision. Such date shall be no earlier than the effective date of the challenged fee. The arbitrator shall issue a written statement setting forth the basis for the decision.

"(6) APPEALS.—The decision of the arbitrator shall be final and binding except that such award may be vacated by a United States court in and for the district where the award was made for any of the reasons set forth in subsections (a) through (d) of section 10 of title 9, United States Code. Unless the court otherwise orders in the interests of justice, any matter as to which an order is vacated under this paragraph shall be heard by an arbitrator as a new matter arising under this subsection.

"(7) LIMITATION OF PARTICIPANT FEES.—No participant fee shall be charged by a vendor which is above the fee or range of fees previously found fair and reasonable in an arbitration under this section with respect to such vendor unless a period of one year or more has elapsed since such decision.

"(8) PAYMENT OF ARBITRATOR FEES.—Unless the arbitrator holds otherwise, each party to an arbitration shall bear its own costs and each side shall pay one-half of the reasonable fees and costs of the arbitrator.

"(d) TREATMENT OF CERTAIN REDUCED CRS SERVICES.—If any computer reservation system service being provided to a participant in such system for a participant fee is reduced without a corresponding reduction in the participant fee, the participant fee shall be treated, for purposes of this section, as being increased by the vendor.

"(e) DEFINITIONS.—For purposes of this section, the following definitions apply.

"(1) ARBITRATOR.—The term 'arbitrator' means either an individual not associated with any party or a panel of 3 such individuals.

"(2) COMPUTER RESERVATION SYSTEM.—The term 'computer reservations system' means—

"(A) a computer system which is offered to subscribers for use in the United States and contains information on the schedules, fares, rules, or seat availability of 2 or more separately identified air carriers and provides subscribers with the ability to make reservations and to issue tickets; and

"(B) a computer system which was subject to the provisions of part 255 of title 14 of the Code of Federal Regulations (relating to computer reservation systems) on June 1, 1991.

"(3) COMPUTER SYSTEM.—The term 'computer system' means a unit of one or more computers, and associated software, peripherals, terminals, and means of information transfer, capable of performing information processing and transfer functions.

"(4) INTERNAL RESERVATION SYSTEM.—The term 'internal reservation system' means a computer system which contains information on airline schedules, fares, rules, or seat availability and is used by an air carrier to respond to inquiries made directly to the carrier by members of the public concerning such information and to make reservations arising from such inquiries.

"(5) INTEGRATED DISPLAY.—The term 'integrated display' means a computerized display of information which relates to air carrier schedules, fares, rules, or availability and is designed to include information pertaining to more than 1 separately identified air carrier. Such terms excludes the display of data from the internal reservations system of an individual air carrier when provided in response to a request by a ticket agent relating to a specific transaction.

"(6) PARTICIPANT.—The term 'participant,' as used with respect to a computer reservations system, means an air carrier which has its flight schedules, fares, or seat availability displayed through such system.

"(7) PARTICIPANT FEE.—The term 'participant fee' means any fee, charge, penalty, or thing of value contractually required to be furnished to a vendor by a participant for display of the flight schedules, fares, or seat availability of the participant through the computer reservation system of the vendor or for other computer reservation system services provided to the participant.

"(8) PARTICIPANT TRANSACTION CAPABILITY.—The term 'participant transaction capability' means any service, product, function, or facility which is provided by a computer reservation system to any participant and which is capable of benefiting the air transportation business of such participant, including the loading into the system of information on schedules, fares, rules, or seat availability, the booking or assignment of seats, the issuance of tickets or boarding passes, the retrieval of data from the system, or a means of determining the timeliness with which a participant will receive payment for air transportation sold through the system.

"(9) PROTOCOL.—The term 'protocol' means a set of rules or formats which govern the information transfer between and among computer reservation systems, participants, and subscribers.

"(10) SUBSCRIBER.—The term 'subscriber' means a ticket agent which holds itself out to the public as an independent source of information about, or of tickets for, air transportation and uses a computer reservation system to carry out such functions.

"(11) SUBSCRIBER CONTRACT.—The term 'subscriber contract' means an agreement, and any amendment thereto, between a ticket agent and a vendor for the furnishing of computer reservations services to such subscriber.

"(12) SUBSCRIBER TRANSACTION CAPABILITY.—The term 'subscriber transaction capability' means the capability of a ticket agent through a computer reservations system to view information on airline schedules, fares, rules, and seat availability or to book space, assign seats, or issue tickets or boarding passes for air transportation to be provided by air carriers.

"(13) VENDOR.—The term 'vendor' means any person who owns, controls, or operates a computer reservations system.".

(b) CONFORMING AMENDMENT TO TABLE OF CONTENTS.—The table of contents contained in the first section of the Federal Aviation Act of 1958 is amended by adding at the end of the matter relating to title IV of such Act the following:

"Sec. 421. Computer reservations systems.
"(a) Prohibitions against vendor discrimination.
"(b) Subscriber contract restraints.
"(c) Arbitration of participant fees.
"(d) Treatment of certain reduced CRS services.
"(e) Definitions.".

SEC. 4. PROTECTION OF SMALL COMMUNITY AIRLINE PASSENGERS.

(a) ACCESS TO HIGH DENSITY AIRPORTS.—Section 419(b) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1389(b)) is amended by adding at the end the following new paragraph:

"(10) ACCESS TO HIGH DENSITY AIRPORTS.—

"(A) NONCONSIDERATION OF SLOT AVAILABILITY.—In determining what is basic essential air service and in selecting an air carrier to provide such service, the Secretary shall not give consideration to whether slots at a high density airport are available for providing such service.

"(B) MAKING SLOTS AVAILABLE.—If basic essential air service is to be provided to and from a high density airport, the Secretary shall ensure that a sufficient number of slots at such airport are available to the air carrier providing or selected to provide such service. If necessary to carry out the objectives of this subsection, the Secretary shall take such action as may be necessary to have such slots transferred or otherwise made available to the air carrier; except that the Secretary shall not be required to make slots available at O'Hare International Airport in Chicago, Illinois, if the number of slots available for basic essential air service to and from such airport is at least 132 slots.".

(b) TRANSFERS OF SLOTS AT HIGH DENSITY AIRPORTS.—Section 419(b)(7) of such Act (49 U.S.C. App. 1489(b)(7)) is amended—

(1) by striking "Transfer of operational authority at certain" and inserting "Transfers of slots at";

(2) by striking "an airport at which the Administrator limits the number of instrument flight rule takeoffs and landing of aircraft" and inserting "a high density airport";

(3) by striking "operational authority" and inserting "slots";

(4) by striking "has to conduct a landing or takeoff" and inserting "have"; and

(5) by striking "such authority" the first place it appears and inserting "such slots";

(6) by striking "such authority is" and inserting "such slots are"; and

(7) by inserting "basic essential" after "used to provide".

(c) DEFINITIONS.—Section 419(k) of such Act (49 U.S.C. App. 1389(k)) is amended by adding at the end the following new paragraphs:

"(6) HIGH DENSITY AIRPORT.—The term 'high density airport' means an airport at which the Administrator limits the number of instrument flight rule takeoffs and landings of aircraft.

"(7) SLOT.—The term 'slot' means a reservation for an instrument flight rule takeoff or landing by an air carrier of an aircraft in air transportation.".●

● Mr. LIEBERMAN. Mr. President, today I am pleased to introduce, with my colleagues Senators DANFORTH, MCCAIN, KOHL, KASTEN, DECONCINI, and REID the Airline Competition Enhancement Act of 1992. Two weeks ago, I chaired a hearing of the Subcommittee on Consumer and Environmental Affairs to examine whether the recent closings and mergings in the airline industry meant that competition was decreasing or would soon decline to such an extent that consumers would be faced with higher prices and fewer choices. I became convinced after listening to the witnesses, that competition in the industry, while vibrant in some markets, was at a risk in others.

This legislation is intended to address the two factors identified at the hearing as having particularly strong anticompetitive effects in the industry: the computer reservation systems used by travel agents to book flights for their customers which are owned by the two dominant airlines, and limits on takeoff and landing slots at high density airports. In my view, in order to promote competition and protect the benefits of deregulation that consumers have enjoyed since 1978, legislation action is warranted. In order to speed congressional action, the legislation we are introducing today is identical to that already introduced by Congressman OBERSTAR in the House of Representatives.

The case for removing high-technology bias and certain discriminatory practices in airline computer reservation systems is particularly persuasive. As one of the witnesses at our hearing stated, the airline industry is rapidly coming to resemble the CRS industry. That spells bad news for consumers. The two largest CRS systems in the United States are owned or co-owned, respectively, by the two largest airlines and these systems together account for 71 percent of all airline ticket sales.

The General Accounting Office has identified the issue of CRS dominance by the two major airline owners and discrimination against other carriers who must rely on those systems as one of the major anticompetitive factors in the industry. The Department of Transportation itself has been working on a rulemaking for the past 2 years to address some of the problems caused by the reliance of travel agents and smaller airlines on the CRS systems owned and operated by the two largest carriers. At our hearing, however, the Department admitted that it was unlikely to meet its May 1992 completion date for the regulation.

As a Senator who prefers to let a free, competitive market govern itself where it exists, I remain hopeful that once we make these changes, we will have a vigorously competitive airline action to ensure that competition is fair, I am concerned that we will see more and more airline failures and consumers will be paying higher and higher fares.●

By Mr. JEFFORDS:

S. 2313. A bill to amend the Internal Revenue Code of 1986 to provide the American taxpayer with an annual report on the financial status of the Federal Government; to the Committee on Finance.

ANNUAL REPORT TO THE AMERICAN TAXPAYER ACT

● Mr. JEFFORDS. Mr. President, soon, the Senate will begin consideration of an economic recovery package. We'll spend considerable time on the floor of the Senate debating the merits of each

party's proposals. There will probably be some partisan bickering, but we will pass an economic growth bill. Meanwhile, the deficit will continue to grow.

We'll help achieve short-term growth, while our long-term financial strength continues to erode. Many economists and the press have for years derided American corporations for their short-term planning horizons. Financial planning consists of trying to make the next quarterly report look good. Thousands of American jobs have been lost because of our shortsightedness. How many more jobs will be lost because of the shortsightedness of the Federal Government?

Publicly owned corporations are required to give their shareholders an annual report outlining the financial situation of the company. This report allows shareholders to make some educated decisions about the management of the company. Is the American taxpayer entitled to any less. I don't think so.

Thus today, Mr. President, I am introducing a bill to require the Federal Government to provide an annual report to the Government's shareholders, the American taxpayer. The title of this legislation is somewhat long, the Annual Report to the American Taxpayer Act, but I think of it as taxpayer right to know. We have worker right to know, community right to know, why not recognize the taxpayer's right to know.

This bill is very simple. Every year, the Internal Revenue Service sends out tax forms and booklets to millions of taxpayers. This bill requires the IRS to include some information about the financial status of the Federal Government. The information to be provided in this report builds upon information required under the budget agreement. The budget agreement requires the IRS to present pie charts showing how tax dollars are spent. I believe this requirement is excellent. Taxpayers should know how tax dollars are spent. Taxpayers should also be told every year how we are managing their money. I believe the more they know, the more pressure the taxpayers will put on their elected officials to put America back on a solid financial footing. I urge my colleagues to support this legislation.●

By Mr. JOHNSTON (by request):

S. 2314. A bill to correct an error in Public Law 100–425 relating to the reservation for the Confederated Tribes of the Grand Ronde Community of Oregon; to the Committee on Energy and Natural Resources.

RESERVATION OF THE CONFEDERATED TRIBES OF THE GRAND RONDE COMMUNITY OF OREGON

● Mr. JOHNSTON. Mr. President, at the request of the Department of the Interior, I send to the desk a bill "To correct an error in Public Law 100–425 relating to the reservation for the Confederated Tribes of the Grand Ronde Community of Oregon."

I ask unanimous consent that the bill and the communications which accompanied the proposal be printed in the CONGRESSIONAL RECORD.

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

S. 2314

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 4(b) of the Act of September 9, 1988 (102 Stat. 1594, Public Law 100–425), is amended by deleting from the 47th item listed thereunder the legal description and inserting in lieu thereof under the respective headings South, West, Section, Subdivision, Acres:

"3 8 7 Lots 1–4 SE¼NE¼, E½SW¼ 185.80".

DEPARTMENT OF THE INTERIOR,
Washington, DC, January 28, 1992.

Hon. J. DANFORTH QUAYLE,
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: Enclosed is a draft bill, "To correct an error in Public Law 100–425 relating to the establishment of a reservation for the Confederated Tribes of the Grand Ronde Community of Oregon, and for other purposes.

We recommend that the draft bill be introduced, referred to the appropriate committee for consideration, and enacted.

The Act of September 9, 1988, (102 Stat. 1594, Public Law 100–425) provided for the establishment of a reservation for the Confederated Tribes of the Grand Ronde Community of Oregon. As described and redesignated by section 1(c) of that Act, the reservation lands are a single tract in Yamhill County, Oregon, held in trust by the United States for the use and benefit of such tribes and tribal members. The tract consists of 9,811.32 acres previously managed by the Bureau of Land Management. The lands were revested Oregon and California Railroad (O&C) and reconveyed Coos Bay Wagon Road (CBW) grant lands, managed under the Act of August 23, 1937 (43 U.S.C. 1181(a), *et seq.*).

To offset the revenue lost by Yamhill County production from the redesignated O&C and CBW lands lost by Yamhill County, section 4(b) of P.L. 100–425 described and redesignated 12,035.32 acres of public domain land in Yamhill and Tillamook Counties in Oregon considered to be comparable in production of timber and annual revenues. This land would be managed in the future as O&C lands. All moneys received from or on account of those lands are to be deposited in the Treasury of the United States in the special fund designated "Oregon and California Land Grant Fund" and distributed as provided in the Act of August 28, 1937.

A known error exists in the land description in the 47th item under Section 4(b) of Public Law 100–425. The language of the draft bill is intended to correct this error. The acreage shown on this line is correct as are the total acreages in each section of Public Law 100–425. The draft bill will change only the written description, not the acreage.

The Office of Management and Budget has advised that there is no objection to the submission of this proposed legislation from the standpoint of the Administration's program.

Sincerely,

RICHARD ROLDAN,
Assistant Secretary.●

By Mr. JOHNSTON (for himself and Mr. WALLOP) (by request):

S. 2315. A bill to enhance the law enforcement authority of the Secretary of the Interior on public lands, and for other purposes; to the Committee on Energy and Natural Resources.

LAW ENFORCEMENT AUTHORITY OF THE SECRETARY OF THE INTERIOR ON PUBLIC LANDS

● Mr. JOHNSTON. Mr. President, Senator WALLOP and I are today introducing at the request of the Department of the Interior a bill "To enhance the law enforcement authority of the Secretary of the Interior on public lands, and for other purposes".

I ask unanimous consent that the bill and the communication which accompanied the proposal be printed in the CONGRESSIONAL RECORD.

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

S. 2315

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

"SECTION 1. With respect to the public lands, as defined in subsection 103(e) of the Federal Land Policy and Management Act of 1976 (90 Stat. 2746, 43 U.S.C. 1702(e)), the Secretary of the Interior is authorized to conduct investigations of violations of, and to enforce the provisions of, subsection 401(a) of the Controlled Substances Act (21 U.S.C. 841(a)) with regard to violations thereof on the public lands.

"SEC. 2. Nothing in this Act shall diminish in any way the authority of the Secretary of the Interior under any other statute.".

DEPARTMENT OF THE INTERIOR,
Washington, DC, January 28, 1992.

Hon. J. DANFORTH QUAYLE,
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: Enclosed is a proposed bill "To enhance the law enforcement authority of the Secretary of the Interior on public lands, and for other purposes."

We recommend that the proposal be introduced, referred to the appropriate committee, and enacted.

The draft bill would augment and improve the Bureau of Land Management's (BLM) law enforcement program by providing more effective authority to counter illegal drug activities on the public lands through enforcement of provisions of section 401(a) of the Controlled Substances Act (21 U.S.C. 841(a)). The authority sought is limited to enforcement in those situations in which a violation of subsection 401(a) has taken place on public lands. Subsection 401(a) contains comprehensive prohibitions against manufacture, distribution, dispensing, or possession with intent to manufacture, distribute, or dispense a controlled substance. Similar prohibitions pertain to "counterfeit substances".

The BLM has been experiencing and continues to experience an alarming proliferation of illegal drug activity on the public lands. Due to the vastness of the lands and their isolated nature, the limited law enforcement presence on them, and the specific language of the laws prohibiting these illegal activities, public lands are increasingly attractive to persons seeking to engage in all types of illegal drug operations.

Law enforcement officers of the BLM have law enforcement authority pursuant to sec-

tion 303 of the Federal Land Policy and Management Act of 1976 (FLPMA) (43 U.S.C. 1733). That section authorizes the Secretary of the Interior (Secretary) to enforce Federal laws and regulations relating to the public lands and their resources. The BLM's law enforcement authority includes authority to utilize fully trained Federal law enforcement officers who may carry firearms, make arrests, conduct search and seizure operations, execute and serve warrants, and carry out law enforcement functions.

In view of the authority and responsibility in FLPMA, it is clear that the BLM's law enforcement officers can enforce several provisions of the Controlled Substances Act. The proscriptions in that law, including those in subsections 401(b) (5) and (6) and subsection 401(c) (21 U.S.C. 841 (b) and (c)) provide specific penalties for certain narrowly defined violations which take place on Federal land or property. For example, subsection 401(b)(5) provides that any person who violates subsection 401(a) by "cultivating" a controlled substance on Federal property shall be imprisoned as provided in that subsection, and fined amounts specified therein.

Since the provision in subsection 401(b)(5) pertaining to cultivating a controlled substance on Federal property is specific to Federal lands, the Office of the Solicitor has concluded that this provision constitutes a Federal law pertaining to the public lands and their resources within the meaning of section 303 of FLPMA, and thus is a Federal law that may be enforced by the BLM's law enforcement officers. This same reasoning applies to other provisions specifically relating to Federal property or Federal land.

However, since subsection 401(a) itself does not pertain solely and specifically to Federal property, it has been the view of the Department that the BLM's law enforcement authority is not so clearly applicable to these 401(a) violations. Therefore, the same BLM officers who are authorized to enforce subsection 401(b)(5) and the other provisions specifically applicable to Federal land or property, currently do not enforce the comprehensive prohibitions in subsection 401(a) against manufacture, dispensing, and distribution of illegal drugs even when these activities occur on the public lands.

Moreover, due to differing points of view in the larger Federal law enforcement community concerning the scope of the BLM's authority to enforce section 401, the BLM officers are often met with conflicting expectations from various officials as they deal with drug violations on the public lands. This has resulted in confusion during the processing of cases through the system.

Not only has cultivation of controlled substances increased, but illegal drug activity on public lands has now expanded to include the manufacturing and trafficking in substances such as cocaine and methamphetamines. According to news reports, methamphetamines will post an even more threatening situation in the coming years as they are easy and inexpensive to produce. In addition, Federal asset seizure and forfeiture laws may be driving violators onto the public lands to avoid the full impact of these laws. If convicted of Federal drug violations, illegal growers who operate on private lands may be subjected to seizure of their personal and real property. If convicted of the same violations on Federal lands, their personal risks and losses are lessened.

The enclosed draft bill would respond to this situation by clearly authorizing the Secretary to enforce subsection 401(a) of the Controlled Substances Act when violations take place on public lands. We note that similar authority was included in the National Forest System Drug Control Act of 1986 (16 U.S.C. 559c) to authorize law enforcement officers of the Forest Service to enforce section 401.

Use of the Federal lands for any illegal drug activities, whether or not they involve cultivation of a controlled substance, cannot be tolerated. Failure to address this breach in the BLM's enforcement authority inevitably will result in compromising the Secretary's ability to cooperate fully in the President's "War on Drugs." In addition, it is clear that use of the public lands for these illegal purposes negatively affects the Secretary's stewardship of the lands, displaces lawful endeavors, and poses a threat to the safety of lawful users of the public lands.

The Office of Management and Budget has advised that there is no objection to the submission of this proposed legislation from the standpoint of the Administration's program.

Sincerely,

RICHARD ROLDAN,
Assistant Secretary.●

By Mr. JOHNSTON (for himself and Mr. WALLOP) (by request):

S. 2316. A bill to clarify authority of the Secretary of the Interior to cooperate with non-Federal entities in the conduct of research concerning the National Park System, and for other purposes; to the Committee on Energy and Natural Resources.

COOPERATION WITH NON-FEDERAL ENTITIES IN CONDUCTING RESEARCH CONCERNING THE NATIONAL PARK SYSTEM

● Mr. JOHNSTON. Mr. President, Senator WALLOP and I are today introducing at the request of the Department of the Interior a bill "To clarify authority of the Secretary of the Interior to cooperate with non-Federal entities in the conduct of research concerning the National Park System, and for other purposes."

I ask unanimous consent that the bill and the communication which accompanied the proposal be printed in the CONGRESSIONAL RECORD.

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

S. 2316

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

That the Act entitled "An Act to improve the administration of the National Park System by the Secretary of the Interior, and to clarify the authorities applicable to the system, and for other purposes," approved August 18, 1970 (84 Stat. 826), as amended (16 U.S.C. 1a–2–7), is further amended by changing the period after paragraph (i) in section 3 to a semicolon and adding the following paragraph to section 3:

"(j) enter into cooperative agreements with public or private educational institutions, States and their political subdivisions, or any other public or private person or other entity for the purpose of developing adequate, coordinated, cooperative research and training programs concerning the resources of the National Park System, and, pursuant to such agreements, to accept from and make available to the cooperator such technical and support staff, financial assistance, supplies and equipment, facilities, and administrative services relating to cooperative research units as the Secretary deems appropriate.".

DEPARTMENT OF THE INTERIOR,
Washington, DC, February 11, 1992.

Hon. J. DANFORTH QUAYLE,
President of the Senate, Washington, DC.

DEAR MR. PRESIDENT: Enclosed is a draft bill, "To clarify authority of the Secretary of the Interior to cooperate with non-Federal entities in the conduct of research concerning the National Park System, and for other purposes."

We recommend that the bill be introduced, referred to the appropriate committee for consideration, and enacted.

The National Park Service (NPS) of this Department, as part of its management responsibilities, regularly conducts scientific research with respect to natural, cultural, and archaeological resources, and their use and enjoyment by the public, within the National Park System. In addition to the research conducted directly by the Service, considerable, coordinated research is done with non-Federal personnel through cooperative agreements establishing cooperative park study units (CPSUs) with colleges and universities for research that is of mutual benefit and interest to the NPS and the cooperating institution. Existing authorities (16 U.S.C. 17j–2(e) and 460L–1(f)) relied on by the NPS, however, are general in nature referring to educational work and research that relate to outdoor recreation, and have resulted in disparate interpretation and implementation for cooperative research and training programs.

The enclosed draft bill would clarify the Park Service's authority to establish CPSUs and accept and contribute staff services, financial assistance, supplies and equipment, facilities and administrative services pursuant to cooperative agreements.

NPS cooperative research efforts have been established at 18 institutions. In 1989, approximately $2.5 million in appropriated funds were expended by the NPS at these 18 institutions for research. The benefits of CPSUs to the Service include use of the cooperating institution's library, availability of computer and laboratory facilities, and the services of graduate students who perform extensive research on park resources. There is also an additional benefit of professional enhancement, when NPS staff have the opportunity to participate in giving lectures and assisting in teaching duties at the cooperating colleges and universities. Each of these cooperative efforts usually serves several parks and provides a level of research support that a single park could not afford.

The effect of the enclosed draft bill, if enacted, would be to enhance the management authorities of the NPS by clarifying the authority of the Service to conduct cooperative research on park resources. Similar authority exists at 16 U.S.C. 753a for cooperative research and training programs conducted by the U.S. Fish and Wildlife Service, the National Oceanic and Atmospheric Administration, and the National Marine Fisheries Service.

No increases in the expenditure of Federal funds will be occasioned by the enactment of the enclosed draft bill; it is solely clarifying in nature.

The Office of Management and Budget advises that there is no objection to the submission of this legislative proposal to Con-

gress from the standpoint of the Administration's program.

Sincerely,

MIKE HAYDEN,
Assistant Secretary.●

By Mr. SEYMOUR:

S.J. Res. 264. A joint resolution designating May 1992 as "National Community Residential Care Month"; to the Committee on the Judiciary.

NATIONAL COMMUNITY RESIDENTIAL CARE MONTH

● Mr. SEYMOUR. Mr. President, I rise today to introduce a Senate joint resolution recognizing the month of May 1992 as "National Community Residential Care Month."

Community residential care is one of our Nation's most important health care services that reaches the elderly, disabled and mentally ill in cities across the country. These health care facilities provide services in an environment not unlike the home, to ensure the comfort and support these members of our community desperately need.

The ability to provide quality care begins with the hiring of a professional staff. Those seeking a career in the health care field must first complete education courses and advanced training before receiving a license, to ensure a professional environment for the residents. In addition, potential staff members undergo criminal background checks by both the State department of social services as well as the State law enforcement agencies prior to employment eligibility. Individuals who work in this field are compassionate, educated, and dedicated to those whom they serve and will continue to do so with our support and recognition.

The ability of community care facilities to provide safe, quality health care to those who cannot care for themselves has reached a critical level. During these times of recession and budget restrictions, we should not be seeking ways to reduce the availability of health care, but ways to improve it for every citizen, young and old.

Therefore, I come before you to seek support for recognizing "National Community Residential Care Month" to help our communities acknowledge the importance and the growing need for quality health care, and to commend those dedicated individuals who care for the elderly, disabled and mentally ill of our Nation.●

By Mr. SEYMOUR:

S.J. Res. 265. Joint resolution to designate October 9, 1992, as "National School Celebration of the Centennial of the Pledge of Allegiance and the Quincentennial of the Discovery of America by Columbus Day"; to the Committee on the Judiciary.

NATIONAL SCHOOL CELEBRATION OF THE CENTENNIAL OF THE PLEDGE OF ALLEGIANCE AND THE QUINCENTENNIAL OF THE DISCOVERY OF AMERICA BY COLUMBUS DAY

● Mr. SEYMOUR. Mr. President, I rise today to introduce a joint resolution in recognition of the Grand National School Celebration of the Pledge of Allegiance and the Columbus Quincentenary.

Each morning, in classrooms across the country, children begin the day with the Pledge of Allegiance to the Flag, the symbol of our Nation's heritage. It is a time-honored tradition that echoes our country's stand for freedom, democracy, equality and opportunity.

The Pledge of Allegiance ceremony began in October 1892, the year President Benjamin Harrison issued a proclamation commemorating the 400th anniversary of Columbus' discovery of America. In light of this celebration, Mr. Francis Bellamy wrote the "Pledge of Allegiance to the Flag" to be recited by citizens nationwide.

Today, as we seek new methods in teaching and face the challenges of educational reform, let us take this opportunity to educate our youth in the history of our Nation. Through active participation in the classroom, students will learn the fundamental principle of democracy, and the ideologies of allegiance, republic, indivisible, and justice.

To assist the teachers and schools participating in this celebration, teaching materials will be provided and distributed to schools with consideration to the number of students, the classroom size, and the school's capability to accompany the various program activities. To provide the students with a unique historical perspective, materials will be based on the original celebration activities of 1892 which included a flag-raising ceremony defining flag etiquette, the Presidential proclamation, and "Ode to Columbus" essay activity, and a pledge pageant based on the history of Columbus and native Americans, and the Pledge of Allegiance song with original text.

Through the hard work of volunteers Paula Burton and Jolane Jolley, this national school celebration is an educational opportunity focusing on the objectives of increasing patriotism in citizenship, while teaching the fundamental principle of democracy to our youth in grades K–12.

Traditions continue only if they are passed from generation to generation. Therefore, we must continue educating our children of the heritage of our country, and the principles of democracy, freedom, and opportunity for which we stand as a Nation. Mr. President, distinguished colleagues, I ask for your support in recognizing the "Grand National School Celebration of the Pledge of Allegiance and Columbus Quincentenary Day" resolution.●

By Mr. THURMOND:

S.J. Res. 266. Joint resolution designating the week of April 26–May 2, 1992 as "National Crime Victims' Rights Week"; to the Committee on the Judiciary.

NATIONAL CRIME VICTIMS' RIGHTS WEEK

Mr. THURMOND. Mr. President, I am pleased to introduce today a joint resolution which designates the week of April 26–May 2, 1992, as "National Crime Victims' Rights Week."

It is a sad legacy that over the past few years, nearly 35 million Americans have been victimized annually by criminal acts; 6 million individuals per year are raped, robbed, beaten or murdered. The impact of crime is devastating to innocent victims and their families. In addition to the physical injury and the financial losses, the victim is further scarred with the emotional loss of one's sense of dignity, security, and trust in other human beings. It is disturbing that the likelihood of becoming a victim of violent crime is now greater than that of being injured in an automobile accident.

Further compounding the pain and anguish victims endure has been a historical insensitivity to their plight. For too long, our criminal justice system focused on the rights of offenders and paid little or no attention to the rights and needs of those victims who suffered physically, emotionally, and financially. The criminal justice system has often times ignored the rights of victims before making crucial decisions regarding their cases or failed to notify them when a defendant had been released on bail. While the system offered legal representation and other forms of aid to the accused, it offered minimal assistance to the victim in recovering from the tremendous burden resulting from victimization.

However, since 1982, when the President's Task Force on Victims of Crime helped focus greater public attention on the rights and needs of these individuals, great progress has been made in efforts to assist crime victims and their families. The Federal Government has been working diligently with the States to encourage the development and expansion of programs for crime victims. Nearly every State, as well as the Federal Government, has passed legislation to ensure the fair treatment of crime victims. The Crime Control Act of 1990 set forth, for the first time, a Federal Crime Victims' Bill of Rights. Forty-five States also have a Crime Victims' Bill of Rights to ensure that victims' needs are considered during criminal proceedings. Hopefully, through the continued efforts of all levels of government, private organizations, and concerned citizens, the trauma suffered by the innocent victims of crime will be eased.

Mr. President, I urge my colleagues to join with me and support this joint resolution. I ask unanimous consent to

have the text of this joint resolution printed in the RECORD.

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

S.J. RES. 266

Whereas, almost 35,000,000 individuals in the United States are victimized by crime each year, with 6,000,000 falling prey to violence;

Whereas, survivors of violent crime need and deserve quality programs and services to help them recover from the devastating psychological, physical and emotional hardships resulting from their victimization;

Whereas, 1992 marks the twenty-year anniversary of combined efforts from crime victims, victim service providers, criminal justice officials, and concerned citizens to make victims' rights and services a reality in the Nation, and the ten-year anniversary of the historic passage of the Federal Victim and Witness Protection Act of 1992 by the United States Congress;

Whereas, the road to victim justice has been paved over the past two decades with the commitment, perseverance and spirit of million of survivors who proudly carry the banner of justice in our Nation;

Whereas, to fight the continuing threat of crime and victimization, all Americans must join together, committing their individual and collective resources to crime prevention and victim services: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That April 26–May 2, 1992, is designated as "National Crime Victims' Rights Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe the week with appropriate ceremonies and activities.

By Mr. D'AMATO:

S.J. Res. 267. Joint resolution to designate March 17, 1992, as "Irish Brigade Day"; to the Committee on the Judiciary.

IRISH BRIGADE DAY

• Mr. D'AMATO. Mr. President, I ask unanimous consent that the text of this joint resolution be printed in the RECORD.

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

S.J. RES. 267

Whereas the United States of America is a nation of immigrants and the contributions of Irish immigrants and their descendants to the defense of the public liberty has been a hallmark of Irish Americans;

Whereas the officers and men of the Irish Brigade in the service of France volunteered to fight for American liberty in 1775, three years before the entry of France in our War for Independence;

Whereas the officers and men of the regiment of Walsh of the Irish Brigade volunteered to serve as American continental Marines with John Paul Jones on the "Bonhomme Richard";

Whereas the Irish Brigade fought for American liberty in our war for Independence at Savannah, Georgia and Irish troops at Glouster Point, Virginia under Count Arthur Dillon of the Legion of Lauzin in the Army of Rochambeau closed the ring around Cornwallis at Yorktown, thus assuring victory for Washington and independence for the United States;

Whereas throughout history, the Irish military and naval contribution to the United States has included many noted heroes;

Whereas the predominately Irish Thompson Battalion of Pennsylvania became the keystone of Washington's Continental Army and under Anthony Wayne, the Infantry Line of Pennsylvania was known as the "Line of Ireland";

Whereas the United States Army Command and General Staff School at Fort Leavenworth, Kansas in its hallway of Combat Leaders, has chosen Colonel William "Wild Bill" Donovan of the 69th Regiment of New York (165th U.S. Infantry) as "the epitome of combat leadership" in World War I; and,

Whereas the Irish Americans continue the tradition of honorable military service in the defense of the United States: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That March 17, 1992 is designated as "Irish Brigade Day", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities.•

ADDITIONAL COSPONSORS

S. 466

At the request of Mr. GRASSLEY, the name of the Senator from Washington [Mr. GORTON] was added as a cosponsor of S. 466, a bill to amend the Internal Revenue Code of 1986 to provide for a renewable energy production credit, and for other purposes.

S. 588

At the request of Mr. MITCHELL, the name of the Senator from Minnesota [Mr. WELLSTONE] was added as a cosponsor of S. 588, a bill to amend the Internal Revenue Code of 1986 with respect to the tax treatment of certain cooperative service organizations of private and community foundations.

S. 765

At the request of Mr. CHAFEE, his name was added as a cosponsor of S. 765, a bill to amend the Internal Revenue Code of 1986 to exclude the imposition of employer social security taxes on cash tips.

S. 792

At the request of Mr. LAUTENBERG, the name of the Senator from Pennsylvania [Mr. WOFFORD] was added as a cosponsor of S. 792, a bill to reauthorize the Indoor Radon Abatement Act of 1988 and for other purposes.

S. 873

At the request of Mr. BOREN, the names of the Senator from Montana [Mr. BAUCUS], the Senator from Florida [Mr. GRAHAM], and the Senator from Arkansas [Mr. PRYOR] were added as cosponsors of S. 873, a bill to amend the Internal Revenue Code of 1986 to clarify the treatment of interest income and rental expense in connection with safe harbor leases involving rural electric cooperatives.

S. 1288

At the request of Mr. SMITH, the name of the Senator from North Carolina [Mr. HELMS] was added as a cosponsor of S. 1288, a bill to rescind unauthorized appropriations for fiscal year 1991.

S. 1725

At the request of Mr. LAUTENBERG, his name was added as a cosponsor of S. 1725, a bill to authorize the minting and issuance of coins in commemoration of the quincentenary of the first voyage to the New World by Christopher Columbus and to establish the Christopher Columbus Quincentenary Scholarship Foundation and an Endowment Fund, and for related purposes.

S. 1862

At the request of Mr. GRAHAM, the name of the Senator from South Dakota [Mr. DASCHLE] was added as a cosponsor of S. 1862, a bill to amend the National Wildlife Refuge System Administration Act of 1966 to improve the management of the National Wildlife Refuge System, and for other purposes.

S. 1931

At the request of Mr. STEVENS, the names of the Senator from South Dakota [Mr. DASCHLE] and the Senator from Florida [Mr. MACK] were added as cosponsors of S. 1931, a bill to authorize the Air Force Association to establish a memorial in the District of Columbia or its environs.

S. 2167

At the request of Mr. SEYMOUR, the names of the Senator from Maryland [Mr. SARBANES], the Senator from Pennsylvania [Mr. WOFFORD], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Pennsylvania [Mr. SPECTER], and the Senator from New Jersey [Mr. BRADLEY] were added as cosponsors of S. 2167, a bill to restrict trade and other relations with the Republic of Azerbaijan.

S. 2169

At the request of Mr. LAUTENBERG, the name of the Senator from Nevada [Mr. REID] was added as a cosponsor of S. 2169, a bill making supplemental appropriations for programs in the fiscal year that ends September 30, 1992, that will provide near-term improvements in the Nation's transportation infrastructure and long-term benefits to those systems and to the productivity of the U.S. economy.

S. 2201

At the request of Mr. BROWN, the names of the Senator from New York [Mr. D'AMATO] and the Senator from New York [Mr. MOYNIHAN] were added as cosponsors of S. 2201, a bill to authorize the admission to the United States of certain scientists of the Commonwealth of Independent States as employment-based immigrants under the Immigration and Nationality Act, and for other purposes.

S. 2204

At the request of Mr. DURENBERGER, the names of the Senator from North Dakota [Mr. CONRAD] and the Senator from Indiana [Mr. LUGAR] were added

as cosponsors of S. 2204, a bill to amend title 23, United States Code, to repeal the provisions relating to penalties with respect to grants to States for safety belt and motorcycle helmet traffic safety programs.

S. 2236

At the request of Mr. SIMON, the names of the Senator from Alaska [Mr. MURKOWSKI], the Senator from Oregon [Mr. PACKWOOD], the Senator from Pennsylvania [Mr. WOFFORD], and the Senator from Hawaii [Mr. AKAKA] were added as cosponsors of S. 2236, a bill to amend the Voting Rights Act of 1965 to modify and extend the bilingual voting provisions of the act.

S. 2244

At the request of Mr. THURMOND, the names of the Senator from North Dakota [Mr. CONRAD], the Senator from New Hampshire [Mr. SMITH], the Senator from New York [Mr. MOYNIHAN], the Senator from Alaska [Mr. STEVENS], the Senator from Wisconsin [Mr. KASTEN], the Senator from Wyoming [Mr. SIMPSON], the Senator from Virginia [Mr. WARNER], and the Senator from Colorado [Mr. BROWN] were added as cosponsors of S. 2244, a bill to require the construction of a memorial on Federal land in the District of Columbia or its environs to honor members of the Armed Forces who served in World War II and to commemorate United States participation in that conflict.

S. 2250

At the request of Mr. SASSER, the name of the Senator from New Mexico [Mr. BINGAMAN] was added as a cosponsor of S. 2250, a bill to allow rational choice between defense and domestic discretionary spending.

S. 2278

At the request of Mr. SHELBY, the names of the Senator from Idaho [Mr. SYMMS], the Senator from Alaska [Mr. STEVENS], and the Senator from New Hampshire [Mr. SMITH] were added as cosponsors of S. 2278, a bill to amend section 801 of the act entitled "An Act to establish a code of law for the District of Columbia," approved March 3, 1901, to require life imprisonment without parole, or death penalty, for first degree murder.

S. 2305

At the request of Mr. THURMOND, the name of the Senator from Wisconsin [Mr. KASTEN] was added as a cosponsor of S. 2305, a bill to control and prevent crime.

SENATE JOINT RESOLUTION 139

At the request of Mr. THURMOND, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of Senate Joint Resolution 139, a joint resolution to designate October 1991, as "National Lock-In-Safety Month".

SENATE JOINT RESOLUTION 166

At the request of Mr. DOLE, the names of the Senator from South Carolina [Mr. HOLLINGS], the Senator from Nevada [Mr. REID], and the Senator from Connecticut [Mr. LIEBERMAN] were added as cosponsors of Senate Joint Resolution 166, a joint resolution designating the week of October 6 through 12, 1991, as "National Customer Service Week".

SENATE JOINT RESOLUTION 231

At the request of Mr. THURMOND, the names of the Senator from Virginia [Mr. WARNER], the Senator from Missouri [Mr. BOND], the Senator from Idaho [Mr. CRAIG], the Senator from Rhode Island [Mr. PELL], the Senator from Hawaii [Mr. AKAKA], the Senator from Minnesota [Mr. WELLSTONE], and the Senator from Louisiana [Mr. JOHNSTON] were added as cosponsors of Senate Joint Resolution 231, a joint resolution to designate the month of May 1992, as "National Foster Care Month".

SENATE JOINT RESOLUTION 234

At the request of Mrs. KASSEBAUM, the names of the Senator from Rhode Island [Mr. PELL], the Senator from Massachusetts [Mr. KERRY], the Senator from North Carolina [Mr. SANFORD], the Senator from Pennsylvania [Mr. WOFFORD], the Senator from North Carolina [Mr. HELMS], the Senator from Vermont [Mr. JEFFORDS], and the Senator from Maryland [Mr. SARBANES] were added as cosponsors of Senate Joint Resolution 234, a joint resolution expressing the sense of the Congress regarding the Government of Kenya's November 14 through 16, 1991, suppression of the democratic opposition and suspending economic and military assistance for Kenya.

SENATE JOINT RESOLUTION 236

At the request of Mr. D'AMATO, the names of the Senator from California [Mr. SEYMOUR] and the Senator from Connecticut [Mr. LIEBERMAN] were added as cosponsors of Senate Joint Resolution 236, a joint resolution designating the third week in September 1992 as "National Fragrance Week".

SENATE JOINT RESOLUTION 248

At the request of Mr. CONRAD, the names of the Senator from Georgia [Mr. NUNN] and the Senator from Oklahoma [Mr. BOREN] were added as cosponsors of Senate Joint Resolution 248, a joint resolution designating August 7, 1992, as "Battle of Guadalcanal Remembrance Day".

SENATE JOINT RESOLUTION 257

At the request of Mr. LAUTENBERG, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of Senate Joint Resolution 257, a joint resolution to designate the month of June 1992, as "National Scleroderma Awareness."

SENATE CONCURRENT RESOLUTION 70

At the request of Mr. SANFORD, the name of the Senator from Oregon [Mr. HATFIELD] was added as a cosponsor of Senate Concurrent Resolution 70, a concurrent resolution to express the sense of the Congress with respect to the support of the United States for the protection of the African elephant.

SENATE CONCURRENT RESOLUTION 89

At the request of Mr. KERRY, the names of the Senator from Connecticut [Mr. DODD] and the Senator from South Dakota [Mr. PRESSLER] were added as cosponsors of Senate Concurrent Resolution 89, a concurrent resolution to express the sense of the Congress concerning the United Nations Conference on Environment and Development.

SENATE CONCURRENT RESOLUTION 98—RELATING TO CANADIAN QUOTA REGIME ON CHICKEN IMPORTS

Mr. MCCONNELL (for himself, Mr. PRYOR, Mr. ROTH, Mr. BIDEN, Mr. WARNER, Mr. LUGAR, and Mr. BUMPERS) submitted the following concurrent resolution; which was referred to the Committee on Finance:

S. CON. RES. 98

Expressing the sense of the Congress that the current Canadian quota regime on chicken imports should be removed as part of the Uruguay Round and North American Free Trade Agreement negotiations and that Canada's imposition of quotas on United States processed chicken violates Article XI of the General Agreement on Tariffs and Trade.

Whereas the United States chicken industry is the most efficient in the world and produced approximately $13.8 billion worth of chickens in 1991;

Whereas Canada's chicken supply management system severely restricts the importation of United States chickens, resulting in $350 million to $700 million in lost sales;

Whereas Canada's chicken supply management system severely restricts United States chicken processors and retailers from expanding into the Canadian market;

Whereas Canada's chicken supply management system protects the Canadian chicken growers while severely hurting both United States and Canadian processors and food service retailers;

Whereas Canada's chicken supply management system causes exceedingly high chicken prices and supply shortages in Canada; and

Whereas Canada's chicken supply management system and the imposition of quotas on processed chicken contravenes Canada's obligations under Article XI of the General Agreement on Tariffs and Trade: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that—

(1) the United States, as part of the Uruguay Round and North American Free Trade Agreement negotiations, should negotiate tariffication of Canada's chicken supply management system and the elimination of processed chicken from Canada's Import Control List;

(2) the United States should seek the elimination of the new duties imposed by Canada on chicken imports in accordance with the terms of the United States-Canada Free Trade Agreement; and

(3) the United States should oppose any activity on the part of Canada which results in lost sales for United States chicken exporters and restricts the United States access to Canadian markets.

• Mr. MCCONNELL. Mr. President, I rise today to introduce a resolution

which seeks the removal of Canada's import quotas on chicken. These market-distorting barriers have no place in today's global economy and must be eliminated. The Uruguay round and North American Free-Trade Agreement negotiations provides an excellent opportunity to do so.

Canada's supply management system for chicken controls the Canadian chicken market through production and import quotas. These controls severely limit market access for United States exporters and restrict expansion in Canada by United States companies in the chicken industry. The Canadian system protects 2,400 Canadian chicken growers at the expense of thousands of United States chicken exporters, processors and retailers and millions of Canadian consumers.

For example, Kentucky Fried Chicken, recently renamed KFC, is based in my hometown of Louisville, KY. KFC is a real American export success story. The company has operated overseas for 25 years, and has 3,300 restaurants in 62 countries. Doing business in markets as diverse as Germany, Swaziland, Bahrain, and Peru, KFC had encountered—and overcome—just about every trade barrier imaginable.

Until they ran into Canada's chicken supply management system.

Canada's system needlessly limits the supply of chicken to KFC's Canadian restaurants. This frequently forces them to purchase a product which does not meet the company's specifications, and on occasion, forces KFC restaurants to close early.

The quotas also restrict KFC's ability to expand its Canadian operations. KFC's current sales of $600 million could be increased to $1 billion over the next 4 years if a larger, more secure supply of chicken were available. It would be if Canada dropped its quota system.

That secure supply would come from U.S. chicken producers. The U.S. poultry industry is the largest and most competitive in the world. In 1990, the United States exported $615 million worth of chicken worldwide, but only $135 million worth to Canada. If the Canadian market were fully opened, United States exports would increase by $350 to $700 million.

The Uruguay round negotiations offer a unique opportunity for United States Government negotiators to seek the elimination of Canada's chicken import quotas. The round is particularly important given that the United States-Canada Free-Trade Agreement failed to offer meaningful liberalization of chicken imports. Under the FTA, the import quota was increased by only 1.2 to 7.5 percent of total Canadian consumption.

United States negotiators should be reminded that Canada's import quotas are inconsistent with GATT article XI. The GATT has ruled in several recent panels that highly processed products, like chicken sandwich patties, clearly are not a like product to live or fresh whole chickens, making their inclusion in Canada's supply management system a blatant violation.

In order to achieve open access to the Canadian chicken market, Canada's trade barriers must be eliminated. The Dunkel text proposal to convert import quotas into tariff equivalents is on the right course. However, the depth of these reductions—36 percent over a 6-year period—is wholly inadequate. Canada's GATT-illegal quotas on processed chicken must be entirely removed and not simply converted into an unacceptably high tariff. The new tariffied duty rates applicable to fresh chicken imports should be phased out entirely by 1998 in accordance with the terms of the United States-Canada Free-Trade Agreement.

Mr. President, as the world moves toward more liberalized trade, and as Canada, Mexico, and the United States move toward a North American Free-Trade Agreement, trade barriers like Canada's chicken supply management system look increasingly out of place. I urge my colleagues to join me in pushing for an elimination of this outdated, market-distorting system.●

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 "Department of Defense Inventory: Why Does the Pentagon Buy So Much?" on Wednesday, March 11, 1992, at 9:30 a.m., in room 342 of the Dirksen Senate Office Building.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON JUVENILE JUSTICE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Juvenile Justice of the Committee on the Judiciary, be authorized to meet during the session of the Senate on Wednesday, March 4, 1992, at 10:30 a.m., to hold a hearing on juveniles in the court system.

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

COMMITTEE ON THE JUDICIARY

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Wednesday, March 4, 1992, at 2 p.m. to hold a hearing on the nomination of Robert L. Echols, to be U.S. district judge for the middle district of Tennessee, Ira Dement, to be U.S. district judge for the middle district of Alabama, John R. Padova, to be U.S. district judge for the eastern district of Pennsylvania and Jimm Larry Hendren, to be U.S. district judge for the eastern district of Arkansas.

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

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Wednesday, March 4, 1992, at 10 a.m. for a hearing on "Comprehensive Health Reform: Health America and the Administration Proposal."

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

COMMITTEE ON ARMED SERVICES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Wednesday, March 4, 1992, at 2 p.m., in open session, to receive testimony from the unified commands on their military strategy and operational requirements, and the amended defense authorization request for fiscal year 1993 and the future year defense plan.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, March 4, 1992, at 2 p.m. to hold an open hearing on S. 2198.

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

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet jointly with the Joint Economic Committee during the session of the Senate, Wednesday, March 4, 1992, at 9:30 a.m. to conduct a hearing on the first annual report of the Competitiveness Policy Council.

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

SUBCOMMITTEE ON WATER RESOURCES, TRANSPORTATION, AND INFRASTRUCTURE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Water Resources, Transportation, and Infrastructure, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Wednesday, March 4, beginning at 10 a.m., to conduct a hearing on water resources infrastructure needs and impacts.

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

ADDITIONAL STATEMENTS

TRIBUTE TO DONALD INGWERSON

• Mr. FORD. Mr. President, I rise today to take a moment to acknowledge and pay tribute to a fellow Kentuckian and leader of education in my State, Donald Ingwerson.

Mr. Ingwerson, superintendent of Jefferson County's public schools, was recently named "National Superintendent of the Year" at the annual convention of the American Association of School Administrators in San Diego.

Superintendent Ingwerson has a philosophy that obviously holds true and can be a guide for all of us as we consider various education matters. As he stated in a recent Courier-Journal news article about his award:

My personal philosophy of education has been a simple one: Every child can learn . . . I guess what I'm really trying to do with my philosophy is to eliminate the excuses. I'm trying to help everyone understand that failure to learn is unacceptable, that Louisville is a community of learners, and that each of us has a responsibility to expect the best of others and then help them achieve it.

Superintendent Ingwerson has implemented many changes in the Jefferson County School System to ensure that our children receive the best education possible. Implementing a nongraded primary program, requiring tougher academic standards for student athletes, making accessible to students take-home computers, magnet schools, extended school services and a regional drug abuse center are just a few innovative examples of his work.

Kentucky's educational system has gone through many changes and reforms over the past couple of years. Superintendent Ingwerson's acceptance of this award not only reassures Kentucky's educational community, but shows the rest of the country that our State is at the forefront of educational reform. It sends a message that we have and will keep continuing to improve one of the most important elements in everyone's life—education.

I applaud Superintendent Ingwerson in his efforts and many accomplishments on behalf of Jefferson County's schoolchildren. He has shown us all that whenever he reaches a peak in his incredibly successful career, he continues to reach for a new one, especially when it comes to improving Kentucky's educational system.•

SENATE COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT

• Mr. McCAIN. Mr. President, yesterday I called on the Senate to act to ensure that it was in full compliance with the Americans With Disabilities Act, Public Law 101-336. I called on the Senate Rules Committee to quickly act to rectify the current situation.

I am confident that the Rules Committee will act as quickly as possible do what is right.

However, I was dismayed to read in the Washington Post this morning that the Sergeant at Arms' office is defending the status quo.

Mr. President, the Senate should lead the Nation in areas of equality of opportunity and equal access. There once were those in our Nation who defended the concept of separate but equal. I would hope that the comments I read in the Post do not signify a return to that wrong, unjustifiable position.

Mr. President, I ask that the article to which I have referred and the letter I have written to the Sergeant at Arms in response appears in the RECORD at this point.

The material follows:

[From the Washington Post, March 3-4, 1992]

WASHINGTON AT WORK

(By Helen Dewar)

Congress is so lax in complying with the Americans With Disabilities Act (ADA) that the office created to help disabled visitors is not fully accessible to people in wheelchairs.

But disabled people may not be able to get even that far into the Capitol because Congress has reserved only four of its thousands of parking places for the disabled, far short of the number that would be required if it were a private business.

Yesterday, Sen. John McCain (R-Ariz) a cosponsor of the legislation, urged a review of "Congress's leadership on disabilities issues."

"The current situation is an egregious example of the Senate once again setting separate, much more lenient standards for itself than we have imposed on the remainder of society," McCain said in a speech on the Senate floor.

"The public trust in this institution is at an all-time low. Yet the Senate still acts as though no law applied to it," he added.

McCain said he became aware of the Senate's lax compliance with the law when his office hired a person who uses a wheelchair. He said he made changes in his office to make it wheelchair-accessible, but discovered that much of the rest of the Capitol remained off-limits to the disabled.

The Congressional Special Services Offices, located near the main visitors' entrance at the center of the Capitol, was expanded last year to accommodate an increased workload in tending to the needs of disabled visitors. But several steps separate the small reception area and the new rooms, making the inside offices inaccessible to people in wheelchairs.

Senate Deputy Sergeant-at-Arms Robert Bean said that only the outer office is intended for use by visitors.

The four parking spaces, which are for visitors, are located near the Capitol and the three Senate office buildings, but they are often occupied by senators' cars, McCain said in an interview after his speech.

Bean said the Senate has assigned 49 permanent parking spaces to disabled employees, along with 30 spaces allocated on a temporary basis, in addition to the four visitors' spaces. Other spaces are designated for the disabled at the foot of Capitol Hill near the U.S. Botanical Garden.

Citing these and other problems, McCain called on the Senate Committee on Rules and Administration to draw up new guidelines to ensure full compliance by the Senate with the ADA law, which was approved in 1990 and took effect earlier this year.

U.S. SENATE,
March 4, 1992.

Hon. MARTHA POPE,
Sergeant at Arms, U.S. Senate, The Capitol, Washington, DC.

DEAR MS. POPE: On March 3, 1992, I called on the Senate to "review its leadership on disability issues." The Senate has an obligation to the American people to do exactly that.

I was dismayed today, however, to read in the *Washington Post* that the Sergeant at Arms' office is defending the status quo and opposing what every American knows is right: that the Senate must live by the laws it imposes on others.

The Deputy Sergeant at Arms stated that only the outer office of the Congressional Special Services Office (CSSO) is intended for use by visitors. This statement defies logic and shows a blatant, even heartless, disregard for the spirit behind decades of equal access law.

First, the physical layout of the CSSO denies many disabled Americans the dignity they deserve and that the Americans With Disabilities Act—which I will remind you the Senate passed overwhelmingly—called for. Further, the current configuration of the office would prohibit the office from effectively hiring and utilizing an individual who uses a wheelchair.

Clearly, this kind of disparate impact on mobility impaired individual cannot be justified.

Second, by only being allowed access to the outer office of CSSO, a mobility impaired visitor would be denied access to most of the office resources. A person with a mobility impairment would not be able to attend a meeting in the office of the director of the CSSO. A mobility impaired visitor would also not, for example, be able to meet at the office's conference table, or show the office a video presentation.

Additionally, your office stated that the Senate has assigned 49 permanent parking spaces to disabled employees. This "accommodation" is noble. However, as I stated on the floor of the Senate, federal regulations do not allow other government agencies or private entities to simply accommodate individuals.

Further, many disabled Senate employees have been assigned spaces in Senate parking lots where their cars are parked in stacks. Due to the nature of parking cars in this manner, the cars are often moved throughout the day. At the end of a long day, and especially in inclement weather, the accommodation your office spoke of becomes nugatory.

The Senate should not be above the law. Defense of its elitist status is contrary to the concepts embodied in the Constitution itself.

I would hope that in the future, the Sergeant at Arms office will continue to do all it can to make progress in this area.

Sincerly,

JOHN MCCAIN,
U.S. Senator.•

OUR LAW ENFORCEMENT OFFICERS

• Mr. SIMON. Mr. President, I rise today to recognize a group of people who serve as out country's backbone

for law and order, yet rarely received the recognition that they most certainly deserve. Mr. President, I am speaking about the law enforcement officers of our Nation.

Late last year, the National Law Enforcement Officers Memorial was dedicated at a ceremony attended by 20,000 law enforcement officers, survivors of fallen officers, and many supporters. The dedication ceremony capped a 7-year effort to honor the more than 12,500 officers who have died in the line of duty throughout our Nation's history.

In 1984, legislation to establish the monument was unanimously passed by Congress and signed into law by President Reagan. Notably, the memorial, which is located at Judiciary Square in Washington, D.C., was built with $10.5 million, all of which was raised by private contributions. More than 1 million Americans, including some 250 corporations and most of our Nation's 500,000 law officers, donated money to ensure that we remember and honor these heroes and heroines who made the ultimate sacrifice in protecting our law and order. The donation by so many attests to the special place that law enforcement professionals hold in our daily lives.

Too often, we forget that while we enjoy our freedom and our safety, law enforcement officers are risking their lives daily to ensure those comforts. Most Americans really do not take time out to thank them until they have needed their assistance. The site of the memorial was chosen realizing that Judiciary Square has been the seat of our country's criminal justice system for nearly 200 years. This monument will remind us all that our system did not come without sacrifice.

Sadly, 150 law enforcement officers die each year in the line of duty. If this rate remains constant, the walls of the memorial will be filled to capacity with more than 29,000 names by the year 2100.

My home State of Illinois has suffered fatalities of officers as they protected our communities. Bryan Keeney, who was 31 years old and had served in the Fairmont Police Department for 3 years, was shot in head and killed in a domestic disturbance on November 4, 1984. Officer Keeney left a wife and three children. More recently, Jimmie Lamar Haynes, a housing authority police officer, was shot by a sniper on August 17, 1991, in a Chicago housing project as he was leaving duty. Officer Haynes left a wife and two children.

Mr. President, I urge my colleagues today to continue our efforts to ensure that those walls are never filled.•

TRIBUTE TO SUSAN SUH

• Mr. LAUTENBERG. I rise today in order to recognize the accomplishments of Susan Suh, a young New Jerseyean who has brought pride to her community. On March 25, Susan will be honored in an awards ceremony at her high school with an AAU/Mars Milky Way High School All-American Award.

Every year, the Amateur Athletic Union in conjunction with M & M Mars, a New Jersey-based corporation, recognizes four young men and four young women for their outstanding contributions in the fields of academics, athletics and service to their community. Susan was one of eight regional recipients selected from a pool of 13,000 high school seniors who were nominated nationwide. She will now be eligible to receive one of two national AAU/Mars Milky Way Awards to be named in April.

A senior at Lawrenceville High School, Susan has a fine academic record and has distinguished herself by serving as president of her class and as vice president for the National Honor Society. Recently, Susan was named Garden State Distinguished Scholar for academic excellence and she is a national merit commended scholar.

Susan has also been active in sports. As a member of the track team, Susan has been named to the Trenton Times all-county first team and the Packet-Ledger all-area first team for the high hurdles event. Susan is captain of her soccer team and has been selected to the Trenton Times All-Colonial Valley Conference team, the central Jersey coaches' team and the New Jersey all-State squad.

Susan's dedication to her community is evidenced by her commitment reducing drunken driving in our State. She is peer leader for KIKS. [Kids Intervention with Kids in School], and is active in Students Against Drunk Driving and is a founder of HIGH on Life, a group whose purpose is to promote alcohol-free activities for students. Susan has also been a volunteer for Special Olympics.

Mr. President, at a time when many are losing faith in our young people, Susan does us all proud. If Susan is an indication of what the youth of this Nation are capable of, we have every reason to be optimistic about what the future holds.

And so, I congratulate Susan and encourage her to hold to her ideals. I hope she continues to strive toward personal achievement and, at the same time, remembers her obligations to her family, her community and her nation.•

CONFERMENT OF HARRY CHAPIN AWARD

• Mr. D'AMATO. Mr. President, I rise today in recognition of the outstanding service delivered by Mr. Bruce Blower and Mr. Don Dreyer. On May 15, 1992, these gentlemen will be conferred with the Harry Chapin Humanitarian Award for Community Service. This award is given annually to a person or persons who reflect great spirit of compassion, enthusiasm, tenacity, and belief in the Long Island community.

Mr. Dreyer of Hempstead and Mr. Blower of Huntington Station have shown unending commitment to enhancing the lives of the physically challenged on Long Island and serving as their advocate in Government.

Don Dreyer holds a B.A. in English and an M.S. in counselor education; each from Hofstra University. Since 1977 he has held the post as director of Nassau County's Executive's Office for the Physically Challenged. His service has been exemplary. He has coordinated services, crafted new laws, and developed policies for the disabled constituency. He has also developed a framework for policy to develop accessible education, career development, housing, and transportation resources for the physically disabled population. Furthermore, he has been responsible for Nassau County's comprehensive compliance plan relating to Federal, State, and local civil rights legislation affecting physically challenged people.

Bruce Blower is a profile in courage and good will. He has overcome a personal misfortune, paralyzed by an impure hypodermic needle while an officer in the Army. Instead of allowing this personal adversity to sour him for life, he has become a leader. He maintains a busy schedule lecturing for the New York State Public Health Association in Syracuse. He is active in many personal and professional organizations such as the Nassau-Suffolk Regional Emergency Medical Services Council, the Independent Living Project Advisory Board for Veterans Administration Medical Center, Advisory Council of New York State Senate Committee on the Disabled, and Commissioner's Advisory Council for Vocational Rehabilitation. He was also a member of the Hofstra Alumni Senate, in his spare time.

The efforts and devotion of these gentlemen have obviously helped make Long Island a great place to live, work, and do business. Please join me in applauding the outstanding character of Bruce and Don as they accept this fine award.•

TRIBUTE TO JAMES W. RUSSELL

• Mr. JEFFORDS. Mr. President, there is an area of my State of Vermont known as the Northeast Kingdom, a great forested land of lakes and mountains where moose roam free and the largest community, St. Johnsbury, would be considered a small town in most States. It's apart, way up just south of Canada and west of northern New Hampshire. You almost don't get there from here and the race of people that's developed there is proud, self-sufficient, and most independent.

There is an extraordinary man who has lived in St. Johnsbury since 1958. James W. Russell is a physician, a family doctor who has for nearly three and one-half decades been seeing to the physical and the overall well-being of the people of the Northeast Kingdom. Along the way he has gained a tremendous amount of respect and love. Back in the remote Kingdom people need to help each other and he has been a bulwark of that ethic.

Now he is retiring and it is a time for thank-yous and well-wishes. I wish today to join in tributes. The State of Vermont, the Northeast Kingdom, in particular St. Johnsbury, are better places for his having come our way, and stayed. We owe him much and his recent nomination as St. Johnsbury's Citizen of the Year is full well deserved.

For instance, Dr. Russell is responsible for the founding of St. Johnsbury's Founders Hall, a treatment center for persons recovering from addictions.

Dr. Russell founded the first coronary care unit in St. Johnsbury.

Dr. Russell long served on the board of one of rural America's great small museums, the Fairbanks Museum, and helped see that august little institution through some of its hardest times.

Dr. Russell has long been a member of the renowned North Country Chorus and has taken his tenor voice to many parts of the world with his fellow singers.

Dr. Russell has been a faithful and valued member of the North Congregational Church in St. Johnsbury.

And I might add that Dr. Russell, like myself, has been a long and faithful supporter of the Boston Red Sox. Having just turned 65, he recently traveled to Florida for a week to play with some of the Sox' veterans.

From his Main Street home and from his office up by the hospital he has been a family doctor. More than a doctor, he has been a friend and counselor. And he has gone forth in the night to visit homes, when needed. And he is often seen in nursing homes and along the halls of the local hospital, the Northeastern Vermont Regional Hospital, visiting patients.

He is a familiar figure on the streets of St. Johnsbury walking his dog, greeted by all.

He is a man respected, as much for his sense of independence and self-worth as for the quality of his medical care and caring. His philosophy is as Yankee as the high hills of the Kingdom. Jim Russell believes in the basic dignity of people, in leaving them alone to realize the fullest of their potential but in helping when help is truly needed, and honestly asked for.

But let me not paint a picture of a person all seriousness. It is well known that for many who seek his attention, particularly purveyors of various goods, a good fresh joke is the necessary entree to his office.

He also is the possessor of one of Vermont's largest, and most astonishing, collections of neckties, some seemingly older and more colorful than the gnarled backhill maples that take flame in October.

Such people, though not born in our State, become the best of Vermont. I know I join my Senate colleagues in giving him thanks for his years of service and in wishing him a long retirement.•

SOUTH CAROLINA SOIL CONSERVATION SERVICE

• Mr. HOLLINGS. Mr. President, I would like to pay tribute to the men and women of the South Carolina Soil Conservation Service. As farmers face increasing environmental regulations, they must be able to rely on USDA offices for guidance. The soil conservation service in South Carolina has provided top-notch assistance to the agricultural community, helping to develop conservation compliance plans for almost 400,000 acres of highly erodible farmland.

The benefits of the soil conservation service go way beyond the farm fence, though. At no time has this been more evident than in the months following Hurricane Hugo, which struck South Carolina in September 1989. The SCS cleared debris from over 2,300 miles of streams and watercourses, and from 349 miles of navigable rivers, providing protection to over 61,000 homes and businesses. The SCS also helped to rebuild the coastal dunes that were devastated by the storm.

Currently, the SCS in South Carolina is engaged in activities ranging from water quality control projects, which will reduce pollutants in water bodies surrounded by agricultural lands, to flood control projects to protect schools and roads. Under the superb leadership of Mr. Billy Abercrombie, the State conservationist, the professionals at SCS have risen to the challenge of modern conservation problems in every corner of the State. We all owe them a tremendous debt of gratitude.•

THE COMMONWEALTH SCIENTISTS IMMIGRATION AND EXCHANGE ACT OF 1992

• Mr. D'AMATO. Mr. President, I rise today to cosponsor S. 2201, the Commonwealth Scientists Immigration and Exchange Act of 1992. I am pleased to join Senators BROWN and DOLE in this important legislation, aimed at preventing the former Soviet nuclear, chemical, and biological warfare scientists from being lured to Iran, Iraq, Libya, or North Korea and other radical States. If the position of these scientists are not secured, they may well sell themselves to the highest bidder and go on to enhance the arsenals of these brutal and irresponsible dictatorships.

These nations have long been a threat to the civilized world. With a history of aggressiveness, the acquisition of nuclear weapons by these outlaw States would pose an even greater threat to American interests as well as our allies. The mere thought of Mu'ammar Qadhafi armed with nuclear weapons is surely frightening.

Moreover, each of these nations have waged aggressive war against their neighbors. Iran and Iraq fought an 8-year bloodbath killing nearly 1 million people. Iraq brutally invaded and sacked Kuwait and fought the United States in Operation Desert Storm. Libya, long a sponsor of vile international terrorist acts, invaded Chad and has repeatedly challenged the United States. North Korea has continued to pose a grave threat to South Korea through terrorist intimidation. All these nations share an intense and sustained mutual hatred toward the United States as well as our ally, Israel.

It is vital that we take all necessary steps to ensure that those former Soviet nuclear scientists, faced with unemployment and food shortages, are not forced to succumb to the rich offers of terrorist regimes bent on using their expertise to spread death and destruction.

This legislation takes the important steps necessary to keep these scientists either within the Commonwealth or to bring them to the United States. Preventing the emigration of former Soviet nuclear scientists to the radical anti-American States of Iran, Iraq, Libya, and North Korea should be a vital concern of the United States. I urge that my colleagues join me in supporting this important measure.•

TRIBUTE TO THE COLORADO INSTITUTE OF ART

• Mr. WIRTH. Mr. President, I rise to pay tribute to the Colorado Institute of Art [CIA] in Denver, CO, for its educational excellence and its remarkable dedication and service to the community which surrounds it. The combination of holding a firm belief in the value of hands-on experience and a devotion to helping those around them has earned the Colorado Institute of Art national community service awards from the National Association of Trade and Technical Schools in both 1990 and 1991. CIA is the only school to win this prestigious award for 2 consecutive years, and I would like to take this opportunity to offer my congratulations for this noteworthy achievement.

Established in 1952, the Colorado Institute of Art offers degree programs in such diverse fields as visual communications, music video, and business.

CIA also boasts a talented faculty—many of whom continue to work in the fields they teach—who rigorously prepare a student body of 1,300 students for careers in art.

The Colorado Institute of Art is not only remarkable for its academic and artistic excellence, but for its dedication to performing worthwhile community service as well. Hundreds of CIA's students, faculty, and staff have donated their time and talents to no less than 56 charitable projects in the past year alone. Recent projects at the Colorado Institute of Art include designing and setting up a jungle safari set for the Denver Public Library childrens' section, building 100 Christmas toys for local homeless children, designing the poster for First Night Colorado, the Denver downtown's a alcohol-free New Year's Eve party, and producing thousands of antigraffiti posters for elementary, middle, and high schools throughout the city.

The level of dedication and creativity exhibited by all who attend and work at the Colorado Institute of Art is truly uplifting. By producing artistically talented and conscientious graduates who have learned the benefit of community service, the Colorado Institute of Art has benefited no only its graduates, but the communities around the country where these graduates choose to live.

Mr. President, I would like to close by thanking the students and faculty at the Colorado Institute of Art for providing an invaluable service to the people of the Denver area. I believe CIA sets an excellent example for educational institutions throughout the State of Colorado and our country, and I commend them for their commitment to the well-being of Colorado's citizens and future.●

RETIREMENT OF MRS. KATHERINE HODGES

● Mr. D'AMATO. Mr. President, I rise today to mark the retirement of Katherine Hodges. Mrs. Hodges has dedicated herself to an outstanding career as tax collector for the town of Marilla in Marilla, NY. Her service has spanned 29 years and 3 months with stints as tax collector from September 23, 1957 to December 31, 1961; January 1, 1966 to December 31, 1981; and January 1, 1982 to December 31, 1991.

Away from her job Mrs. Hodges enjoys gardening, sewing, and reading. She is also active in St. Nicodemus Lutheran Church, the Marilla Historical Society, the Marilla Republican Club, and the Marilla Republican Committee. Her daughter Lisa and son-in-law Jim Somerville, U.S. Navy, currently reside in Norfolk, VA.

Mr. President, I ask that my colleagues join me in commending Katherine Hodges for a successful career and wish her a joyful retirement.●

IN ACKNOWLEDGEMENT OF USA OWNED/USA MADE

● Mr. SEYMOUR. Mr. President, I rise to extend commendations to Mr. Rick Muth, president, Orco Block Co., Inc., in Stanton, CA, and Mr. Wally Smith, president, Block-Lite, in Flagstaff, AZ, cochairmen of USA Owned/USA Made, Inc., a national organization whose main objective is to form a coalition of manufacturers and businesses that are 100 percent USA owned and have 51 percent or more of their raw materials produced in the USA.

Today, approximately 60 percent of the U.S. concrete industry is in foreign hands. Along with this decline in American ownership of American business comes corresponding declines in the number of jobs in this country—and in the amount of money reinvested into our economy. The foundation upon which this country was built is eroding right before our eyes. Therefore, it is crucial that we recognize and wholeheartedly support American-owned businesses for their substantial contributions to the U.S. economy.

America has always been a country of opportunity that opens its doors to hard working, entrepreneurial adventurers from around the world. The founders of USA Owned/USA Made, a nonprofit organization, do not want to challenge this tradition. However, they do suggest that the U.S. Government insists upon a level playing field. The founders of this organization are particularly concerned with predatory pricing practices by foreign-owned companies and by the impact of U.S. inheritance tax law on small, family-owned companies.

These are indeed important concerns here in Congress, and we will be hearing much more from this organization in the months ahead. In order for the American economy to improve, Congress must focus our attention on trade and tax policies not only as they affect the Fortune 500, but also on our small, privately held American businesses. For it is by small, family owned and run companies that the foundation of America was built, has grown, and will continue to depend in the future.

I ask the Senate to join me in recognition of the founders and members of USA Owned/USA Made, Inc., for their commitment and dedication to the promotion of the concerns of American-owned businesses throughout the United States.●

TRIBUTE TO JOSEPH FOWLER OF HENDERSON, KY

● Mr. McCONNELL. Mr. President, I rise today to honor Joseph Fowler, a Kentuckian who is the epitome of hard work and success. Joseph, who lives in Henderson in the western part of my State, is a 24-year-old runner who works for the law firm of Sheffer, Hoffman, Thomason, Morton & Lee.

Joseph performs many important tasks for this firm. He delivers court documents to various law offices, operates the copy machine, and other vital tasks.

But Joseph Fowler's story does not end here, Mr. President. He is more than just a hard-working employee. What makes his story all the more impressive is that Joseph Fowler has Downs syndrome.

Thanks to the wonderful people at the Hugh Edward Sanderfur Training Center, Joseph has become a significant member of the Henderson law firm. His father and stepmother are quick to point out that Joseph is a hard worker at home as well, regularly doing his laundry and cooking. I am sure we wish that all of our children could learn from his example.

Perhaps the most praiseworthy aspect about this gentleman is his positive attitude. As one of his fellow workers says of Joseph, "He's the kind of person you want to hug all the time." I know my colleagues join me in congratulating this outstanding Kentuckian for his perseverance in the face of potential obstacles. He is truly a living example of the great American spirit.

Mr. President, I would also ask that the following article from the Henderson Gleaner be included in the RECORD.

The article follows:

[From the Henderson Gleaner, Feb. 1, 1992]

SELF-ESTEEM—NEWEST "MEMBER" OF LAW FIRM BUILDING HIS PRACTICE ON IT

(By Donna B. Stinnett)

A television commercial is designed to sell something, and Ron Sheffer was buying after he saw a very special advertisement not long ago for the people with the golden arches.

But it wasn't a quarter pounder with cheese that sold the senior partner in Sheffer, Hoffman, Thomason, Morton & Lee law firm.

It was a commercial about hiring the handicapped featuring a very personable young man with Down Syndrome talking about how much he liked working at McDonald's.

Each weekday morning, Joseph Fowler puts on his spotlessly shined shoes, knots a tie he's likely purchased for himself with earnings from his new job and leaves his North Elm Street home to catch a HART bus heading downtown.

Like clockwork, he arrives at work to begin a morning of "running" paperwork to the courts and other law offices, operating the copy machine and doing other chores that are necessary in a busy law firm.

Fowler, 24, has been a part-time runner for Sheffer, Hoffman, Thomason, Morton & Lee for about seven months, which included a brief training period to help him learn the job.

He isn't like the other high school and college-age runners the firm employs. Like the McDonald's employee, Fowler has Down Syndrome, a form of retardation that is caused when its victim is born with an extra chromosome.

The bashful Fowler don't talk a lot, though he answers very politely with brief answers, but he goes about his job systematically and independently.

A few weeks into Fowler's training period, Sheffer arrived at work one morning to find job placement trainer Kay Beth Riney of the Hugh Edward Sandefur Training Center crouching below window level of the firm's front foyer.

Like a private investigator, she was "Stalking" Fowler as he moved about his morning travels downtown, making sure he didn't get lost as he learned the places in a 12-block area he would need to visit with his job.

They started with a color-coded map, then moved to learning the names of all his coworkers and people in other offices.

Before he had learned all he needed to know, Fowler got lost a few times, but Ms. Riney helped him learn how to regroup if he got disoriented, how to inventory kitchen and restroom supplies, to post and sort mail, complete a time sheet and operate the office equipment.

It was the first time the Center had placed someone in a law firm.

"He needed to learn all the needs of an office," said Ms. Riney, who added that one-on-one training is common for the Center's clients. "The goal is to help them learn to do a job independently, then we begin to fade."

She faded after about a month, though she checks in on him from time to time.

"And the law firm knows if there are any concerns, they can call me," she said.

Nobody had to convince Fowler's father, Ron, and stepmother, Frances, that the job at the law firm was something their son could do.

At home he makes his own bed, does his laundry and irons his clothes and cooks a little spaghetti every now and then.

He goes to a rustic camp for six-week stretches in the summer, plays Special Olympics basketball and swims and works weekly with a speech therapist and reading tutor.

He loves University of Kentucky basketball and playing Nintendo games. He also loves to dress up and has amassed a large collection of ties since he started his new job.

Mrs. Fowler is truly amazed by the young man whose natural mother died a few years ago and who became her son two years ago. "He can do just about anything,"she said.

"We brought Joe up trying to not be different from any other kid," added Fowler, a retired career military man who is originally from Morganfield but lived in California for a number of years. "He'd give you anything. Small kid, big heart."

In a lot of ways, though, Mrs. Fowler thinks he is different.

"He's very polite and will stand in the rain to open a car door for me," she said, "and he always holds my coat."

She never has to tell him to take out the trash or ask him to set the table; he just does it automatically.

Understandly, she recalls being apprehensive when she faced the possibility of marrying a man with a handicapped son.

"I didn't think I'd do well with him, I was so nervous the day Ron took me to meet him, but he just kept saying, 'Joe will just love you,'" she said. "Now I can't imagine him not being in our lives."

She recalls the first time she was solely responsible for him when his dad was out of town. And how she reacted when Joe didn't show up as scheduled at her downtown frame shop after he was supposed to have walked there from the Sandfur Center on South Main Street.

After what seemed like hours—and after the police were summoned—a friend located the young man playing with a dog near the entrance of St. Louis Cemetery.

"He wasn't crying or upset," said Mrs. Fowler, who had dreaded to tell her husband what had happened. But he was quite calm and convinced that his son had "gotten lost" on purpose to gain her sympathy.

So Fowler sternly instructed his son to show up on time at the frame shop the next day.

He was never late again.

"Ron is the one who's firm with him," said Mrs. Fowler, an admitted soft touch. "And he worships his daddy."

Sheffer said there was also some apprehension within his office when he mentioned his idea of giving a person with Fowler's kind of handicap an opportunity for employment.

"Nobody had worked with anyone who had Down Syndrome before, and we just weren't sure he could do it," the attorney said, adding that he feels sure his idea would have been rejected if a vote had been taken.

For the first few weeks after Ms. Rinery left Fowler on his own, nobody gave him much to do, partially because of their own anxieties.

But all that has changed.

"Joe does a really beautiful job," said Sheffer's secretary, Jane Johnson. "In the 30 years I've been a legal secretary, it's one of the best things this law firm has done."

The hardest thing, she said, is being firm with him.

"You can't baby him," Ms. Johnson said, "I'm afraid that's what we've been doing. He's the kind of person you want to hug all the time."

Despite these small problems, Sheffer is happy with the way things have worked out.

"I'll tell you why. It's good for people. It's good for our morale," he said. "Joe's mood never changes. He likes his work."

Sheffer thinks everyone should be able to say as much.

"It isn't a matter of hoping it would work," he said. "It has worked."

Not long ago, Ron Fowler was downtown running errands when he spied his son on the job walking down the street, suit jacket on and paperwork in hand.

"Joe has a huge smile on his face and he was, well, he was almost strutting,'" Fowler said proudly.

He recognizes that as a sure sign that the job is helping bring his son out of himself and that the young man is growing with his newfound prestige and responsibility.

"We can tell a difference in him," Fowler said, "He's more assertive now. This has really built his self-esteem."•

ADDRESSING THE PROBLEMS OF THE CREDIT CRUNCH AND WEAK REAL ESTATE MARKETS

• Mr. D'AMATO. Mr. President, I would like to commend my colleague from New Mexico, Senator DOMENICI, for introducing two fine bills that I am pleased to cosponsor. These bills are the Credit Availability Act of 1992 and the Secondary Mortgage Market for Commercial Real Estate Mortgages Act of 1992. These bills represent important steps that Congress can take to address directly the problems of the credit crunch and weak real estate markets.

Certainly, the real estate market and the availability of credit for real estate activities is vital to the economic health of our country and to our efforts to end the recession and promote economic growth. Historically, the real estate industry has led our economy out of prior recessions. A strong real estate market will generate jobs, improve the financial position of banks and other financial institutions, and lubricate the system of selling and buying homes that is so necessary to facilitate home ownership.

The Credit Availability Act gives the Office of Thrift Supervision [OTS] the authority to allow thrift institutions to continue to hold real estate development subsidiaries instead of forcing them to liquidate these companies, which has generated substantial economic losses. Allowing thrifts to retain the real estate subsidiaries rather than divest them at a loss will improve the thrifts' financial position and make sure that almost $1 billion of capital remains available for economic activity.

The Secondary Mortgage Market for Commercial Real Estate Mortgages Act directs the major secondary mortgage market institutions to use their expertise to develop recommendations and an action plan for developing a secondary mortgage market for commercial real estate mortgages. Such a market could significantly increase the availability of capital for a variety of important real estate activities and promote a stronger, healthier economy.

Mr. President, I again salute my colleague from New Mexico for introducing this legislation. We must take immediate and decisive action to stimulate the economy. These bills seek to accomplish the important goal of improving local and national real estate markets. Of course we will have to do more; but these bills are a good beginning in our efforts to do everything possible to turn the economy around and launch a vibrant recovery.•

POLICIES FOR THE NEW ERA

• Mr. GARN. Mr. President, over the past year, developments in the former Soviet Union have created new opportunities and challenges for the United States. I believe our national interest will be served if we encourage further reforms in the Commonwealth of Independent States [CIS] and help stabilize the fledgling democracies yearning for knowledge about our Government and economic system.

We can use each of the elements of public diplomacy to educate the republics about democratic institutions and free market economies including: professional and educational exchanges, training programs, and television and radio broadcasts.

Yesterday, I read with interest an article written by Tom Korologos, Chairman of the U.S. Advisory Commission on Public Diplomacy and a native of

my home State of Utah. Mr. Korologos provides some thoughtful ideas about the role public diplomacy should play in our new policies toward the former Soviet Union. I request the article be included in the RECORD.

The article follows:

[From the Washington Times, Mar. 3, 1992]

POLICIES FOR THE NEW ERA

(By Tom Korologos)

Americans must not fall into the trap of viewing the collapse of the Soviet empire as "the end." It's "the beginning."

To capitalize on unprecedented opportunities, the United States needs inspired leadership, gutsy policy moves, and creative shifts in priorities.

I'm afraid policy-makers debating how best to encourage peaceful change and democratic reform in the new Commonwealth of Independent States (nee the Soviet Union) are in danger of overlooking the best small investment, high-yield approach available: public diplomacy. Its core elements—educational and professional exchanges, information and training programs, international television and radio broadcasts—are sensible, cost-effective, proven techniques in this communications age.

Leaders in the former Soviet republics are keenly interested in what makes market economies and democratic institutions work. If their efforts fail, the long-term cost to the United States and the cause of freedom will be enormous. If they succeed, Americans can look forward to increased security, a reduced defense burden, and expanded trade and investment opportunities.

There are limits to what outsiders can do to affect change. In the end, market economies, the rule of law, independent media, free trade unions, and other foundations of democracy can only be achieved by the reformers themselves. But bold U.S. initiatives now can make a difference.

The United States should immediately implement a public diplomacy strategy in three ways.

First, expand the American presence. During the Cold War, the U.S. broadcast in shortwave to the Soviet Union because most other means of communication were limited or denied. Today, a broad range of information and educational exchange programs is possible, and we must adjust our priorities.

Language-qualified U.S. Information Agency officers with the personal contacts and communications skills essential to these initiatives are needed on the ground now. They should precede or be part of the first U.S. diplomatic teams wherever new embassies and consulates are established.

They should emphasize international visitor programs that bring reformers here to see for themselves what the American experience is all about; academic and professional exchanges in fields such as law, agriculture, journalism and business, English language instruction; libraries with computer links to U.S. data bases; translation of books and magazines in local languages; student advising; media training; and workshops and teleconferences with U.S. experts.

Second, change the mix in international broadcasting. In Russia and other republics, audiences are turning from shortwave radio to credible, attractive local TV and AM/FM radio programs, satellite-delivered television, videocassettes and a variety of other information options. An enormous appetite exists for educational programs on economic and public affairs subjects and English language instruction.

The United States must be competitive in this changing media environment. We should allocate a larger share of our international broadcasting budget to television, offer syndicated television and radio programs in vernacular languages to republic stations, donate TVRO dish antennas, conduct media training workshops, and bring republic television crews to the United States to produce their own documentaries.

Shortwave radio remains necessary in crisis situations to reach a politically unstable area that covers 11 time zones. But its importance will diminish as satellite-delivered television, local radio placement, and other forms of public diplomacy provide improved access to larger audiences.

Third, redirect funds and consolidate assets. Enhanced information and educational exchange efforts in the Commonwealth of Independent States would be a small investment in national budget terms. Funds could be redirected from existing accounts in the foreign affairs budget and derived from consolidation of U.S. broadcasting assets.

Two U.S. government-funded broadcasters, the Voice of America and Radio Free Europe-Radio Liberty, now compete for listeners, stretch U.S. requirements for frequencies, and duplicate newsgathering, programming, and transmitters.

While the time has not come to terminate surrogate broadcasting to the republics, events since Aug. 19 have changed America's international broadcasting priorities dramatically. In the future, the United States will no longer need two international radio stations, and we need to plan wisely for the most cost-effective use of these public diplomacy resources.

Vital American interests are at stake with opportunities comparable to those in Germany and Japan after World War II. The potential for chaos, renewed repression, and the discrediting of democracy in the republics is real.

America's response must go beyond short-term humanitarian aid and technical assistance. Public diplomacy offers a low-cost investment in a revolution of ideas that can benefit the United States for generations to come.

The opportunity is there for those who can see "the beginning."•

AUTHORITY TO FILE TAX LEGISLATION

Mr. MITCHELL. Mr. President, I ask unanimous consent that on Friday, March 6, the Senate Finance Committee be permitted to file tax legislation until 7 p.m.

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

ORDER FOR STAR PRINT—S. 2310

Mr. MITCHELL. Mr. President, I ask unanimous consent that S. 2310 be star printed to reflect the changes which I now send to the desk.

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

ORDER FOR TOMORROW

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 10:30 a.m. on Thursday, March 5; that following the prayer, the Journal of proceedings be approved to date; that following the time for the two leaders there be a period for morning business not to extend beyond 11:30 a.m. with Senators permitted to speak therein for up to 5 minutes each; with Senators GRASSLEY and LOTT recognized for up to 20 minutes each; Senator LEVIN up to 10 minutes; and that Senator SIMPSON or his designee for up to 5 minutes.

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

RECESS UNTIL TOMORROW AT 10:30 A.M.

Mr. MITCHELL. Mr. President, if there is no further business to come before the Senate today, I now ask unanimous consent that the Senate stand in recess, as previously ordered.

There being no objection, the Senate, at 6:40 p.m., recessed until Thursday, March 5, 1992, at 10:30 a.m.

NOMINATIONS

Executive nominations received by the Senate March 4, 1992:

NAVAJO AND HOPI RELOCATION

CARL J. KUNASEK, OF ARIZONA, TO BE COMMISSIONER ON NAVAJO AND HOPI RELOCATION, OFFICE OF NAVAJO AND HOPI INDIAN RELOCATION, FOR A TERM OF 2 YEARS. (REAPPOINTMENT)

U.S. SENTENCING COMMISSION

ROGER L. WOLLMAN, OF SOUTH DAKOTA, TO BE A MEMBER OF THE U.S. SENTENCING COMMISSION FOR A TERM EXPIRING OCTOBER 31, 1997, VICE GEORGE E. MACKINNON, TERM EXPIRED.